

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

W.P.No. _____/2021

BETWEEN :

Truth Pro Foundation India

...Petitioner

AND :

Union of India and Others

...Respondents

INDEX

SL No.	Particulars	Page No.
01	Synopsis	
02	Memorandum of Writ Petition	
03	Verifying Affidavit	
04	ANNEXURE – A. Copy of the master data	
05	ANNEXURE – B . copy of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021	
06	ANNEXURE- C. Copy of the Norms of Journalistic Conduct	
07	ANNEXURE- D. Copy of the Programme code	
08	VAKALATH	

Place: Bengaluru

Date:

ADVOCATE FOR PETITIONER

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

W.P.No._____/2021

BETWEEN :

Truth Pro Foundation India

...Petitioner

AND :

Union of India and Others

...Respondents

SYNOPSIS

17.10.2000

Information Technology Act, 2000 enacted by Parliament was brought into force.

27.10.2009

The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 were issued under Section 69-A(2) of the Information Technology Act, 2000.

11.04.2011

The Information Technology (Intermediaries Guidelines) Rules, 2011 were issued under Section 79(2) of the Information Technology Act, 2000.

24.03.2015

Shreya Singhal v Union of India (2015) 5 SCC 1 was decided, wherein, Section 66-A of the Act was struck down in its entirety; Section 69-A and the 2009 Rules were upheld; and Section 79 and the 2011 Rules were held to be valid, subject to a reading down of Section 79(3)(b) and Rule 3(4).

25.02.2021

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, were issued under Sections 69-A(2) and 79(2), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011.

The IT Rules, 2021, *inter alia*, seek to regulate digital newsportals under Part III, by imposing Government oversight and a 'Code of Ethics' on them, and therefore, go farbeyond the object and scope of the IT Act. Hence this Petition.

BRIEF FACTS

The present Petition challenges the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("**IT Rules, 2021**" or "**Impugned Rules**") as being *ultra vires* the Information Technology Act, 2000 ("**parent Act**"), in as much as they set up a classification of 'publishers of news and current affairs content' ("**digital news portals**") as part of 'digital media', and seek to regulate these news portals under Part III of the Rules ("**Impugned Part**") by imposing Government oversight and a 'Code of Ethics', which stipulates such vague conditions as 'good taste', 'decency' etc. - matters nowhere within the contemplation of the parent Act. The Petitioners bring out wholly digital news and current affairs publications and are therefore directly affected by this overreach by way of subordinate legislation. The Petitioners' digital news portals publish news and views, as distinct from curated content. The present Petition challenges the IT Rules, 2021 only in so far as they affect digital news portals, and is not with reference to 'publishers of online curated content', i.e., OTT media platforms or any other entities sought to be regulated by the Impugned Rules.

The Impugned Rules are *ultra vires* the parent Act on the following ground:

- i. They purport to virtually legislate on the conduct of entities, not even within the purview of the parent Act.
- ii. They travel beyond the specific enabling Sections and introduce new concepts and regulations.
- iii. They attempt to proscribe content on the basis of vague and subjective grounds which the Supreme Court has already voided when it struck down Section 66-A of the parent Act in *Shreya Singhal*.

Place : Bengaluru

Date:

Advocate for Petitioner

AND

1. Union of India
Ministry Of Electronics And Information Technology
Electronic Media
A-20, Connaught Place, New Delhi - 110003
Represented by Secretary

2. The Secretary,
Ministry Of Information & Broadcasting
Shakti Bhawan
New Delhi - 110001

MEMORANDUM OF WRIT PETITION UNDER ARTICLE 32 & 226 OF THE CONSTITUTION OF INDIA

The Petitioner respectfully submits as follows:

1. The Petitioner is a section 8 Company registered under the Companies Act 2013. The Petitioner is a non-Government Organisation (NGO) which works for the promotion and protection of human rights and providing independent journalism with a focus on the development of the media industry. The Petitioner is a registered company under the Companies Act 2013 and is a public company. The Petitioner is a registered company under the Companies Act 2013 and is a public company. The Petitioner is a registered company under the Companies Act 2013 and is a public company.

The Petitioner is a registered company under the Companies Act 2013 and is a public company. The Petitioner is a registered company under the Companies Act 2013 and is a public company. The Petitioner is a registered company under the Companies Act 2013 and is a public company.

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

(ORIGINAL JURISDICTION)

W.P.No. _____/2021

BETWEEN :

Truth Pro Foundation India
A Section 8 Company
Registered office at
No. 2, 2nd floor, Shopping Street
Kumara park west, Bangalore
560020
Represented by its Director
Shivakumar ...Petitioner

AND :

1. Union Of India
Ministry Of Electronics And Information Technology
Electronics Niketan,
6,Cgo Complex, Lodhi Road, New Delhi – 110003
Represented by Secretary
2. The Secretary,
Ministry Of Information & Broadcasting
Shastri Bhavan
New Delhi - 110001 ...Respondents

**MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226 AND 227
OF THE CONSTITUTION OF INDIA**

The Petitioner respectfully submits as follows :

1. The Petitioner is a section 8 Company registered under the Companies Act 2013. The Petitioner is Non-Government'Organization (NGO) which aims to work towards ensuring meaningful education across the social spectrum and promoting Independent journalism which is crucial for a democracy to survive and thrive. Copy of the master data of the Petitioner company obtained from the MCA website is produced herewith and marked **ANNEXURE A**
2. The Petitioner with an intention to promote Independent journalism founded a website 'Pratidhvani' with an intention to deliver high-quality

journalism through in-depth reporting and news analysis rather than simply 'breaking news'. The Petitioner's objective is to raise the quality of public discourse by providing well-researched news and analysis which will help discerning readers form their opinion on important developments. The Digital news is published in their portal 'www.pratidhvani.com'.

3. The 1st Respondent notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and published in the Official Gazette on 25th February, 2021 and the same has come into effect from that date. A true copy of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 issued on 25.02.2021 is annexed herewith and marked as **ANNEXURE- B**. The Impugned Rules enable the Government to virtually dictate content to digital news portals, and they introduce digital portals with 'news and current affairs content' as a specific and targeted class to be subject to regulation by a loose-ranging 'Code of Ethics', and to be consummately overseen by Central Government officers, all of which goes beyond the object and scope of the parent Act.

4. The IT Rules, 2021 introduce two distinct sets of regulations: *one*, due diligence norms to be followed by 'Intermediaries' (Part II of the Rules); *two*, Code of Ethics ought to be adhered to by 'publishers', along with a three-tier compliance mechanism (Part III of the Rules). While Part II pertains to intermediaries, an entity recognised and regulated by the IT Act (and not the subject of challenge in the present petition), Part III of the IT Rules, 2021, i.e., the Impugned Part, pertains to two distinct sets of 'publishers':

- (i) publishers of news and current affairs content
- (ii) publishers of online curated content

5. It is important to note that these two entities have been newly introduced in the IT Rules, 2021, and the terms 'publisher' and 'publisher of news and current affairs content' are defined as follows:

- (s) '*publisher*' means a publisher of news and current affairs content or a publisher of online curated content;

- (l) 'publisher of news and current affairs content' means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;

Further, the terms 'content' and 'news and current affairs content' are defined as follows:

- (g) 'content' means the electronic record defined in clause (t) of section 2 of the Act;

- (m) 'news and current affairs content' includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

6. Rule 9 of the IT Rules, 2021 (read with the Appendix) lays down a separate Code of Ethics for the two kinds of publishers. The Code of Ethics, in case of publishers of news and current affairs content (which includes the Petitioners) is as follows:

- i. Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978. Copy of the Norms of Journalistic Conduct is produced herewith and marked **ANNEXURE C.**
- ii. Programme Code under Section 5 of the Cable Television Networks (Regulation) Act, 1995. Copy of the Programme code is produced herewith and marked **ANNEXURE D**
- iii. Content which is prohibited under any law for the time being in force shall not be published or transmitted.

7. It is pertinent to note that the Norms of Journalistic Conduct and Programme Code are extremely broad in their sweep, covering within their ambit things like 'good taste' and 'decency', which by their nature are subjective. Thus, the IT Rules, 2021, by incorporating these by reference, and making them part of the regulatory mechanism, have stepped outside the remit of Section 69- A of the parent Act, which was upheld noting its narrow scope and the manner of operation of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009. Moreover, a sweeping Governmental oversight has been introduced in all such matters, by way of a three-tier compliance mechanism, which is as follows:

Level 1 (Rules 10,11): '*Self-regulation*' by the publisher - Grievance redressal officer to be set up by the publisher to take up a complaint by "any person having a grievance regarding content"

Level 2 (Rule 12): '*Self-regulation*' by '*self-regulating bodies*' of the publishers - A self-regulating body of an appellate nature, constituted by publishers or their associations, of independent persons, but subject to Government approval. This body has the power to warn or censure, require the publisher to apologize, or display a warning/disclaimer. Their procedure is bound hand and foot by the Rules which obligate Level 2 bodies to refer matters of non-compliance, and a certain class of content to Level 3 for deletion or modification of the same.

Level 3 (Rules 13-15): '*Oversight mechanism by the Central Government*' - An Inter-Departmental Committee, headed by an Authorised Officer of the Government of India, and composed of representatives from various Ministries (and domain experts, if added). The Committee has the power to take up complaints referred to it by the Level 2 body or even directly by the Ministry of I&B. In addition to the power to recommend to the Ministry of I&B to issue various binding directions for perceived non-compliance, such as publication of an apology, displaying a warning/disclaimer, etc., the Committee also has the power to recommend to the Ministry, draconian measures such as ordering the modification, deletion or blocking of content. Such drastic orders are

subject only to approval of the Secretary of the Ministry of I&B. The grounds on which such deletion or modification may be made are:

- I. To prevent incitement to the commission of a cognisable offence relating to public order (Rule 14(5)(e))
- II. Grounds enumerated under Section 69-A, that is, sovereignty and integrity of India, security of State, defence of India, friendly relations with foreign States, public order or to prevent incitement to the commission of any cognizable offence relating to the above. (Rule 14(5)(f))

8. In addition to all of the above, there is an 'emergency power' reserved with the Secretary of Ministry of I&B, to pass interim orders blocking any content without even giving the publishers an opportunity of hearing. (Rule 16). The Impugned Rules are ultravires to the Parent Act and the Respondent had no power to enact such rules. Hence the impugned rules are liable to be struck down.

9. The Petitioner has no other alternative and efficacious remedy except to approach this Hon'ble court. The Petitioner has not filed any other writ petition on the same cause of action.

10. BEING AGGRIEVED by the action of the 1st Respondent in enacting the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 – ANNEXURE B which is unconstitutional and ultravires to the Information Technology Act, the Petitioner prefers this writ Petition on the following amongst other grounds :

GROUND

11. The impugned IT Rules 2021 is unconstitutional and ultravires to the Parent Act. Hence the same is liable to be struck down.

12. It is well-settled in law that there is no unlimited right of delegation, and that subordinate legislation cannot go beyond the object and the scope of the

parent Act. Any Rule or Regulation made in exercise of delegated power has to be in consonance with the parent Act, and if such Rule or Regulation goes beyond what the parent Act contemplates, then it becomes *ultra vires* the parent Act. In the present case, though the parent Act deals with electronic data/record, the object and purpose of the parent Act, is primarily to provide for legal recognition of such electronic data/record, recognize means of electronic communication, authenticate and establish conditions in which electronic data/record could be considered as evidence, and to recognize offences committed through the use of computer resources. Therefore, the parent Act does not recognise digital news media as a separate category of entities and does not seek to subject them or their content to any set of special regulations. The Impugned Part of the Rules, to the extent that it seeks to achieve such special regulation or control of digital media including online news platforms, is manifestly *ultra vires* the parent Act.

13. Section 69-A is a limited and specific emergent power as described by the Supreme Court in *Shreya Singhal*. The Impugned Rules cannot therefore purport to regulate digital news portals by requiring them to abide by the Code of Ethics. In doing so, the Rules essentially extend the application of two legislations: the Cable Television Networks (Regulation) Act, 1995 and Press Council Act, 1978, to digital news media, to the extent of the Programme Code and the Norms of Journalistic Conduct stipulated under these legislations respectively.

14. It is noteworthy that both under the Press Council Act, 1978 and the Cable Television Networks (Regulation) Act, 1995, the journalistic norms and the Programme code are expressly provided for under the plenary legislations. The Press Council Act is a statute with express provisions to regulate newspapers, without Government interference, wherein Section 13(2)(b) expressly specifies it as a function of the Council to 'build up a code of conduct'. Similarly, under the Cable Television Networks Act, there is power under Section 5, read with Section 19, to impose a Programme code on cable television operators, to be regulated by the Government. By contrast, the Information Technology Act neither intends nor provides for the imposition of

a programme code, or regulation of news portals in any manner. Yet, this is sought to be done through subordinate legislation, the IT Rules, 2021 which is impermissible under law. Hence the same is liable to be struck down.

15. The IT Rules, 2021 expand the scope of the Act even further by providing for a Code of Ethics and a three-tier regulatory system to administer a loose-ranging Code of Ethics, that contains wide and vague terms as 'half-truths', 'good taste', 'decency'. Therefore, such an oversight includes and extends far beyond categories of content as provided for under Section 66-A, which was struck-down in *Shreya Singhal*. Furthermore, the three-tier regulatory system also has the power to censure, warn, require an apology, etc. in this regard, as also on counts of 'defamation' etc. As stated above, this is contrary to the Supreme Court judgment in *Shreya Singhal* that struck down Section 66-A.

16. The IT Rules, 2021 have been issued under S. 87(2)(z) and (zg). The rule-making power under S. 87(2)(zg) is with respect to guidelines for intermediaries, therefore, the Impugned Part cannot be sourced to S. 87(2)(zg), since the Impugned Part applies only to non- intermediaries such as 'publishers of news and current affairs content' and 'publishers of curated content', which are both distinct from 'intermediary' as defined and understood in the parent Act. Hence the Impugned rules are ultra vires to the Parent Act.

17. Section 69-A refers to blocking of information on the internet, that can only be done on extraordinary grounds such as in the interest of national security, etc., and it does not at all purport to generally regulate or censor news media. The Government implements its power to block information under Section 69-A by directing intermediaries, such as social media intermediaries and Internet Service Providers to delete social media posts or to block access to certain pages/URLs. But in no manner does the parent Section empower the Government to direct publishers to delete content, make changes, or publish apologies. The Rules cannot therefore regulate digital news media by requiring them to abide by the Code of Ethics, by extending other legislations and Rules to digital news media. Therefore, the IT Rules,

2021 go completely beyond the object and scope of Section 69-A of the parent Act. Hence the impugned rules are liable to be struck down.

18. Further, the IT Rules, 2021 provide for an oversight mechanism in the Impugned Part, including the setting up of an Inter-Departmental Committee which has the power to hear grievances regarding compliance with the said Code of Ethics, as well as the power to recommend to the Ministry of I&B, draconian measures such as ordering the deletion, modification of content or blocking the same. The Rules framed under the parent Act cannot set up an adjudicatory mechanism parallel to Courts of law, which is completely beyond the object and scope of the parent Act.

19. No reading of the rule-making power will allow for an entire regulatory regime for all digital news media entities without express statutory sanction, for that will run the danger of adversely affecting fundamental rights. Given such grave consequences, rule-making power has to be read strictly. It is therefore imperative that this Hon'ble Court supplies a constitutionally sound reading of the rule-making power under the Act and holds the Impugned Part of the IT Rules, 2021 *ultra vires* the rule-making power under the parent Act. Such a reading is also supported by a plain reading of the parent Act.

20. The Impugned rules are also bad on various other grounds and the same will be pointed out at the time of hearing.

GROUND FOR INTERIM PRAYER

The Petitioner's right to publish news is a fundamental right protected under Article 19(1)(a) of the Constitution of India. The Central Government wants to curb the Petitioner's right by framing the rules which are vague and are *ultra vires* to the Parent Act. Under the rules there is regulatory mechanism and the Central Government has various powers to censure the news. Under the circumstances it is just and necessary to stay the operation of the Impugned rules pending disposal of the above Petition in the interest of Justice and Equity. If Such an order is not passed, then the Petitioner will be put to great hardship and loss and Justice will suffer. On the other hand, no prejudice

whatsoever would be caused to the Respondents

PRAYERS

WHEREFORE, the Petitioner prays that this Hon'ble Court may be pleased to:

- a) Declare that the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 -Annexure B insofar as they define and apply to publishers of news and current affairs content, and Part III, insofar as it regulates publishers of news and current affairs content, as unconstitutional and ultravires to the Information Technology Act 2000
- b) Pass such other order as this Hon'ble court deems fit in the interest of Justice and Equity.

INTERIM PRAYER

The Petitioner prays that this Hon'ble court may be pleased to stay the operation of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 -Annexure B pending disposal of the above Petition in the interest of Justice and Equity.

Place: Bengaluru

Date:

Advocate for Petitioner

ADDRESS FOR SERVICE:

Rakesh B. Bhatt
Advocate
F- 202, I Floor, Property # 186
Sirur Park Road, Seshadripuram
Bengaluru – 560020
Ph : 9036272199
Email : advrakeshbhatt@gmail.com

IN THE HIGH COURT OF KARNATAKA AT BENGALURU**W.P.No. _____/2021****BETWEEN :**

Truth Pro Foundation

...Petitioner

AND :

Union of India and Others

...Respondents

VERIFYING AFFIDAVIT

I Shivakumar S S/o Siddappa aged about 40 years at No.2, 1st Floor,
Shopping Street, Kumara Part West, Seshadripuram, Serpentine Road,
Bangalore – 560 020 do hereby solemnly affirm and state on oath as follows :

1. I am the Director of the Petitioner Company and I know the facts of the case. I am authorized to swear on behalf of the Company.
2. The averments made in para 1 to ' ' of the accompanying writ petition are true to best of my knowledge and belief and I believe them to be true.
3. Annexure ' ' to ' ' are true copies of their respective originals.

IDENTIFIED BY ME


 DEPONENT

ADVOCATE

Place: Bengaluru

Date:

No. of Corrections :

14

ANNEXURE - A

Company Master Data

CIN	U85100KA2018NPL111586
Company Name	TRUTH PRO FOUNDATION INDIA
ROC Code	RoC-Bangalore
Registration Number	111586
Company Category	Company limited by Shares
Company SubCategory	Non-govt company
Class of Company	Private
Authorised Capital(Rs)	1000000
Paid up Capital(Rs)	100000
Number of Members(Applicable in case of company without Share Capital)	0
Date of Incorporation	23/03/2018
Registered Address	No. 2, 2nd floor, Shopping Street Kumara park west, Bangalore Bangalore Bangalore KA 560020 IN
Address other than R/o where all or any books of account and papers are maintained	-
Email Id	tpfindia2018@gmail.com
Whether Listed or not	Unlisted
ACTIVE compliance	-
Suspended at stock exchange	-
Date of last AGM	31/12/2020
Date of Balance Sheet	31/03/2020
Company Status(for efilling)	Active

Charges

Assets under charge	Charge Amount	Date of Creation	Date of Modification	Status
No Charges Exists for Company/LLP				

Directors/Signatory Details

DIN/PAN	Name	Begin date	End date	Surrendered DIN
07456430	SIDDAPPA SHIVA KUMAR	23/03/2018	-	
07964482	BETTAIAH SHIVALINGAIAH	23/03/2018	-	
08469478	RAJANNA SUKRUTHGOWDA	20/06/2019	-	

MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

NOTIFICATION

New Delhi, the 25th February, 2021

G.S.R. 139(E).—In exercise of the powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (21 of 2000), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—

PART I

PRELIMINARY

1. Short Title and Commencement.—(1) These rules may be called the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—(1) In these rules, unless the context otherwise requires—

- (a) 'access control mechanism' means any measure, including a technical measure, through which access to online curated content may be restricted based on verification of the identity or age of a user;
- (b) 'access services' means any measure, including technical measure such as closed captioning, subtitles and audio descriptions, through which the accessibility of online curated content may be improved for persons with disabilities;
- (c) 'Act' means the Information Technology Act, 2000 (21 of 2000);
- (d) 'child' means any person below the age of eighteen years;
- (e) 'committee' means the Inter-Departmental Committee constituted under rule 14;
- (f) 'communication link' means a connection between a hypertext or graphical element, and one or more items in the same or different electronic document wherein upon clicking on a hyperlinked item, the user is automatically transferred to the other end of the hyperlink which can be another electronic record or another website or application or graphical element;
- (g) 'content' means the electronic record defined in clause (t) of section 2 of the Act;
- (h) 'content descriptor' means the issues and concerns which are relevant to the classification of any online curated content, including discrimination, depiction of illegal or harmful substances, imitable behaviour, nudity, language, sex, violence, fear, threat, horror and other such concerns as specified in the *Schedule* annexed to the rules;
- (i) 'digital media' means digitized content that can be transmitted over the internet or computer networks and includes content received, stored, transmitted, edited or processed by-
 - (i) an intermediary; or
 - (ii) a publisher of news and current affairs content or a publisher of online curated content;
- (j) 'grievance' includes any complaint, whether regarding any content, any duties of an intermediary or publisher under the Act, or other matters pertaining to the computer resource of an intermediary or publisher, as the case may be;
- (k) 'Grievance Officer' means an officer appointed by the intermediary or the publisher, as the case may be, for the purposes of these rules;
- (l) 'Ministry' means, for the purpose of Part II of these rules unless specified otherwise, the Ministry of Electronics and Information Technology, Government of India, and for the purpose of Part III of these rules, the Ministry of Information and Broadcasting, Government of India;
- (m) 'news and current affairs content' includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural

nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

- (n) 'newspaper' means a periodical of loosely folded sheets usually printed on newsprint and brought out daily or at least once in a week, containing information on current events, public news or comments on public news;
- (o) 'news aggregator' means an entity who, performing a significant role in determining the news and current affairs content being made available, makes available to users a computer resource that enable such users to access the news and current affairs content which is aggregated, curated and presented by such entity.
- (p) 'on demand' means a system where a user, subscriber or viewer is enabled to access, at a time chosen by such user, any content in electronic form, which is transmitted over a computer resource and is selected by the user;
- (q) 'online curated content' means any curated catalogue of audio-visual content, other than news and current affairs content, which is owned by, licensed to or contracted to be transmitted by a publisher of online curated content, and made available on demand, including but not limited to through subscription, over the internet or computer networks, and includes films, audio visual programmes, documentaries, television programmes, serials, podcasts and other such content;
- (r) 'person' means a person as defined in sub-section (31) of section 2 of the Income tax Act 1961 (43 of 1961);
- (s) 'publisher' means a publisher of news and current affairs content or a publisher of online curated content;
- (t) 'publisher of news and current affairs content' means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;
- (u) 'publisher of online curated content' means a publisher who, performing a significant role in determining the online curated content being made available, makes available to users a computer resource that enables such users to access online curated content over the internet or computer networks, and such other entity called by whatever name, which is functionally similar to publishers of online curated content but does not include any individual or user who is not transmitting online curated content in the course of systematic business, professional or commercial activity;
- (v) 'significant social media intermediary' means a social media intermediary having number of registered users in India above such threshold as notified by the Central Government;
- (w) 'social media intermediary' means an intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services;
- (x) 'user' means any person who accesses or avails any computer resource of an intermediary or a publisher for the purpose of hosting, publishing, sharing, transacting, viewing, displaying, downloading or uploading information and includes other persons jointly participating in using such computer resource and addressee and originator;
- (y) 'user account' means the account registration of a user with an intermediary or publisher and includes profiles, accounts, pages, handles and other similar presences by means of which a user is able to access the services offered by the intermediary or publisher.

