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M. A. Mass Communication (2nd year)

MEDIA LAWS MMC 204 Lesson: 1

MEDIA LAWS - AN INTRODUCTION

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LESSON STRUCTURE:

This lesson shall provide an introduction to the various media laws in India. We shall start with the provisions for freedom for media in the Constitution of India and reasonable restrictions as imposed by the Constitution. Finally, we shall try to understand the various laws related to media in India. The lesson structure shall be as follows:

- 1.0 *Objectives*
- 1.1 *Introduction*
- 1.2 *Presentation of Content*
 - 1.2.1 *Constitutional Provisions for Freedom of Media in India*
 - 1.2.2 *Reasonable Restrictions as Imposed by the Constitution*
 - 1.2.3 *Major Laws related to Media in India*
- 1.3 *Summary*
- 1.4 *Key Words*
- 1.5 *Self-Assessment-Questions (SAQs)*
- 1.6 *References/Suggested Reading*

1.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Know About the Constitutional Provisions for Freedom of Media in India*
- *To Know About the Reasonable Restrictions as Imposed by the Constitution*
- *To Know About the Major Laws related to Media in India*

1.1 INTRODUCTION:

There are many laws that regulate the performance of media in India. Laws related to the mass media have been there since the very beginning. In the time of the British Raj, many laws related to the Press were enacted. In the post-Independence time, the various Governments have enacted many more media related laws. Some of these media related laws are:

- *First Press Regulations, Gagging Act,*
- *Indian Press Act,*
- *Vernacular Press Act,*
- *Constitutional Provisions regarding Press Freedom,*
- *Official Secrets Act,*
- *Press and Registration of Books Act,*
- *Sea Customs Act Contempt of Court,*
- *Young Persons (Harmful Publications) Act,*
- *Parliamentary Proceedings Act,*
- *Delivery of Books and Newspapers Act Copyright Act,*
- *Defense of India Act,*
- *Press Council of India Act,*
- *Police Act,*
- *Drugs and Magic Remedies Act,*
- *Cable Television Regulation Act, Right to Information.*

Some of these laws are directly related to mass media. Some of these are only indirectly related to the mass media. Most of these laws are still prevalent. But a few of these laws have been abolished. Some laws have been changed to suit the changing times. We shall discuss about most of these laws in this lesson.

1.2 PRESENTATION OF CONTENT:

Media of mass communication are very important part of the modern society. They are also very powerful systems that influence the society. At a certain level media influences the present and can also influence the future of the society. Mass media have the power to make or unmake governments.

So it is clear that mass media are quite powerful. But the exercise of power by the media gets regulated and controlled by the various laws and rules enacted from time to time.

In a democratic society media enjoy more powers and face less restrictions and regulations. In an authoritarian form of governance, the working of the media is restricted and controlled to a great extent. Sometimes media in autocracies or under military rule are not all free.

In India, the situation is a mixed one. The mass media enjoy certain freedom. But the Constitution imposes certain reasonable restrictions. Then there are laws that regulate the functioning of mass media in India. Media laws in India have a long history right from the British rule. The Government enacted several rules and regulations in India to perpetuate in rule. After independence, more laws have been enacted and the old ones amended for the benefit of the society.

Some of the laws that regulate the performance of media in India are mentioned below. A few of the laws will be discussed in detail in other lessons.

The content of this lesson is presented as under:

- *Constitutional Provisions for Freedom of Media in India*
- *Reasonable Restrictions as Imposed by the Constitution*
- *Major Laws related to Media in India*

1.2.1 CONSTITUTIONAL PROVISIONS FOR FREEDOM OF MEDIA:

The Indian Constitution does not provide freedom for media separately. But there is an indirect provision for media freedom. It gets derived from *Article 19(1) (a)*. This Article guarantees *freedom of speech and expression*. The freedom of mass media is derived indirectly from this Article.

Our Constitution also lays down some restrictions in the form of Article 19(2).

Regarding the issue of freedom of speech, Dr. B. R. Ambedkar explained the position as follows:

"The press (or the mass media) has no special right which are not to be given to or which are not to be exercised by the citizen in his individual capacity. The editor of a Press or the manager are all citizens and, therefore, when they choose to represent any newspapers, they are merely exercising their right of expression and in my judgement no special mention is necessary of the freedom of Press at all."

On the matter of the freedom of speech and expression, the first Press Commission in its report said,

"This freedom is stated in wide terms and includes not only freedom of speech which manifests itself by oral utterances, but freedom of expression, whether such expression is communicated by written word or printed matter. Thus, freedom of the press particularly of newspapers and periodicals is a species of which the freedom of expression is a genus. There can, therefore, be no doubt that freedom of the press is included in the fundamental right of the freedom of expression guaranteed to the citizens under Article 19(1) (a) of the Indian Constitution."

