

IN THE HIGH COURT OF DELHI AT NEW DELHI
(EXTRAORDINARY CIVIL ORIGINAL JURISDICTION)

Writ Petition (Civil) No. _____ of 2021

IN THE MATTER OF:

FOUNDATION FOR INDEPENDENT JOURNALISM & ORS

...**Petitioners**

Versus

UNION OF INDIA & ANR

...**Respondents**

COURT-FEES

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FILED BY: -

Filed on:- 06.03.2021

Place: - New Delhi

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COURT-FEES

Government of NCT OF DELHI e-Court Fee Receipt	
Issue Date & Time	: 06-MAR-2021 10:12:30
Name of The Acc	: PRASANNA S
Location	: NCT OF DELHI
Receipt Type	: Court Fee Receipt
Name of Litigant	: FOUNDATION FOR INDEPENDENT JOURNALISM
e-Court Fee Receipt No	: DLCT0630C2112K225
e-Court Fee Amount	: 200 (Rupees Two Hundred Only)
Status	: Not Locked

FILED BY: -

Filed on:- 06.03.2021

Place: - New Delhi

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NOTICE OF MOTION

Dear Sir/Madam,

Kindly take notice that the accompanying Writ Petition is being filed today before the Hon'ble High Court and is likely to be listed on 09.03.2021 or thereafter.

Yours sincerely,

FILED BY: -

filed on:- 06.03.2021

Place: - New Delhi

**PRASANNA S,
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PROOF OF ADVANCE SERVICE ON R-1 & R-2

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LETTER OF URGENCY

To:

The Registrar,
High Court
of Delhi,
New Delhi

Sir/Madam,

Kindly treat the accompanying fresh Writ Petition as an urgent one for listing before the Hon'ble Court. The new IT Rules issued last week on 25.02.2021 are palpably illegal in seeking control and regulate digital news media when the parent statute nowhere provides for such a remit. The same has profound and serious harms for digital news media such as the Petitioners and destructive of their rights. Kindly therefore treat the accompanying WP and the Applications as being one of extreme urgency and list before the Hon'ble Court at the earliest.

FILED BY: -

filed on:- 06.03.2021

Place: - New Delhi

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Versus

UNION OF INDIA & ANR

...Respondents

MEMO OF PARTIES

<p>1. Foundation For Independent Journalism Through its Director & Founding Editor, 'The Wire', Mr. M.K. Venu Having Registered Address At K-2, Bk Dutt Colony, New Delhi South Delhi D1 110003</p> <p>2. Mangalam Kesavan Venu S/O (Late) Mangalam Parameswaran, Director, Foundation For Independent Journalism having its Registered Address At K-2, B K Dutt Colony, New Delhi – 110003</p> <p>3. Dhanya Rajendran Founder & Editor-In-Chief The News Minute Spunklane Media Pvt Ltd No 6, Sbi Road (Madras Bank Road) Bengaluru- 560001</p>	<p>...Petitioners</p>
<p>Versus</p>	

<p>1. Union Of India Through The Secretary (MEITY) Ministry Of Electronics And Information Technology Electronics Niketan, 6, Cgo Complex, Lodhi Road, New Delhi – 110003</p> <p>2. Secretary, Ministry Of Information & Broadcasting Shastri Bhavan New Delhi - 110001</p>	<p>...Respondents</p>
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FILED BY: -

Filed on:- 06.03.2021

Place: - New Delhi

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SYNOPSIS

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 Press Council Act, 1978 is a statute with express provisions to regulate newspapers and that too without Government interference. The Cable Television Networks (Regulation) Act, 1995, contains express provisions to impose a programme code and for cable television to be regulated by the Central 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.

Information Technology Act, 2000

The object and purport of the parent Act is as follows:

“An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as — electronic commerce, which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker’s Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto”.

The parent IT Act is limited to providing legal recognition, authentication and facilitation of interchange of electronic data and electronic communication, and its receipt as evidence. Moreover, the parent Act does not envisage or provide for regulation of electronic content, except in two distinct ways:

- (i) Constituting offences limited to cyber terrorism (Section 66-F), obscene material (Section 67), sexually explicit material (Section 67-A), child pornography (Section 67-B) and others such as tampering, theft that are not currently relevant. None of these offences are of any relevance to a digital news portal.
- (ii) Blocking of sites under Section 69-A by a direction to intermediaries in the interest of *sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing*

incitement to the commission of any cognizable offence relating to these.

While the parent Act provides for offences of a specific kind committed in the form of electronic data, (seldom found in a news and current affairs publication), its purport is not at all to regulate content in any other manner. Even Section 69-A, as the Supreme Court recognized in *Shreya Singhal v. Union of India* (2015) 5 SCC 1, is limited to a well-defined class of entities called ‘intermediaries’, and ‘Government agencies’. The Section reads as under:

S. 69-A Power to issue directions for blocking for public access of any information through any computer resource. -

(1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and shall also be liable to fine.

Therefore, even by way of Section 69-A, there is no scope to dictate content to news media portals. Section 69-A envisages only two targets of its

directions, i.e. an “agency of the Government” or “intermediary”. The Petitioners are neither. The entire Part III of the Impugned Rules that seeks to set up a regulatory mechanism for digital media is *ultra vires* the parent Act. And if allowed to stand it would be so arbitrary and unwarranted an intrusion on expression, as to render it *ultra vires* the parent Act on that score alone or throw a doubt upon the validity of the parent Act.

Notably, an offence under Section 66-A penalising content which is ‘offensive’ or causes ‘annoyance’ was struck down on grounds of vagueness by the Supreme Court in *Shreya Singhal v Union Of India* (2015) 5 SCC 1. The IT Rules, 2021 go far beyond the remit of the parent Act and seek to regulate digital news media by imposing a ‘Code of Ethics’, with all manner of stipulations as to ‘half-truths’, ‘good taste’, ‘decency’ etc., and vest the power of interference ultimately with the Central Government as the chief regulator, at the highest of three tiers.

The Impugned Rules bring back some elements of Section 66-A and go far beyond it, by way of prescription, to be administered, adjudicated upon and supervised by the Government. Thus, they not only exceed the parent Act, but also contravene the Supreme Court’s ruling in *Shreya Singhal*, and therefore will not be saved by any general rule-making power under Section 87(1) that is limited to carrying out the provisions of the parent Act.

The IT Rules, 2021 are purportedly made under Section 87(1) of the parent Act, more particularly Section 87(2)(z) & (zg) which respectively enable Rules to be framed on:- “the procedure and safeguards for blocking for

access by the public under Section 69-A(2)” and “guidelines to be observed by the intermediaries under Section 79(2)”. Therefore, Section 87(2)(zg) is not applicable to digital news media as they are not intermediaries either as per the Act or as per the Impugned Rules. Rules sourced to Section 87(2)(z), naturally, cannot travel beyond the terms of Section 69-A, which as stated above, is limited to ‘intermediaries’ or ‘agency of the Government’ and that too on grounds relating to security interests of the State.

Scheme of the Rules

Relevant Definitions in the IT Rules, 2021.

‘**Digital media**’ is defined by **Rule 2(1)(i)** as content carried by either an intermediary or a ‘publisher’. Note that the two are mutually exclusive terms.

News and analysis of current affairs, which when made available over the internet and computer networks is defined as ‘**news and current affairs content**’ by **Rule 2(1)(m)**, but when this is published as loosely folded sheets with newsprint it would be ‘**newspaper**’ defined by **Rule 2(1)(n)**. ‘Newspaper’ is not covered by the IT Rules, 2021 but ‘news and current affairs content’ is. ‘**Publisher of news and current affairs content**’ is separately defined in **Rule 2(1)(t)** as follows:

‘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;

Significantly, none of these definitions are found in the parent Act and are all brought in by the IT Rules, 2021 with the express purpose of regulating their content.

Regulation

Subject Entities

The IT Rules, 2021 purport to regulate publishers and intermediaries. The manner of regulation is in two parts: *one*, due diligence norms to be followed by ‘intermediaries’ (Part II of the Rules); *two*, Code of Ethics to be followed by ‘publishers’ (Part III of the Rules i.e. the Impugned Part).

Code of Ethics for publishers

A Code of Ethics is laid down, as per the Appendix referred to in Rule 9. The Code of Ethics for ‘publishers of news and current affairs content’ consists of the Programme Code under the Cable Television Networks (Regulation) Act, 1995; Journalistic Norms under the Press Council Act, 1978; and a blanket prohibition against content that is prohibited by any law.

Regime to supervise news content

Rule 9 sets up a three-tier structure to ensure ‘observance and adherence’ to the Code of Ethics.

Level 1: ‘*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” (Rules 10,11)

Level 2: '*Self-regulating body/bodies*' (actually a misnomer) of an appellate nature constituted by publishers or their associations, of independent persons, but subject to the Ministry's approval. This Level 2 body has the power to warn or censure, require the publisher to apologize or display a warning/disclaimer. Note that 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. (Rule 12)

Level 3: '*Oversight mechanism*' by the Central Government - This is an Inter-Departmental Committee, headed by an Authorised Officer of the Government of India, and consisting chiefly of serving officials from various Ministries. The Committee can directly take complaints referred to it by the Ministry of I&B. It also operates as a second appellate forum over decisions of Levels 1 and 2. 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 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 on certain perceived dangers. Such drastic orders are subject only to approval of the Secretary of the Ministry of I&B. (Rules 13-15)

Emergency Power

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 an opportunity of hearing. (Rule 16)

The overreach

The scope of the parent Act is limited to providing for recognition of electronic data and it refers to entities and content in very generic terms. It contemplates regulation of content only by creating a select set of offences, to be prosecuted and judicially assessed. (Offences relating to sexually explicit material etc. are generally not applicable to news and current affairs publications) Only intermediaries, who are immune from prosecution of offences under Section 79, are subject to a Government action of blocking. The IT Rules, 2021, however, introduce a distinct category of entities, purely on the strength of their being publishers of news and current affairs content, to be subjected to an adjudicatory mechanism parallel to Courts of law, on a range of grounds which are not even offences under the parent Act.

Even the purported source of rule-making, in this case, Section 69-A of the parent Act, does not:

- a. cover any direction to or regulation of any entity other than intermediaries, and news media is not an intermediary, or considered one by the Act or the Impugned Rules
- b. go beyond blocking as an emergent measure in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States, public order, or for preventing incitement to the commission of any cognizable offence relating to these.

Section 69-A of the parent Act, under which the Impugned Part has been framed, provides for blocking *intermediaries* when required in the interests as aforesaid. The IT Rules, 2021, however, go on to impose upon the *non*

intermediary digital news media 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’, ‘suggestive innuendos’, etc. They also prescribe censure, warning, requiring 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.

The Rules introduce a special class of entities, obligate a Code of Ethics and further, obligate digital news portals and other entities to set up a ‘grievance’ redressal mechanism that deals with simply ‘any’ person’s complaint, wherein every which decision is subject to scrutiny of a higher regulatory tier, and non-compliance may be escalated to a still higher tier that is headed by a serving Central Government Officer and a Committee of other serving officers. Simply put, upon the merest complaint, Central Government interference is triggered on all manner of content - far beyond that which is mentioned in Section 69-A. The complaint may simply be that some content in a news report or editorial is a ‘half-truth’ or adverse to the social or moral life of the country. A Government oversight of news media content lies nowhere within the scope of the Act.

Whether news agencies and commentators on current affairs should be subjected to a Code of Ethics is not the question. The question is whether regulation and oversight by the Government or its agents can be prescribed by the Rules when not contemplated by the parent Act (though such an exercise even by Parliament would be open to serious challenge).

There is no unlimited right of delegation and subordinate legislation cannot go beyond the object and the scope of the parent Act. If such Rule

or Regulation goes beyond what the parent Act contemplates, then it becomes *ultra vires* the parent Act, as held by a 3-judge bench of the Hon'ble Supreme Court, in *Ajoy Kumar Banerjee v Union of India* (1984) 3 SCC 127.

The Petitioners are therefore challenging the IT Rules, 2021 as being *ultra vires* the IT Act, 2000. The Petitioners believe that the present is a case that should succeed on this ground. However, it is not the case of the Petitioners that Government control of freedom of expression as is enabled under the Rules is not liable to a broader constitutional challenge. It is respectfully submitted that the present challenge to the IT Rules, 2021 as being *ultra vires* the parent Act is without prejudice to the right to raise such a constitutional challenge in or by appropriate proceedings/applications.

LIST OF DATES

17.10.2000	Information Technology Act, 2000 enacted by Parliament was brought into force.
27.10.2009	An amendment was brought in, which, among other things, added Section 66-A to the Information Technology Act, 2000.
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	<i>Shreya Singhal v Union of India</i> (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	<p>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.</p> <p>The IT Rules, 2021, <i>inter alia</i>, seek to regulate digital news portals under Part III, by imposing Government oversight and a ‘Code of Ethics’ on them, and therefore, go far beyond the object and scope of the IT Act.</p>
26.02.2021	DigiPub News India Foundation, an association of digital news media organizations, registered under Section 8 of the Companies Act, and of which Petitioner No.1 is a member, sent a representation to the Ministry of Electronics and Information Technology, and the Ministry of Information and Broadcasting, <i>inter alia</i> , asking for a repeal of the IT Rules, 2021. No response has been received till date.

01.03.2021	Executive action seeking to enforce compliance in respect of the Impugned Rules has already commenced. For instance, Mr. Paojel Chaoba, a senior journalist who is the executive editor of “The Frontier Manipur” was served with a notice dated 01.03.2021, issued by the jurisdictional District Magistrate, to report compliance with the Impugned Rules. It was later reported in the press that the said notice was withdrawn. An Affidavit dated 03.03.2021 has been obtained from Mr. Chaoba in this regard.
06.03.2021	Hence this Petition.