(2) Words and expressions used and not defined in these rules but defined in the Act and rules made thereunder shall have the same meaning as assigned to them in the Act and the said rules, as the case may be.

PART II

DUE DILIGENCE BY INTERMEDIARIES AND GRIEVANCE REDRESSAL MECHANISM

3. (1) **Due diligence by an intermediary:** An intermediary, including social media intermediary and significant social media intermediary, shall observe the following due diligence while discharging its duties, namely:—

- (a) the intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the rules and regulations, privacy policy and user agreement for access or usage of its computer resource by any person;
- (b) the rules and regulations, privacy policy or user agreement of the intermediary shall inform the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information that,—
 - (i) belongs to another person and to which the user does not have any right;
 - (ii) is defamatory, obscene, pornographic, paedophilic, invasive of another's privacy, including bodily privacy, insulting or harassing on the basis of gender, libellous, racially or ethnically objectionable, relating or encouraging money laundering or gambling, or otherwise inconsistent with or contrary to the laws in force;
 - (iii) is harmful to child;
 - (iv) infringes any patent, trademark, copyright or other proprietary rights;
 - (v) violates any law for the time being in force;
 - (vi) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any information which is patently false or misleading in nature but may reasonably be perceived as a fact;
 - (vii) impersonates another person;
 - (viii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting other nation;
 - (ix) contains software virus or any other computer code, file or program designed to interrupt, destroy or limit the functionality of any computer resource;
 - (x) is patently false and untrue, and is written or published in any form, with the intent to mislead or harass a person, entity or agency for financial gain or to cause any injury to any person;
- (c) an intermediary shall periodically inform its users, at least once every year, that in case of non-compliance with rules and regulations, privacy policy or user agreement for access or usage of the computer resource of such intermediary, it has the right to terminate the access or usage rights of the users to the computer resource immediately or remove non-compliant information or both, as the case may be;
- (d) an intermediary, on whose computer resource the information is stored, hosted or published, upon receiving actual knowledge in the form of an order by a court of competent jurisdiction or on being notified by the Appropriate Government or its agency under clause (b) of sub-section (3) of section 79 of the Act, shall not host, store or publish any unlawful information, which is prohibited under any law for the time being in force in relation to the interest of the sovereignty and integrity of India; security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence relating to the above, or any information which is prohibited under any law for the time being in force:

Provided that any notification made by the Appropriate Government or its agency in relation to any information which is prohibited under any law for the time being in force shall be issued by an authorised agency, as may be notified by the Appropriate Government:

Provided further that if any such information is hosted, stored or published, the intermediary shall remove or disable access to that information, as early as possible, but in no case later than thirty-six hours from the receipt of the court order or on being notified by the Appropriate Government or its agency, as the case may be;

Provided also that the removal or disabling of access to any information, data or communication link within the categories of information specified under this clause, under clause (b) on a voluntary basis, or on the basis of grievances received under sub-rule (2) by such intermediary, shall not amount to a violation of the conditions of clauses (a) or (b) of sub-section (2) of section 79 of the Act;

- (e) the temporary or transient or intermediate storage of information automatically by an intermediary in a computer resource within its control as an intrinsic feature of that computer resource, involving no exercise of any human, automated or algorithmic editorial control for onward transmission or communication to another computer resource shall not amount to hosting, storing or publishing any information referred to under clause (d);
- (f) the intermediary shall periodically, and at least once in a year, inform its users of its rules and regulations, privacy policy or user agreement or any change in the rules and regulations, privacy policy or user agreement, as the case may be;
- (g) where upon receiving actual knowledge under clause (d), on a voluntary basis on violation of clause (b), or on the basis of grievances received under sub-rule (2), any information has been removed or access to which has been disabled, the intermediary shall, without vitiating the evidence in any manner, preserve such information and associated records for one hundred and eighty days for investigation purposes, or for such longer period as may be required by the court or by Government agencies who are lawfully authorised;
- (h) where an intermediary collects information from a user for registration on the computer resource, it shall retain his information for a period of one hundred and eighty days after any cancellation or withdrawal of his registration, as the case may be;
- (i) the intermediary shall take all reasonable measures to secure its computer resource and information contained therein following the reasonable security practices and procedures as prescribed in the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules, 2011;
- (j) the intermediary shall, as soon as possible, but not later than seventy two hours of the receipt of an order, provide information under its control or possession, or assistance to the Government agency which is lawfully authorised for investigative or protective or cyber security activities, for the purposes of verification of identity, or for the prevention, detection, investigation, or prosecution, of offences under any law for the time being in force, or for cyber security incidents:

Provided that any such order shall be in writing stating clearly the purpose of seeking information or assistance, as the case may be;

- (k) the intermediary shall not knowingly deploy or install or modify technical configuration of computer resource or become party to any act that may change or has the potential to change the normal course of operation of the computer resource than what it is supposed to perform thereby circumventing any law for the time being in force:

Provided that the intermediary may develop, produce, distribute or employ technological means for the purpose of performing the acts of securing the computer resource and information contained therein;

- (l) the intermediary shall report cyber security incidents and share related information with the Indian Computer Emergency Response Team in accordance with the policies and procedures as mentioned in the Information Technology (The Indian Computer Emergency Response Team and Manner of Performing Functions and Duties) Rules, 2013.

- (2) **Grievance redressal mechanism of intermediary:** (a) The intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the name of the Grievance Officer and his contact details as well as mechanism by which a user or a victim may make complaint against violation of the provisions of this rule or any other matters pertaining to the computer resources made available by it, and the Grievance Officer shall -
- (i) acknowledge the complaint within twenty four hours and dispose off such complaint within a period of fifteen days from the date of its receipt;
 - (ii) receive and acknowledge any order, notice or direction issued by the Appropriate Government, any competent authority or a court of competent jurisdiction.
- (b) The intermediary shall, within twenty-four hours from the receipt of a complaint made by an individual or any person on his behalf under this sub-rule, in relation to any content which is *prima facie* in the nature of any material which exposes the private area of such individual, shows such individual in full or partial nudity or shows or depicts such individual in any sexual act or conduct, or is in the nature of impersonation in an electronic form, including artificially morphed images of such individual, take all reasonable and practicable measures to remove or disable access to such content which is hosted, stored, published or transmitted by it:
- (c) The intermediary shall implement a mechanism for the receipt of complaints under clause (b) of this sub-rule which may enable the individual or person to provide details, as may be necessary, in relation to such content or communication link.

4. **Additional due diligence to be observed by significant social media intermediary.**—(1) In addition to the due diligence observed under rule 3, a significant social media intermediary shall, within three months from the date of notification of the threshold under clause (v) of sub-rule (1) of rule 2, observe the following additional due diligence while discharging its duties, namely:—

- (a) appoint a Chief Compliance Officer who shall be responsible for ensuring compliance with the Act and rules made thereunder and shall be liable in any proceedings relating to any relevant third-party information, data or communication link made available or hosted by that intermediary where he fails to ensure that such intermediary observes due diligence while discharging its duties under the Act and rules made thereunder:

Provided that no liability under the Act or rules made thereunder may be imposed on such significant social media intermediary without being given an opportunity of being heard.

Explanation.—For the purposes of this clause “Chief Compliance Officer” means a key managerial personnel or such other senior employee of a significant social media intermediary who is resident in India;

- (b) appoint a nodal contact person for 24x7 coordination with law enforcement agencies and officers to ensure compliance to their orders or requisitions made in accordance with the provisions of law or rules made thereunder.

Explanation.—For the purposes of this clause “nodal contact person” means the employee of a significant social media intermediary, other than the Chief Compliance Officer, who is resident in India;

- (c) appoint a Resident Grievance Officer, who shall, subject to clause (b), be responsible for the functions referred to in sub-rule (2) of rule 3.

Explanation.—For the purposes of this clause, “Resident Grievance Officer” means the employee of a significant social media intermediary, who is resident in India;

- (d) publish periodic compliance report every month mentioning the details of complaints received and action taken thereon, and the number of specific communication links or parts of information that the intermediary has removed or disabled access to in pursuance of any

proactive monitoring conducted by using automated tools or any other relevant information as may be specified;

(2) A significant social media intermediary providing services primarily in the nature of messaging shall enable the identification of the first originator of the information on its computer resource as may be required by a judicial order passed by a court of competent jurisdiction or an order passed under section 69 by the Competent Authority as per the Information Technology (Procedure and Safeguards for interception, monitoring and decryption of information) Rules, 2009, which shall be supported with a copy of such information in electronic form:

Provided that an order shall only be passed for the purposes of prevention, detection, investigation, prosecution or punishment of an offence related to the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, or public order, or of incitement to an offence relating to the above or in relation with rape, sexually explicit material or child sexual abuse material, punishable with imprisonment for a term of not less than five years:

Provided further that no order shall be passed in cases where other less intrusive means are effective in identifying the originator of the information:

Provided also that in complying with an order for identification of the first originator, no significant social media intermediary shall be required to disclose the contents of any electronic message, any other information related to the first originator, or any information related to its other users:

Provided also that where the first originator of any information on the computer resource of an intermediary is located outside the territory of India, the first originator of that information within the territory of India shall be deemed to be the first originator of the information for the purpose of this clause.

(3) A significant social media intermediary that provides any service with respect to an information or transmits that information on behalf of another person on its computer resource—

- (a) for direct financial benefit in a manner that increases its visibility or prominence, or targets the receiver of that information; or
- (b) to which it owns a copyright, or has an exclusive license, or in relation with which it has entered into any contract that directly or indirectly restricts the publication or transmission of that information through any means other than those provided through the computer resource of such social media intermediary,

shall make that information clearly identifiable to its users as being advertised, marketed, sponsored, owned, or exclusively controlled, as the case may be, or shall make it identifiable as such in an appropriate manner.

(4) A significant social media intermediary shall endeavour to deploy technology-based measures, including automated tools or other mechanisms to proactively identify information that depicts any act or simulation in any form depicting rape, child sexual abuse or conduct, whether explicit or implicit, or any information which is exactly identical in content to information that has previously been removed or access to which has been disabled on the computer resource of such intermediary under clause (d) of sub-rule (1) of rule 3, and shall display a notice to any user attempting to access such information stating that such information has been identified by the intermediary under the categories referred to in this sub-rule:

Provided that the measures taken by the intermediary under this sub-rule shall be proportionate having regard to the interests of free speech and expression, privacy of users on the computer resource of such intermediary, including interests protected through the appropriate use of technical measures:

Provided further that such intermediary shall implement mechanisms for appropriate human oversight of measures deployed under this sub-rule, including a periodic review of any automated tools deployed by such intermediary:

Provided also that the review of automated tools under this sub-rule shall evaluate the automated tools having regard to the accuracy and fairness of such tools, the propensity of bias and discrimination in such tools and the impact on privacy and security of such tools.

(5) The significant social media intermediary shall have a physical contact address in India published on its website, mobile based application or both, as the case may be, for the purposes of receiving the communication addressed to it.

(6) The significant social media intermediary shall implement an appropriate mechanism for the receipt of complaints under sub-rule (2) of rule 3 and grievances in relation to the violation of provisions under this rule, which shall enable the complainant to track the status of such complaint or grievance by providing a unique ticket number for every complaint or grievance received by such intermediary:

Provided that such intermediary shall, to the extent reasonable, provide such complainant with reasons for any action taken or not taken by such intermediary in pursuance of the complaint or grievance received by it.

(7) The significant social media intermediary shall enable users who register for their services from India, or use their services in India, to voluntarily verify their accounts by using any appropriate mechanism, including the active Indian mobile number of such users, and where any user voluntarily verifies their account, such user shall be provided with a demonstrable and visible mark of verification, which shall be visible to all users of the service:

Provided that the information received for the purpose of verification under this sub-rule shall not be used for any other purpose, unless the user expressly consents to such use.

(8) Where a significant social media intermediary removes or disables access to any information, data or communication link, under clause (b) of sub-rule (1) of rule 3 on its own accord, such intermediary shall,—

- (a) ensure that prior to the time at which such intermediary removes or disables access, it has provided the user who has created, uploaded, shared, disseminated, or modified information, data or communication link using its services with a notification explaining the action being taken and the grounds or reasons for such action;
- (b) ensure that the user who has created, uploaded, shared, disseminated, or modified information using its services is provided with an adequate and reasonable opportunity to dispute the action being taken by such intermediary and request for the reinstatement of access to such information, data or communication link, which may be decided within a reasonable time;
- (c) ensure that the Resident Grievance Officer of such intermediary maintains appropriate oversight over the mechanism for resolution of any disputes raised by the user under clause (b).
- (9) The Ministry may call for such additional information from any significant social media intermediary as it may consider necessary for the purposes of this part.

5. Additional due diligence to be observed by an intermediary in relation to news and current affairs content.—In addition to adherence to rules 3 and 4, as may be applicable, an intermediary shall publish, on an appropriate place on its website, mobile based application or both, as the case may be, a clear and concise statement informing publishers of news and current affairs content that in addition to the common terms of service for all users, such publishers shall furnish the details of their user accounts on the services of such intermediary to the Ministry as may be required under rule 18:

Provided that an intermediary may provide such publishers who have provided information under rule 18 with a demonstrable and visible mark of verification as being publishers, which shall be visible to all users of the service.

Explanation.—This rule relates only to news and current affairs content and shall be administered by the Ministry of Information and Broadcasting.

6. Notification of other intermediary.—(1) The Ministry may by order, for reasons to be recorded in writing, require any intermediary, which is not a significant social media intermediary, to comply with all or any of the obligations mentioned under rule 4, if the services of that intermediary permits the publication or transmission of information in a manner that may create a material risk of harm to the sovereignty and integrity of India, security of the State, friendly relations with foreign States or public order.

(2) The assessment of material risk of harm referred to in sub-rule (1) shall be made having regard to the nature of services of such intermediary, and if those services permit,—

- (a) interaction between users, notwithstanding, whether it is the primary purpose of that intermediary; and
- (b) the publication or transmission of information to a significant number of other users as would be likely to result in widespread dissemination of such information.

(3) An order under this rule may be issued in relation to a specific part of the computer resources of any website, mobile based application or both, as the case may be, if such specific part is in the nature of an intermediary:

Provided that where such order is issued, an entity may be required to comply with all or any of the obligations mentions under rule 4, in relation to the specific part of its computer resource which is in the nature of an intermediary.

7. **Non-observance of Rules.**—Where an intermediary fails to observe these rules, the provisions of sub-section (1) of section 79 of the Act shall not be applicable to such intermediary and the intermediary shall be liable for punishment under any law for the time being in force including the provisions of the Act and the Indian Penal Code.

PART III

CODE OF ETHICS AND PROCEDURE AND SAFEGUARDS IN RELATION TO DIGITAL MEDIA

8. **Application of this Part.**—(1) The rules made under this Part shall apply to the following persons or entities, namely:—

- (a) publishers of news and current affairs content;
- (b) publishers of online curated content; and

shall be administered by the Ministry of Information and Broadcasting, Government of India, which shall be referred to in this Part as the “Ministry”:

Provided that the rules made under this Part shall apply to intermediaries for the purposes of rules 15 and 16;

- (2) the rules made under this Part shall apply to the publishers, where,—
 - (a) such publisher operates in the territory of India; or
 - (b) such publisher conducts systematic business activity of making its content available in India.

Explanation.—For the purposes of this rule,—

- (a) a publisher shall be deemed to operate in the territory of India where such publisher has a physical presence in the territory of India;
- (b) “*systematic activity*” shall mean any structured or organised activity that involves an element of planning, method, continuity or persistence.

(3) The rules made under this Part shall be in addition to and not in derogation of the provisions of any other law for the time being in force and any remedies available under such laws including the Information Technology (Procedure and Safeguards for Blocking of Access of Information by the Public) Rules, 2009.

9. **Observance and adherence to the Code.**—(1) A publisher referred to in rule 8 shall observe and adhere to the Code of Ethics laid down in the *Appendix* annexed to these rules.

(2) Notwithstanding anything contained in these rules, a publisher referred to in rule 8 who contravenes any law for the time being in force, shall also be liable for consequential action as provided in such law which has so been contravened.

(3) For ensuring observance and adherence to the Code of Ethics by publishers operating in the territory of India, and for addressing the grievances made in relation to publishers under this Part, there shall be a three-tier structure as under—

- (a) Level I - Self-regulation by the publishers;
- (b) Level II - Self-regulation by the self-regulating bodies of the publishers;
- (c) Level III - Oversight mechanism by the Central Government.

CHAPTER I

GRIEVANCE REDRESSAL MECHANISM

10. Furnishing and processing of grievance.—(1) Any person having a grievance regarding content published by a publisher in relation to the Code of Ethics may furnish his grievance on the grievance mechanism established by the publisher under rule 11.

(2) The publisher shall generate and issue an acknowledgement of the grievance for the benefit of the complainant within twenty-four hours of it being furnished for information and record.

(3) The manner of grievance redressal shall have the following arrangement—

- (a) the publisher shall address the grievance and inform the complainant of its decision within fifteen days of the registration of the grievance;
- (b) if the decision of the publisher is not communicated to the complainant within the stipulated fifteen days, the grievance shall be escalated to the level of the self-regulating body of which such publisher is a member.
- (c) where the complainant is not satisfied with the decision of the publisher, it may prefer to appeal to the self-regulating body of which such publisher is a member within fifteen days of receiving such a decision.
- (d) the self-regulating body shall address the grievance referred to in clauses (b) and (c), and convey its decision in the form of a guidance or advisory to the publisher, and inform the complainant of such decision within a period of fifteen days..
- (e) where the complainant is not satisfied with the decision of the self-regulating body, it may, within fifteen days of such decision, prefer an appeal to the Oversight Mechanism referred to in rule 13 for resolution.

CHAPTER II

SELF REGULATING MECHANISM - LEVEL I

11. Self-Regulating mechanism at Level I.—(1) The publisher shall be the Level I of the self-regulating mechanism.

(2) A publisher shall—

- (a) establish a grievance redressal mechanism and shall appoint a Grievance Officer based in India, who shall be responsible for the redressal of grievances received by him;
- (b) display the contact details related to its grievance redressal mechanism and the name and contact details of its Grievance Officer at an appropriate place on its website or interface, as the case may be;
- (c) ensure that the Grievance Officer takes a decision on every grievance received by it within fifteen days, and communicate the same to the complainant within the specified time;
- (d) be a member of a self-regulating body as referred to in rule 12 and abide by its terms and conditions.

(3) The Grievance Officer shall,—

- (a) be the contact point for receiving any grievance relating to Code of Ethics;

- (b) act as the nodal point for interaction with the complainant, the self-regulating body and the Ministry.

(4) Online curated content shall be classified by the publisher of such content into the categories referred to in the *Schedule*, having regard to the context, theme, tone, impact and target audience of such content, with the relevant rating for such categories based on an assessment of the relevant content descriptors in the manner specified in the said *Schedule*.

(5) Every publisher of online curated content shall display the rating of any online curated content and an explanation of the relevant content descriptors, prominently to its users at an appropriate place, as the case may be, in a manner that ensures that such users are aware of this information before accessing such content.

CHAPTER III

SELF REGULATING MECHANISM – LEVEL II

12. Self-regulating body.— (1) There may be one or more self-regulatory bodies of publishers, being an independent body constituted by publishers or their associations.

(2) The self-regulatory body referred to in sub-rule (1) shall be headed by a retired judge of the Supreme Court, a High Court, or an independent eminent person from the field of media, broadcasting, entertainment, child rights, human rights or such other relevant field, and have other members, not exceeding six, being experts from the field of media, broadcasting, entertainment, child rights, human rights and such other relevant fields.

(3) The self-regulating body shall, after its constitution in accordance with sub-rule (2), register itself with the Ministry within a period of thirty days from the date of notification of these rules, and where a self-regulating body is constituted after such period, within thirty days from the date of its constitution:

Provided that before grant of registration to the self-regulating body, the Ministry shall satisfy itself that the self-regulating body has been constituted in accordance with sub-rule (2) and has agreed to perform the functions laid down in sub-rules (4) and (5).

(4) The self-regulating body shall perform the following functions, namely:—

- (a) oversee and ensure the alignment and adherence by the publisher to the Code of Ethics;
- (b) provide guidance to publishers on various aspects of the Code of Ethics;
- (c) address grievances which have not been resolved by publishers within the specified period of fifteen days;
- (d) hear appeals filed by the complainant against the decision of publishers;
- (e) issue such guidance or advisories to such publishers as specified in sub-rule (5) for ensuring compliance to the Code of Ethics.

(5) The self-regulating body while disposing a grievance or an appeal referred to it in sub-rule (4) may issue following guidance or advisories to the publishers as under, namely:—

- (a) warning, censuring, admonishing or reprimanding the publisher; or
- (b) requiring an apology by the publisher; or
- (c) requiring the publisher to include a warning card or a disclaimer; or
- (d) in case of online curated content, direct the publisher to,—
 - (i) reclassify ratings of relevant content;
 - (ii) make appropriate modification in the content descriptor, age classification and access control measures;
 - (iii) edit synopsis of relevant content; or
- (e) in case of any content where it is satisfied that there is a need for taking action to delete or modify the content for preventing incitement to the commission of a cognizable offence

relating to public order, or in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, refer such content to the Ministry for consideration by the Oversight Mechanism referred to in rule 13 for appropriate action.

(6) Where the self-regulating body is of the opinion that there is no violation of the Code of Ethics, it shall convey such decision to the complainant and such entity.

(7) Where a publisher fails to comply with the guidance or advisories of the self-regulating body within the time specified in such guidance or advisory, the self-regulating body shall refer the matter to the Oversight Mechanism referred to in rule 13 within fifteen days of expiry of the specified date.