Justice Mudholkar, a Supreme Court Judge said during Emergency (1975-77),

"Pre-censorship, prohibition on import of printed and published material, placing a ban on printing and publishing material of a specified nature, demanding security from the press or placing any restriction which would amount to an indirect curb on free circulation of a newspaper or class of newspaper should confine itself have all been held to be bad in law."

Article 19 of the Indian constitution lays down,

"All citizens shall have the right to freedom of speech and expression, to assemble peaceably, and without arms, to form associations or unions, to move freely throughout the territory of India, to reside in any part of the territory of India, to acquire hold and dispose of property and to practice any profession or to carry on any occupation, trade or business.

However the right to freedom of speech and expression shall not affect the operation of any existing law or prevent the state from making any law insofar as such law imposes reasonable restrictions on the exercise of that right in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public decency or morality or In relation to contempt of court, defamation or incitement to offence".

Thus the type of freedom of expression guaranteed to the American Citizen does not exist in India but that he is liable to "reasonable restrictions.

1.2.2 REASONABLE RESTRICTIONS ON MEDIA:

It is strange, unique and paradoxical that what is provided as a right by our Constitution on the

one hand is taken away by some sub-clause in the same situation. Mr. M. C. Chagla has given a general reply to this paradox, which may be put in the following ways:

It has been said that our Constitution gives fundamental rights with one hand, and with other hand takes them away. It is also said that, our Constitution circumscribes the given rights by numerable exceptions and provisions. This is a very wrong criticism.

Article 19 of our Constitution deals with the right to freedom and it enumerates certain rights regarding individual freedom of speech and expression etc. These provisions are important and vital, which lie at the very root of liberty.

It is true that in the sub-clauses that follow, certain limitations are placed upon these freedoms with regard to freedom of speech and expression. In addition, there are many laws that relate to libel, slander, defamation, contempt of court, or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow the State.

It can be seen that these limitations are related to the objective standards laid down by the Constitution. Similarly, the legislature is given the right to impose reasonable restrictions in the interest of public order on the right to assemble peaceably and without arms. Whether a restriction is reasonable or not is not left to the determination of the legislature, and of the executive. But it is again an objective consideration, which has got to be determined by the Court of law. Only such a restriction would be reasonable as the Court thinks as reasonable.

It is clear therefore that the Constitution has not left the laws to the mercy of the party in power or to the whims of the executive. No one is allowed to limit, control or impair our fundamental rights by changing, amending, or introducing new laws that easily. Any limitation of a fundamental right has to be before a Court of law.

Legislatures, indeed, have been empowered to impose reasonable restrictions on freedom of speech and expressions on the following grounds:

- *Integrity of India,*
- *Security of the State,*
- *Friendly Relations with neighboring Countries,*
- *Public order,*
- *Decency or morality,*
- *Contempt of Court and Contempt of Legislature,*
- *Defamation, and*
- *Incitement to an offence.*

By and large the necessity for imposing "reasonable restrictions" by the legislature has not been

seriously challenged by the newspaper world (and media world) where matters of state security or the integrity of India are concerned. And where the superior judiciary is concerned, Justice Mudholkar has remarked, there has been a long tradition of non-interference with the freedom of the press (and other mass media) except where newspaper was found guilty of contempt of court.

Thus, it is evident that the freedom conferred by Article 19 (1) (a) in fairly general terms. It does not for example, even refer specifically to the freedom of the Press (or mass media) as is envisaged in the corresponding provision in the American Constitution.

Judicial decisions have, however, affirmed that Article 19 (1) is sufficiently wide to include the freedom of the Press and implicitly, the freedom of other mass media.

In addition to the provisions mentioned above, there are several important laws, which a media person must know. We shall discuss some of these now.

1.2.3 MAJOR MEDIA LAWS IN INDIA:

Some of the major laws related to mass media in India include the following:

- *First Press Regulations,*
- *Gagging Act,*
- *Indian Press Act,*
- *Vernacular Press Act,*
- *Constitutional Provisions regarding Press Freedom,*
- *Official Secrets Act,*
- *Press and Registration of Books Act,*
- *Sea Customs Act,*
- *Contempt of Court Act,*
- *Young Persons (Harmful Publications) Act,*
- *Parliamentary Proceedings Act,*
- *Delivery of Books and Newspapers Act,*
- *Copyright Act,*
- *Defense of India Act,*
- *Press Council of India Act,*
- *Police Act,*
- *Drugs and Magic Remedies Act,*
- *Cable Television Regulation Act,*

- *Right to Information Act.*

FIRST PRESS REGULATIONS, 1799:

On 13th May 1799, Lord Wellesley promulgated the First Press Regulations. According to these regulations it was mandatory for the newspapers to print the names and addresses of printers, editors and publishers. However, these regulations were abolished during the administration of Warren Hastings in 1813.