FILED BY: -

Filed on:- 06.03.2021

Place: - New Delhi

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EXTRAORDINARY CIVIL WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF:

FOUNDATION FOR INDEPENDENT JOURNALISM & ORS

...Petitioners

Versus

UNION OF INDIA & ANR.

...Respondents

WRIT PETITION PRAYING FOR THE ISSUANCE OF A WRIT OF DECLARATION OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION, DECLARING THE INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE) RULES, 2021 AS VOID AND INOPERATIVE 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, FOR BEING ULTRA VIRES THE INFORMATION TECHNOLOGY ACT, 2000

To

HON'BLE THE CHIEF JUSTICE AND

HIS COMPANION JUSTICES OF THE HIGH COURT OF DELHI AT NEW DELHI

MOST RESPECTFULLY SHOWETH THAT :-

1. This Writ 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**”), on the

ground that they go far beyond the remit of the parent Act, insofar as the said Rules purport to apply to publishers of news and current affairs content (“**digital news portals**”) and, consequently regulate them by Part III (“**Impugned Part**”) of the same.

2. The IT Rules, 2021 have been notified and published in the Official Gazette on 25th February, 2021 and have come into effect from that date. A true copy of the IT Rules, 2021 issued on 25.02.2021 is annexed herewith and marked as **ANNEXURE-P-1**. 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.
3. The present Petition challenges the IT Rules, 2021 only insofar 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.

Parties

4. **Petitioner No.1** is Foundation for Independent Journalism, a Section 8 Company, incorporated and registered in Delhi. Petitioner No.1 publishes the digital news portal ‘The Wire’, which is predominantly written content, in English, Hindi, Urdu and Marathi. **Petitioner No.2** is M K Venu, Director of Foundation for Independent Journalism, and Founding Editor of ‘The Wire’ published by Petitioner No.1. **Petitioner No.3** is the founder and Editor-in-Chief of ‘The News Minute’ which is a Bengaluru-based news and current affairs digital publication. The Petitioners are all

publishers of news and current affairs content on the digital media and hence sought to be covered by the Impugned Part of the IT Rules, 2021, and are therefore adversely affected by the same. Further, the Petitioners operate within the territory of India and conduct ‘systematic business activity’ making their content available in India, and therefore fall within the purview of the IT Rules, 2021, under Rule 8.

5. **Respondent No.1** is the Union of India through the Secretary, Ministry of Electronics and Information Technology, through whom the Impugned Rules have been issued. **Respondent No.2** is the Secretary, Ministry of Information and Broadcasting who also exercises powers under the Impugned Rules. Both Respondents are in New Delhi.

Scheme of the Information Technology Act, 2000

6. The purpose and the purport of the parent Act is as follows:

“An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as — electronic commerce, which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker’s Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto”.

7. Pursuant to the above purpose, the entities of which the parent Act took cognizance, were all generic users of information technology. The content to be regulated by the parent Act, as offences, was limited to sexually explicit material, child pornography, showing

private parts of individuals, cyber terrorism, etc. to be prosecuted and tried by normal courts. The Supreme Court in *Shreya Singhal v Union of India* (2015) 5 SCC 1 struck down, on the ground of vagueness, Section 66-A, which constituted as an offence, transmitting offensive, annoying, menacing electronic material.

8. The Impugned Rules intend to regulate content on vague and subjective standards as provided in the Code of Ethics, such as ‘half-truths’, ‘good taste’, ‘decency’, etc.. Even when such a Section was contemplated by the parent Act, the Supreme Court struck it down. Now, without any statutory peg, similar grounds are sought to be brought in by the Impugned Rules, which not only undoes *Shreya Singhal*, but goes beyond even what is contemplated by Section 69-A, in terms of which the Impugned Part purports to be made.
9. Save and except for providing against a narrow band of content by way of offences and blocking public access by way of a direction to intermediaries, again, on limited grounds, the parent Act does not contemplate any regulation of content, but the Impugned Rules do. Any attempt to bring in such regulatory provisions, through subordinate/delegated legislation would clearly be outside the scope of the parent Act, and in excess of the rule-making power delegated under Section 87 of the parent Act.
10. Specifically, the IT Rules, 2021, state as a source of their power, Section 87(2)(z) and (zg).
11. Section 87(2)(zg) is relatable to Section 79, which, in view of the immunity from prosecution, allows for a special dispensation with respect to intermediaries, and is limited to intermediaries. The definition of intermediaries in the parent Act and the scheme of the IT Rules, 2021 make it clear that publishers are distinct from intermediaries. Note that a publisher is not even defined or dealt with

in the parent Act. Therefore, Section 79 does not concern any *non-intermediary news media platform*, and the Impugned Part cannot be sourced to Section 87(2)(zg).

12. On the other hand, Section 87(2)(z) is relatable to Section 69-A, again limited to issuing a direction to an intermediary or any Government agency, and does not contemplate regulating news media at all. Most of the matters in the Code of Ethics are beyond Section 69-A even otherwise.

Scheme of IT Rules, 2021

13. 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).

14. 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

15. 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;*

(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;

16. 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.

Code of Ethics

17. 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; (A true copy of which is annexed herewith and marked as **ANNEXURE-P-2**)
- ii. Programme Code under Section 5 of the Cable Television Networks (Regulation) Act, 1995; (A true copy which is annexed herewith and marked as **ANNEXURE-P-3**).
- iii. Content which is prohibited under any law for the time being in force shall not be published or transmitted.

18. 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. A true copy of the 2009 Rules is annexed herewith and marked as **ANNEXURE-P-4**.

19. 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))

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)

20. DigiPub News India Foundation, an association of digital news media organizations, registered under Section 8 of the Companies Act, and of which Petitioner No.1 is a member, sent a representation to the Ministry of Electronics and Information Technology, and the Ministry of Information and Broadcasting, *inter alia*, asking for a repeal of the IT Rules, 2021. No response has been received till date. A true copy of the representation is annexed herewith and marked as **ANNEXURE-P-5**.
21. It is submitted that Executive action seeking to enforce compliance in respect of the Impugned Rules has already commenced. For instance, Mr. Paojel Chaoba, a senior journalist who is the executive editor of “The Frontier Manipur” was served with a notice dated 01.03.2021, issued by the jurisdictional District Magistrate, to report compliance with the Impugned Rules. It was later reported in the press that the said notice was withdrawn. An Affidavit dated 03.03.2021 has been obtained from Mr. Chaoba in this regard and a true copy of the same along with the notice is annexed herewith and marked as **ANNEXURE-P-6**.

GROUND

22. The reliefs prayed for in this Writ Petition are claimed on the following grounds, each of which is taken both alternatively and cumulatively and without prejudice to each other. The Petitioners crave liberty to urge additional grounds. However, the Petitioners do not concede to the Constitutional *vires* of the Impugned Rules. The present petition may please be considered by this Hon’ble Court without prejudice to the Petitioners’ right to raise such a

constitutional challenge in or by appropriate proceedings/ applications.

- A. 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. A 3-judge bench of the Hon'ble Supreme Court, in *Ajoy Kumar Banerjee v Union of India* (1984) 3 SCC 127 held that a Scheme introduced by the Ministry of Finance was *ultra vires* the parent Act, the General Insurance Business (Nationalisation) Act, 1972, as the said Scheme was not related to and went beyond the object envisaged in the parent Act. The Court held as follows:

“26. ... it is evident that the scheme of 1980 impugned in these petitions is not related to the object envisaged in sub-section (2) of Section 16 of the Act. In order to be warranted by the object of delegated legislation as explained in the memorandum to the Bill which incorporated Section 16 of the Act, read with the preamble of the Act, unless it can be said that the scheme is related to sub-section (2) of Section 16 of the Act, it would be an exercise of power beyond delegation. The duty of the Court in interpreting or construing a provision is to read the section, and understand its meaning in the context. Interpretation of a provision or statute is not a mere exercise in semantics but an attempt to find out the meaning of the legislation from the words used, understand the context and the purpose of the expressions used and then to construe the expressions sensibly.”

- B. Similarly, in *Assam Co. Ltd. v. State of Assam*, (2001) 4 SCC 202 at page 208, it was held:

“It is an established principle that the power to make rules under an Act is derived from the enabling provision found in such

an Act. Therefore, it is fundamental that a delegate on whom such power is conferred has to act within the limits of the authority conferred by the Act and it cannot enlarge the scope of the Act. A delegate cannot override the Act either by exceeding the authority or by making provision which is inconsistent with the Act. Any rule made in exercise of such delegated power has to be in consonance with the provisions of the Act, and if the rule goes beyond what the Act contemplates, the rule becomes in excess of the power delegated under the Act, and if it does any of the above, the rule becomes *ultra vires* the Act.”

- C. 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, recognise means of electronic communication, authenticate and establish conditions in which electronic data/record could be considered as evidence, and to recognise offences committed through the use of computer resources. The object is not to regulate content beyond this, except insofar as intermediaries, who are separately immunised. 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.
- D. Allowing a regulatory regime to be established in respect of the digital media industry is like allowing power looms to be regulated under the Electricity Act merely because they employ and use electric power in the course of their business; or allowing the practice and profession of plumbing to be regulated under the Water Act.
- E. 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.

- F. 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.
- G. 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.

- H. Simply put, in three fundamental ways the IT Rules, 2021 are *ultra vires* the parent Act:
- i. They purport to virtually legislate on the conduct of entities, not even within the ken 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*.
- I. 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. This distinction is also evident from the scheme of the IT Rules, 2021.
- J. On the other hand, Section 87(2)(z) is geared to the procedure and safeguards for blocking public access to information on a computer, by way of direction to intermediaries, or any Government agency,

and not to any other entity such as a publisher of news and current affairs content. Further, even intermediaries can only be given directions on limited grounds. Section 69-A, to the extent relevant, reads as follows:

“Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may, ... by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.”

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.

There is a difference between emergent power under Section 69-A with respect to blocking by way of a direction to intermediaries, and

a mechanism to routinely assess, edit and modify content of news publications, therefore, the IT Rules, 2021 cannot be countenanced.

K. 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.

L. The enabling provision in the Act conferring Rule making power on the Central Government in the instant case is Section 87(1) wherein such power is “to carry out the provisions of [the] Act”. Even the specific provisions under Section 87(2) are relatable to one or more express provisions of the parent Act. It is submitted that the purpose of the Impugned Part of the IT Rules, 2021 is regulation of digital news media entities which is not contemplated under any of the provisions of the Act or its objects.

M. It is well-settled that Rules made dehors a ‘statutory peg’ are invalid and have no effect in law. In *V. Sudeer v. Bar Council of India*, (1999) 3 SCC 176, the Supreme Court, while striking down provisions in the Bar Council of India Rules that imposed conditions for enrolment as an advocate, held as follows:

“20. We may now refer to Section 49 of the Act, which deals with the general power of the Bar Council of India to make rules. Sub-section (1) thereof lays down that the Bar Council of

India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe on various topics as enumerated therein from clauses (a) to (j). **A mere look at the aforesaid provision makes it clear that the rule-making power entrusted to the Bar Council of India by the legislature is an ancillary power for fructifying and effectively discharging its statutory functions laid down by the Act.** Consequently, rules to be framed under Section 49(1) **must have a statutory peg on which to hang. If there is no such statutory peg, the rule which is sought to be enacted dehors such a peg will have no foothold and will become stillborn.** The statutory functions entrusted by the legislature to the Bar Council of India under the Act so far as relevant for our present purpose and which could be relied upon by Shri Rao, learned Senior Counsel for the respondent-Bar Council of India, are Section 7(1)(h) and Section 24(3)(d). **We have seen earlier that neither of these statutory provisions entitles the Bar Council of India to provide for the disqualification or a disability or an additional condition for enrolment of a person who is otherwise eligible to be enrolled as an advocate under Section 24(1). Once that conclusion is reached, the very foundation for supporting the impugned Rules gets knocked off.** Consequently, if any such rule is framed, supposedly by exercise of the rule-making power as enumerated in Section 49(1)(af), (ag) or (ah) on which also reliance was placed by Shri Rao, the said rule having not been made for discharging any of the statutory functions of the Bar Council of India in this connection must necessarily fail as it would be ultra vires the statutory functions of the Bar Council of India. Any rule framed by the rule-making authority going beyond its statutory functions must necessarily be held to be ultra vires and inoperative at law. Consequently, the valiant attempt made by Shri Rao for sustaining the Rules under Section 49(1)(af), (ag) and (ah) would remain abortive only on this short ground.”

(Emphasis supplied)

N. Whenever a substantive burden of duties and obligations is to be cast upon any person, as in the present case, the same must have express statutory sanction. For instance, in the case of taxation powers, which similarly place burdens on the persons subject to the statute, it is settled law that the power to levy tax must have express statutory

backing. For instance, in *Bimal Chandra Banerjee v. State of M.P.* (1970) 2 SCC 467, the Hon'ble Court struck down as *ultra vires*, rules providing for a levy on liquor that was not lifted by the contractors even though the statutory rule-making power was couched in broad and general terms, on the following grounds:

“13. Neither Section 25 nor Section 26 nor Section 27 nor Section 62(1) or clauses (d) and (h) of Section 62(2) empower the rule-making authority viz. the State Government to levy tax on excisable articles which have not been either imported, exported, transported, manufactured, cultivated or collected under any licence granted under Section 13 or manufactured in any distillery established or any distillery or brewery licensed under the Act. The Legislature has levied excise duty only on those articles which come within the scope of Section 25. The rule-making authority has not been conferred with any power to levy duty on any articles which do not fall within the scope of Section 25. Therefore it is not necessary to consider whether any such power can be conferred on that authority. Quite clearly the State Government purported to levy duty on liquor which the contractors failed to lift. In so doing it was attempting to exercise a power which it did not possess.

14. No tax can be imposed by any bye-law or rule or regulation unless the statute under which the subordinate legislation is made specially authorises the imposition even if it is assumed that the power to tax can be delegated to the executive. The basis of the statutory power conferred by the statute cannot be transgressed by the rule-making authority. A rule-making authority has no plenary power. It has to act within the limits of the power granted to it.”