CHAPTER IV

OVERSIGHT MECHANISM - LEVEL III

13. **Oversight mechanism.**— (1) The Ministry shall co-ordinate and facilitate the adherence to the Code of Ethics by publishers and self regulating bodies, develop an Oversight Mechanism, and perform the following functions, namely:—

- (a) publish a charter for self regulating bodies, including Codes of Practices for such bodies;
- (b) establish an Inter-Departmental Committee for hearing grievances;
- (c) refer to the Inter-Departmental Committee grievances arising out of the decision of the self-regulating body under rule 12, or where no decision has been taken by the self-regulating body within the specified time period, or such other complaints or references relating to violation of Code of Ethics as it may consider necessary;
- (d) issue appropriate guidance and advisories to publishers;
- (e) issue orders and directions to the publishers for maintenance and adherence to the Code of Ethics.

(2) The Ministry shall appoint an officer of the Ministry not below the rank of a Joint Secretary to the Government of India, as the "Authorised Officer", for the purposes of issuing directions under rules 15 or 16, as the case may be.

14. **Inter-Departmental Committee.**— (1) The Ministry shall constitute an Inter-Departmental Committee, called the Committee, consisting of representatives from the Ministry of Information and Broadcasting, Ministry of Women and Child Development, Ministry of Law and Justice, Ministry of Home Affairs, Ministry of Electronics and Information Technology, Ministry of External Affairs, Ministry of Defence, and such other Ministries and Organisations, including domain experts, that it may decide to include in the Committee:

Provided that the Authorised Officer designated under sub-rule (2) of rule 13 shall be the Chairperson of such Committee.

(2) The Committee shall meet periodically and hear the following complaints regarding violation or contravention of the Code of Ethics by the entities referred to in Rule 8—

- (a) arising out of the grievances in respect of the decisions taken at the Level I or II, including the cases where no such decision is taken within the time specified in the grievance redressal mechanism; or
- (b) referred to it by the Ministry.

(3) Any complaint referred to the Committee, whether arising out of the grievances or referred to it by the Ministry, shall be in writing and may be sent either by mail or fax or by e-mail signed with electronic signature of the authorised representative of the entity referring the grievance, and the Committee shall ensure that such reference is assigned a number which is recorded along with the date and time of its receipt.

(4) The Ministry shall make all reasonable efforts to identify the entity referred to in Rule 8 which has created, published or hosted the content or part thereof, and where it is able to identify such entity, it shall issue a duly signed notice to such entity to appear and submit their reply and clarifications, if any, before the Committee.

(5) In the hearing, the Committee shall examine complaints or grievances, and may either accept or allow such complaint or grievance, and make the following recommendations to the Ministry, namely:—

- (a) warning, censuring, admonishing or reprimanding such entity; or
- (b) requiring an apology by such entity; or
- (c) requiring such entity to include a warning card or a disclaimer; or
- (d) in case of online curated content, direct a publisher to—
 - (i) reclassify ratings of relevant content; or
 - (ii) edit synopsis of relevant content; or
 - (iii) make appropriate modification in the content descriptor, age classification and parental or access control;
- (e) delete or modify content for preventing incitement to the commission of a cognisable offence relating to public order;
- (f) in case of content where the Committee is satisfied that there is a need for taking action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, it may recommend such action.

(6) The Ministry may, after taking into consideration the recommendations of the Committee, issue appropriate orders and directions for compliance by the publisher:

Provided that no such order shall be issued without the approval of the Secretary, Ministry of Information and Broadcasting, Government of India (hereinafter referred to as the “Secretary, Ministry of Information and Broadcasting”).

15. Procedure for issuing of direction.— (1) In respect of recommendations referred to in clauses (e) and (f) of sub-rule (5) of rule 14, the Authorised Officer shall place the matter for consideration before the Secretary, Ministry of Information and Broadcasting for taking appropriate decision.

(2) The Authorised Officer shall, on approval of the decision by the Secretary, Ministry of Information and Broadcasting, direct the publisher, any agency of the Government or any intermediary, as the case may be to delete or modify or block the relevant content and information generated, transmitted, received, stored or hosted in their computer resource for public access within the time limit specified in the direction:

Provided that in case the recommendation of the Authorised Officer is not approved by the Secretary, Ministry of Information and Broadcasting, the Authorised Officer shall convey the same to the Committee.

(3) A direction under this rule may be issued only in respect of a specific piece of content or an enumerated list of content, as the case may be, and shall not require any entity to cease its operations.

16. Blocking of information in case of emergency.— (1) Notwithstanding anything contained in rules 14 and 15, the Authorised Officer, in any case of emergency nature, for which no delay is acceptable, shall examine the relevant content and consider whether it is within the grounds referred to in sub-section (1) of section 69A of the Act and it is necessary or expedient and justifiable to block such information or part thereof and submit a specific recommendation in writing to the Secretary, Ministry of Information and Broadcasting.

(2) In case of emergency nature, the Secretary, Ministry of Information and Broadcasting may, if he is satisfied that it is necessary or expedient and justifiable for blocking for public access of any information or part thereof through any computer resource and after recording reasons in writing, as an interim measure issue such directions as he may consider necessary to such identified or identifiable persons, publishers or intermediary in control of such computer resource hosting such information or part thereof without giving him an opportunity of hearing.

(3) The Authorised Officer, at the earliest but not later than forty-eight hours of issue of direction under sub-rule (2), shall bring the request before the Committee for its consideration and recommendation.

(4) On receipt of recommendations of the Committee under sub-rule (3), the Secretary, Ministry of Information and Broadcasting, shall pass the final order as regard to approval of such request and in case the request for blocking is not approved by the Secretary, Ministry of Information and Broadcasting in his final order, the interim direction issued under sub-rule (2) shall be revoked and the person, publisher or intermediary in control of such information shall be accordingly, directed to unblock the information for public access.

17. Review of directions issued.—(1) The Authorised Officer shall maintain complete records of the proceedings of the Committee, including any complaints referred to the Committee, and shall also maintain records of recommendations made by the Committee and any directions issued by the Authorised Officer.

(2) The Review Committee shall meet at least once in every two months and record its findings whether the directions of blocking of content or information issued under these rules are in accordance with the provisions of sub-section (1) of section 69A of the Act and if it is of the opinion that the directions are not in accordance with the said provisions, it may set aside the directions and issue order for unblocking of such content or information generated, transmitted, received, stored or hosted in a computer resource.

Explanation.—For the purpose of this rule, “Review Committee” shall mean the Review Committee constituted under rule 419A of the Indian Telegraph Rules, 1951.

CHAPTER V

FURNISHING OF INFORMATION

18. Furnishing of information.—(1) A publisher of news and current affairs content and a publisher of online curated content operating in the territory of India, shall inform the Ministry about the details of its entity by furnishing information along with such documents as may be specified, for the purpose of enabling communication and coordination.

(2) The information referred to in sub-rule (1) shall be furnished within a period of thirty days of the publication of these rules, and where such publisher begins operation in the territory of India or comes into existence after commencement of these rules, within thirty days from the date of start of its operations in the territory of India or its coming into existence, as the case may be.

(3) The publisher of news and current affairs content and the publisher of online curated content shall publish periodic compliance report every month mentioning the details of grievances received and action taken thereon.

(4) The Ministry may call for such additional information from the publisher as it may consider necessary for the implementation of this Rule.

CHAPTER VI

MISCELLANEOUS

19. Disclosure of Information.—(1) A publisher and a self-regulating body, shall make true and full disclosure of all grievances received by it, the manner in which the grievances are disposed of, the action taken on the grievance, the reply sent to the complainant, the orders or directions received by it under these rules and action taken on such orders or directions.

(2) The information referred to in sub-rule (1) shall be displayed publicly and updated monthly.

(3) Subject to any law for the time being in force, the publisher shall preserve records of content transmitted by it for a minimum period of sixty days and make it available to the self-regulating body or the Central Government, or any other Government agency, as may be requisitioned by them for implementation of these rules.

APPENDIX

CODE OF ETHICS

I News and current affairs:

- (i) Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978;
- (ii) Programme Code under section 5 of the Cable Television Networks Regulation) Act, 1995;
- (iii) Content which is prohibited under any law for the time being in force shall not be published or transmitted.

II Online curated content:**(A) General Principles:**

- (a) A publisher shall not transmit or publish or exhibit any content which is prohibited under any law for the time being in force or has been prohibited by any court of competent jurisdiction.
- (b) A publisher shall take into consideration the following factors, when deciding to feature or transmit or publish or exhibit any content, after duly considering the implications of any content as falling under the following categories, and shall exercise due caution and discretion in relation to the same, namely:—
 - (i) content which affects the sovereignty and integrity of India;
 - (ii) content which threatens, endangers or jeopardises the security of the State;
 - (iii) content which is detrimental to India's friendly relations with foreign countries;
 - (iv) content which is likely to incite violence or disturb the maintenance of public order.
- (c) A publisher shall take into consideration India's multi-racial and multi-religious context and exercise due caution and discretion when featuring the activities, beliefs, practices, or views of any racial or religious group.

(B) Content Classification:

- (i) All content transmitted or published or exhibited by a publisher of online curated content shall be classified, based on the nature and type of content, into the following rating categories, namely:—
 - (a) Online curated content which is suitable for children as well as people of all ages shall be classified as "U" rating;
 - (b) Online curated content which is suitable for persons aged 7 years and above, and can be viewed by a person under the age of 7 years with parental guidance, shall be classified as "U/A 7+" rating;
 - (c) Online curated content which is suitable for persons aged 13 years and above, and can be viewed by a person under the age of 13 years with parental guidance, shall be classified as "U/A 13+" rating;
 - (d) Online curated content which is suitable for persons aged 16 years and above, and can be viewed by a person under the age of 16 years with parental guidance, shall be classified as "U/A 16+" rating; and
 - (e) Online curated content which is restricted to adults shall be classified as "A" rating.
- (ii) The Content may be classified on the basis of.—i) Themes and messages; ii) Violence; iii) Nudity; iv) Sex; v) Language; vi) Drug and substance abuse; and (vii) Horror as described in the *Schedule*, as may be modified from time to time by the Ministry of Information & Broadcasting.

(C) Display of Classification:

- (a) The publisher of online curated content shall prominently display the classification rating specific to each content or programme together with a content descriptor informing the user about the nature of the content, and advising on viewer discretion (if applicable) at the beginning of every programme enabling the user to make an informed decision, prior to watching the programme.

- (b) The publisher of online curated content making available content that is classified as U/A 13+ or higher shall ensure that access control mechanisms, including parental locks, are made available for such content.
- (c) A publisher of online curated content which makes available content or programme that is classified as "A" shall implement a reliable age verification mechanism for viewership of such content.
- (d) A publisher of online curated content must strive to include classification rating and consumer advice for their programmes in any print, televised or online promotional or publicity material and prominently display the classification rating specific to each such content.
- (D) *Restriction of access to certain curated content by a child:*
Every publisher of online curated content providing access to online curated content which has an "A" rating shall take all efforts to restrict access to such content by a child through the implementation of appropriate access control measures.
- (E) *Measures to improve accessibility of online curated content by persons with disabilities:*
Every publisher of online curated content shall, to the extent feasible, take reasonable efforts to improve the accessibility of online curated content transmitted by it to persons with disabilities through the implementation of appropriate access services.

SCHEDULE

Classification of any curated content shall be guided by the following sets of guidelines, namely:—

PART I

GENERAL GUIDELINES FOR CLASSIFICATION OF FILMS AND OTHER ENTERTAINMENT PROGRAMMES, INCLUDING WEB BASED SERIALS

There are general factors that may influence a classification decision at any level and in connection with any issue and the following factors are elucidated which may be read along with Part II of the Guidelines -

(a) Context:

Curated content may be considered in the light of the period depicted in such content and the contemporary standards of the country and the people to which such content relates. Therefore, the context in which an issue is presented within a film or video may be given consideration. Factors such as the setting of a work (historical, fantasy, realistic, contemporary etc.), the manner of presentation of the content, the apparent intention of the content, the original production date of the content, and any special merits of the work may influence the classification decision.

(b) Theme:

Classification decisions may take into the theme of any content but will depend significantly on the treatment of that theme, especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, violence, pedophilia, sex, racial or communal hatred or violence etc.) are unlikely to be appropriate at the junior levels of classification.

(c) Tone and impact:

Curated content may be judged in its entirety from the point of view of its overall impact. The tone of content can be an important factor in deciding the influence it may have on various groups of people. Thus, films/serials that have a stronger depiction of violence may receive a higher classification.

(d) Target audience:

The classification of any content may also depend upon the target audience of the work and the impact of the work on such audience.

PART II

ISSUE RELATED GUIDELINES

This part of the guidelines comprises the issues and concerns that apply in varying degrees to all categories of classification and elaborates the general approach that may be taken in this regard to the same. These concerns are listed in alphabetical order, and are to be read with the four General Guidelines listed in Part I

(a) Discrimination:

The categorical classification of content shall take into account the impact of a film on matters such as caste, race, gender, religion, disability or sexuality that may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion.

(b) Psychotropic substances, liquor, smoking and tobacco:

Films or serials, etc. that as a whole portray misuse of psychotropic substances, liquor, smoking and tobacco would qualify for a higher category of classification.

(c) Imitable behaviour:

- (1) Classification decisions may take into account any portrayal of criminal and violent behaviour with weapons.
- (2) Portrayal of potentially dangerous behaviour that are likely to incite the commission of any offence (including suicide, and infliction of self-harm) and that children and young people may potentially copy, shall receive a higher classification.
- (3) Films or serials with song and dance scenes comprising lyrics and gestures that have sexual innuendos would receive a higher classification.

(d) Language:

- (1) Language is of particular importance, given the vast linguistic diversity of our country. The use of language, dialect, idioms and euphemisms vary from region to region and are culture-specific. This factor has to be taken into account during the process of classification of a work in a particular category.
- (2) Language that people may find offensive includes the use of expletives. The extent of offence may vary according to age, gender, race, background, beliefs and expectations of the target audience from the work as well as the context, region and language in which the word, expression or gesture is used.
- (3) It is not possible to set out a comprehensive list of words, expressions or gestures that are acceptable at each category in every Indian language. The advice at different classification levels, therefore, provides general guidance to consider while judging the level of classification for content, based on this guideline.

(e) Nudity:

- (1) No content that is prohibited by law at the time being in force can be published or transmitted.
- (2) Nudity with a sexual context will receive a higher classification of "A".

(f) Sex:

No content that is prohibited by law at the time being in force can be published or transmitted. The classification of content in various ratings from U/A 16+ to "A" shall depend upon the portrayal of non-explicit (implicit) to explicit depiction of sexual behaviour.

(g) Violence:

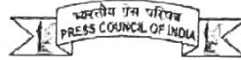
Classification decisions shall take account of the degree and nature of violence in a work.

[F. No. 16(4)/2020-CLES]

Dr. RAJENDRA KUMAR, Addl. Secy.

Press Council of India

NORMS OF JOURNALISTIC CONDUCT



2010 Edition

Press Council of India
NORMS OF JOURNALISTIC CONDUCT

Edition 2010

Contents

Preface

Part A: Principles and Ethics

1. Accuracy and fairness
2. Pre-publication verification
3. Caution against defamatory writings
4. Parameters of the right of the press to comment on the acts and conduct of public officials
5. Criticism of public figures/music reviews
6. Right to privacy
7. Privacy of public figures
8. Recording interviews and phone conversation
9. Conjecture, comment and fact
10. Newspapers to eschew suggestive guilt
11. Reporting-proceedings of legislature
12. Caution in criticising judicial acts
13. Corrections
14. Right of reply
15. Letters to editor
16. Editor's discretion
17. Obscenity and vulgarity to be eschewed
18. Glorification/encouragement of social evils to be eschewed
19. Violence not to be glorified
20. Covering communal disputes/clashes

21. Headings not to be sensational/provocative and must justify the matter printed under them
22. Caste, religion or community references
23. Paramount national interest
24. Foreign relations
25. Newspapers may expose misuse of diplomatic immunity
26. Investigative journalism, its norms and parameters
27. Confidence to be respected
28. Newspapers to avoid crass commercialism
29. Fraudulent activities
30. Professional misconduct
31. Professional rivalry
32. Plagiarism
33. Unauthorised lifting of news
34. Illegal reproduction
35. Non-return of unsolicited material
36. Advertisements
37. Internal Disputes
38. Astrological Prediction
39. Reporting on Natural Calamities
40. HIV/AIDS and the Media – DO'S and DON'TS
41. Trial by Media
42. Norms for Photo Journalism

Part B: Guidelines on specific issues

- a) Norms for observance by the Press in the wake of communal disturbances
- b) Coverage of handouts of Militants/Terrorists-Guiding Principles 1991-1992
- c) HIV/AIDS and the Media
- d) Financial Journalism
- e) Election Reporting
- f) Allotment of Houses to Journalists
- g) Undue Favours to Journalists
- h) Right to Privacy-- Public Figures and the Press
- i) Model Guidelines For Publishing Overseas Advertisement In Accordance With Emigration Act 1983
- j) Study Report - Working Journalist Act vis-à-vis Appointment of Journalists on Contract

Part C: Laws relating to the Press**Part D: Press Council's Powers, Practices and Procedures**

Preface

'Journalism', the concrete form of this expression has grown in power over a period of time. The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased and decent manner and language. The media today does not remain satisfied as the Fourth Estate, it has assumed the foremost importance in society and governance. Such is the influence of media that it can make or unmake any individual, institution or any thought. So all pervasive and all-powerful is today its impact on the society. With so much power and strength, the media cannot loose sight of its privileges, duties and obligations.

However to enjoy these privileges, to this end, media is mandated to follow certain ethics in collecting and disseminating the information viz., ensuring authenticity of the news, use of restrained and socially acceptable language for ensuring objectivity and fairness in reporting and keeping in mind its cascading effect on the society and on the individuals and institutions concerned.

The freedom of the press has to be preserved and protected not only from outside interference but equally from those within: An internal mechanism for adherence to guidelines is sought to be ensured through mechanisms such as 'letters to the editor', internal Ombudsman, Media Council of peers and Media Watch Groups which focus the wrongs committed by the media persons, journalists or the management.

The mandate of the Press Council of India, as well as similar bodies across the world is to specifically promote the standards of the media by building up for it a code of conduct.

The sanction behind code of ethics is moral; the source of their motive-force is within the conscience of the media person concerned. The pronouncement and directions of the Council activate that conscience, and the principles articulated by it, act as lights that lead and guide the journalist along the path of ethical rectitude. Compiled in a compendium titled 'Norms of Journalistic Conduct', they act as a reference guide in varying circumstances for the journalists.

The Press Council of India has played a key role in maintaining public trust and confidence in the news media by promoting professional ethics, fairness, accuracy and balance.

The 2010 edition of "Norms of Journalistic Conduct" updates the norms evolved since 1996 on the basis of adjudications and other pronouncements and covers to a large extent almost every aspect of compulsions and compunctions in journalistic practice. An effort has been made in this edition not only to divide the norms covering similar situation under one heading for easy referencing, but also to provide a comprehensive access to subject specific guidelines.

I hope and trust that the readers will find this 2010 edition of Norms of Journalistic Conduct as useful and informative as the earlier ones.

Justice G.N. Ray
Chairman
Press Council of India

NORMS OF JOURNALISTIC CONDUCT

Principles and Ethics

The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. To this end, the Press is expected to conduct itself in keeping with certain norms of professionalism, universally recognised. The norms enunciated below and other specific guidelines appended thereafter, when applied with due discernment and adaptation to the varying circumstance of each case, will help the journalist to self-regulate his or her conduct.

1. Accuracy and Fairness

- i) The Press shall eschew publication of inaccurate, baseless, graceless, misleading or distorted material. All sides of the core issue or subject should be reported. Unjustified rumours and surmises should not be set forth as facts.
- ii) It is incumbent for newspapers to play a positive role in response to rumours affecting the credibility of financial institutions having public interface.
- iii) While it is the duty of the press to expose the wrong doings that come to their notice, such reports need to be backed by irrefutable facts and evidences.

2. Pre-Publication Verification

- i) On receipt of a report or article of public interest and benefit containing imputations or comments against a citizen, the editor should check with due care and attention its factual accuracy apart from other authentic sources- with the person or the organisation concerned to elicit his/her or its version, comments or reaction and publish the same alongside with due correction in the report where necessary. In the event of lack or absence of response, a footnote to that effect may be appended to the report.
- ii) Publication of news such as those pertaining to cancellation of examinations or withdrawal of candidates from election should be avoided without proper verification and cross checking.
- iii) A document, which forms a basis of a news report, should be preserved at least for six months.

3. Caution against defamatory writings

- i) Newspaper should not publish anything which is manifestly defamatory or libellous against any individual/organisation unless after due care and verification, there is sufficient reason/evidence to believe that it is true and its publication will be for public good.
- ii) Truth is no defence for publishing derogatory, scurrilous and defamatory material against a private citizen where no public interest is involved.
- iii) No personal remarks which may be considered or construed to be derogatory in nature against a dead person should be published except in rare cases of public interest, as the dead person cannot possibly contradict or deny those remarks.
- iv) The Press has a duty, discretion and right to serve the public interest by drawing reader's attention to citizens of doubtful antecedents and of questionable character but as responsible journalists they should observe due

restraint and caution in hazarding their own opinion or conclusion in branding these persons as 'cheats' or 'killers' etc. The cardinal principle being that the guilt of a person should be established by proof of facts alleged and not by proof of the bad character of the accused. In the zest to expose, the Press should not exceed the limits of ethical caution and fair comment.

v) The Press shall not rely on objectionable past behaviour of a citizen to provide the background for adverse comments with reference to fresh action of that person. If public good requires such reference, the Press should make pre-publication inquiries from the authorities concerned about the follow up action, if any, in regard to earlier adverse actions.

vi) Where the impugned publication is manifestly injurious to the reputation of the complainant, the onus shall be on the respondent to show that it was true or to establish that it constituted fair comment made in good faith and for public good.

(vii) Newspapers cannot claim privilege or licence to malign a person or body claiming special protection or immunity on the plea of having published the item as a satire under special columns such as 'gossip', 'parody', etc.

(viii) Publication of defamatory news by one paper does not give licence to others to publish news/information reproducing or repeating the same. The fact of publication of similar report by another publication does not bestow the status of accuracy on the charges.