GAGGING ACT, 1857:

In 1857, a law was enacted known as the "Gagging Act". This Act introduced mandatory licensing for running or owning a printing press. It empowered the Government to prohibit the publication or circulation of any newspaper, book or any printed matter. It allowed the Government to ban the publications or dissemination of statements or news stories, which had a tendency to cause hatred or contempt for the Government, incite disaffection or unlawful resistance to its orders or weaken its lawful authority. The Act was, however, abolished in June 1858.

VERNACULAR PRESS ACT, 1878:

This Act was enacted on March 1, 1878. This Act empowered the then British Government to exercise more stringent control over publications in the Indian languages. Under this Act, any District Magistrate or Police Commissioner could demand security from the printer and publisher of a newspaper, forfeit such security or confiscate any printed matter considered objectionable in the interest of the British Government.

INDIAN PRESS ACT, 1910:

Under this Act, owners of presses were required to tender security deposits. These securities were to be forfeited if they printed any objectionable matter. In addition, the police was given extensive powers of search and seizure. The harshness of the legislation was matched by vigorous enforcement of its provisions. The British Government, between 1910 and 1914, initiated no fewer than 355 cases.

OFFICIAL SECRETS ACT, 1923:

This is an act, which consolidates the law relating to official secrets, and deals with offences like

spying and wrongful communication of secret information.

Section 3 of the Act makes it an offence if any person for any purpose prejudicial to the public safety and the interests of the state:

- *Approaches, inspects, passes over or is in the vicinity of or enters any prohibited place,*
- *Makes any sketch, plan, model or note which is calculated to be or-might be or is intended to be directly or indirectly useful to an enemy, or*
- *Obtains, collects, records or publishes or communicates to any person such sketch, etc.*

In a prosecution for an offence punishable under Section 3(1) of the Act, with imprisonment for a term which may extend to 14 years.

THE PRESS AND REGISTRATION OF BOOKS ACT, 1867:

This Act was enacted with a view to evaluating the present position of books, newspapers, and magazines in the country at any given time. The most important aspect of this Act is that every copy of a newspaper shall contain the names of the owner, publisher, and editor printed clearly on all the copies. The printer of every newspaper is required to deliver to the State Government free of expense two copies of each issue of the newspaper as soon as it is published. Failure to do so is treated as an offence.

SEA CUSTOMS ACT, 1878:

Section 8 (c) of the Act prohibits the bringing into India whether by land, or by sea "any obscene book, pamphlet, paper, drawing, painting, representation, figure or article." These items can be confiscated.

CONTEMPT OF COURT ACT:

Contempt of Court is one of the reasonable restrictions under Article 19(2) of the Indian Constitution. This Act was enacted for the first time in the year 1952. Later on this was again enacted in 1971, which was further amended in 1976.

YOUNG PERSON'S (HARMFUL PUBLICATIONS) ACT, 1956:

This Act seeks to prohibit the publication in India of such literature as glorifies crime, violence or vice.

PARLIAMENTARY PROCEEDINGS (PROTECTION OF PUBLICATION) ACT, 1956:

This Act was enacted with a view to protecting the publications of reports of proceedings of Parliament except in newspapers. Section 3 of the Act states that no person shall be liable to any proceedings, civil or criminal in any court, in respect of the publication in a newspaper of substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have made with malice.

DELIVERY OF BOOKS AND NEWSPAPERS (PUBLIC LIBRARIES) ACT, 1954:

This Act enjoins upon the publisher of every newspaper to deliver at his own expense one copy of each issue of such newspaper as soon as it is published to each public library as may be notified by the Central Government. Contravention of any provision of this Act becomes punishable.

COPYRIGHT ACT, 1957:

Section 52 of this Act lays down that certain acts shall not constitute an infringement of Copyright, such as fair use, fair quotation, bonafide abridgements and the like.

DEFENSE OF INDIA ACT, 1962:

According to Justice Mudholkar, "upon the declaration of emergency, the Parliament will be empowered to make laws affecting the freedom of the Press. It is as if the freedom of media disappears in a situation of emergency. Any law made by the Parliament, under a situation of emergency, cannot be challenged on the ground of legislative incompetence for as long as emergency lasts. Citizens cannot claim any protection under Article 19.

Further, clause 7 of section 3 of the Defense of India Act deals with the entire gamut of printing and publishing of any newspaper or book and the imposition of Censorship.

PRESS COUNCIL OF INDIA ACT, 1965:

The Press Council of India, according to the preamble to the Press Council of India Act, is established:

"For protecting the freedom of the press and maintaining and improving the standards of both newspapers and news agencies"

M.V. Kamath once pointed out that it is important to remember that the Press Council of India is not a Court of Law. It is a *Court of Honour*. Its verdicts are not judicial pronouncements. Therefore, there is no question of punishment imposed on an offending journalist or newspaper.