(Emphasis supplied)

O. A Division Bench of this Hon'ble Court in in *Durga Chand Kaushish v. Union of India*, 1979 SCC OnLine Del 103, ILR (1979) 2 Del 730 struck down as *ultra vires* a statutory order, purportedly under the Cinematograph Act, 1952, by the L-G that imposed price restriction on cinema admissions – on the grounds *inter alia* that

firstly, there was not even a whisper of price control powers to be within the scope and ambit of the Cinematograph Act, although it dealt with cinematograph films and their exhibition in general; secondly, that price control powers have traditionally been expressly and specifically provided for under plenary enactments and not as subordinate legislation, and held as follows:

“11. From a perusal and careful scrutiny of these provisions we do not find any provision which provides for price control either as purpose or as a means to achieve a stated purpose. The only purpose of Part III of the Act is to ensure safety of persons attending exhibition of films as emphasised by Section 12. ...

12. We have examined the provisions of the 1952 Act to find out if the same disclose, “either apparently or otherwise”, a policy guiding the exercise of power claimed to be derived from the enactment. With this in mind, we may re-examine the concluding words of sub-section (2) of Section 12 “.....on such terms and conditions and subject to such restrictions as it may determine”. **These words may appear wide and unrestricted but it cannot be emphasised enough that they have to be read in the context in which they appear and must be understood to mean only such conditions and restrictions as pertain to the purpose of Part III** which is set out in sub-section (1) of Section 12.

13. We have, therefore, no hesitation in coming to the conclusion that regulation of the rates of admission to cinema auditoriums is not a policy stated in the 1952 Act. It is neither a purpose sought to be achieved by the said Act nor a means to achieving any other purpose stated in the Act.

17. The history of legislation on the subject is referred to in the Statement of Objects and reasons of the Cinematograph Act, 1918. The 1918 act was followed by the present Act. In the statement of Objects and Reasons of this Act, it is recalled that the 1918 Act dealt with “two separate matters, namely, (a) examination and certification of films as suitable for public exhibition and (b) regulation of cinemas including their licensing”.

20. It is, thus, clear that the 1918 Act did not contain even a whisper about the control of the rates of admission to cinema auditoriums...

22. This makes it clear that neither the 1918 Act nor the 1952 Act seek to achieve the purpose of controlling the rates of admission to cinema auditoriums or any purpose akin thereto.. It was only by a notification dated 6th May, 1965 that rule 45 was amended by introducing sub-rule (xiii) and by introducing condition 8A in Schedule 2 to the said Rules. By doing so, the rule-making authority sought to introduce a wholly new dimension to the purposes of the legislation on the subject after nearly 47 years by a mere executive fiat.”

(Emphasis supplied)

Essential Legislative Function

P. It is well-settled that the essential legislative function, which includes declaring the legislative policy and laying down the standard that is to be enacted into a rule of law, cannot be delegated. In *Ajoy Kumar Banerjee v Union of India* (1984) 3 SCC 127, it was held as follows:

“The Legislature must retain in its own hand the essential legislative function which consists in declaring the legislative policy and lay down the standard which is to be enacted into a rule of law, and what can be delegated in the task of subordinate legislation which by very nature is ancillary to the statute which delegates the power to make it effective provided the legislative policy is enunciated with sufficient clearness or a standard laid down... we must bear in mind the observations of Mukherjee, J. in In re the Delhi Laws Act, 1912 case to the following effect:

“The essential legislative function consists in the determination or choosing of the legislative policy and of formally enacting that policy into a binding rule of conduct. It is open to the Legislature to formulate the policy as broadly and with as little or as much details as it thinks proper and it may delegate the rest of the legislative work to a subordinate

authority who will work out of the details within the framework of that policy.”

Q. Regulation of digital or online news media is an essential legislative function. To the extent that the rule-making power is read to sanction an entire regulatory scheme, it amounts to delegation of essential legislative function, which cannot be countenanced.

R. 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.

23. The Petitioners have not filed any other Petition or proceedings before this High Court, any other High Court, Supreme Court or any other court or tribunal for the reliefs prayed for herein or any other similar relief. This Petition is *bona fide*.

PRAYERS

In the premises, this Hon'ble Court may be pleased to issue appropriate declarations, writs, orders and directions as set out below:

- a) Pass a Writ of Declaration or any other appropriate writ, order or direction, declaring the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 as void and

inoperative 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, for being *ultra vires* the Information Technology Act, 2000;

- b) Pass any other order or direction that this Hon'ble Court may deem just and proper in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL, AS IS DUTY BOUND EVER PRAY

Filed on:- 06.03.2021

Place: - New Delhi

**PRASANNA S,
VINOOTHNA VINJAM
& BHARAT GUPTA
ADVOCATES FOR THE PETITIONERS
506, Sector-A Pocket C, Vasantkunj,
New Delhi – 110070 Mobile – 87503 50762
mail@advocateprasanna**

IN THE HIGH COURT OF DELHI AT NEW DELHI
(EXTRAORDINARY CIVIL ORIGINAL JURISDICTION)

Writ Petition (Civil) No. _____ of 2021

IN THE MATTER OF:

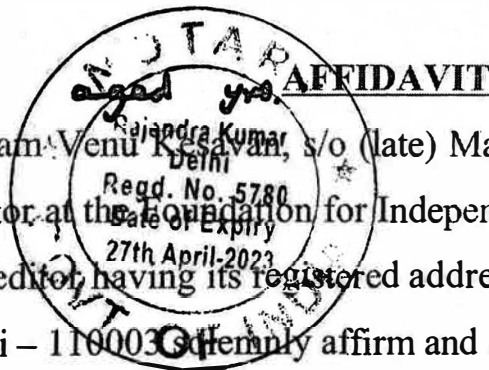
FOUNDATION FOR INDEPENDENT JOURNALISM & ORS

...Petitioner(s)

Versus

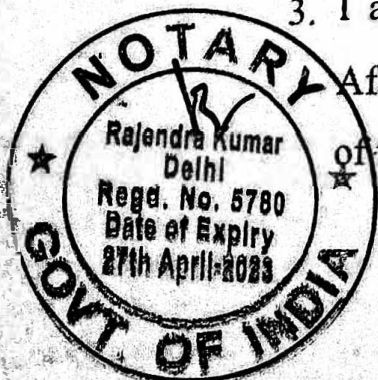
UNION OF INDIA & ORS

...Respondent(s)

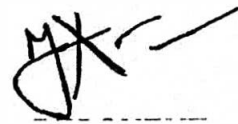


I, Mangalam Venu Kesavan, s/o (late) Mangalam Parameswaran who is a Director at the Foundation for Independent Journalism and also its founding editor, having its registered address at K-2, B K Dutt Colony, New Delhi – 110003 solemnly affirm and declare as under that :-

1. I am the Director and the founding editor at the Petitioner No.1 company and the Petitioner No.2 herein.
2. I am conversant with the facts and circumstances of the accompanying Writ Petition.
3. I am also duly authorised by the other Petitioners to affirm this Affidavit in support of the accompanying Writ Petition on behalf of them and I am as such competent to swear this Affidavit.



- 4. I have read and understood the contents of the accompanying Writ Petition which has been prepared by my counsel under my instructions.
- 5. The contents of the accompanying Writ Petition in Paras 1 through 23 are true and correct based on records maintained by the Petitioner company. The contents thereof in Paras 22 A through P are based on legal advice received which I believe to be true.
- 6. The documents annexed to the accompanying Writ Petition and marked as ANNEXURE-P-1 through ANNEXURE-P-5 are true copies of their respective originals.



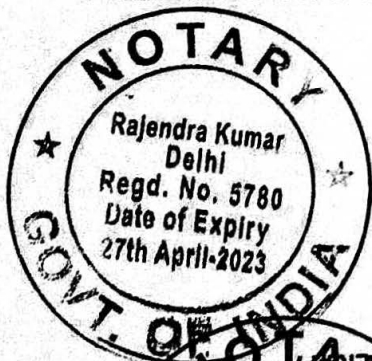
DEPONENT

VERIFICATION

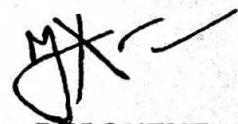
I, the abovenamed deponent, do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed here from.

Verified at New Delhi on this the 4th Day of March, 2021.

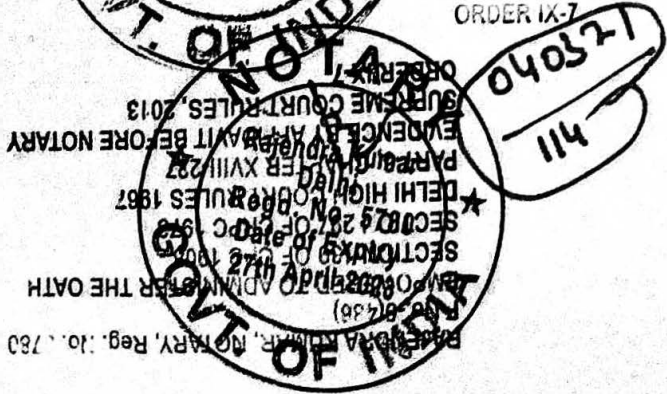
IDENTIFIED



RAJENDRA KUMAR, NOTARY, Reg. No. 5780
 F No -5(436)
 EMPOWERED TO ADMINISTER THE OATH
 SECTION 139 OF CPC 1908
 SECTION 287 OF CRPC 1973
 DELHI HIGH COURT RULES 1967
 PART-6, CHAPTER XVIII-227
 EVIDENCE BY AFFIDAVIT BEFORE NOTARY
 SUPREME COURT RULES, 2013
 ORDER IX-7



DEPONENT



ATTESTED
 RAJENDRA KUMAR
 NOTARY, DELHI-R-5780
 GOVERNMENT OF INDIA
 SUPREME COURT OF INDIA
 COMPOUND, NEW DELHI
 Register Pg./Sl. No. 4 MAR 2021
 Mobile No.: 9899446209

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
 DEPONENT EXECUTANT WHO IS SEEMED PERFECTLY
 UNDERSTAND & AFFIRMED DEPOSED BEFORE
 DELHI ON _____ 2021 IDENTIFIED

IDENTIFIED BY NOTARY DEPONENT WHO
 SIGNED IN MY PRESENCE.
 04 MAR 2021 IDENTIFIED

IDENTIFIED

ANNEXURE-P-1

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART II SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

NOTIFICATION

New Delhi, the 25th February, 2021

G.S.R.....(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 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.

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)
(Additional Secretary)

ANNEXURE-P-2



**Under Press Council of India
Act, 1978**

//TRUE COPY//

Press Council of India
NORMS OF JOURNALISTIC CONDUCT



2020

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Preface

Media has the immense power to mould public opinion, perceptions and beliefs. The role of Media is to ensure information acquired from verified sources that empower people and guide them to make informed choices.

The year 2020 has been challenging as the world faced an unprecedented situation with the novel COVID-19 pandemic. Everything came to a standstill and the future of mankind itself came under cloud. At this crucial time, it is the media's role and responsibility, more so than ever, to educate people and provide them with unbiased and factual information.

In fulfillment of its mandate "freedom with responsibility", the Council has updated and revised the edition of Norms of Journalistic Conduct, 2020. This include guidelines for the media on reporting of COVID-19 and safety measures for journalists along with updates of norms based on the adjudications, pronouncements, and advisories issued by the Council during the year.

I certainly believe that 2020 Edition of Press Council's Norms of Journalistic Conduct would enlighten, encourage and guide the media persons and aspiring media workers to value and practice credible journalism.

Justice Chandramauli Kumar Prasad
Chairman
Press Council of India

**Indication of Heads/Norms
in Editions Prior to 2018 & onwards**

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NORMS OF JOURNALIST CONDUCT

Part A: 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.

- iv) Newspaper should bear in mind that their duty is to collect the news and place it in perspective but not to create news.
- v) Whenever any news is published on the basis of an FIR and is critical of the reputation of any person or body, the newspaper/journals must clearly state in the same news report that the report was only on the basis of the FIR and that veracity of the version of the FIR has got to be decided by the Court. The newspaper should also publish the version of the affected party.
- vi) The newspaper should not mis-construe or misquote the statements given by leader. The statements quoted in editorial should project the true spirit of what is being tried to be conveyed by them.
- vii) Articles which analyse and interpret the history on the basis of contemporaneous events cannot be said to be unethical.
- viii) When a newspaper is following a story on a person and carries series of report on the issue associated with him, it ought to publish the news of his exoneration with same prominence as that of series of previous reports.
- ix) The newspaper is liable for damaging effects of publishing alarming/sensational heading of news story based on Study having no established credentials.

- x) Gossip reaches a localized few, a newspaper report reaches lakhs and therefore a more onerous responsibility devolves on the Press towards the society.
- xi) Media must overcome the tendency of trivialization of information and build credibility in the society so as to win the confidence of the readers.
- xii) Freedom of speech does not give right to newspapers to write about an institution or individual untrue facts even in a lighter note.
- xiii) An error attributing historically incorrect remarks of grave nature to an individual(s) shall not be made.

2. 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 especially 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

* 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.

newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.

- 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.
- xix) Publication of an advertisement for adoption of an unborn child is not only illegal but also unethical. The paper should duly scrutinize advertisements before publishing them.
- xx) The newspaper cannot be held responsible for publication of an advertisement given by the advertisement agency related to legal dispute on behalf of its client.
- xxi) All material published as an advertisement or promotional feature clearly so identified for the benefit of the public at large.