(ix) It is necessary that the press realize its responsibility to the society due to the unique position enjoyed by it in being able to interact directly with the citizenry and utilize its advantageous position for the betterment of the society and the advancement of the country rather than indulging in giving credence to rumours and sensationalism. It is also necessary that the press, particularly the small local press, learn to appreciate the clear distinction between matters of 'public interest' and 'those in public interest'. While

gossips and social dealings may be found to be of interest by the public but they serve no public purpose or interest and the press should scrupulously avoid wasting its precious space on such matters.

(x) Insertion of out -of -context, uncalled for and irrelevant statements likely to malign a person or an organisation must be eschewed.

(xi) Even while a newspaper has the liberty or even duty to report political developments, that reporting may not be with angularity. Freedom of Press does not give licence to a newspaper to malign a political leader or mar his future political prospects by publishing fake and defamatory writings.

(xii) It must be remembered by the Press that the freedom of speech and expression enshrined in the democratic set up and enjoyed by the fourth estate also casts on it a responsibility. The newspapers are not expected to use it as a tool by itself creating evidence and later using the evidence to make false propaganda in its own journal.

(xiii) The Press deserves accolades for bringing to light the inducements offered to influence their reporting and such exposure will not amount to defamation.

(xiv) **Locus Standi**

In cases involving personal allegations /criticism, only the concerned person enjoying the *locus standi* can move the plaint or claim right to reply.

However a representative organisation of persons attached to an organisation or a sect / group has the *locus standi* to move complaints against a publication directly criticising the conduct of a leader.

(xv) **Public Interest and Public Bodies**

As a custodian of public interest, the Press has a right to highlight cases of corruption and irregularities in public bodies but such material should be based on irrefutable evidence and published after due inquiries and verification from the concerned source and after obtaining the version of the

person/authority being commented upon. Newspapers should refrain from barbed, stinging and pungent language and ironical/satirical style of comment. The attempt of the press should be to so shake up the institutions as to improve their working, not to destroy them or the public confidence in their working or demoralize the workforce. A corresponding duty of course devolves on them to ensure that in doing so they present a fair and balanced report, uninfluenced by any extraneous consideration. The Press as a custodian of public interest and a protector of its rights is also expected to bring correct information to its notice so that it is able to correctly judge those to whom it has entrusted the responsibility of running the country.

(xvi) The media and the authorities are two very important pillars of our democracy and for the government to function successfully in public interest a press as responsible as watchful is an essential pre-requisite.

4. Parameters of the right of the Press to comment on the acts and conduct of public officials

i) So far as the government, local authority and other organs/institutions exercising governmental power are concerned, they cannot bring charge of defamation for reports critical of their acts and conduct relevant to the discharge of their official duties unless the official establishes that the publication was made with reckless disregard for the truth. However, judiciary, which is protected by the power to punish for contempt of court, and the Parliament and Legislatures, protected as their privileges are by Articles 105 and 194 respectively of the Constitution of India, represent exception to this rule.

ii) The central and local bodies are not entitled to bring a civil or criminal action for defamation in respect of article/report criticising their functioning.

iii) Publication of news or comments/information on public officials conducting investigations should not have a tendency to help the commission of offences or to impede the prevention or detection of offences or prosecution of the guilty. The investigative agency is also under a corresponding obligation not to leak out or disclose such information or indulge in misinformation.

iv) The Official Secrets Act, 1923 or any other similar enactment or provision having the force of law equally bind the press or media though there is no law empowering the state or its officials to prohibit, or to impose a prior restraint upon the Press/media.

v) Those who hold public office and by their own conduct give scope for criticising them, cannot be heard to complain against such criticism.

5. Criticism of Public Figures/Music Reviews

An actor or singer who appears on a public stage submits his performance to the judgement of public and as such the critics' comments having proximate nexus with the merits of artists performance can not be held to be defamatory. However, the critics should refrain from writing anything, which could, be construed as remotely casting cloud on the artist's personal credibility.

6. Right to Privacy

i) The Press shall not intrude or invade the privacy of an individual, unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. So, however, that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by the Press and the media, among others. Special caution is essential in reports likely to stigmatise women.

Explanation: Things concerning a person's home, family, religion, health, sexuality, personal life and private affairs are covered by the concept of

PRIVACY excepting where any of these impinges upon the public or public interest.

ii) **Caution against Identification:** While reporting crime involving rape, abduction or kidnap of women/females or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars leading to their identity shall not be published.

iii) Minor children and infants who are the offspring of sexual abuse or 'forcible marriage' or illicit sexual union shall not be identified or photographed.

iv) Intrusion through photography into moments of personal grief shall be avoided. However, photography of victims of accidents or natural calamity may be in larger public interest.

7. Privacy of Public figures

i) Right to Privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public person who functions under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct as are of public interest ('public interest' being distinct and separate from 'of interest to public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussion while the press is expected not to badger the public persons, the

public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives.

- ii) The interviews/articles or arguments pertaining to public persons which border on events that are in public knowledge, if reported correctly, cannot be termed as intrusion into private life. There is a very thin line between public and private life and public persons should not be too thick skinned to criticism
- iii) Newspapers are allowed latitude in criticising persons who are in seats of power because their conduct discloses public interest provided their criticism is not motivated to gratify private spite of opponent/rival of public figure.
- iv) The family of public figures are not valid journalistic subject, more so if its reporting covers the minors. If "public interest" overrides the minor's right to privacy it will be proper to seek prior consent of the parents.
- v) When the individual concerned himself or herself reveals facts about private life before a large gathering then the shield of privacy should be deemed to be abandoned by the individual.

8. Recording interviews and phone conversation

- i) The Press shall not tape-record anyone's conversation without that person's knowledge or consent, except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reason.
- ii) The Press shall, prior to publication, delete offensive epithets used during such conversation.

9. Conjecture, comment and fact

- i) Newspaper should not pass on or elevate conjecture, speculation or comment as a statement of fact. All these categories should be distinctly identified.
- ii) Cartoons and caricatures depicting good humour are to be placed in a special category of news that enjoy more liberal attitude.

10. Newspapers to eschew suggestive guilt

- i) Newspapers should eschew suggestive guilt by association. They should not name or identify the family or relatives or associates of a person convicted or accused of a crime, when they are totally innocent and a reference to them is not relevant to the matter being reported.
- ii) It is contrary to the norms of journalism for a paper to identify itself with and project or promote the case of any one party in the case of any controversy/dispute.

11. Reporting-Proceedings of Legislature

The newspapers have a duty to report faithfully the proceedings of either House of Parliament, Legislative Assembly and in this regard the newspapers shall not be liable for any proceedings civil or criminal in any court unless it is proved that reportings have been made with malice. However, the newspapers should not publish any report based on proceedings of a sitting of either House of Parliament or Legislative Assembly or as the case may be either House of the Legislature of a State, which is not open to the media.

12. a) Caution in criticising judicial acts

- i) Excepting where the court sits 'in-camera' or directs otherwise, it is open to a newspaper to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it shall not publish anything :-

-which, in its direct and immediate effect, creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice; or

-is in the nature of a running commentary or debate, or records the paper's own findings conjectures, reflection or comments on issues, sub judice and which may amount to abrogation to the newspaper the functions of the court; or

-regarding the personal character of the accused standing trial on a charge of committing a crime.

ii) Newspaper shall not as a matter of caution, publish or comment on evidence collected as a result of investigative journalism, when, after the accused is arrested and charged, the court becomes seized of the case: Nor should they reveal, comment upon or evaluate a confession allegedly made by the accused.

iii) While newspapers may, in the public interest, make reasonable criticism of a judicial act or the judgement of a court for public good; they shall not cast scurrilous aspersions on, or impute improper motives, or personal bias to the judge. Nor shall they scandalise the court or the judiciary as a whole, or make personal allegations of lack of ability or integrity against a judge.

iv) Newspaper shall, as a matter of caution, avoid unfair and unwarranted criticism which, by innuendo, attributes to a judge extraneous consideration for performing an act in due course of his/her judicial functions, even if such criticism does not strictly amount to criminal Contempt of Court.

b) Reporting News pertaining to Court Proceedings

Before publishing a news item about court proceedings, it will be appropriate for the correspondent and editor to ascertain its genuineness and, correctness and authenticity from the records so that the concerned person

can be held guilty and accountable for furnishing incorrect facts or wrong information about the court proceedings.

13. Corrections

When any factual error or mistake is detected or confirmed, the newspaper should suo-motu publish the correction promptly with due prominence and with apology or expression of regrets in a case of serious lapse.

14. Right of Reply

i) The newspaper should promptly and with due prominence, publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned publication, a contradiction/reply/ clarification or rejoinder sent to the editor in the form of a letter or note. If the editor doubts the truth or factual accuracy of the contradiction/reply/clarification or rejoinder, he shall be at liberty to add separately at the end, a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is a concession which has to be availed of sparingly with due discretion and caution in appropriate cases.

ii) However, where the reply/contradiction or rejoinder is being published in compliance with the directions of the Press Council, it is permissible to append a brief editorial note to that effect.

iii) Right of rejoinder cannot be claimed through the medium of Press Conference, as publication/coverage of a news of a conference is within the discretionary powers of an editor.

iv) Freedom of the Press involves the readers' right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story

published in the newspaper was true. That is an issue to be left to the judgement of the readers. It also does not behove an editor to show contempt towards a reader.

(v) The press has to remember that it is not a prosecutor in any investigation and should be guided by the paramount principle of a person's innocence unless the alleged offence is proved beyond doubt by independent reliable evidence and, therefore, even within the constraint of space, the material facts should find space in the rejoinder so that the public, as the ultimate judge of any matter, is guided by the complete and accurate facts in forming its opinion. The readers' right to know all sides of any issue of public importance is a natural corollary of the freedom enjoyed by the press in a democracy.

15. Letters to editor

i) An editor who decides to open his columns for letters on a controversial subject, is not obliged to publish all the letters received in regard to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, in exercising this discretion, he must make an honest endeavour to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy.

ii) In the event of rejoinder upon rejoinder being sent by two parties on a controversial subject, the editor has the discretion to decide at which stage to close the continuing column.

16. Editors' Discretion

i) In the matter of writing an editorial, the editor enjoys a good deal of latitude and discretion. It is for him to choose the subject and it is also for him to use such language as he considers appropriate, provided that in writing the editorial he doesn't transgress the law and violate the norms of

journalism and editorial comments, views published in the newspaper are couched in sober, dignified and socially acceptable language.

ii) Selection of the material for publication as reports/articles/letters lies within the discretion of an editor. It is his duty to see that on a controversial issue of public interest, all views are given equal prominence so that the people can form their independent opinion in the matter.

iii) The editor should not publish the news report/article if his mind is in doubt about the truth of the news report/article. If the veracity of any part of the news report/article is in doubt, that portion should be omitted and rest be published provided the editor is satisfied that the remainder is substantially true and its publication will be for public benefit.

17. Obscenity and vulgarity to be eschewed

i) Newspapers/journalists shall not publish anything which is obscene, vulgar or offensive to public good taste.

ii) Newspapers shall not display advertisements which are vulgar or which, through depiction of a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.

iii) Whether a picture is obscene or not, is to be judged in relation to three tests; namely

a) Is it vulgar and indecent?

b) Is it a piece of mere pornography?

c) Is its publication meant merely to make money by titillating the sex feelings of adolescents and among whom it is intended to circulate? In other words, does it constitute an unwholesome exploitation for commercial gain.

Other relevant considerations are whether the picture is relevant to the subject matter of the magazine. That is to say, whether its publication serves any preponderating social or public purpose, in relation to art, painting, medicine, research or reform of sex.

iv) A photograph or a painting is a work of art and the artist enjoys artistic liberty in its portrayal. However, it is to be understood that a work of art is enjoyed, judged and appreciated by the connoisseurs. The pages of a newspaper may not be the most appropriate place for such painting.

v) The globalisation and liberalisation does not give licence to the media to misuse freedom of the press and to lower the values of the society. The media performs a distinct role and public purpose which require it to rise above commercial consideration guiding other industries and businesses. So far as that role is concerned, one of the duties of the media is to preserve and promote our cultural heritage and social values.

vi) Columns such as 'Very Personal' in a newspaper replying to personal queries of the readers must not become grossly offensive presentations, which either outrage public decency or corrupt public moral.

vii) The attempt of the press should be to ensure coverage that is in keeping with the norms of the society at large and not merely a few. It is also our duty to prevent the degeneration of culture and standards and press with its reach and impact carries an immense potential in moulding the psyche and thought process of a society.

viii) The Indian reader is much more mature and able to appreciate good journalism and in the long run, the attempts to copy the west by promoting the 'so-called popular permissiveness' may defeat the very aim of the paper to boost circulation.

(ix) The newspaper may expose the instances of immoral activities in public places through its writings but with proper caution of restrained presentation of news or photographic evidence.

18. Glorification/encouragement of social evils to be eschewed

Newspapers shall not allow their columns to be misused for writings which have a tendency to encourage or glorify social evils like Sati Pratha or ostentatious celebrations.

19. Violence not to be glorified

i) Photo Coverage on Terrorist Attack, Communal Clashes and Accidents

While reporting news with regard to terrorist attacks or communal riots, the media should refrain from publishing/telecasting pictures of mangled corpses or any other photographic coverage which may create terror, or revulsion or ignite communal passion among people.

ii) Newspapers/journalists shall avoid presenting acts of violence, armed robberies and terrorist activities in a manner that glorifies the perpetrators on their acts, declarations or death in the eyes of the public. Publication of interviews of anti-social elements by the newspapers glorifying the criminals and their activities with the resultant effects are to be avoided.

20) Covering communal disputes/clashes

i) News, views or comments relating to communal or religious disputes/clashes shall be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to communal harmony, amity and peace. Sensational, provocative and alarming headlines are to be avoided. Acts of communal violence or vandalism shall be reported in a manner as may not undermine the people's confidence in the law and order machinery of the State. Giving community-wise figures of the victims of communal riot, or writing about the incident in a style which is likely to inflame passions, aggravate the tension, or accentuate the strained relations between the communities/religious groups concerned, or which has a potential to exacerbate the trouble, shall be avoided.

- ii) Journalists and columnists owe a very special responsibility to their country in promoting communal peace and amity. Their writings are not a mere reflection of their own feelings but help to large extent in moulding the feelings and sentiments of the society at large. It is, therefore, of utmost importance that they use their pen with circumspection and restrain.
- iii) The role of media in such situations (Gujarat Carnage/Crisis) is to be peacemakers and not abettors, to be troubleshooters and not troublemakers. Let the media play their noble role of promoting peace and harmony among the people in the present crisis in Gujarat. Any trend to disrupt the same either directly or indirectly would be an anti-national act. There is a greater moral responsibility on the media to do their best to build up the national solidarity and to re-cement the communal harmony at all levels remembering the noble role they had played during the pre-independence days.
- iv) The media, as a chronicle of tomorrow's history, owes an undeniable duty to the future to record events as simple untailored facts. The analysis of the events and opinion thereon are a different genre altogether. The treatment of the two also thus has necessarily to be different. In times of crisis, facts unadorned and simply put, with due care and restraint, cannot be reasonably objected to in a democracy. However, a heavy responsibility devolves on the author of opinion articles. The author has to ensure that not only are his or her analysis free from any personal preferences, prejudices or notions, but also they are based on verified, accurate and established facts and do not tend to foment disharmony or enmity between castes, communities and races.
- v) While the role and responsibility of the media in breaking down communal fences and promoting harmony and national interest should not be undermined it is also essential to allow the citizens their freedom of speech. The press of India has necessarily to judge and balance the two.

21. Headings not to be sensational/provocative and must justify the matter printed under them

- i) In general and particularly in the context of communal disputes or clashes
- a. Provocative and sensational headlines are to be avoided;
- b. Headings must reflect and justify the matter printed under them;
- c. Headings containing allegations made in statements should either identify the body or the source making it or at least carry quotation marks.

22. Caste, religion or community references

- i) In general, the caste identification of a person or a particular class should be avoided, particularly when in the context it conveys a sense or attributes a conduct or practice derogatory to that caste.
- ii) Newspapers are advised against the use of word 'Scheduled Caste' or 'Harijan' which has been objected to by some.
- iii) An accused or a victim shall not be described by his caste or community when the same does not have anything to do with the offence or the crime and plays no part either in the identification of any accused or proceeding, if there be any.
- iv) Newspaper should not publish any fictional literature distorting and portraying the religious or well known characters in an adverse light offending the susceptibilities of large sections of society who hold those characters in high esteem, invested with attributes of the virtuous and lofty.

- (v) Commercial exploitation of the name of prophets, seers or deities is repugnant to journalistic ethics and good taste.
- vi) It is the duty of the newspaper to ensure that the tone, spirit and language of a write up is not objectionable, provocative, against the unity and integrity of the country, spirit of the constitution seditious and inflammatory in nature or designed to promote communal disharmony. It should also not attempt to promote balkanisation of the country.
- vii) One of the jobs of the journalists is also to bring forth to the public notice the plight of the weaker sections of society. They are the watchdogs on behalf of the society of its weaker sections.

23. Paramount national interest

- i) Newspapers shall, as a matter of self-regulation, exercise due restraint and caution in presenting any news, comment or information which is likely to jeopardise, endanger or harm the paramount interests of the State and society, or the rights of individuals with respect to which reasonable restrictions may be imposed by law on the right to freedom of speech and expression under clause (2) of Article 19 of the Constitution of India.
- ii) Publication of wrong/incorrect map is a very serious offence. It adversely affects the territorial integrity of the country and warrants prompt and prominent retraction with regrets.

24. Foreign Relations

Media plays a very important role in moulding public opinion and developing better understanding between countries. Objective reporting so as not to jeopardise friendly bilateral relations is therefore desirable.

25. Newspapers may expose misuse of diplomatic immunity

The media shall make every possible effort to build bridges of co-operation, friendly relations and better understanding between India and foreign States. At the same time, it is the duty of a newspaper to expose any misuse or undue advantage of the diplomatic immunities.

26. Investigative journalism, its norms and parameters

Investigative reporting has three basic elements.

- a. It has to be the work of the reporter, not of others he is reporting;
- b. The subject should be of public importance for the reader to know;
- c. An attempt is being made to hide the truth from the people.

The first norm follows as a necessary corollary from

(a) That the investigative reporter should, as a rule, base his story on facts investigated, detected and verified by himself and not on hearsay or on derivative evidence collected by a third party, not checked up from direct, authentic sources by the reporter himself.

(b) There being a conflict between the factors which require openness and those which necessitate secrecy, the investigative journalist should strike and maintain in his report a proper balance between openness on the one hand and secrecy on the other, placing the public good above everything.

(c) The investigative journalist should resist the temptation of quickies or quick gains conjured up from half-baked incomplete, doubtful facts, not fully checked up and verified from authentic sources by the reporter himself.

(d) Imaginary facts, or ferreting out or conjecturing the non-existent should be scrupulously avoided. Facts facts and yet more facts are vital and they should be checked and cross-checked whenever possible until the moment the paper goes to Press.

(e) The newspaper must adopt strict standards of fairness and accuracy of facts. Findings should be presented in an objective manner, without exaggerating or distorting, that would stand up in a court of law, if necessary.

(f) The reporter must not approach the matter or the issue under investigation, in a manner as though he were the prosecutor or counsel for the prosecution. The reporter's approach should be fair, accurate and balanced. All facts properly checked up, both for and against the core issues, should be distinctly and separately stated, free from any one-sided inferences or unfair comments. The tone and tenor of the report and its language should be sober, decent and dignified, and not needlessly offensive, barbed, derisive or castigatory, particularly while commenting on the version of the person whose alleged activity or misconduct is being investigated. Nor should the investigative reporter conduct the proceedings and pronounce his verdict of guilt or innocence against the person whose alleged criminal acts and conduct were investigated, in a manner as if he were a court trying the accused.

(g) In all proceedings including the investigation, presentation and publication of the report, the investigative journalist newspaper should be guided by the paramount principle of criminal jurisprudence, that a person is innocent unless the offence alleged against him is proved beyond doubt by independent, reliable evidence.

(h) The private life, even of a public figure, is his own. Exposition or invasion of his personal privacy or private life is not permissible unless there is clear evidence that the wrong doings in question have a reasonable nexus with the misuse of his public position or power and has an adverse impact on public interest.

(i) Though the legal provisions of Criminal Procedure do not in terms, apply to investigating proceedings by a journalist, the fundamental principles underlying them can be adopted as a guide on grounds of equity, ethics and good conscience.

j) To say that the press should not publish any information, till it is officially released would militate against the spirit of investigative journalism and even

to an extent the purpose of journalism.

27. Confidence to be respected

If information is received from a confidential source, the confidence should be respected. The journalist cannot be compelled by the Press Council to disclose such source; but it shall not be regarded as a breach of journalistic ethics if the source is voluntarily disclosed in proceedings before the Council by the journalist who considers it necessary to repel effectively a charge against him/her. This rule requiring a newspaper not to publish matters disclosed to it in confidence, is not applicable where:

- (a) consent of the source is subsequently obtained; or
- (b) the editor clarifies by way of an appropriate footnote that since the publication of certain matters were in the public interest, the information in question was being published although it had been made 'off the record'.

28. Newspapers to avoid crass commercialism

- i) While newspapers are entitled to ensure, improve or strengthen their financial viability by all legitimate means, the Press shall not engage in crass commercialism or unseemly cut-throat commercial competition with their rivals in a manner repugnant to high professional standards and good taste.
- ii) Predatory price wars/trade competition among newspapers, laced with tones disparaging the products of each other, initiated and carried on in print, assume the colour of unfair 'trade' practice, repugnant to journalistic ethics. The question as when it assumes such an unethical character, is one of the fact depending on the circumstances of each case.
- iii) The practice of taking security deposit by an editor from the journalists at the time of their appointment is unethical.
- (iv) The media house must retain its impartiality in functioning as media house and reporting cannot be permitted to become subservient to other business interests which the owner of the media house may have when such

private interest conflict with public duty of such vast magnitude segregation of the two is not only justified but essential.

29. Fraudulent activities

Defrauding the public by closing down a publication subsequent to collection of subscription is unethical on the part of management of the paper/periodical/magazine. If the closure is inevitable, the subscription amount due should be returned to the subscribers.

30. Professional misconduct

(i) Blackmailing or extortion of money from people under threat of maligning them through the columns of newspaper amounts to gross violation of journalistic norms.

31. Professional rivalry

Newspaper columns should not be misused by rival newspapers to gratify their private spite against each other out of commercial rivalry.

32. Plagiarism

- i) Using or passing off the writings or ideas of another as one's own, without crediting the source, is an offence against ethics of journalism.
- ii) Violation of copyright also constitutes violation of journalistic norms.