- xxii) The newspapers and periodicals should scrutinize the advertisement inputs from ethical as well as legal angles in view of the editor's responsibility for all contents including advertisement, under Section 7 of PRB Act, 1867. Revenue generation alone cannot and should not be the sole aim of the Press, juxtaposed much larger public responsibility.
- xxiii) Publication seeking Kidney from willing altruistic donor is not to be made.*
- xxiv) Journalists/Editors shall disclose the identity of advertiser or the person at whose instance advertisement is published.
- xxv) Newspaper shall not publish any advertisement intending to pass on as news using names and photographs of Hon'ble President and Prime Minister of India.
- xxvi) Newspaper(s) while publishing Advertisement/ Advertorials similar to news, shall be printed with a Heading "Advertisement/Advertorials" in bold letters with the font size equal to sub headings appearing in the page.
- xxvii) Publishing advertisement of jobs, only with phone numbers and without any further details such as the nature of work to be done by the prospective candidate in case of selection

*High Court of Kerala order dated 24.11.2017 in W.P. No. 33801/2017

and identity of the employer is unethical and be not published as it may facilitate “human trafficking” as lots of unsuspected boys and girls shall become victim.

Newspapers intending to publish such advertisements should publish the nature of work to be done, so as to avoid promoting unethical practices.

* “Disclaimer” published shall not absolve the newspaper from its responsibility.

3. 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.

4. 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 'Harijan' which has been objected to by some, and shall use the word Schedule Caste as per Article 341.*
- 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

* Modified keeping in view of provision of Constitution of India, 1950

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.
- viii) While the changing norms of society have to be kept in mind, newspaper should also take due care in avoiding publication which may hurt sentiments of general public particularly on the occasion of days holding special significance.
- ix) To maintain communal harmony and bind the social fabric of the country, press ought to be more careful while publishing names of any organization and alleging their involvement in terrorist activities.
- x) Plea of technical error to defend provocative and out of context statement are inadmissible and constitute irresponsible journalism.
- xi) Caricature of a deity to depict a political scenario at relevant time cannot be said to be objectionable.
- xii) A news item published on the basis of book may not be in tune with general belief of the members of religious organization but on this ground alone the news item cannot be termed as illegal and unethical.

- xiii) The domain of ethics is much larger than law and ethicality of an action needs to be judged from a common man's point of view. The newspaper, therefore, may not publish matter that could portray the religious characters in an adverse light or offend the religious susceptibilities of large section of society who hold those characters, invested with attributes of the virtuous and lofty in high esteem.
- xiv) The press is expected to use its power to promote and contribute in maintaining communal harmony.
- xv) The fabric of a community is very delicate. The newspapers and periodicals should be sensitive in use of words with different connotation at different places and in different languages.
- xvi) The word/expression "Dalit" shall not be used to provoke or demean a community.

5. 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 realise 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.

6. 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.

6. b) Reporting News Pertaining to Court Proceedings

- i) Before publishing a news item about court proceedings, it will be appropriate for the correspondent and editor to ascertain its genuineness, 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.

- ii) When proceedings of the Courts are held in public view in which the reporters of the newspaper are also present, it is not necessary for the newspaper to obtain the certified copy of Order before publication of the news.
- iii) Observations of a Court during hearing are often an attempt to solicit information, and not a part of records/Orders. Thus, there is need for a reporter to understand the difference to report correctly.
- iv) The media should not carry names of legal practitioners or name of the judges concerned, who dealt with particular cases.
- v) In the matter of interpretation of a court's judgments, a newspaper is expected to act reasonably and not quote selectively. They are also expected to clearly identify the selection so made.

7. 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:

- i) consent of the source is subsequently obtained;
or
- ii) 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'.

8. 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.
- iii) Though satire is an accepted form of literary writing, defamatory statement should not be carried in disguise.
- iv) Expression such as 'incompetent' or 'impotent' need to be read in the context of a political commentary, to determine the offensiveness.

9. Corrections

- i) 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.
- ii) The correction and apology or expression of regrets shall be published in the same edition of newspapers with due prominence.

10. 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 restraint.
- 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 untailed 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.

11. Criticism of Public Figures/Music Reviews

- i) 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 cannot 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.
- ii) An author cannot question the critical review of a book, unless it is actuated by malafide simply because some of the editors and scholars have commended the book, would not mean that other critiques have no right to express a contrary view.

- iii) A critique constitutes the view of author and large reproduction from the book directly relevant to the critique cannot be held as violative of the copyright.

12. 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.

- iv) It is a prerogative of editor to decide prominence of news it deserves in newspaper.
- v) Bearing in the mind the clear distinction between a 'news report' and 'an opinion article', the Editor has a liberty to edit an article but this liberty cannot be extended so as to delete the vital part or core contents of the article without seeking permission of the author, which may distort the intent, purpose and meaning behind the article.
- vi) Headline's should be carefully drawn adjudged against their instant impact on the readers.
- vii) Editor is responsible for all facts printed in newspaper(s).
- viii) The editors must bear in mind their duty towards society while publishing Job/employment advertisement with insufficient details as it may facilitate Human Trafficking and be done only after proper inquiry.
- ix) Editorials are expression of views of editors which is guaranteed under the Constitution of India and its sanctity does not depend upon any individual agreeing to the same or not.

13. 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.

14. 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.

15. Gender Based Reporting

Press should play a vital role in removing the age-old gender biases and even unilateral description as the news item could contribute to continuation of such bias to retard social balances and development.

16. 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.

17. Headlines:

- 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.

- ii) Headlines of an article/news story or news item attributes certain act on part of a person. while choosing the headline the paper should take care that they reflect the text of the report.

18. HIV/AIDS and the Media – DO’S and DONT’S

DO’S

- i) Media must inform and educate the people, not alarm or scare them.
- ii) Be objective, factual and sensitive.
- iii) Keep abreast with changing realities of fast-evolving infection.
- iv) Use appropriate language and terminology that is non-stigmatising.
- v) Ensure headlines are accurate and balanced.
- vi) Be responsible; give all sides of the picture, using voices of people living with HIV and AIDS (PLHIVs).
- vii) Dispel misconceptions about prevention and transmission.
- viii) Debunk myths about miracle cures and unscientific claims of protection from infection.

- ix) Highlight positive stories without underplaying seriousness of the issue.
- x) Uphold confidentiality of infected people, their families and associates.
- xi) Ensure photographs do not breach their confidentiality.
- xii) Ensure photo captions are accurate.
- xiii) Ensure gender sensitive reporting and avoid stereotyping.
- xiv) Obtain data from authorised sources as inaccurate reports have adverse impact on morale and increase stigma.
- xv) Journalists are responsible for ensuring interviewees understand repercussions of revelations/identification.
- xvi) Ensure informed consent, in written form wherever possible.
- xvii) Balance coverage of a negative story like HIV-related suicide or incidence of discrimination by including contacts of helplines/counselling centres.
- xviii) Broaden reportage to examine impact of infection on economic, business, political and development issues.

- xix) When in doubt contact the local network of positive people or state AIDS control society or existing terminology guidelines for clarification.
- xx) Ensure questions are not deeply personal or accusatory.
- xxi) Show PLHIVs in a positive light by portraying them as individuals instead of 'victims'.

DONT'S

- i) Don't sensationalise the story.
- ii) Don't make value judgements that seek to blame PLHIVs.
- iii) Don't use terms like 'scourge' to describe the infection or describe PLHIVs as AIDS carrier, prostitute, drug addict, AIDS patient/victim/sufferer.
- iv) Don't focus needlessly on how a PLHIV was infected.
- v) Don't identify children infected and affected by HIV and AIDS by name or through a photograph even with consent.
- vi) Don't use hidden cameras.
- vii) Avoid alarmist reports and images of the sick and dying that convey a sense of gloom, helplessness and isolation.

- viii) Don't use skull, crossbones, snakes or such visuals as graphics.
- ix) Avoid references to caste, gender or sexual orientation.
- x) Don't reinforce stereotypes about sexual minorities including those who are Lesbian, Gay, Bisexual or Transgender (LGBT).
- xi) Don't portray infected persons as victims, culprits or objects of pity.
- xii) Don't promote misleading advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections .
- xiii) Don't breach the confidentiality of those opting for voluntary testing.

19. Illegal Reproduction

- i) The Press shall not reproduce in any form offending portions or excerpts from a proscribed book.
- ii) The newspaper should give due credit to the Photographer whose photo work has been published by the newspaper.

20. 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 be 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.

21. Investigative Journalism, its Norms and Parameters

Investigative reporting has three basic elements:

- i) It has to be the work of the reporter, not of others he is reporting;
- ii) The subject should be of public importance for the reader to know;
- iii) 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 wrongdoings 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.
- k) When any news item affecting somebody's character is proposed to be published in the newspaper on the basis of any CD or other such device then first the authenticity of such evidence should first be ascertained through a forensic expert.

22. 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.
- iii) Editor may have a right to edit a 'letter to editor' but such editing should not deviate from the intended view.

23. 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.

24. 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.

25. 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.

26. 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.

27. Norms for Photo Journalism

- i) 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.

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.

DONT'S

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.
- ii) Highlighting gambling menace being ignored by the Police through a photograph of police official standing near a covert gambling den only for symbolic purpose, cannot be considered as unethical or violation of journalistic norms.
 - iii) 'Dignity in death' is a principle widely observed in civil society and unless the photographic depiction of such event directly impacts the public interest or purpose, the media would be well advised to avoid it.

28. 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.

- x) The newspapers should take due care of people's sentiments while publishing articles on sexuality.

29. Paid News

- i) Newspaper should specifically mention "Marketing Initiative" on Supplement/special edition itself to distinguish them from various reports.
- ii) The newspaper should not mis-construe or misquote the statements given by leader. The statements quoted in editorial should project the true spirit of what is being tried to be conveyed by them.
- iii) Columns of news items which largely indicate names of voters on Caste basis and supporters of the candidate of particular political party, such tenor and manner of presentation of news establish the report to be paid news.
- iv) Political news published in competing newspaper with similar content strongly suggests such reports to be paid news.
- v) Two newspapers publishing same news item verbatim during election days is not accidental and it is evident that such news items have been published for consideration.

- vi) Manner of presentation of a news item that to in a favor of a particular party as also the appeal for voting in a favor of a particular party is suggestive of paid news.
- vii) Projecting a candidate's success in Election who is yet to file a nomination is suggestive of paid news.
- viii) News Reports on Campaign meeting and states enthusiasm because film stars were present cannot be termed as paid news.
- ix) While covering news on election, the newspapers are advised to ensure balance in publishing report/interview of candidates.
- x) During the course of election, subject to conditions laid down by the Election Commission of India, newspapers are free to make an honest assessment of prospects of candidates or the parties and its publication would not be paid news so long it is not established that consideration passed on for such publication.
- xi) Newspapers shall not publish any news survey predicting the victory of any political party without verification of it.

30. Parameters of Right of Press to Comment on Profession

No newspaper(s)/columnist(s) shall abuse any profession, under the garb of freedom of speech/expression which is guaranteed under the Indian Constitution, since freedom of speech is not absolute.

31. 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, 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.
- vi) Satirical comments, ridiculing and denigrating the first citizen of the country are uncalled for and beyond the call of fair journalistic comment.
- vii) While every journalist has a duty and freedom of critical evaluation of the functioning of public department/personnel, such evaluation has to be based on proper documents and verification.
- viii) It is obligatory on the part of an institution rendering public service to be open to bonafide critical examination of its functioning.

32. 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.
- iii) Though the sources normally used are not to be disclosed, however, in case of serious allegations where matter is related to national interest and security it is incumbent/imperative/mandatory on part of the press to establish the authenticity of information given by the source.
- iv) An article concerning a sensitive issue which can defame a nation cannot be published without thorough verification. Newspaper as well as News Agency should verify the authenticity of the article before its publication.

33. 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.

- iii) Printing a reworded article of a writer by the paper without acknowledging his work is unethical.

34. 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.
- iv) Newspaper should carry the Press Release only after establishing its authenticity which should bear the signature of authorized signatory and Departmental seal.

- v) News reports that stem from a gossip or so called roving enquiry affecting the personal character of an individual, are not worthy of publication.
- vi) Personal animosity should not be reflected in a news item. Publishing news without any material even to *prima facie* substantiate the news item with a view to malign a person constitute an act of omission and commission.
- vii) Wrongly attributing historically incorrect remarks of grave nature to a political leader, which have far reaching repercussions without applying due diligence calls for severe action. The publication ought to verify the source of such statement at pre-publication stage.
- viii) Allegations of dowry harassment are subject to scrutiny by court of law and the charges under Section 498-A of an I.P.C. should be reported upon by the media with more sensitivity avoiding publication of photographs of accused. The editor in such cases should also verify the stand of the accused.
- ix) Sacking of an officer over graft charges is a verifiable fact and the newspaper is expected to carry out such verification. Subsequent clarifications cannot mitigate the damage.

35. 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.

36. 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.
- ii) The Newspaper should not involve the journalists in collecting advertisements.
- iii) Using the title of some other newspaper by a media house and declining corrective step is unethical and reprehensible.
- iv) Carrying contents materially different from those which the contributor provided to the paper is unethical.

37. Professional Rivalry

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

38. 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.
- iii) Newspapers are required to give the context in which the statement is made by a political leader, but this does not extend to the liberty of giving it a meaning of their own.

39. Reporting on:**a) Information regarding Mental Health Patients**

The media shall not publish photograph or any other information in respect of person undergoing treatment at mental health establishment without the consent of the person with mental illness.

b) Suicide

Newspapers and news agencies while reporting on suicide cases shall **not** :

1. Publish stories about suicide prominently and unduly repeat such stories;
2. use language which sensationalize or normalizes suicide, or presents it as a constructive solution to problems;
3. explicitly describe the method used;
4. provide details about the site/location;
5. use sensational headlines;
6. use photographs, video footage or social media links.

c) 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 manmade 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. 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.

41. 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 judgment 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.

42. 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 directly or indirectly* 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.
- v) The newspaper is not expected to turn a blind eye towards the classified advertisements which are *prima-facie* in a violation of Suppression of the Immoral Traffic (Prevention) Act, 1956.