33. Unauthorised lifting of news

- i) The practice of lifting news from other newspapers publishing them subsequently as their own, ill-comports the high standards of journalism. To remove its unethicity the 'lifting' newspaper must duly acknowledge the source of the report.
- ii) The position of features articles is different from 'news': Feature articles shall not be lifted without permission/ proper acknowledgement.

34. Illegal reproduction

The Press shall not reproduce in any form offending portions or excerpts from a proscribed book.

35. Non-return of unsolicited material

- i) A paper is not bound to return unsolicited material sent for consideration of publication. However, when the same is accompanied by stamped envelope, the paper should make all efforts to return it.
- ii) Whenever articles from the contributors are published free of remuneration, there must be an agreement not to pay and the newspaper should follow this practice as a rule.

36. Advertisements

- i) Commercial advertisements are information as much as social, economic or political information. What is more, advertisements shape attitude and ways of life at least as much, as other kinds of information and comment. Journalistic propriety demands that advertisements must be clearly distinguishable from news content carried in the newspaper.
- ii) No advertisement shall be published, which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor and other intoxicants.
- iii) Newspaper shall not publish advertisements, which have a tendency to malign or hurt the religious sentiments of any community or section of society.
- iv) Advertisements which offend the provisions of the Drugs and Magical Remedies (Objectionable Advertisement) Act as amended in 2002, or any other statute should be rejected.
- v) Newspapers should not publish an advertisement containing anything which is unlawful or illegal, or is contrary to public decency, good taste or to journalistic ethics or propriety.
- vi) Journalistic propriety demands that advertisements must be clearly distinguishable from editorial matter carried in the newspaper. Newspapers

while publishing advertisements should specify the amount received by them. The rationale behind this is that advertisements should be charged at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper.

vii) Publication of dummy or lifted advertisements that have neither been paid for, nor authorised by the advertisers, constitute breach of journalistic ethics specially when the paper raises a bill in respect of such advertisements.

viii) Deliberate failure to publish an advertisement in all the copies of a newspaper offends against the standards of journalistic ethics and constitutes gross professional misconduct.

ix) There should be total co-ordination and communication between the advertisement department and the editorial department of a newspaper in the matter of considering the legality propriety or otherwise of an advertisement received for publication.

x) The editors should insist on their right to have the final say in the acceptance or rejection of advertisements, specially those which border on or cross the line between decency and obscenity.

xi) Newspapers to carry caution notice with matrimonial advertisements carrying following text *

“Readers are advised to make appropriate thorough inquiries before acting upon any advertisement. This newspaper does not vouch or subscribe to claim and representation made by the advertiser regarding the particulars of status, age, income of the bride/bridegroom”.

xii) An editor shall be responsible for all matters, including advertisements published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.

*** Foot note: -**

The Hon'ble High Court of Delhi in connection with FAO No 65/1998 of Smt Harjeet Kaur Vs Shri Surinder Pal Singh directed the Press Council of India to instruct the newspaper to

publish classified/matrimonial advertisement by advising them to alongside publish the said Caution Notice in their newspapers.

xiii) Tele-friendship advertisements carried by newspapers across the country inviting general public to dial the given number for 'entertaining' talk and offering suggestive tele-talk tend to pollute adolescent minds and promote immoral cultural ethos. The Press should refuse to accept such advertisements.

xiv) Classified advertisements of health and physical fitness services using undignified languages, indicative of covert soliciting, are violative of law as well as ethics. The newspaper should adopt a mechanism for vetting such an advertisement to ensure that the soliciting advertisements are not carried.

xv) Advertisements of contraceptive and supply of brand item attaching to the advertisement is not very ethical, given the social milieu and the traditional values held dear in our country. A newspaper has a sacred duty to educate people about precautionary measures to avoid AIDS and exhibit greater far sight in accepting advertisement even though issued by social welfare organisation.

(xvi) Employment News which is trusted as a purveyor of authentic news on government jobs should be more careful in accepting advertisements of only *bonafide* private bodies.

(xvii) While accepting advertisements of educational institutes newspapers may ensure that such advertisements carry the mandatory statement that the concerned institutes are recognized under the relevant enactments of law.

xviii) Advertisements play extremely vital role in shaping the values and concerns of the present day society and as more and more lenient view is taken of what is not the norm, the speedier may be acceptability of such matters in 'public perception' but at what cost is the essential point for consideration. It

should be borne in mind that in the race to be globally relevant we do not leave behind the values that have earned India the unique place it enjoys globally on moral and ethical plane.

37. Internal Disputes

(A) Management-Editor Relationship

i) There is a well-recognised distinction between the editor and the journalists on the one hand and the Manager, the Executive or the Administrator on the other, whatever the nomenclature that they may carry in a particular newspaper establishment. The duties and responsibilities of the editor and the management differ and whatever the co-ordination may be required to efficiently manage the establishment to bring out the journal, the functions of the two are separate and have to kept as such.

Once the owner lays down the policy of the newspaper for general guidance, neither he nor anybody on his behalf can interfere with the day to day functioning of the editor and the journalistic staff working under him.

It is well established that the freedom of the press is essentially the freedom of the people to be informed accurately and adequately on all issues, problems, events and developments. In discharge of the editorial functions the editor is supreme and superior even to the owner.

The independence of the newspaper, is essentially the independence of the editor from all internal and external restrictions. Unless the editor enjoys this freedom he will be unable to discharge his primary duty which is to the people and without such freedom, he can be held responsible in law for all that appears in the newspaper.

In the running of the newspaper, the managerial, administrative or business side of the newspaper has to be kept independent of its editorial side and should not be allowed to encroach upon or interfere with the editorial section. This precaution is to be taken even when the owner and the editor is

the same. The proprietor must not allow his business interests and considerations to either dominate or interfere with the newspapers obligation to the people.

That is why there is also an obligation on the management to select a person as the editor who is competent and bears integrity of character and independence of mind.

The successful working of any arrangement in the ultimate analysis would depend on mutual understanding, cooperation and goodwill between the management, the editor, editorial journalist staff and all those who are faithfully working in the production of a paper.

If the co-ordination between the different departments including the editorial is effected by the Brand Management without in any way interfering with the freedom of the editor to include or exclude news or views, the length or details as well as their language and the place where they are to be published, and the prominence with which they should appear, there may not be much grievance that such co-ordination is in violation of the freedom of the editor. However, if the choice of the editor with regard to selection of material in any manner is sought to be interfered with, it is undoubtedly an unwarranted encroachment on the said freedom.

(ii) The editor under no circumstances can be asked by the proprietor to serve his private interests. To require an editor to cater to the personal interests of the proprietor is not only to demean the office of the editor but also to encroach upon his status as a trustee of the society in respect of the contents of the newspaper. In any country which swears by the freedom and the independence of the press, an attempt by any proprietor of a newspaper to use his editor as his personal agent to promote his private interests and to compel him to act and to write, to serve them is both offensive and reprehensive. Any editor or for that matter any journalist who accepts or condescends to do

such jobs not only degrades himself but also the profession of journalism and does not deserve the calling. He betrays the trust the society keeps in him for furnishing fair, objective and comprehensive news and views.

(B.) Management vis-à-vis Journalist : Functional Relationship

Direction of the newspaper management to the reporter to perform administrative / commercial side of the duty other than his journalistic duty is an unethical practice and impinges on the independence of journalists destroying the functional relationship.

38. Astrological prediction

The promotion of astrological prediction and superstitious practices is likely to produce an unsettling effect on the minds of the readers, and is thus undesirable. The editors of general interest dailies and periodicals who believe in promoting a scientific temper and in combating superstition and fatalism, should avoid publication of astrological predictions. Readers who are interested in the subject of astrology can turn to specialized publications on the subject.

39. Reporting on Natural Calamities

(i) Facts and data relating to spread of epidemics or natural calamities shall be checked up thoroughly from authentic sources and then published with due restraint in a manner bereft of sensationalism, exaggeration, surmises or unverified facts.

(ii) Natural or man made hazards become disasters through acts of commission and omission of the society. Therefore, the disastrous impact can be minimized by preventive action taken by all the stakeholders including the media.

(iii) Media should give wide publicity to the do's and don'ts and the potential benefits of disaster mitigation so that the society follows them before, during and after the occurrence of the disasters. People should be

detailed on standard guidelines . The issues of children and women which are the most vulnerable groups during and after disaster should be handled carefully by the media.

(iv) It is necessary to have complete cooperation between the media and all governmental and non governmental agencies. The extent of the coordination and cooperation between them determines the nature, the degree and the scale of the preparedness to prevent or meet the disasters.

40. HIV/AIDS and the Media – DO'S and DON'TS

DO'S

- Media must inform and educate the people, not alarm or scare them
- Be objective, factual and sensitive
- Keep abreast with changing realities of fast-evolving infection
- Use appropriate language and terminology that is non-stigmatising
- Ensure headlines are accurate and balanced
- Be responsible; give all sides of the picture, using voices of people living with HIV and AIDS (PLHIVs)
- Dispel misconceptions about prevention and transmission
- Debunk myths about miracle cures and unscientific claims of protection from infection
- Highlight positive stories without underplaying seriousness of the issue
- Uphold confidentiality of infected people, their families and associates
- Ensure photographs do not breach their confidentiality
- Ensure photo captions are accurate
- Ensure gender sensitive reporting and avoid stereotyping
- Obtain data from authorised sources as inaccurate reports have adverse impact on morale and increase stigma

- Journalists are responsible for ensuring interviewees understand repercussions of revelations/identification
- Ensure informed consent, in written form wherever possible
- Balance coverage of a negative story like HIV-related suicide or incidence of discrimination by including contacts of helplines/counselling centres
- Broaden reportage to examine impact of infection on economic, business, political and development issues
- When in doubt contact the local network of positive people or state aids control society or existing terminology guidelines for clarification
- Ensure questions are not deeply personal or accusatory
- Show PLHIVs in a positive light by portraying them as individuals instead of 'victims'

DON'TS

- Don't sensationalise the story
- Don't make value judgements that seek to blame PLHIVs
- Don't use terms like 'scourge' to describe the infection or describe PLHIVs as AIDS carrier, prostitute, drug addict, AIDS patient/victim/sufferer
- Don't focus needlessly on how a PLHIV was infected
- Don't identify children infected and affected by HIV and AIDS by name or through a photograph even with consent
- Don't use hidden cameras
- Avoid alarmist reports and images of the sick and dying that convey a sense of gloom, helplessness and isolation
- Don't use skull, crossbones, snakes or such visuals as graphics
- Avoid references to caste, gender or sexual orientation
- Don't reinforce stereotypes about sexual minorities including those who are lesbian, gay, bisexual or transgender (LGBT)
- Don't portray infected persons as victims, culprits or objects of pity

- Don't promote misleading advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections
- Don't breach the confidentiality of those opting for voluntary testing

41. (A) Trial By Media

Introduction

The media and judiciary are two vital pillars of democracy and natural allies, one compliments the other towards the goal of a successful democracy. Measures which are necessary for due process of law need to take precedence over freedom of speech. In a conflict between fair trial and freedom of speech, fair trial has to necessarily prevail because any compromise of fair trial for an accused will cause immense harm and defeat justice delivery system. Thus, mediapersons should be duly trained and imparted basic knowledge about functioning of courts and processes of law.

- An accused is entitled to the privilege of presumption of being innocent till guilt is pronounced by the Court.
- The media reports should not induce the general public to believe in the complicity of the person indicted as such kind of action brings undue pressure on the course of fair investigation by the police.
- Publishing information based on gossip about the line of investigation by the official agencies on the crime committed gives such publicity to the incident that may facilitate the person who indeed committed the crime to move to safer place.
- It is not always advisable to vigorously report crime related issues on a day to day basis nor to comment on supposed evidence of the crime without ascertaining the factual matrix.
- While media's reporting at the investigation stage in a criminal case may ensure a speedy and fair investigation, disclosure of confidential

information may also hamper or prejudice investigation. There cannot therefore be an unrestricted access to all the details of the investigation.

- vi) Victim, Witnesses, Suspects and accused should not be given excessive publicity as it amounts to invasion of their privacy rights.
- vii) Identification of witnesses by the newspapers/media endanger them to come under pressure from both, the accused or his associates as well as investigative agencies. Thus, media should not identify the witnesses as they may turn hostile succumbing to the pressure.
- viii) The suspect's picture should not be shown as it may create a problem during 'identification parades' conducted under the Code of Criminal Procedure for identifying the accused.
- ix) The media is not expected to conduct its own parallel trial or foretell the decision putting undue pressure on the judge, the jury or the witnesses or prejudice a party to the proceedings.
- x) The reporting on post trial/hearing often consists of reporting on the decision handed down. But when there is a time lag between the conclusion of the proceedings and the decision, the comments on the concluded proceedings, including discussion on evidence and/or arguments, aimed at influencing the forthcoming decision must be avoided.
- xi) Media having reported an initial trial is advised to follow up the story with publication of final outcome by the court, whenever applicable.

(B) Guidelines on Sting Operations

- i) A newspaper proposing to report a sting operation shall obtain a certificate from the person who recorded or produced the same certifying that the operation is genuine and *bonafide*.
- ii) There must be concurrent record in writing of the various stages of the sting operation.

- iii) Decision to report the sting operation should be taken by the editor after satisfying himself of the public interest of the matter and ensuring that report complies with all legal requirements.
- iv) Sting operation published in print media should be scheduled with an awareness of the likely reader in mind. Great care and sensitivity should be exercised to avoid shocking or offending the reader.

42. Norms for Photo Journalism

Since a picture or visual presentation of news creates a stronger and more lasting impression on the readers and viewers than mere words, photojournalists and other visual news producers have to be a lot more responsible and careful in the discharge of their duties. They must, therefore, ensure that in keeping with the high standards of journalism, their presentations are always in public interest, fair, accurate, unbiased, sober and decent.

Adherence to the following do's and don'ts will surely help them self-regulate their conduct and maintain their professional integrity and high standards:

DO'S

1. Images should be accurate and comprehensive and the subjects be presented in proper context.
2. All subjects should be treated with respect and dignity. Special consideration be given to vulnerable subjects and victims of crime or tragedy be treated compassionately. Private grief be intruded only when the public has an overriding and justifiable interest in sharing or viewing it.
3. While editing a visual, the maintenance of the integrity of the content and context of the photographic images should be ensured. Images

should not be manipulated neither should there be addition or alteration in sound in any way that can mislead viewers or misrepresent subjects.

4. Strive to be unobtrusive and humble in dealing with subjects.
5. The integrity of the photographic moment should be respected.
6. Pictures should not reflect anything that is obscene, vulgar or offensive to good public taste.
7. Strive to ensure that the public's business is conducted in public. Defend the rights of access for all journalists.
8. Strive for total and unrestricted access to subjects and recommend alternatives to shallow or rushed opportunities.
9. Seek a diversity of viewpoints and work to show unpopular or unnoticed points of view.
10. Strive by example and influence to maintain the spirit and high standards expressed in this code. When confronted with situations in which proper action is not clear, seek the counsel of those who exhibit the highest standards of the profession.

DON'TS

1. While photographing subjects do not intentionally contribute to, alter, or seek to alter or influence events.
2. The privacy of an individual should not be intruded or invaded unless it is outweighed by genuine overriding public interest, not by a prurient or morbid curiosity.
3. While covering terrorist attacks, communal riots or other acts of violence, do not show mangled corpses or such other images as cause revulsion or terror or rouse communal or sectarian passions.
4. Do not get manipulated by staged photo opportunities.
5. Do not accept gifts, favours or compensation from those who might seek to influence the coverage.

6. Avoid political, civic or business involvements or employment that could compromise or appear to compromise their professional independence.
7. No payment or material reward should be made to the sources or subject for information or participation.
8. The work should not reflect any kind of biases.
9. Do not intentionally sabotage the efforts of other journalists.

• Part B: Guidelines on Specific Issues

a) Norms for observance by the Press in the wake of communal disturbances 1969

Recognising that the Press which enjoys the utmost freedom of expression has a great and vital role to play in educating and moulding public opinion on correct lines in regard to the need for friendly and harmonious relations between the various communities and religious groups forming the fabric of Indian political life and in mirroring the conscience of the best minds of the country to achieve national solidarity, the Press Council of India considers that this object would be defeated, communal peace and harmony disturbed and national unity disrupted if the Press does not strictly adhere to proper norms and standards in reporting on or commenting on matters which bear on communal relations. Without attempting to be exhaustive, the Council considers the following as offending against journalistic proprieties and ethics:

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comments on them.
2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.
3. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievances whether the same be genuine or not.

4. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful, legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.
5. Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.
6. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.
7. Emphasising matters that are not to produce communal hatred or ill-will, or fostering feelings of distrust between communities.
8. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.
9. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or in distinctive types.
10. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths or their founders.

Guidelines Issued by the Press Council for Observance by the State Governments and the Media in Relation to Communal Disturbances
1991

- i. The State Government should take upon themselves the responsibility of keeping a close watch on the communal writings that might spark off tension, destruction and death, and bring them to the notice of the Council;
- ii. The Government may have occasion to take action against erring papers or editors. But it must do so within the bounds of law. If newsmen are arrested, or search and seizure operations become necessary, it would be healthy convention if such developments could be reported to the Press Council within 24 to 48 hours followed by a detailed note within a week;
- iii. Under no circumstances must the authorities resort to vindictive measures like cut in advertisements, cancellation of accreditation, cut in newsprint quota and other facilities;
- iv. Provocative and sensational headlines should be avoided by the Press;
- v. Headings must reflect and justify the matter primed under them;
- vi. Figures of casualties given in headlines should preferably be on the lower side in case of doubt about their exactness and where the numbers reported by various sources differ widely;

vii. Headings containing allegations made in statements should either identify the person/body making the allegation or, at least, should carry quotation marks;

viii. News reports should be devoid of comments and value judgement;

ix. Presentation of news should not be motivated or guided by partisan feelings, nor should it appear to be so;

x. Language employed in writing the news should be temperate and such as may foster feelings of amity among communities and groups;

xi. Corrections should be promptly published with due prominence and regrets expressed in serious cases; and

xii. It will help a great deal if in-service training is given to journalists for inculcation of all these principles.

Guidelines Issued by the Press Council on January 21-22, 1993 in the
Wake of the Ram Janambhoomi-Babri Masjid Dispute

Guidelines for guarding against the commission of the following
journalistic improprieties and unethicallities.

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comment, on them.
2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.
3. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievance whether the same be genuine or not.
4. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.
5. Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.

6. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.

7. Emphasising matters that are apt to produce communal hatred or ill-will, or fostering feelings of distrust between communities.

8. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.

9. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or distinctive types.

10. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths or their founders.

b) Coverage of Handouts of Militants/Terrorists-Guiding Principles 1991-1992

Arising out of a complaint against publication of some ULFA handouts/threat notes by a newspaper of Assam, the Press Council has enunciated some general principles for the guidance of the press. These are in tune with the recommendations of the Press Council of India Report on Punjab and Jammu & Kashmir, adopted by the Press Council in January, 1991.

These guiding principles considered by the Council in September 1992, are as follows:

Dictates or "Press Notes" commanding newspapers to publish them, under duress or threats of dire consequence, emanating from elements wedded to violence, constitute "the gravest assault on the freedom of the Press which is one of the surest guarantors of a democratic and plural society". Generally, such dictates or Notes are not newsworthy *per se*. Their publication tends to demoralise the public and to affect adversely public, police and security. The publication not only compromises the freedom and independence of the newspaper concerned, but also constitutes an offence against the standards of journalistic ethics and professional responsibility.

This is not to say that if there is anything newsworthy in a "Press Note" emanating from any source, it should be blacked-out altogether, because 'self-censorship' may be "no less dangerous for being insidious". The essential point is that editors must exercise due caution and circumspection in considering the dissemination of such Press Notes. If the whole of the Note is not pernicious, then it may be edited, its objectionable portions removed and

language toned down so that whatever is true newsworthy gets disseminated in a balanced manner. However, where the "news" and the objectionable portions are inextricably mixed up, violating the entire warp and woof of the "Press Note", it will be prudent to withhold its publication altogether.

This is not an easy way out, as the media's experience of militancy in Punjab has amply demonstrated. More than 50 media personnel have lost their lives in terrorist attacks and ignoring a militant press note can lead and has often led, to death of innocent and defenceless media persons. Any show of editorial defence and courage is likely to be seen by defenceless employees of newspapers as exposing them to avoidable dangers. Editors and proprietors under these circumstances have little room for manoeuvres.

A workable expedient that proved useful in Punjab, is for the government to be in close touch with newspapers so that objectionable and anti-national press notes from groups swearing by violence could be removed from newspapers before publication. Even though this may be seen as a form of pre-censorship, this arrangement saved lives and spared newspapers from difficult and delicate choices.

There is however a danger of a wilful administration using this process to muzzle the press and misuse its authority under the law to define "objectionable material" on its own terms. Strict procedures must therefore be laid down. Orders passed under any legislation in this regard from time to time in relation to publication of allegedly "objectionable matter" should be subjected to some kind of appellate review so as to curb any propensity to arbitrary action. The principal legislation and rules made thereunder should also be periodically reviewed in the light of changing circumstances. These safeguards should be built into all such press legislation.

C) HIV/AIDS and the Media

The Press Council of India under the mandate of Section 13(2)(b) of the Press Council Act, 1978 has built up a set of guidelines to facilitate the functioning of the Media. Of these, the guidelines on coverage of HIV/AIDS related matter was drawn up in the year 1993.

A writ petition no. CMP 52/2008 was filed by National Network of Positive People before Hon'ble Court of Juvenile, Thiruvananthapuram objecting to an incident relating to visual screened by the media of two children Bensy and Benson and the subsequent false reporting of the demise of Bensy, a child with HIV/AIDS. The Hon'ble Court observed that the Press Council of India should give appropriate direction to the Media while reporting HIV/AIDS by them. In pursuance of this matter the Council approached the representatives of UNAIDS and activists in the field to update the guidelines on HIV/AIDS reporting as the matter has undergone sea change since 1993. The core group held two workshops on September 18, 2008 and October 10, 2008 to discuss and debate on the guidelines formulated and proposed that these guidelines should be translated into as many languages as possible for the benefit of the journalists at various levels. These guidelines are equally relevant to print as well as electronic media.

Be Objective, Factual and Sensitive

Journalists must ensure their story is objective, factual and sensitive, more so when they are reporting on HIV and AIDS. They should seek truth and report it in a balanced manner. Journalists should hold all decision makers accountable, from government to the pharmaceutical industry and advocacy groups. They should be engaged with, but not captive to, any interest group.

This means highlighting -positive stories where appropriate, without underplaying the fact that HIV and AIDS is a serious issue. Omitting key information because it doesn't fit into the story is a breach of faith. The story must give both sides of the picture. Telling the whole story also means giving it a human face. The voices of people with HIV and AIDS must be heard more strongly and they must include the vulnerable and marginalised people.

The focus should be on facts. Distortion of facts in any manner to make the story salacious and therefore 'more saleable' is unacceptable. Censorship of relevant information too is unethical.

Accuracy is critical since important personal and policy decisions may be influenced by media reports. In the context of HIV and AIDS, this means that journalists need to be very careful about the scientific and medical details as well as statistics. With the combination of drugs and treatment regimens available known as antiretroviral therapy (ART), people infected with HIV can live for many years before showing any signs of illness. ART is a combination of drugs that reduces the amount of HIV in the body (viral load) by interfering with its replication. ART does not completely destroy the virus or cure the disease. With reduced virus in the body, the immune system can become stronger and fight infection more effectively, resulting in decreased morbidity for the patient. ART has been shown to benefit both adults and children living with HIV and AIDS.

Reporting on HIV and AIDS is complex and sorting through the epidemiological data can be challenging. Whether using data to support a story or reporting on the data itself, the specific data chosen and how they are used, will play a large role in determining what kind of story is told. In addition, the data is often so complex that there is a risk of misinterpretation.

For example, some reporters may use 'incidence' and 'prevalence' interchangeably even though they represent two different ways of measuring the epidemic. Experts/ epidemiologists should be consulted.

Ensure accurate language and terminology

When reporting on HIV and AIDS, language is extremely important. Journalists should be particularly careful to get scientific and statistical information right. They must integrate this with correct terminology. For instance, it is essential to know and make clear the difference between HIV and AIDS. Being a syndrome or a collection of symptoms, AIDS cannot itself be transmitted, nor is there an AIDS virus, nor an AIDS carrier. Similarly, a person either does or does not have AIDS. Since there are no degrees of AIDS, the expression 'full-blown AIDS' is meaningless.

With effective treatments now available, HIV infection does not necessarily lead to AIDS. It is important to reflect this in reportage. Since HIV is not synonymous with AIDS, 'HIV/AIDS' as a term is no longer considered accurate.

With AIDS not being a singular disease but a syndrome defined by a variety of diseases and cancers, a person does not 'die of AIDS'. It would instead be accurate to report that he or she died of an HIV-related illness.

Terminology used must be appropriate and non-stigmatising. The media must cross check changes in terminology and language. Terms like 'scourge' to describe the infection have been discarded. Other terms like AIDS carrier,

prostitute, drug addict, AIDS patient/victim/sufferer also lead to stigma and should not be used.

Debunk myths related to prevention of HIV and miracle cures

The press should take care not to promote myths related to prevention and transmission of HIV or to claims that advertise protection from the infection. Nor should it give any credence to traditional cures that have no scientific verification. False hopes are raised by reporting claims around cures. Researchers have been working hard for decades yet there is no known cure for HIV or AIDS although the infection is treatable with a positive impact on the quality of life. The media should include telephone numbers of HIV and AIDS helplines/counselling services.

Advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections can be potentially misleading and should be carefully checked.

Make Photographs, Illustrations and Cartoons Positive

Visuals have an immediate impact on audiences and are important to highlight stories. But the use of photographs in HIV and AIDS stories raises a lot of ethical issues. Care should be taken to ensure that photographs do not breach the confidentiality or privacy of infected people and their families.

Avoid photos that promote stereotypes related to HIV and AIDS and those that victimize the infected. Care should be taken to ensure that captions to photographs are factually correct and do not increase stigma.

Illustrations and cartoons also should avoid any negative implications

For visual media

The visual media must deal sensitively and ethically with the identities of those who have HIV and AIDS as well as their families and associates. Care must be taken during interviews, off-the-record conversations, while taking photographs and recording their stories so that identity is kept confidential.

Some pointers:

- Keep the camera away from focussing directly on the face of person/case study. Instead, shoot hands, feet or back of the head
- Shoot in silhouette, keeping the camera behind the subject
- Since voice can also be an identifying factor, ask questions softly so that the replies are soft. In most cases, superimposition of subtitles should be used so that the audio does not need to be upped too much.
- Do not show pictures of the family. These too can lead to identification of the person
- Try to keep the location of the shoot ambiguous. For instance, avoid naming the village
- Establish the concerned person's journey through a third party's voice whenever possible
- An interview should be a one-to-one chat that allows the person to speak. Ensure questions are not deeply personal or accusatory. It should not put the person on the defensive
- Hidden cameras should never be used
- Try to show people living with HIV in a positive light by portraying them as individuals instead of 'victims'

- Wherever possible, obtain written consent

Even with permission, it may be best not to disclose the infected person's identity. The repercussions and pressures of being revealed on TV particularly can be terrible, especially for the family. The stigma gets heightened. In many cases permission to shoot openly is given without understanding the power of the visual media.

The person may feel safe appearing on TV in Delhi, away from their community, not realizing the possibility that their family is watching the story in a village/ town far away.

For news desk including sub-editors and newsroom staff

Special attention must be paid by the news desk and newsroom staff to ensure that the eye-catching headlines reflect the issue accurately and that the story is balanced and free of damaging stereotypes.

Uphold Confidentiality and Obtain Informed Consent

Journalists should not disclose the identity of the person infected with HIV unless they have specific permission to do so. Whenever possible, they should get written consent.

If written consent is not possible, informed consent must be obtained. This means ensuring that people living with HIV and AIDS (PLHIVs) are aware of the implications of their identification.

The moral and professional responsibility of the story should be that of the journalist. Therefore, the journalist must exercise caution and use his/her judgment on how PLHIVs are to be portrayed. To minimize damaging repercussions it would be best to avoid identification even when written consent is obtained. This can be done by changing names and locations in the story.

Avoid Discrimination

Journalists should avoid references to caste, gender or sexual orientation when reporting HIV and AIDS. Such references entrench existing prejudices against sexual minorities certain communities or groups already targetted, be they men who have sex with men (MSM), injecting drug users (IDUs), sex workers or migrants.

Sexual minorities includes people who are lesbian, gay, bisexual and transgender (LGBT) and covers men, women and all those who do not identify either as men or women (that is, transgender). Among the transgender are hijras. Hijras are essentially biological born males who do not identify as men and prefer to identify as women.

It is important to understand that MSMs may never identify as homosexual. Therefore, the word MSM is used to denote behaviour only. So it is appropriate to say Oscar Wilde was a gay man and not Oscar was gay.

Sexual minorities are sometimes derisively referred to by terms which reinforce stereotypes about the community. Instead, it would be more

appropriate to use terms like sexual minorities, gay man or lesbian. It is not necessary to call them that either as long as one does not stigmatise them.

While information about modes of transmission are important, instead of making value judgements the reports should try to focus on how the infection affects people, their work, their families and the gaps in policy and implementation of HIV programmes. Focussing needlessly on how a person was infected reinforces an attitude that seeks to blame those with HIV or AIDS for being infected.

Care should be taken to ensure that a particular region's language, cultural norms and traditional practices are understood and accurately reported.

Ensure Gender Sensitive reporting

The media must guard against gender stereotyping. It must not stigmatize HIV positive women. For instance, portraying sex workers and bar girls as being responsible for spreading the infection is common. Instead, stories should explore how the infection makes women particularly vulnerable to different forms of exploitation. Stories must focus on how it is possible to live a productive and reasonably normal life with HIV, about the inherent strength that enables women to shoulder challenges and about the ethical and legal rights of sex workers.

Stories should also focus on the new technology and medication available for prevention of infection from mother to child and the fact that infected women can have children who may be free of the infection.

An example of gender sensitive reportage is the use of PPTCT (Prevention of Parent to Child Transmission) instead of PMTCT (Prevention of Mother to Child Transmission). This way the report does not hold the mother solely responsible for passing the infection.

Ensure Sensitivity on Child-Related Stories

The identity of children infected and affected by HIV should not be revealed. Nor should their photographs be shown. This include orphans and children living in orphanages, juvenile homes etc.

International and national laws specifically prohibit publication of any information or photograph that may lead to the identification of these children and violate their rights.

In India, the Juvenile Justice (Care and Protection of Children) Act, 2000 lays down that no report in any newspaper, magazine or visual media regarding a juvenile in need of care and protection shall disclose the name, address, school or any other particulars that lead to their identification. It also prohibits the publication of any photograph related to the child.

Journalists must also be sensitive to the fact that a child may or may not be aware of her/his HIV status. This fact must be ascertained before the journalist gets into the process of enquiry. This is of prime importance as some questions can be perceived as intrusive or insensitive and can leave a lasting impression on the child.

Keeping that in mind, it is nevertheless important for children to participate in matters that concern them. However, their identities must be protected while sharing their views/stories.

The fact that paediatric doses of ART medication are now available must be widely disseminated.

Ensure balanced and responsible coverage

News organisations should take the initiative to lessen the impact of a 'negative' story such as suicide due to HIV-related illness by carrying statements from positive people who have faced the challenge successfully or by giving helpline numbers.

Care should be taken that stories on infected individuals are not sensationalized. The stories should avoid falling into the trap of projecting infected persons as either 'victims' or 'culprits'.

When reporting on specific professional groups such as uniformed services, health professionals etc, care should be taken to obtain data from authorised sources. Inaccurate reports will have an adverse impact on their morale and will also increase stigma. Such reports will also create an impression of lack of confidentiality that will hinder voluntary testing.

Ensure regular training on HIV and AIDS for media

Journalists must keep abreast of the changing realities of this fast-evolving infection. News organizations across the country must actively encourage

training workshops and modules on the issue. Journalists should also keep themselves updated on court judgements related to the issue.

HIV is no longer just a health issue. Instead of concentrating on health reporters alone, people at all levels of the news organization should be trained and sensitised on the various dimensions, especially terminology of HIV and AIDS. The infection impacts on the country's development, economics, business and politics. Surveys have shown that with training and sensitization, media reportage on HIV and AIDS, particularly in high-prevalence states, has been relatively more balanced and accurate.

Adopt existing stylebook or guidelines on HIV and AIDS reportage

News organisations should adopt and widely disseminate existing standardised guidelines and terminology on reporting on HIV and AIDS. This will encourage responsible coverage of the issue.

APPENDIX 1

UNAIDS TERMINOLOGY GUIDELINES

www.unaids.org

APPENDIX 2

CODE FOR SELF-REGULATION IN ADVERTISING BY THE ADVERTISEMENT STANDARDS COUNCIL OF INDIA (ASCI)

www.asci.co.in

APPENDIX 3

HIV/AIDS AND THE LAW – A JUDICIAL COLLOQUIUM BY HUMAN RIGHTS LAW NETWORK (HRLN)

www.hrln.org

Consent Form

I, _____ Son/ Daughter of _____
 _____, am a responsible adult / Parent/legal guardian -of -----
 Aged ----- years,
 agree that you..... (name of interviewer/photographer) and
 your photographer/cameraman have my permission to record my statement/interview
 and take my photograph for print/audio visual media, on HIV and AIDS related issues.

I understand that my statement/interview will not be distorted or misused in any way
 wherever it is used. The photographer will also ensure that photographs do not breach my
 confidentiality or that of my family.

You will also ensure that statement/interview taken of ----- (name of
 interviewee), who is a minor, does not reveal his/her identity in any way.

It has also been explained to me in my language (-----) that there could be
 a potential fallout of my statement that could include stigma and discrimination directed
 towards me, my family members, relatives and friends.

ADDRESS: _____

Phone: _____

DATE: _____

SIGNATURE: _____

d) Financial Journalism – 1996

The Press Council of India has counselled reporters/financial journalists/newspaper establishments to refrain from receiving any gifts/grants/concessions/facilities, etc., either in cash or kind which are likely to compromise free and unbiased reporting on financial matters.

2. The Council in its Report has observed that the financial journalists today enjoy considerable influence over readers' minds and, therefore, they owe it to them to present a balanced and objective view of the financial dealings, status and prospects of a company. It observed that some companies are given excessive news coverage in the newspapers/magazines because they have issued advertisements to that print media. Sometimes, adverse reports are published of those companies which do not give advertisements to the newspapers or magazines. Again, when a media is not happy with any company/ management for whatever reason, the negative aspects of the company are highlighted, while in the reverse situation, no negative aspects are brought to light. Some companies are also known to give gifts, loans, discounts, preferential shares, etc., to certain financial journalists to receive favourable and positive reports of the companies. At the same time, there is no mechanism for investors' education or for raising public opinion against such unhealthy practices.

3. The Council feeling concerned over the malpractice in the Corporate Sector and after holding detailed deliberations and discussions with the representatives of financial institutions and journalists, has recommended the guidelines enumerated below for observance by the financial journalists:

1) The financial journalists should not accept gifts, loans, trips, discounts, preferential shares or other considerations which compromise or are likely to compromise his position.

2) It should be mentioned prominently in the report about any company that the report is based on information given by the company or the financial sponsors of the company.

3) When the trips are sponsored for visiting establishments of a company, the author of the report who has availed of the trip must state invariably that the visit was sponsored by the company concerned and that it had also extended the hospitality as the case may be.

4) No matter related to the company should be published without verifying the facts from the company and the source of such report should also be disclosed.

5) A reporter who exposes a scam or brings out a report for promotion of a good project should be encouraged and awarded.

6) A journalist who has financial interests such as share holdings, stock holdings, etc., in a company, should not report on that company.

7) The journalist should not use for his own benefit or for the benefit of his relations and friends, information received by him in advance for publication.

8) No newspaper owner, editor or anybody connected with a newspaper should use his relations with the newspaper to promote his other business interests.

9) Whenever there is an indictment of a particular advertising agency or advertiser by the Advertising Council of India, the newspaper in which the advertisement was published must publish the news of indictment prominently.

e) Election Reporting-1996

i) General Election is a very important feature of our democracy and it is imperative that the media transmits to the electorate fair and objective reports of the election campaign by the contesting parties. Freedom of the Press depends to a large measure on the Press itself behaving with a sense of responsibility. It is, therefore, necessary to ensure that the media adheres to this principle of fair and objective reporting of the election campaign.

The Press Council has, therefore, formulated the following guidelines to the media for observance during elections:

1. It will be the duty of the Press to give objective reports about elections and the candidates. The newspapers are not expected to indulge in unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. In practice, two or three closely contesting candidates attract all the media attention. While reporting on the actual campaign, a newspaper may not leave out any important point raised by a candidate and make an attack on his or her opponent.

2. Election campaign along communal or caste lines is banned under the election rules. Hence, the Press should eschew reports which tend to promote feelings of enmity or hatred between people on the ground of religion, race, caste, community or language.

3. The Press should refrain from publishing false or critical statements in regard to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any candidate or his candidature, to

prejudice the prospects of that candidate in the elections. The Press shall not publish unverified allegations against any candidate/party.

4. The Press shall not accept any kind of inducement, financial or otherwise, to project a candidate/party. It shall not accept hospitality or other facilities offered to them by or on behalf of any candidate/party.

5. The Press is not expected to indulge in canvassing of a particular candidate/party. If it does, it shall allow the right of reply to the other candidate/party.

6. The Press shall not accept/publish any advertisement at the cost of public exchequer regarding achievements of a party/ government in power.

7. The Press shall observe all the directions/orders/instructions of the Election Commission/Returning Officers or Chief Electoral Officer issued from time to time.

ii) Guidelines on 'Pre-poll' and 'Exit-polls' Survey-1996

The Press Council of India having considered the question of desirability or otherwise of publication of findings of pre-poll surveys and the purpose served by them, is of the view that the newspapers should not allow their forum to be used for distortions and manipulations of the elections and should not allow themselves to be exploited by the interested parties.

The Press Council, therefore, advises that in view of the crucial position occupied by the electoral process in a representative democracy like ours, the newspapers should be on guard against their precious forum being used for distortions and manipulations of the elections. This has become necessary to emphasize today since the print media is sought to be increasingly exploited by the interested individuals and groups to misguide and mislead the unwary voters by subtle and not so subtle propaganda on casteist, religious and ethnic basis as well as by the use of sophisticated means like the alleged pre-poll surveys. While the communal and seditious propaganda is not difficult to detect in many cases, the interested use of the pre-poll survey, sometimes deliberately planted, is not so easy to uncover. The Press Council, therefore, suggests that whenever the newspapers publish pre-poll surveys, they should take care to preface them conspicuously by indicating the institutions which have carried such surveys, the individuals and organisations which have commissioned the surveys, the size and nature of sample selected, the method of selection of the sample for the findings and the possible margin of error in the findings.

2. Further in the event of staggered poll dates, the media is seen to carry exit-poll surveys of the polls already held. This is likely to influence the voters where the polling is yet to commence. With a view to ensure that the electoral process is kept pure and the voters' minds are not influenced by any external factors, it is necessary that the media does not publish the exit-poll surveys till the last poll is held.

3. The Press Council, therefore, requests the Press to abide by the following guideline in respect of the exit polls:

Guideline:

No newspaper shall publish exit-poll surveys, however, genuine they may be, till the last of the polls is over.

D ALLOTMENT OF HOUSES TO JOURNALISTS -1996

i) Pursuant to the request made to the Press Council of India by the Hon'ble Supreme Court of India *vide* its order dated 19/7/96, the office of the Press Council convened separate meetings on various days with the officials of the Ministry of Urban Affairs and Employment (MUAЕ) and the Press Information Bureau (PIB) in the Ministry of Information; (ii) the representative of the Joint Action Group of Journalists and News Cameramen which had agitated against the retention of the press pool accommodation by some of the present journalist-allottees; and (iii) the journalist occupants. The Council also received representations and suggestions from individual journalists, including journalist occupants. Some of the occupant and non-occupant journalists also met the Chairman of the Council individually and made representation on behalf of the journalists and gave suggestions.

It was noted that the accommodation was given to the journalists since 1957 according to certain guidelines. Those guidelines were revised from time to time and the latest guidelines are of December 1991. The Council also had the benefit of the draft of a further revision of the guidelines suggested by the P.I.B. to the M.U.A.E.

It was noted that originally, the system of temporarily allotting a fixed number of apartments for journalists started when Shri Sardar Patel was the Minister of Information and Broadcasting. In those days, the income of Indian journalists was such that most of them could hardly afford to stay in New Delhi. While many of the new journalists have to pay for high rent private flats, there is a need for the older journalists to vacate these accommodations in favour of the younger ones with lesser income.

It was further noted that the whole object of giving temporary accommodation to the journalists was to accommodate for some time those journalists who came from outside Delhi. With that purpose, the government accommodation was being made available to the journalists for a limited purpose of three years and during this period they were expected to find accommodation for themselves and to vacate the government accommodation. For this purpose again, they were during this period of occupation, charged a nominal rent as charged to government servants.

It was also noted that it was not the intention of the government to create any relationship whatsoever between itself and the occupant journalist. The accommodation was to be given as a facility by way of transit accommodation till the journalist found a suitable accommodation for himself/herself within this stipulated period.

This is also borne out by the fact that the Second Press Commission in Chapter V. para 22 of its Réport, had recommended that the "Press should be able to resist not only external pressure but also inducements which would undermine independence from within. Journalist should be on guard against temptation to enjoy favours, whether from government authorities, employers, advertisers or others. Further Chapter VIII, para 49, it recommended that "no further housing facility should be provided to the journalists and existing allotment of the government accommodation in the National Capital and the States should be charged for at non subsidised rates and phased out as the present occupants leave". The Action Taken Report of the Central Government on the Report of the Second Press Commission submitted to the Parliament record be provided to journalists and in respect of

the existing allotments, the rent should be charged at non subsidised rates.

This was nearly a decade ago. However, the allotment continued.

Taking into consideration all the above facts:

Considering the developments such as that many journalists have continued to occupy the accommodation as if it was given to them permanently since there was no clear stipulation with regard to the duration of occupation, in their allotment orders:

Considering the fact that at present there are only 120 units available for allotment to the journalists under the above facility and that there are a large number of needy journalists in the waiting list:

Considering the fact that the prices and rents of the premises are at present at a higher level:

Considering the present level of income of journalists:

And considering also the fact that there is no reason why the media establishments which are making profits should not provide housing facility for their journalists/news cameramen or pay sufficient house rent in lieu thereof:

The following guidelines for the allotment of accommodation to the accredited correspondents and news-cameramen are suggested:

ELIGIBILITY CRITERIA

1. The accommodation will be given by the government from the press pool only to the accredited journalists and news cameramen. Accredited journalists/news cameramen will mean journalists/news cameramen accredited by the Central Press Accreditation Committee. They will not include: (I) those accredited journalists/news cameramen whose total emoluments exclusive of the conveyance allowance exceed Rs. 15000/- p.m.(II) accredited editors or editor-cum-correspondents: (III) Freelance journalists: (IV) Journalists engaged on control basis : and (V) accredited correspondents who are not Indian National and /or who do not represent the Indian Media.

2. He/She does not own a house or flat, either as an owner or as a holder of power of attorney, in his/her own name or in the name of the family member or dependent in the National Capital Territory of Delhi, at the time of the allotment of accommodation from the pool.

Notes:

- i) The term 'family' in this context shall have the same meaning as defined in Government of India Supplementary Rule 2.
- ii) 'The National Capital Territory of Delhi' in this context shall besides Delhi, include municipal limits of Ghaziabad, Gurgaon, Noida, Greater Noida, Faridabad, Bahadurgarh and Sahibabad.
- iii) The transfer of ownership of spouse/sons/daughter and/or its sale to third party within a period of five years prior to the date of application/allotment, shall render the applicant ineligible for pool accommodation.

1. The accommodation will be allotted by a Screening Committee (Composition of which is given in para 17) according to seniority and pay limit as mentioned below:

The accredited journalists will be divided in two categories namely: (i) those who are drawing income upto Rs. 7000/- p.m. and (ii) those drawing income between Rs. 7,001/- to Rs. 15,000/- p.m. The above mentioned limit of emoluments would vary depending upon the recommendations of the Wage Boards of the pay-scale for the category 1A of the working journalists as defined in the Bachawat Award.

The monthly income would mean emoluments excluding conveyance allowance.

Two separate lists namely, 'List I' and 'List II', of the above categories (i) and (ii) of the journalists respectively would be prepared on the basis of the aforesaid income criteria and according to the seniority on the basis of the date of application for the accommodation.

2. Depending upon the availability, the accommodation will first be given to those in List I according to the seniority. If after satisfying the needs of all the journalists in List I, more units of accommodation are available, they would be given according to seniority to the journalists in List II.