* Hon'ble Supreme Court of India order dated 2.8.2018 in MA 2069/2018 in WP No. 473/2005.

- vi) Due care should be applied by the paper by not disclosing the real names of persons involved in incident affecting personal lives.
- vii) Publishing person's address in a newspaper which has no direct relevance to the news report, is a violation of his right to privacy.
- viii) Publishing photograph of police constable resting in barrack after duty hours, to portray his shirking from duty not only constitute invasion of his privacy but also unethical.

43. 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;

- i) An accused is entitled to the privilege of presumption of being innocent till guilt is pronounced by the Court.

- ii) 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.
- iii) 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.
- iv) 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.
- v) 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 is amount to invasion of their privacy rights.
- vii) Identification of witnesses by the newspapers/ media endangers 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.

44. 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 unethicallity 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.

45. 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.

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 of 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 unethicities.:

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.

- v. 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.
- vi. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.
- vii. Emphasising matters that are apt to produce communal hatred or ill-will, or fostering feelings of distrust between communities.
- viii. 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.
- ix. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or distinctive types.
- x. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths of 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 raise 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 focusing 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, 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 the 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. Focusing 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 (**P**revention of **P**arent to **C**hild **T**ransmission) instead of PMTCT (**P**revention of **M**other to **C**hild **T**ransmission). 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 includes 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.

1. 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.
2. 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.

- 3) The financial journalists should not accept gifts, loans, trips, discounts, preferential shares or other considerations which compromise or are likely to compromise his position.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) A reporter who exposes a scam or brings out a report for promotion of a good project should be encouraged and awarded.
- 8) A journalist who has financial interests such as share holdings, stock holdings, etc., in a company, should not report on that company.

- 9) 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.
- 10) No newspaper owner, editor or anybody connected with a newspaper should use his relations with the newspaper to promote his other business interests.
- 11) 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.

1. 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.
2. 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.

f) Guidelines on Undue Favours to Journalists-1988

The power of the press has prompted the public men 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 by 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 to 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 encourages 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 uses 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 government 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.

g) 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 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 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.

h) 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. <https://moia.gov.in>.

i) Guidelines for Protection of Child Rights

Guidelines Drawn up for Reporting on Children:

1. Do not further stigmatize any child; avoid categorisations or descriptions that expose a child to negative reprisals including additional physical or psychological harm, or to lifelong abuse, discrimination or rejection by their local communities.
2. Always provide an accurate context for the child's story or image.
3. Always describe the child as victim.
4. Obscure the visual identity of any child who is identified as:
 - i. A victim of sexual abuse or exploitation,

- ii. A perpetrator of physical or sexual abuse,
- iii. HIV positive, or living with AIDS, unless the child, a parent or a guardian gives fully informed consent,
- iv. Charged or convicted of a crime.

In certain circumstances of risk or potential risk of harm or retribution, change the name and obscure the visual identity of any child who is identified as:

- a. A current or former child combatant,
 - b. An asylum seeker, a refugee or an internal displaced person,
5. In certain cases, using a child's identity - their name and/or recognizable image - is in the child's best interests. However, when the child's identity is used, they must still be protected against harm and supported through any stigmatization or reprisals. Some examples of these special cases are:
- i. When a child initiates contact with the reporter wanting to exercise their right to freedom of expression and their right to have their opinion heard.
 - ii. When a child is part of a sustained programme of activism or social mobilization and wants to be so identified.

- iii. When a child is engaged in a psychosocial programme and claiming their name and identity is part of their healthy development.
- 6. Confirm the accuracy of what the child has to say, either with other children or an adult, preferably, with both.
- 7. When in doubt about whether a child is at risk, report on the general situation for children rather than on an individual child, no matter how newsworthy the story.

j) Model Accreditation/Advertisements Rules-2014

- 1. These Rules formulated by the Press Council of India will serve as the guideline for framing and implementing the Rules of Accreditation of the Central and State Governments. These Model Rules have been framed to ensure accreditation-to cover the news relating to the Central/State Government– is granted and renewed with fairness, transparency, with commitment to freedom of press, and in public interest.
- 2. **Definitions:**
 - i) **Accreditation:** Recognition granted to Correspondents/Editors of Media organisations (as defined in sub clause iv) to have access to news materials, written and pictorial; to offices and officers of the Government at the Headquarters and other centres for gathering news; access for laws, rules, notifications, press

releases, background papers, etc. of the activities of the government; for invitations and admittance without any hindrance to functions, press conferences, statutory events and other activities of the government; facilities in terms of travel, research, documentation, etc. relating to newsgathering. The Accreditation should be available throughout the country, state, city, district or tehsil, as decided by the Committee.

- ii) **Correspondent:** A working journalist employed by a newspaper, magazine, news agency, television channel, radio organization or news portal, to gather and file news items regularly for the newspaper, magazine, television channel, radio organisation or news portal, as defined in clause 2 (iv) of these rules. The definition of Working Journalist for print media, including newspapers, magazines and news agencies, shall be generally the same as the definition in the Working Journalist Act.
- iii) **Cameramen:** Still and Television cameramen employed by media organisations for taking picture or video-graph news events.
- iv) **Editor:** Editor of a newspaper, magazine, Television Channel, Radio organization, news portal, who is in-charge of news selection and editorial policy of the organization, including Chief Editor, Editor-in-Chief, Managing Editor,

Executive Editor, Resident Editor, Content Head.

- v) **Media Organization:** Newspaper, magazine, Television Channels, Radio organization, news portal, recognised by Government of India/State government agencies under relevant laws and rules like PRB Act, Uplinking Guidelines for Television Channels and FM Stations, Prasar Bharti Act, etc.
- (a) **News Media** shall include newspapers, wire service and non wire service news agencies, news feature agencies, electronic media agencies, news portals containing news and comments on public news.
- (b) **Newspaper** shall have the same definition as given in the Press and Registration of Books Act, 1867. A Daily newspaper shall be published on not less than five days in a week; a weekly or Fortnightly newspaper shall have not less than 45 or 22 issues in a year respectively.
- (c) **News Agency** shall be wire and non wire organizations which supply news on a minute-to- minute or daily basis to a number of media organizations, both print and electronic.
- (d) **News Feature Agencies** shall be agencies which supply news and features based on

current affairs to newspaper organizations on a weekly or fortnightly basis.

- (e) **Radio Organization** means any media organization which broadcast news bulletins and carries current affairs programmes, including All India Radio which operates under the Prasar Bharti Act.
- (f) **Television Channel** shall have the same meaning as News and Current Affairs Channels permitted under the Guidelines of the Ministry of Information and Broadcasting. This includes the news channels of Doordarshan operating under the Prasar Bharti Act.
- (g) **Television and Radio news agency** shall be media organization which provides news clips and feeds to Television channels and radio stations.
- (h) **Foreign Newspapers and foreign news agencies** shall be media organisation which fulfil broadly the criteria laid out in clause 2 (b) and 2 (c) respectively.
- (i) **Foreign television channel** shall be media organisation which fulfils broadly the criteria laid out in the Guidelines for News and Current Affairs Channels of the Ministry of Information and Broadcasting.

- (j) **News Portals** are news and current websites which provide continuous news coverage and current affairs features.
 - vi) **Accreditation Card:** The PIB or the State Information Department shall issue a photo identity card to all correspondents and editors to whom the accreditation is granted by the Committee, and wherever necessary, the card should have authorization to enter all premises of the Central and State Governments, without any requirement of obtaining visitor pass.
 - vii) **Committee:** Committee formed by the Government for considering and sanctioning of Accreditation, and to recommend steps for facilities for news gathering by accredited correspondents and news organisations. State Governments shall form District or Tehsil (Mandal) level Accreditation Committees, subject to local requirements.
3. The Press Accreditation Committee shall be a permanent organisation, whose membership will change every two years. There shall be no discontinuity in the functioning of the Committee and it shall be the responsibility of the Government to ensure that the nomination of fresh members is gazetted before the term of the earlier team expires. In case the Government is unable to nominate the new members, the old Committee will continue until the new Committee is constituted.

4.
 - a) The Press Accreditation Committee shall consist of not less than Nine members, representing various recognised mainstream media organisations at National/State level of Editors, Correspondents, Cameramen and Cartoonists. These organizations must have representative character and fair representation of membership of the category of journalists in the Centre or State.
 - b) Every Accreditation Committee formed by the Central or State government shall have a representative of the Press Council of India, preferably a member who lives in the particular State or the City as the case may be.
 - c) No member may continue for more than two consecutive terms.
5. The Director General, Media & Communication shall be the Member-Secretary of the Central Press Accreditation Committee and the Director/Commissioner of Information of a State Government shall be the Member-Secretary of the State level Accreditation Committee. For a Committee at District or Mandal level, the District Information/Public Relations Officer shall be Member-Secretary. The Member-Secretary shall be responsible for convening the meetings of the Committee, scheduling the agenda and for implementing the decisions of the Committee.
6. The Chairman of the Committee shall be a senior journalist, who shall be nominated by the Central or

State Government. The Chairman should have minimum 10 years experience as an accredited correspondent to the government concerned, and should be ineligible for a second continuous term.

7. The Committee shall meet once in a quarter or more frequently if considered necessary. The quorum shall be 50 percent of the total membership. A minimum of 15 days notice should be given for meetings, unless the Chairman is satisfied that a meeting should be called at short notice due to extraordinary circumstances. Even then the decisions of such an extra ordinary meeting will have temporary validity, until they are ratified by the Committee meeting called after 15 days notice.
8. The Committee shall admit newspapers, news agencies, magazines, TV channels, Radio organizations, news portals provided, they fulfill the basic criterion of providing contemporaneous news to their readers, subscribers, viewers, listeners as the case may be. They should carry at least 50 per cent its contents as news/comments of general public interest. The decision of the Committee on whether the applicants carry 50 percent of content as news is final. These organisations must be functioning as a news organisation for a period of at least six months before they are eligible for accreditation as an organisation. However, if a publication changes the periodicity of publication but continues to carry minimum 50 percent of contents as news/comments of general public interest, then its admission shall continue. All

newspapers and magazines applying for recognition by the Committee shall furnish a No Due Certificate from the Press Council of India.

9. However, if the Committee is unanimously satisfied that a news organisation needs temporary accreditation from the day it starts the operations, then the Committee may grant a small number of accreditations to the applicant organisation, without creating any permanent claim. The admission granted to these organisations will be withdrawn if they cease to function or cease to disseminate contemporaneous news. It is the duty of the organisation to inform the Government if it is being closed down or changes to non-news content.
10. Based on the Circulation of newspapers and magazines, the number of subscribers and turnover of news agencies, the turnover of TV channels and Radio organisations, the page hits and turnover of news portals, the Committee shall prescribe the number of Editors, Correspondents, Photographers, Cartoonists, Cartographers, TV Cameramen, Radio Executives, etc. who can be accredited to the Government. However if the organisation provides proof of increase/decrease of these criteria, the Committee would correspondingly after the quota.
11. A minimum of five years experience in a news organisation, which is admitted by the Committee, is required to consider the application of an Editor/ Correspondent / Cartoonist / Cartographer or

Photographer/TV Cameraman/Radio Executive for accreditation to the Government of India. For accreditation to the State Government at the State or District level, three years experience is minimum requirement.

12. For purpose of accreditation, Editors should be considered as being engaged in newsgathering and should be given accreditation. The Committee shall satisfy itself that the applicant is fully employed in the news organisation by asking for news clippings, video clips, radio clips, etc., apart from employment certificate, a certificate from the Editor that the applicant is engaged in news reporting. The Committee shall not give accreditation to advertising or sales person who put in a claim that they are also correspondents.
13. On its satisfaction that the applicant meets the criterion to be an accredited correspondent, the Committee shall permit grant of accreditation subject to the availability of the quota of the news organisation.
14. The Government will issue the accreditation card to the journalist within a fortnight of the date of approval by the Committee.
15. In case the Committee rejects the application of a media organisation, or a journalist on behalf of a media organisation for accreditation, then the applicant organisation/individual shall be informed the reasons for rejection in writing. The applicant organisation/individual can make amends or place other relevant

facts before the Committee for reconsideration. However, the Committee's decision, after such reconsideration, shall be final.

16. The Committee can grant accreditation to senior journalists, who are freelancing, provided they have been accredited correspondents on behalf of news organisations for at least 15 years, provided they show evidence that their main avocation is of journalism and that they are earning their livelihood through journalism.
17. The Committee may grant special accreditation to journalists who have done Long and Distinguished Service as accredited correspondents, provided they are above 58 years of age; are accredited for a minimum period of 15 years; and are actively pursuing journalism at the time of recognition of their service.
18. The Accreditation card issued to Editors, Correspondents, Cartoonists, Cartographers, Photographers, TV Cameramen, Radio Executives, etc. shall be valid for a period of two years. Under the general directions of the Committee, the PIB or the concerned State Government department shall renew the accreditation of all accredited journalists once in two years, ensuring that the accredited journalist is not deprived of the facility even for a single day.
19. In case a correspondent works for more than one organisation, and requests for additional accreditation,

the Committee may decide to grant additional accreditation, after recording the reasons for granting additional accreditation.

20. All Government Ministries, Departments, undertakings and other wings shall provide access and information to accredited journalists, and they shall not discriminate amongst accredited journalists for dissemination of news.
21. The Committee shall withdraw the accreditation, provided:
 - i) The Editor informs the Committee that the journalists has been reassigned within the organisation.
 - ii) The Editor informs the Committee that the news organisation has closed down/or is no longer carrying 50 per cent content as news.
 - iii) The journalist is no longer an employee of the news organisation.
 - iv) If a journalist has been censured at least twice by the Press Council of India for professional misconduct.
 - v) If the Committee were to come to the conclusion that the journalist has made gross misuse of the accreditation facility, then he shall be given an opportunity to answer the charges, and the Committee shall record its reasons for withdrawal of accreditation.