3. The journalists in List I may occupy the accommodation so given for a maximum period of five years but no longer.
Those in List II may occupy the accommodation so given for a maximum period of three years but no longer.
The allottee shall not be eligible for allotment of accommodation from the pool more than once.

*Revised

4. The allottee shall pay the Government every month the amount of HRA that the allottee receives from his/her employer in addition to the license fee fixed under the Government of India. * **Director of Estates, New Delhi, Office Memorandum No. 18011/3/95-Pol-III dated 2.7.96.** It shall be his/her responsibility to pay all sums due as aforesaid to the government by the 10th of every month.. Failure to pay the dues as aforesaid shall make him/her liable to be evicted forthwith.
5. Every allottee shall, be 31st March every year, intimate to the Directorate of Estate, Ministry of U.A. & E the details of his emoluments including basis pay, all allowances, including the HRA and particulars of his/her family member/dependent or self having acquired as a holder of power of attorney or otherwise, any accommodation in the National Capital Territory as defined above.
6. The allottee shall vacate the accommodation within 30 days of the expiry of the period of allotment.

Disqualifications to remain in occupation

7. The allottee who acquires accommodation whether as a holder of power of attorney or otherwise in his/her own name or in the name of his/her spouse/family members/dependants, shall immediately but not later than 30 days inform the Directorate of Estate about such acquisition and shall also vacate the government accommodation within a period of two months of the acquisition of the accommodation.
8. The allottee, who voluntarily changes or voluntarily or compulsorily ceased to be in the employment of a media organisation for whatever reason and whose accreditation has not been changed to the new media unit, shall no longer be entitled to retain the government and shall vacate the same within a period of six months from the date of change of the employment.

***Revised**

9. The allottee who has, for any other reasons, will become ineligible for pool accommodation as per these guidelines, shall become liable to be evicted under the Public Premises Act after the expiry of the stipulated grace period laid down herein.
10. If the allottee fails to vacate the Government accommodation allotted to him/her as mentioned in clause 8-11 above, he/she shall be liable to be evicted from the same under the Public Premises Act and shall also be liable to pay ***damages as prescribed in the Government of India, Directorate of Estate, New Delhi Office Memorandum No.**

18011/3/92-Pol. III dated 30.5.1995 for the period of unauthorised occupation of the premises.

Procedure for allotment of accommodation

11. The government shall create a pool for media for the Delhi based accredited correspondents and news cameramen, out of the Central pool of residential accommodation in Delhi. The number of units to be allotted shall be such as may be fixed by the Government in the Ministry of Urban Affairs & Employment from time to time. At present there are 120 units in the media pool.
12. The number of units under the media pool shall remain earmarked for the representatives of the media.
13. The accommodation in the media pool would be of the types IV Special at the maximum.
14. Such Delhi-based accredited journalists/news cameramen, as are desirous of government accommodation from the media pool, shall make an application for the same to the Principal Information Officer or the Press Information Bureau in the Ministry of Information and Broadcasting. The application shall be accompanied by an affidavit stating the following particulars:

*Revised

(a) His/her monthly income as defined in Clause 3 above;

(b) The amount of HRA received by him/her from his/her employer.

(c) Whether he/she has accommodation either as a holder of Power of Attorney or otherwise in his/her own name or in the name of his/her spouse/family members/dependants within the National Capital Territory (NCT) as defined in Note (ii) to clause 2 and;

d) Whether he/she has transferred any such residential accommodation whether on Power of Attorney or otherwise to his/her spouse or family member or dependent or to any third party within the National Capital Territory of Delhi, and if so, when.

15. The application for allotment of accommodation out of the media pool shall be processed by a Screening Committee headed by the Secretary to the Government of India, Ministry of Information and Broadcasting and shall consist of the Principal Information Officer of the Press Information Bureau and the Joint Secretary/Additional Secretary (Estate) and Director of Estate, Ministry of Urban Affairs and Employment as its ex-officio members and six accredited journalists to be nominated by the Ministry of Information and Broadcasting.

16. The Screening Committee shall meet at least twice a year. The applications for allotment of accommodation shall be disposed of by the Committee within a period of not more than two months from their receipt.

17. There shall be no discretionary quota for allotment out of the media pool.

Saving Provision:

18. Such allottees as are present in occupation of houses for a period of more than three/five years, as the case may be, and/or have become ineligible on account of any other reason(s) as per these guidelines, shall become liable to vacate the accommodation as follows:

i) Those who are in regular employment *or those who are freelance journalists and not employed on contract-basis and have become ineligible only on account of the expiry of the stipulated period of occupation on the

date of coming into operation of these guidelinesshall become liable to be evicted within a period of three years from the date of coming into operation of these guidelines.

- ii) those employed on contract basis and ****the freelance journalists** who become ineligible to occupy government accommodation by virtue of these guidelines shall become liable to be evicted within a period of two years from the date of coming into these guidelines.
- iii) All others who become ineligible to occupy government accommodation on account of any other reason(s) whether in addition to the expiry of the stipulated period of occupation or otherwise, as per these guidelines, shall become liable to be evicted within a period of one year from the date of coming into operation of these guidelines.

During the period of occupation of Government accommodation as in sub-clause (i) to (iii) above, the occupants other than freelance journalists, shall pay license fee plus HRA as per clause (6) **or the damages as per clause (12) above.** The freelance journalist shall pay only license fee for the period of occupation of the accommodation in terms of ***Government of India, Directorate of Estate, New Delhi; Office Memorandum No. 18011/3/95-Pol III dated 2.7.1996.**

After the discussions in the Council meeting held on 25.9.96, the Chairman, Press Council of India suggested the following modification in the guidelines:

1. The maximum total emoluments for entitlement of government accommodation is prescribed at present as Rs. 15,000/- per annum in para 3 of the 'Eligibility Criteria'. It may be added there that the above mentioned limit of emoluments would vary depending upon the recommendations of the Wage Boards of the pay-scale for category 1A of the Wage Boards of the

pay-scale for category 1A of the working journalists as defined in the Bachawat Award.

*Revised

**Omitted

Some members of the Council suggested the following modifications:

1. A uniform period of five years may be given for vacating the government premises to all journalists whether they are in regular employment contract employment or whether they are freelance journalists and to that extent clauses (i) and (ii) of para 20 of the guidelines may stand modified. However, the period for vacating the government accommodation by those who have other accommodation in Delhi will remain unchanged.
2. A uniform tenure of five years for occupation of government accommodation once it is allotted, may be given to all the allottees whether the employees fall in list I or list II as mentioned in para 3 under the 'Eligibility Criteria'.

These were forwarded to the Hon'ble Supreme Court of India on 10.7.1996 and were incorporated in the Order of the Hon'ble Supreme Court dated. 19.7.1996.

g) GUIDELINES ON UNDUE FAVOURS TO JOURNALISTS-1998

The power of the press has prompted the publicmen through the ages to try to cultivate and curry its favours through overt, and more often than not, covert means.

It is only if the press accepts its responsibility of serving the public interest as an independent observer, informer and educator of people as a watchdog of the interest of the society that it can discharge its true role as a mass communicator. Ultimately the strength of the moral fabric of the press itself shall decide whether or not to be swayed by the inducements and enticements thrown in its way by those in power. The media persons must realise that the burden of whether favours and facilities they receive, whether they are showered on them by the public or the private organisations or the individuals in authority, is ultimate borne by the people. The private organisations recover their costs by adding to the cost of the products and services they sell. The ultimate allegiance of the press has therefore to be of the people and not to immediate benefactors.

To distinguish between the facilities made available to the members of the fourth estate for due discharge of their professional duties and favours granted with a view too influence them, is not always easy. However, the simple and intelligible demarcation may be a uniform profferment of help to journalists in discharge of their professional duties made within the parameters of well laid down policies, without discrimination from person to person constitutes facility but when it is restricted to any or some individuals or establishments, it becomes a favour.

| | /

Based on the report given out by the Council in January 1998 in favour extended to journalists by various authorities over the period 1985 to 1995, the Council has framed the following guidelines for future guidance:

1. Accommodation-houses/flats/land:

The Government is not obliged to provide accommodation to the journalists as it is the responsibility of the newspaper establishment to provide accommodation to their employees. Whenever such a facility is provided to the journalists by the authorities it should be gradually phased out.

Land allotments at concessional rates to the newspaper establishment /individuals for the purpose of installing printing presses should not be a source of undue/illegal enrichment of the allottees. Therefore, the proposal of allotment of land to newspaper establishment/individuals should be scrutinized by the authorities very carefully. No land should be allotted to newspaper establishments/individuals at concessional rates if the land is proposed to be put to commercial use as well along with its use for press purpose by the allottees.

2. Allotment of Shares in Companies:

The shares allotted at a special price or given under any quota is a favour.

3. Bus Travel/Rail Travel/Transport:

This is a favour so far as big and medium newspapers are concerned. Further the journalists attached to the newspapers which are in profit have no justification for availing free bus/rail/transport facility. Such costs must be borne by the concerned newspaper. However, in the case of small newspaper this may constitute a facility.

4. Foreign travel:

Extending the facility of air travel by companies, corporations and airlines is an inducement to write favourably about their products and services. As regards official foreign tours undertaken by the President, the Vice President, the Prime Minister and the External Affairs Minister or any other Minister, only eligible journalist should be

nominated for coverage once the newspaper has been selected on the basis of the criteria laid down. The management personnel of the newspapers should not be selected/ nominated for coverage of such tours.

5. Free Air Tickets by Domestic Travel Airlines and Others:

It induces journalists to write favourable reports to commercially promote the airlines and the commercial enterprise offering such tickets and should not be accepted by the journalists.

6. Cash Disbursement from Chief Minister's Discretionary Fund:

Disbursement of money from the Discretionary Fund of the Chief Minister other than by way of relief to the indignant and helpless journalists encourage unfaithfulness to the mission of journalism and promotes corrupt practices. This could be discouraged by the Chief Ministers.

7. Cash Disbursement Financial Assistance:

The financial assistance, even if given for medical treatment, constitute a favour, unless, medical aid is given under a clear cut policy uniformly applicable to the destitutes or sick persons who cannot afford the medical treatment, and the journalists happens to be one of such beneficiaries. Extending CGHS facility to journalists is illogical since this facility to its employees is the responsibility of the newspaper establishments and should be provided by the authorities.

- 8-9. Funds for media centres and grants to journalists associations is favour and should be discontinued, unless it is given for promoting the journalistic skills.
- 10. Gift cheques including those given by the advertisement agencies for publication of material relating to their clients or otherwise is a favour and deserve outright condemnation. The journalists should not accept them.
- 11. Gifts in any form, irrespective of their value, are to be condemned.

12. Free parking is a favour, if journalist use this facility for the purpose other than his professional work.

13. Guest Hospitality

The working journalists, as a rule should not be treated as State Guests. However, when Press teams are invited to a place to discharge their professional duties, making due arrangements for them would be an exception. The stay in government guest houses by accredited journalists, is permissible if it is for discharging professional duties.

14. Import of duty free cameras and computers:

It is the duty of the newspaper establishment to provide cameras/computers to its personnel. Allowing duty free cameras and computers to a particular class of persons by the Government is a favour. However, this facility may be extended to the accredited freelance journalists, small newspapers, provided it is not misused.

15. Insurance Premium:

It is not for the governments to pay premium of the insurance of the journalists. The newspaper establishments or the individual concerned should make the payment of the same.

16. Giving jobs to journalist's relatives, for considerations, and other than on merits is an outright attempt to induce and should be curbed.

17. The grant of loans within the ambit of a policy already laid down for all citizens is permissible. But when the loan is given only to journalists or at reduced rates of interests or when the interest due or the principal amount is waived/written off/condoned, such a practice amounts to undue favour and should be stopped.

18. Nomination on Committees:

In some states the journalists are nominated on some organisations and institutions like Public Service Commission and are also given the status of State Minister or Cabinet Minister, which is a wrong practice.

Except for nomination by professional organisations on Committees, which have a quota to represent the various professions, this practice constitutes a favour and should be stopped.

19. Allotting PCO/Fax/Phone booth or centre to a journalist is a favour. This practice should be stopped.

20. Pensionary benefits:

Since the media is not part of the government, the benefit given only to media persons constitutes a favour when extended by the government.

21. Press Clubs-Donation of Funds:

This practice is prevalent all over the country and funds are being donated lavishly by Chief Ministers/Ministers, political leaders, companies and corporations not only to genuine Press Clubs but also to the Press Clubs of dubious nature. In the latter case it constitutes an attempt to induce the journalists to give favourable reports about the donors. This should be stopped.

22. Prizes:

The practice of giving spurious awards has to be curbed. There are instances of sale of awards and prizes by the racketeers making money out of it. Not only the racketeers but the awardees often contribute towards the value of the prize.

23. Allotment of shops to persons for reasons of their position as journalist is a clear cut favour and should be stopped forthwith.

24. The grant of Accreditation Cards, Government and Public Authority Advertisements according to rules, facility during election meeting, expenses for journalistic conventions, seminars, etc. providing press rooms, inviting press parties, giving publication material, providing for training of journalists do not constitute favours. They are essential facilities offered to journalists for the discharge of their professional duties.

h) RIGHT TO PRIVACY – PUBLIC FIGURES AND THE PRESS-1998

The issue has been under heated debate at both national and international level. It appears certain that right to privacy cannot be absolute, yet the media itself has to show self-restraint, and respect the privacy of the public figures. Where there is clash between the public person's privacy and public's right to know about his personal conduct, activities, habits and traits of character, impinging upon or having a bearing on public interest, the former must yield to the latter.

It will, however, be necessary to bear that what is of 'interest to the public' is not synonymous with 'public interest' and that must be the ultimate test that the journalists must themselves apply in the circumstances of each individual case.

Drawing out of the above, the Council draws up the following guidelines:

"Right to privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public persons who function under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct as are of public interest ('public interest' being distinct and separate from 'of interest to the public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has, however, a corresponding duty to ensure that the informations about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining the information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussions, while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives."

The above broad guidelines emulated in true spirit are certain to strike a balance between the right of the press to have access to information and the public persons' right to privacy.

**(i) Model Guidelines for Publishing Overseas Advertisements in
Accordance With Emigration Act 1983**

The Information and Broadcasting Ministry requested the Council to issue guideline for the publishers in wake of advertisements of overseas jobs being published in various newspapers in contravention of Emigration Act, 1983. The Council in consultation with the Protector General of Emigration adopted the following model guidelines.

1. As per the provisions of Section 16 of the Emigration Act, 1983, no employer can recruit any citizen of India for employment in any country or place outside India except (a) through a recruiting agent competent under the Act to make such recruitment, or (b) in accordance with a valid permit issued in this behalf.
2. Section 10 of the Emigration Act, 1983, provides that no recruiting agent shall commence or carry on the business of recruitment of Indian citizens for overseas employment except under and in accordance with the certificate issued by the registering authority, i.e., Protector General of Emigrants in the Ministry of Overseas Indian Affairs.
3. Similarly, a foreign employer or a project exporter can recruit Indian citizens for employment abroad only after obtaining permit from the Indian Mission in the country of employment or the Ministry of Overseas Indian Affairs, New Delhi.
4. It is mandatory for the Registered Recruiting Agents to display their registration certificate number while inserting advertisement for recruitment. Similarly, Foreign Employers and Project Exporters will also have to indicate permit number while inserting advertisements.
5. A copy of the registration certificate in case of recruiting agents and permit letter in case of foreign employers and project exporters may be asked to be attached with the advertisement form as proof of their being genuine persons.

6. All advertisers may be asked to mention the following in their advertisement:
 - a. Registration Certificate Number/Permit Number;
 - b. Full address with Telephone Number, Post Box Number, e-mail address (These could be given in addition to the full address but not as the mode of communication);
 - c. No fee towards processing application or for any other purpose shall be charged from the applicant;
 - d. Name of the Posts/jobs;
 - e. Number of Position/vacancies in each category; and
 - f. The salary offered to each category of job.
7. In case of any doubt, the publisher may also ask for Copies of Demand Letter and Power of Attorney supposed to have been given by the foreign employer or sponsor to an agent, on the basis of which the said advertisement is being released.
8. Also clarifications may be sought from the Protector General of Emigrants, Ministry of Overseas Indian Affairs, New Delhi or from the eight Offices of the Protector of Emigrants located at Delhi, Mumbai, Chennai, Kolkata, Thiruvananthapuram, Cochin, Chandigarh and Hyderabad.
9. Further, the list of registered recruiting agents can also be seen in the website of the Ministry of Overseas Indian affairs, i.e.
<http://moia.gov.in>

(j) **Study Report - Working Journalist Act vis-à-vis
Appointment of Journalists on Contract
July 27, 2007**

The Press Council of India having considered the matter of appointment of journalists on contract basis in newspapers establishment on the basis of the report of its Sub-Committee unanimously opines that "All the employees of a newspapers establishment covered within the definition of Working Journalists Act, should be given the protection of the provision of the Act".

A Sub-Committee to study the Working Journalist Act 1955 *vis-à-vis* appointment of journalists on contract was set up by the Press Council of India in its meeting held on 9.2.06 at Pune. The Sub-Committee called for views and comments from the notified associations. Out of 15 notices sent, only two i.e. Indian Journalist Union and Indian Newspaper Society responded and some responses were received from Press Councils and similar bodies outside India though most of the bodies informed that they deal only with specific complaints against published material.

At nearly half a dozen meetings held by the Sub-Committee in Delhi, the overwhelming view emerged that contractual employment should be covered under the Working Journalist Act and the terms of appointment should not be disadvantageous to the journalists *vis-à-vis* the minimum wages prescribed in the Act. The Sub-Committee was also of the view that the Working Journalist Act should be implemented in letter and spirit.

The Sub-Committee had the benefit of discussing in a free and frank manner the view expressed by the members and scrutinizing them in detail from a variety of perspectives be it that of newspaper editors/owner or of

journalists. The Sub-Committee was unanimous in its opinion that broadly half a dozen suggestions can be made.

1. A reference be inserted in the terms of reference of Wage Board constituted recently for the Working Journalists.
2. Security of tenure of journalists appointed under contract to be ensured under the Working Journalist and Other Newspaper Employees (Conditions of Service) & Misc. Provisions Act, 1955.
3. Contract employment should not be an "attraction or allurements"
4. Tendency of "hire and fire" as also change of employment in quick succession should be discouraged and the contract employment should not remain at the whims and fancies of either party.
5. The wages being offered on contract should not be less than the gross wages under the Working Journalist Act.

In its discussions also, the Sub-Committee dwelt at length on fast changing scene in the media world where contractual employment was replacing regular appointment of journalists under the Working Journalist Act. The harsh reality remains that there is absolutely no (no) protection available to those journalists under the Act who have been appointed under the contractual system, a concern voiced time and again by several quarters.

The contractual employment was gradually creating a separate category of journalists, a category which did not enjoy benefits under the Act. Though the journalist under contractual employment often accept hefty pay packets and also get substantial wage increases, their freedom increasingly comes under a cloud of uncertainty as soon as the date for the contract renewal approaches. It is often seen that no sooner than the

contractual term nears completion the journalist comes under pressure to show "results" and the remaining period till the renewal of contract is often laced with uncertainty and fear of an "abrupt transfer" without giving any option or choice of freedom. Several instances were cited before the Sub-Committee which portrayed exploitation of journalists under the contractual system of employment as they were either given a paltry sum every month or shunted out or transferred without citing any reasons of exigencies of the organization.

Though the terms of contract essentially remain an agreement between the employer and the journalist, it is often observed that there is hardly any option or freedom of choice available to those engaged in the profession of gathering, reporting, disseminating or analyzing news. Such a scenario has also raised crucial question relating to the freedom of press and working conditions of journalists. Are journalists to be treated as any other employee in any segment of the industry? Is newspaper publishing a business like any other business or industry?

The Sub-Committee recalled the September 22, 2003 meeting of the Press Council of India at Pune which was chaired by Mr. Justice K. Jayachandra Reddy and had considered the matter of contractual system of appointment of journalists by some newspapers in the country.

At that meeting too, the Council had felt that even though the changing media scene needs to be accepted as a harsh reality, the appointment of journalists on contract basis in place of regular appointment under the Working Journalist Act could affect their right to express themselves freely without paying heed to the pressures that could be forthcoming from various quarters. Hence, it was necessary that covert as well as overt threats to the freedom of the press be constantly kept in sight. The Council was of unanimous view that while as far as the law

existed, the manner of employment was a matter of agreement between the employer and the employee, there was no doubt that the freedom of the press could be in jeopardy in contract system where continuance of service would be at whims of the employer.

It quoted External Affairs Minister, Mr. Pranab Mukherjee's observations at the recently held SAARC Editors Conference in Delhi viz., "In many ways, the media is the torch-bearer of better people-to-people contacts. One sentence from any of you has the potential to reach millions. It can correct a wrong 'it can create an image' it can plant a seed of understanding". Mr. Mukherjee told the conference "if the written word's power has been acknowledged time and again by one and all, is it not in the fitness of things that the hands which wield the pen should do so with freedom, responsibility and without any fear. Such working conditions in the media can only forge a better and healthy relationship between the employer and employee."

The Sub-Committee left it to the collective wisdom of the full Press Council to assess if the situation is any different at present or how it has evolved over the past three or four years.

Its final recommendation supplementing the report read "All the employees of a newspaper establishment covered within the definition of Working Journalists Act, should be given the protection of the provision of the Act."

Debating over the issue at length in the meeting held on 27.7.07, the Council adopted the final recommendation as its own.

Part C – Laws Relating to the Press

1. Constitution of India

- i) Article 19(1)(a) read with Article 19(2) (Freedom of speech and expression)
- ii) Article 361-A (Protection of publication of proceedings of Parliament and State Legislature)
- iii) Article 105 and 104 (Parliament and Legislatures Privileges).
- iv) Article 21 (Individual's Right to Privacy emanating from Fundamental Right to life and liberty guaranteed to citizens of India.