Proviso As journalists enjoy the protection of the Constitution, the Accreditation Committee shall ensure that the accreditation is not cancelled for any malafide or frivolous reason by the Central or State Government or any politician or official who have a grudge against journalists publishing news which may be unpalatable. No media organisation or journalist shall be deprived of accreditation merely on the ground that he had published what was claimed to be an official secret, or that he has published reports which are unfavourable to the Government or its Ministers or Officials.

22. Apart from considering applications for grant and withdrawal of accreditation by news organisations and journalists, the Committee shall discuss and recommend measures for providing additional facilities to news organisations and journalists to improve the quality of news dissemination.
23. Editors/journalists deputed by editors of newspapers, magazines, news agencies, television and radio organisation, news portals who are accredited by a State Accreditation Committee shall be considered eligible for accreditation to the Government of India at its headquarters in New Delhi and offices in state capital/s, even though they may not be residing in the National Capital Region, with a view to ensure that the news relating to Government of India is disseminated in all regions and Editors/accredited

journalists from all over India have access to Government of India's information and offices.

24. A journalist covering more than one state/cluster of States like North-East shall be eligible to have accreditation in all the states/cluster of State like North-East provided the Editor gives a certificate, justifying the needs for accreditation in more than one state.
25. The Government will put the Rules on the website of the concerned Ministry so that it is available for reference to the news organisations, journalists and the general public. The decisions of the Committee on admission of news organisations/journalists will be put on the notice board soon after the decisions are implemented.

k) Model Advertisement Policy Guide - 2014

Introduction:

Under the statute passed by the Parliament in 1978, the Press Council of India is enjoined upon to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India. This is further supported by clause (e) of section 13 (1) of the Press Council Act, whereby the Council is required to "keep under review any development likely to restrict the supply and dissemination of news of public interest and importance". There have been a number of occasions where the Press Council has been called upon to look into the complaints of improper or arbitrary denial of advertisements by various

authorities, severely affecting the economic viability of newspapers, particularly of those in the smaller category.

In disposing of these complaints, the Council has often observed that governmental authorities should not single out a newspaper for discriminatory treatment in the matter of release of advertisements on account of its critical writings. Release of advertisements should be done not on an adhoc basis but on the basis of a notified policy formulated on some rationale criteria. Political consideration should not weigh in the issue. Distribution of advertisements should be equitable as far as possible but smaller newspapers which subsist on government advertisement revenue need special consideration of the governmental authorities. While advertisements cannot be claimed by newspapers as a matter of right, they are neither a grant to be released at the whim and discretion of the controlling authority.

Against this background, the Press Council of India has considered the question of formulating basic elements of what may be an advertisement policy for the Central and State Governments to adopt. These model guidelines propose broad principles of uniform applicability governing the release of advertisement by Central and State Government, Union Territory, Administration vis-a-vis their distribution, rate fixation and payment and canalisation.

Criteria:

- 1) Newspapers registered with the office of the Registrar of Newspapers for India shall be eligible for inclusion in the approved list for release of advertisements.

- 2) Advertisements shall be issued only to such newspapers as have been included in the approved list of Central/State Government for release of advertisements. For preparing the approved list, there should be a Committee with due representatives of officials as well as non-officials from among media personalities. For the purpose of selecting the newspapers for release of advertisements of different kinds, the authorities should be guided by the following criteria:
- a) Newspapers will be considered as being eligible for advertisement if it has had regular and uninterrupted publication for four months.
 - b) A newspaper seeking advertisement should fulfill the requisite qualification already prescribed by State and Central Government in regard to periodicity and regularity of publication, size of the publication, printing arrangements, editorial and managerial set-up.
 - c) The circulation of a newspaper has a bearing on the extent of advertisement released. The sources from which authenticated circulation figures could be obtained are:
 - i) The Registrar of Newspapers for India;
 - ii) Audit Bureau of Circulation; and
 - iii) Chartered Accountant, certifying annual circulation statement,

The Figures obtained through anyone of these sources should be acceptable for determining the circulation of a newspaper to be enlisted and no other party should question the certificate issued by either of the three above.

- d) Payment of bills by the government should be made within a period of 45 to 60 days of the publication of the advertisement. The payment could be made at reasonable prevalent commercial rate, less 20% commission in view of the bulk value of release.
- e) It will be desirable that small newspapers having regional content are given some weightage.
- f) Suitable weightage may also be given to language newspaper/periodicals published from remote areas, such as North-East, tribal belts and hilly region and small paper run by linguistic groups.
- g) As far as possible, organs of political parties should not be unduly patronized by the governmental authorities.

General:

A list of newspapers eligible for empanelment should be made a public document available on request. The list

should be periodically sent to the Press Council of India, the RNI and also to the recognised newspaper associations.

All disputes regarding inclusion/non-inclusion/removal from the approved list for release of advertisements should be referred to an independent body which may consist of representatives of the Government and disinterested members of Press from socio-journalistic fields. Alternatively, dispute could be referred to a body created on the pattern of Press & Registration Appellate Board which may consist of the Chairman of the Press Council of India and four other members.

These guidelines are not exhaustive because of the limited nature of the issue involved. They have been prepared with the object to eliminate any possibility of discrimination which may directly or indirectly affect the freedom of the Press.

l) Advertisement on Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy

Newspapers shall not publish advertisement regarding Ayurveda, Yoga and Naturopathy, Unani, Siddha, Homeopathy for the use of diagnosis, cure, mitigation, treatment or prevention of any disease, disorder syndrome or condition:

- i) Without Unique Identification Number; or
- ii) the intended advertisement does not contain the contact details of the manufacturer; or

- iii) the contents of the advertisement directly or indirectly tantamount to vulgarity or obscenity; or
- iv) it refers to any Ayurvedic, Siddha or Unani drug in terms which suggest or calculated to lead to the use of that drug or medicine for the enhancement of height and dimensions or capacity of performance of male or female sexual organs; or
- v) it depicts photographs or testimonials of celebrities or government officials; or
- vi) it refers to any Government or Autonomous organization of the Government.

m) Principle Laid Down to Ascertain Paid News

Paid news would mean any words appearing in media, or omitted from media in lieu of a consideration given either earlier, at the time or after publication in any form. It is a clandestine financial transaction conceived in fraud and delivered in deceit, and hence it is difficult to get direct evidence to establish it. But while direct evidence may not be available it is possible to infer the incidence of paid news from strong circumstantial evidence.

At the same time, an onerous responsibility on election authorities is to ensure that the process of identifying paid news is exhaustive and credible because the reputation of publications and journalists is at stake.

No hard and fast rule or straight jacket formula is possible to be laid down to determine the issue of paid news and it will depend upon the facts and circumstances of each. Merely, because a particular news item appears to serve the cause of a particular candidate, it cannot be concluded that it was paid news. Further, publication of interview of a candidate or political coverage in the newspaper cannot itself be the reason to term the same to be paid news. Bad journalism may raise doubt about the credibility of news but from that to jump to the conclusion that those are paid news would be irrational. During the course of election, subject to the conditions laid down by the Election Commission of India, newspapers are free to make an honest assessment of prospects of candidates or the parties and its publication would not be paid news so long it is not established that consideration passed on for such publication. One has to bear in mind that many newspapers have editorial policy to support the candidate of particular thought or region and in such cases writing in favour of such candidates would not amount to paid news. Mere publication of an advertisement by the candidate on the date when the news item pertaining to this nature has been published, itself may not be conclusive to establish the impugned publication as a paid news.

State election authorities have little appreciation of the nuances of journalism and therefore fell into grave error while making comment on what is news and what may be paid news. The state electoral authorities before making public their findings of paid news ought to have applied themselves judiciously to the issue at hand especially because adverse findings would injure the reputations of newspapers/ periodicals.

n) Guidelines on reporting of COVID-19 and Safety Measures for Journalists

Reporting on COVID-19 is challenging and unprecedented. Journalists and media persons are required to leave their home to report in difficult circumstances.

-UNICEF

The core principles of ethical journalism revolve around the *truth and accuracy, fairness and impartiality, humanity, service, accountability and independence*. Thus, the media has a huge responsibility during such pandemic. With these, the Press Council in terms of its mandate under section 13 of the Press Council Act, 1978 has evolved the guidelines to be a ready reference for the journalistic fraternity.

Avoid sensationalism and scaremongering – Shall avoid language and images that could heighten anxiety; which can inflame tensions and create more panic among the public.

Ensure Identity of affected people is protected: Do not identify names, images or identifying material without the permission of the relevant people.

Be accurate and report facts: Should mitigate the spread of misinformation; Avoid rumour and try not to speculate.

Always seek expert opinions – from medical professional, scientists and other stakeholders with relevant credentials on COVID – 19.

Always provide context and point people to credible information sources.

Be careful when using maps showing case distribution

Avoid any kind of profiling – Shall not attribute or repeat where the virus was generated such as geographic, community, race, religion or group of people etc. each time while reporting of new cases.

Media houses to give utmost priority to the safety of their journalists working at the ground level:

- a. Provide them PPE kits, while performing duty.
- b. Ensuring that journalists who get infected with the virus for performing duty, are provided with proper health assistance and financial aid.
- c. Providing proper leave for self-isolation to the journalists indicating or showing the symptoms of the Covid -19.

While recording/interview any interview/reporting journalists shall keep in mind the following:

- a. Keep a distance of at least six feet or to maintain appropriate distance without huddling.
- b. Avoid clip-on mics and use directional mics.
- c. Wear PPE Kits, masks and hand gloves.

o) Guidelines for Medical Reporting

Medical Reporting is considered as means of sharing of result through dissemination of health news, medical research and health policies.

- The journalists who are engaged in medical reporting should have skill and ability to interpret medical research reports. Special training of journalists for dissemination of health news in collaboration with health authorities would facilitate in right and appropriate coverage of health issues.
- The reporting should show patients in positive light by portraying them as individuals and not victims.
- It should be ensured that headlines reflect the health issues accurately and the story is balanced and free of damaging stereotypes.
- The identity of patients while doing stories or news should not be disclosed unless there is a specific permission to do so. Whenever possible, they should get written consent and if that is not possible informed consent must be obtained. Though it would be best to avoid identification.
- Whenever reporting on specific professional groups such as uniformed services, health professionals, care should be taken to obtain data from authorised sources.
- Identifying the hospitals or health care workers who in line of duty get infected create panic and fear amongst people and also have adverse impact on their morale. Further, it also serves no public interest.

- Health reporters and people at all levels of news organisations should be trained and sensitized on various dimensions of medical reporting.

- p) **Provision of Section-23 of the Protection of Children from Sexual Offences (POCSO) Act, 2012***
 - (1) No person shall make any report or present comments on any child from way form of media or studio or photographic facilities without having complete and authentic information, which may have the effect of lowering his reputation or infringing upon his privacy.

 - (2) No reports in any media shall disclose, the identity of a child including his name, address, photograph, family details, school, neighborhood or any other particulars which may lead to disclosure of identity of the child: Provided that for reasons to be recorded in writing, the Special Court, competent to try the case under the Act, may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

* The said provisions were adopted by the Council in its Meeting dated 22.9.2020.

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) The Indecent Representation of Women (Prohibition) Act, 1986
- ii) The 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 Amendment Act, 2006
- vi) The (Indian) Post Office Act, 1898
- vii) The Police (Incitement of Disaffection) Act, 1922

* As per time to time amendment made by the Government of India.

- viii) The Official Secrets Act, 1923 (Act No. 1923)
- ix) The Telecom Regulatory Authority of India (**TRAI**) Act, 1997
- x) State Emblem of India (Prohibition of Improper Use) Act, 2005
- xi) The Representation of the People Act, 1951
- xii) The Delivery of Books and Newspapers (Public Libraries) Act, 1954
- xiii) The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
- xiv) The Working Journalists and Other Newspapers Employees (Conditions of Service and Miscellaneous Provision) Act, 1955
- xv) The Prize Competitions Act, 1955(Act No. 42 of 1955)
- xvi) The Hindu Marriage Act, 1955
- xvii) The Young Persons (Harmful Publications) Act, 1956
- xviii) The Copyright Act, 1957
- xix) The Juvenile Justice (Care and Protection of Children) Act, 2015
- xx) The Criminal Law Amendment Act, 2018

- xxi) The Customs Act, 1962
- xxii) The Unlawful Activities (Prevention) Amendment Act, 2012
- xxiii) The Civil Defence Act, 1968
- xxiv) The Working Journalists (Fixation of Rates of Wages) Act, 1958
- xxv) The Contempt of Courts Act, 1971
- xxvi) The Press Council Act, 1978
- xxvii) The Prize Chits and Money Circulation Schemes (Banning) Act, 1978
- xxviii) National Security Act, 1980
- xxix) The Indian Evidence Act, 1872
- xxx) Right to Information Act, 2005
- xxxi) The Information Technology Act, 2000
- xxxii) The Disaster Management 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,

* As per time to time amendment made by the Government of India.

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 certain offences etc,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 294A- 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.

- n) Section 502- Sale of printed or engraved substance containing defamatory matter.
- 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 CrPC. 1973 (Act No.1I of 1974)*

- a) Section 88 - Power to take bond for appearance.
- b) Section 90- Summons and warrants of arrest.
- c) Section 92- Procedure as to letters and telegrams.
- d) Section 93- When search warrant 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 of apprehended danger.

* As per time to time amendment made by the Government of India.

- g) Section 177 to 187- Place of inquiry or trial.
- h) Section 195- Prosecution for contempt of lawful authority of public servants.
- i) Section 320 - Compounding of offences.
- j) Section 325 - Procedure when Magistrate cannot pass sentence sufficiently severe.
- k) Section 326- Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

Part D - Press Council's Powers, Practices 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 Hon'ble Chairman from the press organisations/news agencies recognised and notified by the Council as all India bodies representing 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 respectively. 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 consecutively.

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 25000 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

It is open to any person to lodge a complaint with the Press Council against a newspaper for a breach of the recognized ethical canons of journalistic propriety and taste. The complainant need not necessarily be the 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, 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 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 complainant would be satisfied, it 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/Hindi 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, 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.

Part E - Good Practices in Journalism

- i) A mistake of inconspicuous nature cannot be said to be violating the code of conduct of journalism. However, an error simpliciter shall needed to be corrected.
- ii) Great editors keep erasers and do not hesitate in using it when an error is pointed out.

Address your complaints or inquiries to:

The Secretary,

Press Council of India,

Soochna Bhawan, 8-C.G.O. Complex,

Lodhi Road, New Delhi-110003

Phone: 91 (011) 24366403/24366745

(Extn. 335, 336, 110 & 111)

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

Email : secy-pci@nic.in

so.complaints-pci@gov.in

pcibppcomplaint@gmail.com

Website : www.presscouncil.nic.in

[Sections 13, 14 and 15 of the Press Council Act, 1978 and the Press Council (Procedure for Inquiry) Regulations, 1979 may be referred for complaint mechanism and working of the Council]



ANNEXURE-P-3

**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.

ANNEXURE-P-4

The
Information Technology (Procedure and Safeguards
for Blocking for Access of Information by Public)
Rules, 2009¹

(IT (Procedure and Safeguards for Blocking for Access of Information by Public)
Rules, 2009)

[27th October, 2009]

In exercise of the powers conferred by clause (z) of sub-section (2) of Section 87, read with sub-section (2) of Section 69-A of the Information Technology Act, 2000 (21 of 2000), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.—(1) These rules may be called the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009.

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

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

(a) "Act" means the Information Technology Act, 2000 (21 of 2000);

(b) "computer resource" means computer resource as defined in clause (k) of sub-section (1) of Section 2 of the Act;

(c) "designated officer" means an officer designated as Designated Officer under Rule 3;

(d) "Form" means a form appended to these rules;

(e) "intermediary" means an intermediary as defined in clause (w) of sub-section (1) of Section 2 of the Act;

(f) "nodal officer" means the nodal officer designated as such under Rule 4;

(g) "organisation" means—

(i) Ministries or Departments of the Government of India;

(ii) State Governments and Union Territories;

(iii) any agency of the Central Government, as may be notified in the Official Gazette, by the Central Government;

(h) "request" means the request for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource;

(i) "review committee" means the Review Committee constituted under Rule 419-A of Indian Telegraph Rules, 1951.

3. Designated Officer.—The Central Government shall designate by notification² in Official Gazette, an officer of the Central Government not below the rank of a Joint Secretary, as the "Designated Officer", for the purpose of issuing direction for blocking for access by the public any information generated, transmitted, received, stored or hosted in any computer resource under sub-section (2) of Section 69-A of the Act.

► **Constitutional of Validity**.—Rule 3 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

4. Nodal officer of organisation.—Every organisation for the purpose of these rules, shall designate one of its officer as the Nodal Officer and shall intimate the same to the Central Government in the Department of Information Technology under the Ministry of Communications and Information Technology, Government of India and also publish the name of the said Nodal Officer on their website.

► **Constitutional of Validity**.—Rule 4 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

5. Direction by Designated Officer.—The Designated Officer may, on receipt of any

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request from the Nodal Officer of an organisation or a competent court, by order direct any Agency of the Government or intermediary to block for access by the public any information or part thereof generated, transmitted, received, stored or hosted in any computer resource for any of the reasons specified in sub-section (1) of Section 69-A of the Act.

► **Constitutional of Validity.**—Rule 5 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

6. Forwarding of request by organisation.—(1) Any person may send their complaint to the Nodal Officer of the concerned organisation for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource:

Provided that any request, other than the one from the Nodal Officer of the organisation, shall be sent with the approval of the Chief Secretary of the concerned State or Union territory to the Designated Officer:

Provided further that in case a Union territory has no Chief Secretary, then, such request may be approved by the Adviser to the Administrator of that Union territory.

(2) The organisation shall examine the complaint received under sub-rule (1) to satisfy themselves about the need for taking of action in relation to the reasons enumerated in sub-section (1) of Section 69-A of the Act and after being satisfied, it shall send the request through its Nodal Officer to the Designated Officer in the format specified in the Form appended to these rules.

(3) The Designated Officer shall not entertain any complaint or request for blocking of information directly from any person.

(4) The request shall be in writing on the letter head of the respective organisation, complete in all respects and may be sent either by mail or by fax or by e-mail signed with electronic signature of the Nodal Officer:

Provided that in case the request is sent by fax or by e-mail which is not signed with electronic signature, the Nodal Officer shall provide a signed copy of the request so as to reach the Designated Officer within a period of three days of receipt of the request by such fax or e-mail.

(5) On receipt, each request shall be assigned a number along with the date and time of its receipt by the Designated Officer and he shall acknowledge the receipt thereof to the Nodal Officer within a period of twenty-four hours of its receipt.

► **Constitutional of Validity.**—Rule 6 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

7. Committee for examination of request.—The request along with the printed sample content of the alleged offending information or part thereof shall be examined by a committee consisting of the Designated Officer as its chairperson and representatives, not below the rank of Joint Secretary in Ministries of Law and Justice, Home Affairs, Information and Broadcasting and the Indian Computer Emergency Response Team appointed under sub-section (1) of Section 70-B of the Act.

► **Constitutional of Validity.**—Rule 7 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

8. Examination of request.—(1) On receipt of request under Rule 6, the Designated Officer shall make all reasonable efforts to identify the person or intermediary who has hosted the information or part thereof as well as the computer resource on which such information or part thereof is being hosted and where he is able to identify such person or intermediary and the computer resource hosting the information or part thereof which have been requested to be blocked for public access, he shall issue a notice by way of letters or fax or e-mail signed with electronic signatures to such person or intermediary in control of such computer resource to appear and submit their reply and clarifications, if any, before the committee referred to in Rule 7, at a specified date and time, which shall not be less than forty-eight hours from the time of receipt of such notice by such person or intermediary.

(2) In case of non-appearance of such person or intermediary, who has been served with the notice under sub-rule (1), before the committee on such specified date and time, the committee shall give specific recommendation in writing with respect to the request received

from the Nodal Officer, based on the information available with the committee.

(3) In case, such a person or intermediary, who has been served with the notice under sub-rule (1), is a foreign entity or body corporate as identified by the Designated Officer, notice shall be sent by way of letters of fax or e-mail signed with electronic signatures to such foreign entity or body corporate and any such foreign entity or body corporate shall respond to such a notice within the time specified therein, failing which the committee shall give specific recommendation in writing with respect to the request received from the Nodal Officer, based on the information available with the committee.

(4) The committee referred to in Rule 7 shall examine the request and printed sample information and consider whether the request is covered within the scope of sub-section (1) of Section 69-A of the Act and that it is justifiable to block such information or part thereof and shall give specific recommendation in writing with respect to the request received from the Nodal Officer.

(5) The Designated Officer shall submit the recommendation of the committee, in respect of the request for blocking of information along with the details sent by the Nodal Officer, to the Secretary in the Department of Information Technology under the Ministry of Communications and Information Technology, Government of India (Hereinafter referred to as the "Secretary, Department of Information Technology").

(6) The Designated Officer, on approval of the request by the Secretary, Department of Information Technology, shall direct any agency of the Government or the intermediary to block the offending 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 request of the Nodal Officer is not approved by the Secretary, Department of Information Technology, the Designated Officer shall convey the same to such Nodal Officer.

► **Constitutional of Validity.**—Rule 8 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

9. Blocking of Information in cases of emergency.—(1) Notwithstanding anything contained in Rules 7 and 8, the Designated Officer, in any case of emergency nature, for which no delay is acceptable, shall examine the request and printed sample information and consider whether the request is within the scope of sub-section (1) of Section 69-A of the Act and it is necessary or expedient and justifiable to block such information or part thereof and submit the request with specific recommendations in writing to Secretary, Department of Information Technology.

(2) In a case of emergency nature, the Secretary, Department of Information Technology 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 or intermediary in control of such computer resource hosting such information or part thereof without giving him an opportunity of hearing.

(3) The Designated 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 referred to in Rule 7 for its consideration and recommendation.

(4) On receipt of recommendations of Committee, Secretary, Department of Information Technology, 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, Department of Information Technology in his final order, the interim direction issued under sub-rule (2) shall be revoked and the person or intermediary in control of such information shall be accordingly directed to unblock the information for public access.

► **Constitutional of Validity.**—Rule 9 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

10. Process of order of court for blocking of information.—In case of an order from a competent court in India for blocking of any information or part thereof generated, transmitted, received, stored or hosted in a computer resource, the Designated Officer shall,

immediately on receipt of certified copy of the court order, submit it to the Secretary, Department of Information Technology and initiate action as directed by the court.

► **Constitutional of Validity.**—Rule 10 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

11. Expeditious disposal of request.—The request received from the Nodal Officer shall be decided expeditiously which in no case shall be more than seven working days from the date of receipt of the request.

12. Action for non-compliance of direction by intermediary.—In case the intermediary fails to comply with the direction issued to him under Rule 9, the Designated Officer shall, with the prior approval of the Secretary, Department of Information Technology, initiate appropriate action as may be required to comply with the provisions of sub-section (3) of Section 69-A of the Act.

13. Intermediary to designate one person to receive and handle directions.—(1) Every intermediary shall designate at least one person to receive and handle the directions for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource under these rules.

(2) The designated person of the intermediary shall acknowledge receipt of the directions to the Designated Officer within two hours on receipt of the direction through acknowledgement letter or fax or e-mail signed with electronic signature.

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

► **Constitutional of Validity.**—Rule 14 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

15. Maintenance of records by Designated Officer.—The Designated Officer shall maintain complete record of the request received and action taken thereof, in electronic database and also in register of the cases of blocking for public access of the information generated, transmitted, received, stored or hosted in a computer resource.

16. Requests and complaints to be confidential.—Strict confidentiality shall be maintained regarding all the requests and complaints received and actions taken thereof.

► **Constitutional of Validity.**—Rule 16 held, Constitutionally valid, *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

FORM
[See Rule 6(2)]

A. Complaint

1. Name of the complainant: —

(Person who has sent the complaint to the Ministry/Department/State Govt./Nodal Officer)

2. Address: _____

City: _____ Pin _____ Code: _____

3. Telephone: _____ (Prefix STD Code) 4. Fax (If any): _____

5. Mobile (If any): _____

6. E-mail (If any): _____

B. Details of website/computer resource/intermediary/offending information hosted on the website

(Please give details wherever known)

7. URL/WEB address: _____
8. IP Address: _____
9. Hyperlink: _____
10. Server/Proxy Server Address: _____
11. Name of the Intermediary: _____
12. URL of the Intermediary: _____

(Please attach screenshot/printout of the offending information)

13. Address or location of intermediary in case the intermediary is telecom service provider, network service provider, internet service provider, web-hosting service provider and cyber café or other form of intermediary for which information under points (7), (8), (9), (10), (11) and (12) are not available.

C. Details of Request for blocking

14. Recommendation/Comments of the Ministry/State Govt: _____

15. The level at which the comments/recommendation have been approved
(Please specify designation) : _____

16. Have the complaint been examined in Ministry/State Government : Y/N

17. If yes, under which of the following reasons it falls (Please tick):

(i) Interest of sovereignty or integrity of India

(ii) Defence of India

(iii) Security of the State

(iv) Friendly relations with foreign States

(v) Public order

(vi) For preventing incitement to the commission of any cognisable offence relating to above

D. Details of the Nodal Officer forwarding the complaint along with recommendation of the Ministry/State Govt. and related enclosures

18. Name of the Nodal Officer: _____

19. Designation: _____

20. Organisation: _____

21. Address: _____

City : _____ Pin Code : _____

22. Telephone : _____ (Prefix STD Code) 23. Fax (If any) : _____

23. Mobile (If any): _____

24. E-mail (If any): _____

E. Any other information:

F. Enclosures: 1.

2.

3.

Date:

Place:

Signature

¹ Ministry of Communications and Information Technology (Deptt. of Information Technology), Noti. No. G.S.R. 781(E), dated October 27, 2009, published in the Gazette of India, Extra., Part II, Section 3(i), dated 27th October, 2009, pp. 29-33, No. 618

² See Noti. No. S.O. 117(E), dated 20-1-2010 on page 49.

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ANNEXURE-P-5

To:

1. Shri. Prakash Javadekar

The Union Minister for Information and Broadcasting
Shastri Bhavan.
New Delhi 110001

2. Shri Ravi Shankar Prasad

The Union Minister for Electronics and Information Technology
Shastri Bhavan.
New Delhi 110001
Also,
Electronics Complex
CGO Complex
Pragati Vihar.
New Delhi

February 26. 2021.

Sub: Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 notified on 25.02.2021 purportedly under S. 87(2)(z) & (zg) of the Information and Technology Act, 2000.

Dear Shri. Prakash Javadekar and Shri Ravi Shankar Prasad,

We (DIGIPUB) are an association of digital publications of news and current affairs representing the largest collection of Digital News Publishers in the country. We welcome the initiative and statements by the Minister of Information and Broadcasting stressing the need for self-regulation of all media including digital news media. It is imperative and the need of the hour. We would be happy to participate in a process by which we can come to an appropriate mechanism to make this happen.

However we have some concerns about some specifics of the Rules (Rules) that have been notified and announced yesterday the 25th of February 2021.

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These Rules in some places appear to go against the fundamental principle of news and its role in a democracy. While rules and laws already exist to hold news media accountable, the aforesaid rules enable the executive government to even remove content published as current affairs or news (Rule 14.) among other things.