2. Press Laws/Acts

- i) Indecent Representation of Women (Prohibition) Act, 1986
- ii) Punjab Special Powers (Press) Act, 1956.
- iii) The Press and Registration of Books Act, 1867
- iv) The Dramatic Performances Act, 1876
- v) The Indian Telegraph Act, 1898
- vi) The (Indian) Post Office Act, 1898
- vii) The Police (Incitement of Disaffection) Act, 1922
- viii) Official Secrets Act, 1923 (Act No. 1923)
- ix) The Emblems and Names (Prevention of Improper Use) Act, 1950
- x) Representation of the People Act, 1951
- xi) The Delivery of Books and Newspapers (Public Libraries) Act, 1954

xii) The Drugs and Magic Remedies, (Objectionable Advertisements) Act, 1954 (No. 21 of 1954)

xiii) The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

xiv) The Prize Competitions Act, 1955 (Act No. 42 of 1955)

xv) Hindu Marriage Act, 1955

xvi) The Young Persons (Harmful Publications) Act, 1956

xvii) The Copyright Act, 1957.

xviii) Children Act, 1960

xix) Criminal Law Amendment Act, 1961 as amended in 1990.

xx) Atomic Energy Act, 1962

xxi) Customs Act, 1962

xxii) The Unlawful Activities (Prevention) Act, 1967

xxiii) The Civil Defence Act, 1968

xxiv) The Contempt of Courts Act, 1971

xxv) The Press Council Act, 1978

xxvi) The Prize Chits and Money Circulation Schemes (Banning) Act, 1978

xxvii) National Security Act, 1980

(xxviii) Indian Evidence Act, 1872

(xxix) The Defamation Act, 1952

(xxx) Section 33 (B) of Public Order Act of 1972

(xxxi) Right to Information Act, 2005

3. Relevant Provisions of Indian Penal Code, 1860

a) Section 124-Assaulting President, Governor etc. with intent to compel or restrain the exercise of any lawful power.

b) Section 153A-Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony.

c) Section 153B-Imputations, assertions prejudicial to national integration.

d) Section 171G-False statement in connection with an election.

e) Section 228-Intentional insult or interruption to public servant sitting in judicial proceeding.

228(a) Disclosure of identity of the victim of offences, u/s 376, 376-A, 376-B, 376-C or 376-D.

f) Section 292- Sale etc. of obscene books etc.

g) Section 293- Sale etc. of obscene objects to young person.

h) Section 294-A- Keeping lottery office.

i) Section 295A- Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

j) Section 299- Culpable homicide.

k) Section 499- Defamation.

l) Section 500- Punishment for Defamation.

m) Section 501- Printing or engraving matter known to be defamatory matter.

n) Section 502- Sale of printed or engraved substance containing defamatory substance.

o) Section 505:-

(i) Statements conducing to public mischief.

(ii) Statements creating or promoting enmity, hatred or ill-will between classes.

(iii) Offence under sub-section (2) committed in place of worship.

p) Section 52 of IPC regarding act and facts relating to good faith

4. Relevant Provisions of Cr. P.C., 1973 (Act No. II of 1974)

a) Section 91 -Power to take bond for appearance.

b) Section 93 -Summons and warrants of arrest.

c) Section 95 -Procedure as to letters and telegraphs.

d) Section 96 -When search warrants may be issued.

e) Section 108- Security for good behaviour from persons disseminating seditious matters.

f) Section 144- Power to issue orders absolute at once in urgent cases of nuisance or apprehended danger

g) Section 177 to 187- Place of inquiry or trial.

h) Section 195- Prosecution for contempt of lawful authority of servants.

i) Section 199- prosecution for adultery or enticing a married women.

j) Section 327- Power to summon another set of jurors.

k) Section 34- Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

l) Section 345- Compounding offences.

- m) Section 349- Procedure when Magistrate cannot pass sentence sufficiently severe.
- n) Section 350- Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.
- o) Section 351- Detention of offenders attending court.

Part D- Press Council 's Powers, Practice and Procedures

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present Council functions under the Press Council Act, 1978. It is a statutory, quasi judicial authority functioning as a watchdog of the press, for the press and by the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively.

The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The Council consists of 28 other members of whom 20 represent the press and are nominated by the press organisations/news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and managers of newspaper and news agencies, five members are nominated from the two Houses of Parliament and three represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India. The members serve on the Council for a term of three years. A retiring member shall be eligible for renomination for not more than one term.

The Council is funded by the revenue collected by it as fee levied on the registered newspapers in the country on the basis of their circulation. No fee is levied on newspapers with circulation less than 5000 copies. The deficit is made good by way of grant by the Central Government.

Complaint Procedure

1. Complaint Procedure for filing the complaint against the Press

127

97

person aggrieved or directly involved. The alleged breach may be in the publication or non-publication of a news-item or statement, or other material, like cartoons, pictures, photographs, strips or advertisements which are published in a newspaper. Cases can also be initiated by any member of the public against any professional misconduct by an editor, working journalist, staff of a newspaper or engaged in freelance work. There can also be a complaint against any matter transmitted by a news agency by any means whatsoever.

By virtue of the Press Council (Procedure for Inquiry) Regulations, 1979, complaint shall be lodged with the Council within the following periods:

- (i) Dailies, News agencies and weeklies ----within two months
- (ii) In other cases----within four months.

Provided that a relevant publication of an earlier date may be referred to in the complaint.

Write to the editor first

It is a requirement of the Inquiry Regulations that the complainant should initially write to the editor of the newspaper drawing his attention to what the complainant considers to be a breach of journalistic ethics or an offence against public taste. Such prior reference to the editor affords him an opportunity to deal with the matter in the first instance and thus allows the respondent to take such remedial action as he might consider appropriate before the complaint is lodged with the Council. This rule is necessary because it acquaints the editor with the identity of his accuser and the details of the complaint. It is conceivable that in some instances the complainant has been wrongly informed or has misinterpreted the facts. In others, it may be a case of inadvertent error which the editor is only too ready to admit and correct. If the would-be-complainant is satisfied, that would be the end of the matter.

Where, after reference to the newspaper, the person desires to proceed with the complaint, he should enclose with his complaint copies of correspondence with the editor, if no reply has been received from the editor, the fact should be mentioned in the complaint.

The complainant has, in his complaint, to give the name and address of the newspaper, editor or journalist against whom the complaint is directed. A clipping of the matter or news-items complained of, in original or self attested copy (English translation, if the news item(s) is in Indian language)

should accompany the complaint. The complainant has to state in what manner the passage or news-items or the material complained of is objectionable. He should also supply other relevant particulars, if any.

In the case of a complaint against non-publication of material the complainant will, of course, say how that constitutes a breach of journalistic ethics.

The Council cannot deal with any matter which is *sub-judice* in the law court. The complainant has to declare that "to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged in the complaint." A declaration that "he shall notify the Council forthwith if during the pendency of the inquiry before the Council any matter alleged in the complaint becomes the subject matter of any proceedings in a court of law" is also necessary.

2. Complaints regarding oppression to Press freedom

A newspaper, a journalist or any institution or individual can complain against Central or State Government or any organization or person for interference with free functioning of the press or encroachment on the freedom of the press. Such complaints should contain full particulars of the alleged infringement whereupon the Council shall follow the procedure of inquiry set out herein above so far as may be.

The opinion expressed by the Council sub serves two useful purposes, namely (i) that any abuse of press freedom does not pass without anybody noticing it or raising a finger of protest, and (ii) that the press should not in its own interest indulge in scurrilous or other objectionable writings-writings such as have been considered below the level of recognized standards of journalistic ethics by a fair minded jury like the Council constituted of the press itself, for it would lead to the very loss of the much prized freedom of the press.

Address your complaints or inquiries to :

**The Secretary,
Press Council of India,
Soचना Bhavan, 8-C.G.O. Complex,
Lodhi Road, New Delhi-110003**

Phone: 91 (011) 24366403/24366745 (Extn. 319 & 320)

Telefax: 91 (011) 24366405/24366745 (Extn. 224)

Email : pcibppcomplaint@gmail.com

Website: <http://presscouncil.nic.in>

(Relevant extracts of Sections 13, 14 and 15 of Press Council Act, 1978 and Regulation 3,5,6,9,10,13 and 14 of Press Council (Procedure for Inquiry) Regulations, 1979 as amended vide Gazette Notification dated December 14, 2006 follow:

Press Council Act, 1978

Objects and Functions of the Council

13.(1) The objects of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

The Council may, in furtherance of its objects, perform the following functions, namely:

- (a) to help newspapers and news agencies to maintain their independence;
- (b) to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;
- (c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;
- (d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;
- (e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance;
- (f) to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central Government or are brought to its notice by an individual, association or persons or any other organisation. Provided that

nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a newspaper or news agency in India from any foreign source in any other manner it thinks fit;

(g) to undertake studies of foreign newspapers, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

5 of 1908

Explanation- For the purposes of this clause the expression "Foreign State" has the meaning assigned to it in Section 87-A of the Code of Civil Procedure, 1908;

(h) To promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers or in news agencies.

14 of 1947

Provided that nothing in this clause shall be deemed to confer on the Council any functions in regard to disputes to which the Industrial Disputes Act, 1947, applies;

(i) to concern itself with developments such as concentration of or other aspects of ownership of newspapers and news agencies which may affect the independence of the Press;

(j) to undertake such studies as may be entrusted to the Council and to

express its opinion in regard to any matter referred to it by the Central Government;

(k) to do such other acts as may be incidental or conducive to the discharge of the above functions.

Power to Censure

14(1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has ~~offended~~ against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be:

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

(2) If the Council is of the opinion that it is necessary or expedient in public interest so to do, it may require any newspaper to publish therein in such

manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

- (3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.
- (4) The decision of the Council under sub-section (1) or sub-section (2), as the case be, shall be final and shall not be questioned in a court of law.

General Powers of the Council (5 of 1908)

15.(1) For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of persons and examining them on oath;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter, which may be prescribed

- (2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by that newspaper or received or reported by that news agency, editor or journalist.

(45 of 1860)

- (3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.
- (4) The Council may, if it considers it necessary for the purpose of carrying out its objects or for the performance of any of its functions under this Act, make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority, including Government.

Press Council (Procedure for Inquiry) Regulations, 1979*

3. Contents of complaint in respect of a newspaper, news agency, editor or other working journalist under Section 14(1) of the Act:

(1) Where a person makes a complaint to the Council in respect of the publication or non-publication of any matter in any newspaper or news agency, under Section 14(1) of the Act he shall file the complaint in duplicate with sufficient copies for the respondents listed and shall -

- (a) furnish the name and address of the newspaper, news agency, editor or other working journalist against which or whom the complaint is preferred and in cases where the complaint relates to the publication of matter in a newspaper or to the transmission by a news agency, forward along with the complaint a cutting of the matter complained of in original or a self attested copy thereof

and such other particulars as are relevant to the subject-matter of the complaint; and where the complaint is in respect of non-publication of matter, the original or a self attested copy of the matter, non-publication of which is complained of; (English translation of the matter if it is in vernacular).

- (b) state in what manner the publication or non-publication of the matter complained of is objectionable within the meaning of Section 14(1) of the Act;
- (c) before filing the complaint before the Council, draw the attention of the newspaper, news agency, editor or other working journalist concerned, to the matter appearing in the newspaper etc. or to the non-publication thereof which, in the opinion of the complainant,

***As amended vide Gazette Notification dated 14.12.2006**

concerned, to the matter appearing in the newspaper etc. or to the non-publication thereof which, in the opinion of the complainant, is objectionable, and he shall also furnish to the newspaper, news agency, editor or the working journalist, as the case may be, the grounds for holding such opinion. The complainant shall, along with the complaint, enclose a copy of the letter written by him to the newspaper, news agency, editor or other working journalist together with a copy of the reply, if any received by him, provided that the Chairman may in his discretion waive this condition;

- (d) In case where the complaint is that an editor or a working journalist has committed any professional misconduct, other than the way of the publication or non-publication of any matter in a newspaper, the complainant shall set out clearly in detail the facts which according to him justify the complaint and the provisions of clause (c) above shall also apply to such complaints.

(e) in every case place all other relevant facts before the Council; and

(f) (i) In the case of a complaint relating to the publication or non-publication of any matter in respect of newspaper or news agency the same shall be lodged with the Council within the following periods of its publication or non publication:

- Dailies, News Agencies and Weeklies within two months.
- In all other cases..... within four months

Provided that a relevant publication of an earlier date may be referred to in the complaint.

(ii) In the case of a complaint against an editor or working journalist under clause (d) above the same shall be lodged within four months of the misconduct complained of:

Provided that the Chairman may, if satisfied that the complainant has acted promptly, but that the delay in filing the complaint within the period prescribed under sub-cause (i) or sub-clause (ii) of Regulation (3)1(f) has been caused by reason of the time taken to comply with the condition laid down in sub-clause (c) supra or on account of other sufficient cause condone the delay and entertain the complaint.

(2) The complainant while presenting the complaint shall at the foot thereof make and subscribe to a declaration to the effect:

(i) that to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged in the complaint.

(ii) that he shall inform the Council forthwith if during the pendency of the inquiry before the Council any matter alleged in the complaint becomes the subject matter of any proceeding in a court of law.

5. **Issue of Notice:** (1) As soon as possible, and in any case not later than forty five days from the date of receipt of a complaint complete in all respects, under the direction of the Chairman, a copy thereof shall be sent to the newspaper, news agency, editor or other working journalist against which or whom the complaint has been made, under regulation 3 alongwith a notice requiring the newspaper, news agency, editor or other working journalist, as the case may be, to show cause why action should not be taken under Section 14 of the Act. Provided that in appropriate cases the Chairman shall have the discretion to extend time for the issuance of the notice.

Provided further that the Chairman may decide not to issue a notice to show cause to the newspaper, news agency, editor or working journalist where, in his opinion, there is no sufficient ground for holding an inquiry. The Council at its next meeting shall be apprised by the Chairman of the reasons for his decision not to issue a "Show Cause" notice and it may pass such orders as it deems fit.

(2) The notice issued under sub-regulation (i) above shall be sent to the newspaper, news agency, editor or other working journalist concerned by registered post, acknowledgement due, at the address furnished in the complaint.

6. ***Filing of written statement:*** (1) The newspaper, news agency, editor or other working journalist against which or whom the complaint is made may, within fourteen days from the date of service of the copy of the complaint and notice under regulation 5 or within such further time as may be granted by the Chairman in this behalf, submit a written statement in reply to the complaint.

(2) A copy of the written statement when received shall be forwarded to the complainant for his information.

(3) After receipt of the complaint or written statement, the Chairman may, if he considers necessary, call for any further information either from the complainant or the respondent newspaper, news agency, editor or working journalist, as the case may be, in order to clarify matters appearing in the complaint or written statement and in doing so, may call for such documents or further statements as he might consider necessary. All the documents and statements called for by him shall form part of the record and shall be placed before the Committee at the time of the inquiry.

9. *Inquiry by the Committee:* Notice of the time, date and place of hearing shall be served on the complainant as well as on the newspaper, news agency, editor and working journalist, as the case may be, and shall be sent by registered post, acknowledgement due. In the inquiry before the Committee the parties shall be entitled to adduce relevant evidence, oral or documentary, and make submissions in support of their contentions.

At the close of the inquiry the Committee shall make a report of its findings on the allegations contained in the complaint together with its reasons and submit the record of the case to the Council.

10. *Decision by the Council:* (1) The Council shall after perusing the record of the case, pass orders giving its decision or it may remit the case to the Committee for such further inquiry as the Council may deem necessary and after receipt of its report dispose of the case.

(2) Every case shall be determined by a majority of votes of the members of the Council present and voting, and in the event of the votes being equal, the Chairman shall have a casting vote and shall exercise the same.

(3) The order of the Council shall be communicated in writing to the parties to the case.

13. *Power to take suo motu action:* The Chairman may *suo motu* issue notice or, as the case may be, take action in respect of any matter which falls within

the mischief of Section 14(1) of the Act or in respect of or relating to any matter falling under Section 13(2) thereof and thereupon the procedure prescribed by these regulations from regulation 5 onwards shall be followed as if it were a complaint under regulation 3.

14. *Procedure in respect of complaints etc. under Section 13* : The procedure prescribed by these regulations in respect of complaints under section 14(1) of the Act shall apply, as far as may be, to complaints or representations received by the Council with regard to any subject falling within the provisions of Section 13.

Provided that a person making such a complaint shall make the complaint in duplicate with sufficient copies for the respondents listed and shall:-

- (a) Give complete particulars of the respondent(s) viz., name, designation and complete address.
- (b) State how the action/inaction of the respondent authorities amounts to curtailment of the freedom of the press. Mention the possible reason for the action/inaction of the respondent(s)/authorities duly supported by documentary evidence.

—In case the action of the respondent(s)/authorities is a reprisal measure for writings in the newspaper, critical of the respondent(s), the cuttings of such reports be furnished in original or as self attested copies. (English translation, if the news item(s) is in vernacular).

- (c) Draw the attention of the respondent(s)/authorities towards the grievance and furnish a copy of the letter written to the respondent(s)/authorities.

Furnish a copy of the reply, if any, received from the respondent(s)/authorities. Provided that the Chairman may waive this requirement in his discretion.

(d) Place before the Council all relevant facts alongwith the supporting documents.

(e) (i) Time for filing complaint: four months from the date of cause of action.

(ii) Provided that the Chairman may condone the delay if he is satisfied that there exist sufficient reasons for such condonation.

(f) Make and subscribe to the declaration prescribed in Regulation 3(2) supra.

Further provided that on receipt of such complaint, complete in all respects, under the direction of the Chairman, a copy thereof shall be sent to the authority against whom the complaint has been made along with a notice for statement in reply as to why the matter does not warrant observation under Section 15(4) of the Act. That the procedure specified in Regulation 7-12 above shall thereafter be adopted.

**Programme and Advertising Codes
prescribed under the Cable Television Network Rules, 1994**

(Rule 6 and Rule 7)

Rule- 6. Programme Code. – (1) No programme should be carried in the cable service which:-

- (a) Offends against good taste or decency;
- (b) Contains criticism of friendly countries;
- (c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;
- (d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
- (e) is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote anti-national attitudes;
- (f) Contains anything amounting to contempt of court;
- (g) Contains aspersions against the integrity of the President and Judiciary;
- (h) Contains anything affecting the integrity of the Nation;
- (i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country ;
- (j) Encourages superstition or blind belief;
- (k) Denigrates women through the depiction in any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals;
- (l) Denigrates children;
- (m) Contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and regional groups ;
- (n) Contravenes the provisions of the Cinematograph Act, 1952.
- (o) is not suitable for unrestricted public exhibition.

"Provided that no film or film song or film promo or film trailer or music video or music albums or their promos, whether produced in India or abroad, shall be carried through cable service unless it has been certified by the Central Board of Film Certification (CBFC) as suitable for unrestricted public exhibition in India".

Explanation – For the purpose of this clause, the expression "unrestricted public exhibition" shall have the same meaning as assigned to it in the Cinematograph Act, 1952 (37 of 1952);

(2) The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.

(3) No cable operator shall carry or include in his cable service any programme in respect of which copyright subsists under the Copyright Act, 1957 (14 of 1957) unless he has been granted a licence by owners of copyright under the Act in respect of such programme.

(4) Care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence.

(5) Programmes unsuitable for children must not be carried in the cable service at times when the largest numbers of children are viewing.

(6) No cable operator shall carry or include in his cable service any television broadcast or channel, which has not been registered by the Central Government for being viewed within the territory of India".

"Provided that a cable operator may continue to carry or include in his cable service any Television broadcast or channel, whose application for registration to the Central Government was made on or before 11th May, 2006 and is under consideration, for a period of three months from the date of this notification, or till such registration has been granted or refused, whichever is earlier."

"Provided further that channels uplinking from India, in accordance with permission for uplinking granted before 2nd December, 2005, shall be treated as "registered" television channels and can be carried or included in the cable service."

Rule-7. Advertising Code. - (1) Advertising carried in the cable service shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers.

(2) No advertisement shall be permitted which-

- (i) derides any race, caste, colour, creed and nationality;
- (ii) is against any provision of the Constitution of India
- (iii) tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way ;
- (iv) presents criminality as desirable;
- (v) exploits the national emblem, or any part of the Constitution or the person or personality of a national leader or a State dignitary;
- (vi) in its depiction of women violates the constitutional guarantees to all citizens. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasises passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The cable operator shall ensure that the portrayal of the female form, in the programmes carried in his cable service, is tasteful and aesthetic, and is within the well established norms of good taste and decency;
- (vii) exploits social evils like dowry, child marriage.
- (viii) promotes directly or indirectly production, sale or consumption of-
 - (A) cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants;

provided that a product that uses a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants, may be advertised on cable service subject to the following conditions that:-

- (i) the story board or visual of the advertisement must depict only the product being advertised and not the prohibited products in any form or manner;
- (ii) the advertisement must not make any direct or indirect reference to the prohibited products;
- (iii) the advertisement must not contain any nuances or phrases promoting prohibited products;
- (iv) the advertisement must not use particular colours and layout or presentations associated with prohibited products;
- (v) the advertisement must not use situations typical for promotion of prohibited products when advertising the other products;

Provided further that-

- (i) the advertiser shall submit an application with a copy of the proposed advertisement along with a certificate by a registered Chartered Accountant that the product carrying the same name as cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants is distributed in reasonable quantity and is available in substantial number of outlets where other products of the same category are available and the proposed expenditure on such advertising thereon shall not be disproportionate to the actual sales turnover of the product.

- (ii) All such advertisements found to be genuine brand extensions by the Ministry of Information and Broadcasting shall be previewed and certified by the Central Board of Film Certification as suitable for unrestricted public exhibition and are in accordance with the provisions contained in sub-clause (i) to (v) of the first proviso, prior to their telecast or transmission or retransmission.

(B) infant milk substitutes, feeding bottle or infant food.

- (3) No advertisement shall be permitted, the objects whereof, are wholly or mainly of a religious or political nature; advertisements must not be directed towards any religious or political end.

- (3A) No advertisement shall contain references which hurt religious sentiments.

- (4) The goods or services advertised shall not suffer from any defect or deficiency as mentioned in Consumer Protection Act, 1986.

- (5) No advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or super-natural property or quality, which is difficult of being proved.

- (6) The picture and the audible matter of the advertisement shall not be excessively 'loud';

- (7) No advertisement which endangers the safety of children or creates in them any interest in unhealthy practices or shows them begging or in an undignified or indecent manner shall not be carried in the cable service.

- (8) Indecent, vulgar, suggestive, repulsive or offensive themes or treatment shall be avoided in all advertisements.

- (9) No advertisement which violates the Code for self-regulation in advertising, as adopted by the Advertising Standard Council of India (ASCI), Mumbai, for public exhibition in India, from time to time, shall be carried in the cable service.

- (10) All advertisement should be clearly distinguishable from the programme and should not in any manner interfere with the programme viz., use of lower part of screen to carry captions, static or moving alongside the programme.

- (11) No programme shall carry advertisements exceeding twelve minutes per hours, which may include up to ten minutes per hour of commercial advertisements, and up to two minutes per hour of the channel's self-promotional programmes.