We draw your attention to the well settled jurisprudence on news media. A publication relating to current affairs represents not only the author or publisher's fundamental right to expression under Article 19(1)(a) of the Constitution but also the citizen's right to be informed and to have access to differing viewpoints. For the executive to have the absolute power to regulate the content of news portals or publications would be to strike not only at the constitutional scheme but at democracy itself.

There are some other anomalies in the rules as formulated. In the Rules as drafted, expression may invite adverse consequential action, such as in the case of defamation. Such action should only happen after adjudication by open courts of law, on legal principles. This entire legal process is bypassed by the Rules, in as much as, upon a complaint of defamation, a body consisting of bureaucrats and controlled by the Central Government may decide the merits and block access to the content of any current affairs publication.

Likewise, whether or not a publication is pornographic or offends any other law, is a matter of due process and adjudication by an open and independent judiciary. All these powers will now be wielded by a Government of India body. This also goes against the principle of separation of powers.

While it is recognised that the freedom of expression is subject to reasonable restrictions, these restrictions must be demonstrably and strictly necessary to the interests enumerated in Article 19(2), and must also be reasonable, fair and just. To empower a body of government servants to do so could inhibit the news media for doing its job.

For the written medium, the emphatic jurisprudence has been that it should remain free of all executive control. Even proscription of books under S. 95 of the CrPC is subject to a right of review by a Special bench of the High Court consisting of three judges.

A current affairs portal is by and large, a written newspaper in the digital format. From the early 1950s, with the setting up of the Press Council, the idea has been that the written medium be kept away from all executive interference in the interest of not just the publication, but of the wider public to ensure the widest possible dissemination of news and ideas.

Even the small-screen has been left by and large to regulate itself without any executive interference, i.e., through the NBSA. We believe to subject the digital medium to executive control in the manner provided for by the rules would be unfair and overarching.

While digital media may be multimedia and use visuals, those are anyway subject to all penal and other laws and subject to regulations already in place.

Having said the above, we draw your attention to a matter of very important detail.

The IT ACT, 2000 does not at all take within its ken - digital media. 'News and current affairs content', 'newspaper' and a 'publisher' of the same, are not recognised by the IT Act at all. When the parent statute does not comprehend these operations, the delegated legislation within these Rules need not take into its ambit digital news.

More so if one views, the sections under which these Rules have been formulated, i.e. S. 87(2) (z) & (zg). Sub clause z refers to blocking of access to the public under. S. 69A, IT Act, which is limited to concerns of national security. Sub-clause zg is limited only to intermediaries. Even the Rules recognise that publishers of content on current affairs are not intermediaries at all but entirely distinct.

As an association of digital news portals, we recognise the need for maintaining journalistic standards and for self-regulation, and are happy to contribute in evolving the means to achieve this.

We offer once again to have consultations with stakeholders before notifying these Rules. We ourselves wrote to the Honourable Minister for Information and Broadcasting on December 2, 2020, requesting to be part of a consultation process, but never received a reply. We believe it is still not too late. We request you to repeal these Rules, or at least put them on hold, until meaningful consultations are undertaken with all the stakeholders.

With warm regards on behalf of DIGIPUB,

Dhanya Rajendran – Chairperson

Prabir Purkayastha – Vice Chairperson

Ritu Kapur – General Secretary

Abhinandan Sekhri – General Secretary

भारतीय गैर न्यायिक

बीस रुपये **Rs.20**

रु.20 **TWENTY RUPEES**

INDIA NON JUDICIAL

इम्फाल MANIPUR 01AA 132237

BEFORE THE OATH COMMISSIONER MANIPUR AT IMPHAL
AFFIDAVIT

I, Aribam Dhananjay Sharma alias Paojel Chaoba, s/o Aribam Priyogopal Sharma, aged about 43 years, resident of Thangmeiband Lourungpurel Leikai, Imphal-West, Manipur – 795001 solemnly swear and affirm as follows :-

1. I am a (Directorate of Information and Public Relations) DIPR accredited senior journalist and presently an executive editor of The Frontier Manipur, a digital web portal which publishes news and current affairs at its website www.thefrontiermanipur.com and the audio visual producer of "KHANASI NEINASI" in Manipuri which means " Let us discuss" a discussion programme streamed through the social media.
2. I received information from my father Mr. Aribam Priyogopal Sharma that a team of six police officers clad in khaki carrying arms came to my Thangmeiband Lourungpurel Leikai residence at around 9 AM on the Second (2nd) day of March, 2021 (Tuesday) had issued a Notice purportedly to be given to me. The Notice was received by my father as I was not at my residence at that time.
3. From the Notice, it is apparent that it has been issued on 01.03.2021 and signed in the name of Naorem Praveen Singh (District Magistrate, Imphal West District), and without any seal and addressed to "The Publisher/ Intermediary, "KHANASI NEINASI."

Contd..2/-

Ch. Dorendro Singh
63-08-2021

Ch. Dorendro Singh
Oath Commissioner (Judicial)
Imphal West, Manipur
Regd. No. 432/2020

//TRUE COPY//



- 4. A true copy of the Notice is annexed herewith and marked as ANNEXURE-A-1.
- 5. The Notice purportedly directs the noticee to furnish all the relevant documents showing that the notice ensures compliance with the provisions of the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021; failing which steps as deemed fit shall be initiated without further notice.
- 6. In the evening of the same day i.e. 02.03.2021, I received information as reported in the Press that the said Notice has been withdrawn by the said District Magistrate.

DEPONENT

VERIFICATION ARIBAM DHANANJOY SHARMA

Verified at Imphal on this the Third (3rd) day of March, 2021 that the contents of the above Affidavit from Paras 1 through 6 are true to the best of my knowledge and belief; no part of it is false and nothing material is concealed therefrom.

DEPONENT

03-03-2021
 At 02:47 pm the Court premises by
 the Dependent/Deponent who is identified
 as Pasminthang (ASU). The
 Dependent seems to understand the contents fully well on his/her being represented as mentioned in his/her statement.

ARIBAM DHANANJOY SHARMA

03-03-2021
 Ch. Dorendro Singh
 Oath Commissioner (Judicial)
 Imphal West, Manipur
 Regd. No. 432/2020

Imphal, the 1st March, 2021

ANNEXURE-A-1

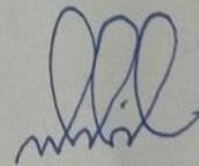
To

The Publisher/Intermediary,
KHANASI NEINASI.

Whereas, it has come to the notice of the undersigned that you are providing online services on news and current affairs on the social media platform through the facebook page, Khanasi neinasi;

Whereas, the Ministry of Electronics and Information Technology, Government of India vide its notification No. G.S.R. 139(E) dated 25th February, 2021 has issued the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 by way of exercising 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, wherein Due Diligence, Code of Ethics and Procedure and Safeguards in relation to Digital Media, Self Regulating Mechanism and Furnishing of Information, amongst others, to be observed by the intermediaries and/or by all concerned including publishers, social media intermediaries are spelt out;

As such, you are hereby directed to furnish all the relevant documents showing that you ensure compliance of the provisions of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021; failing which steps as deemed fit shall be initiated without further notice.



(Naorem Praveen Singh)

District Magistrate, Imphal West District.

Copy to:

1. Staff Officer to Chief Secretary, Manipur
2. Director General of Police, Manipur.
3. Special Secretary (Home), Government of Manipur.
4. Superintendent of Police, Imphal West District with a request to cause service & delivery of this notice to the publisher/intermediary concerned.
5. File.

IN THE HIGH COURT OF DELHI, AT NEW DELHI
EXTRAORDINARY CIVIL WRIT JURISDICTION

C.M. No. _____ of 2021

In
WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF:

FOUNDATION FOR INDEPENDENT JOURNALISM & ORS

...Petitioners

Versus

UNION OF INDIA & ANR.

...Respondents

APPLICATION FOR EX PARTE AD INTERIM STAY UNDER O39

R1 R/W SECTION 151 OF THE CODE OF CIVIL PROCEDURE

1. The accompanying Writ 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 seek to regulate publishers of news and current affairs content under Part III of the Rules (“Impugned Part”) and impose Government oversight and a Code of Ethics over them, thereby going beyond the object and scope of the parent Act.
2. The IT Rules, 2021 have been notified and published in the Official Gazette on 25th February, 2021 and have come into effect from that date.
3. The instant Application seeks an *ad interim ex parte* stay of the Impugned Rules for the reasons mentioned in the Petition.

4. It is submitted that the *prima facie* case is made out clearly in the Petition. Furthermore, the balance of convenience rests with the Petitioners, inasmuch as in the event that a stay is granted, it only extends the *status quo* as on date. In the event that the stay is not granted, the Petitioners and other similarly placed publishers of digital news and current affairs content become subject to the new legal regime, which requires compliance with a number of things including the constitution and registration of a regulatory body.
5. This is in addition to the grave and irreparable harm that will be caused by the direct oversight and regulation of news media and its content, by the Government. For instance, in the event that the Petitioners fail to comply, various penal provisions including Section 45 of the IT Act, 2000 and perhaps Section 188 of the Indian Penal Code, 1860 may be pressed against the Petitioners and their officers.
6. These may be difficult to be undone even if the Petitioners eventually succeed. Therefore balance of convenience also rests clearly with the Petitioners and in favour granting the interim reliefs prayed for herein.
7. This Application is *bona fide*.

PRAYER

8. In the premises, this Hon'ble Court may be pleased to issue appropriate declarations, writs, orders and directions as set out below:
 - a) Pass *an ad interim ex parte stay* on the operation of Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 as against the Petitioners;

b) Pass any other order or direction that this Hon'ble Court may deem just and proper in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL,
AS IN DUTY BOUND EVER PRAY

Filed on:- 06.03.2021

Place: - New Delhi

PRASANNA S
VINOOTHNA VINJAM & BHARAT GUPTA
ADVOCATES FOR THE PETITIONERS

506, Sector-A Pocket C, Vasantkunj,

New Delhi – 110070 Mobile – 87503 50762

mail@advocateprasanna.in

IN THE HIGH COURT OF DELHI AT NEW DELHI
(EXTRAORDINARY CIVIL ORIGINAL JURISDICTION)

C.M. No. _____ of 2021

In

Writ Petition (Civil) No. _____ of 2021

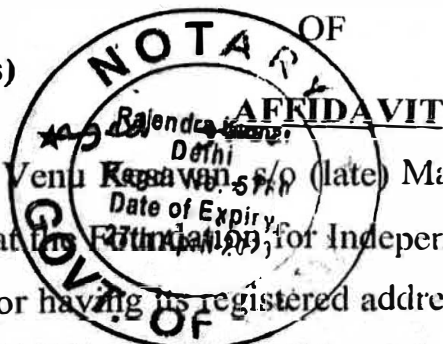
IN THE MATTER OF:

FOUNDATION FOR INDEPENDENT JOURNALISM &

...Petitioner(s)

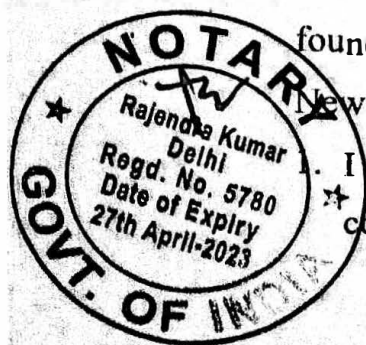
Versus

UNION OF INDIA & ORS
...Respondent(s)

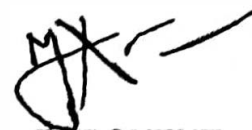


I, Mangalam Venu Kesavan S/O (late) Mangalam Parameswaran who is a Director at the Foundation for Independent Journalism and also its founding editor having its registered address at K-2, B K Dutt Colony, New Delhi – 110003 solemnly affirm and declare as under that :-

I am the Director and the founding editor at the Petitioner No.1 company and the Petitioner No.2 herein.



2. I am conversant with the facts and circumstances of the accompanying Application.
3. I have read and understood the contents of the accompanying Application which has been prepared by my counsel under my instructions.
4. The contents of the accompanying Application in Paras 1 through 6 are true and correct based on records maintained by the Petitioner company.



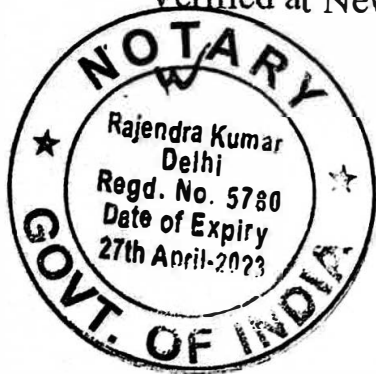
DEPONENT

VERIFICATION

IDENTIFIED

I, the abovenamed deponent, do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed here from.

Verified at New Delhi on this the 4th Day of March 2021




DEPONENT



ATTESTED
 RAJENDRA KUMAR
 NOTARY, DELHI-R-5780
 GOVERNMENT OF INDIA
 SUPREME COURT OF INDIA
 COMPOUND, NEW DELHI
 Register Pg./Sl. No.
 Mobile No.: 9899446209

RAJENDRA KUMAR, NOTARY, Reg. No. 5780
 F No.-5(486)
 EMPOWERED TO ADMINISTER THE OATH
 SECTION 139 OF CPC 1908
 SECTION 297 OF CRPC 1973
 DELHI HIGH COURT RULES 1967
 PART-6, CHAPTER XVIII-227
 EVIDENCE BY AFFIDAVIT BEFORE NOTARY
 SUPREME COURT RULES, 2013
 ORDER IX-7

040321
 114

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE
 DEPONENT EXECUTANT WHO IS SEEMED PERFECTLY
 UNDERSTAND & AFFIRMED DEPOSED BEFORE ME
 DELHI ON..... IDENTIFIED BY

IDENTIFY THE EXECUTANT/DEPONENT WHO HAS
 SIGNED IN MY PRESENCE

04 MAR 2021
 04 MAR 2021
 S. Manojan

IDENTIFIED