By that same token the Council cannot award damages to the aggrieved party. As justice Mudholkar put it, "The only weapon in the armory of the Press Council of India is *moral authority*". The sole strength of the Council lies in its appeal to conscience.

The power conferred by section 13 (1 A) requiring a newspaper to publish therein any particulars relating to any enquiry under section 13 does not mean that it has any power to punish a defaulting paper.

The experience of the British Press Council has shown that this power, if properly used and constantly exercised, can become extremely effective. The public rebuke that the Council administers and the moral obligation of the offending newspaper to publish its decisions operates both as a penalty and a deterrent.

The Press Council of India Act, 1965 was later amended on 31st March 1970. The Council's term which expired in December, 1975 was not extended during the Emergency again the Press Council's Act was revised in 1978 which was more or less on the same lines as the Press Council Act, 1965.

POLICE (INCITEMENT TO DISAFFECTION) ACT, 1972:

This Act penalizes any act, which causes or is likely to cause disaffection toward the Government among the member of the police force or which induces or attempts to induce any member of the police force to withhold his services or to commit a breach of discipline.

DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENT) ACT, 1954:

The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954 was enacted to control wrong practices in the advertisement of drugs. In certain cases, this Act is meant to prohibit the advertisement for certain drugs for matters connected therewith.

Any person who contravenes any of the provisions of the Drugs and Magic Remedies Act is punishable by the Act. It takes two forms such as:

- In the case of a first conviction, with imprisonment may extend up to six months or with fine or with both.
- In the case of a subsequent conviction, with imprisonment may extend to one year or with fine or with both (Section 7 of the Act).

CABLE TELEVISION REGULATION ACT, 1995:

This is one of the most recent Acts. According to this Act:

- *No person shall operate a cable television network unless he is registered as a cable operator under this Act.*
- *No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code.*
- *Every cable operator using a dish antenna or "Television Receiver only" shall, from the commencement of this Act, re-transmit at least two Doordarshan Channels of his choice through the cable service. Moreover, the Doordarshan Channels referred to in sub section (1) shall be retransmitted without any deletion or alteration of any programme transmitted on such channels.*

Whoever contravenes any of the provisions of this Act shall be punishable as under:

- *For the first offence, with imprisonment for a term, which may extend to two years or with fine, which may extend to one thousand rupees or with both.*
- *For every subsequent offence, with imprisonment for a term, which may extend to five years and with fine, which may extend to five thousand rupees.*

RIGHT TO INFORMATION ACT:

Noted political analyst James Michael has pointed out in his pioneering book *The Politics of Secrecy* that, "freedom of information" and "right to information" are two different concepts. "Freedom" implies the absence of restraint, particularly of legal penalties. Thus, "freedom of information" means a citizen is free to receive and impart information without fear of punishment. However, there is no obligation on the State to provide any information to the citizen.

The right to information is indispensable for free flow of information. But there was a massive wall in the shape of the Official Secrets Act in India. The official Secrets Act was a hindrance to the flow of information. Hence, there was an urgent need to thoroughly examine the Official Secrets Act.

Through out the last two decades, the demand for the enactment of a Right to Information Act gained momentum. It was felt that right to information, as a fundamental legal right, is necessary to bring about the much-needed transparency in the system.

This sort of right was also viewed as a necessary measure to remove corruption from public and administrative life. Barrier to information is known to be the single largest factor behind corruption as it facilitates arbitrary decisions, clandestine deals, embezzlements and

manipulation of all kinds. If information is made a right, people will be able to ask inconvenient questions from those whose conduct is either suspicions or not above board.

As we are ushering into the 21st century, our life styles and values are changing. Therefore, we should continue changing our approach and attitudes and shake off the old mentalities that has impediments in our evolution as a modern and democratic society.

One school of thought in the media' world strongly felt that the crusade for right to information will be the best contribution to the evolution of such a modern democratic and forward-looking society.

But there was another school of thought still feels that Official Secrets Act has its own importance from the point of view of maintaining efficiency in the Government.

The Press Commission opined that secrecy in bureaucracy, which arose out of functional necessity, as a means to achieving organizational efficiency-has become an end in itself from effective outside control.

The Commission's attempt to establish a balance between an open Government and the need of keeping secret certain affairs of State was laudable. But it had a negative attitude of showing a slavish weakness for the British model.

The Commission had noted that the question of amending Section 5 of the Official Secrets Act has been considered by various committees and commissions and the general opinion has been that, since the Act has been administered in a sensible manner, there being few prosecutions under the law, no modifications in the Act are warranted. Section 5 of the Official Secrets Act lays down:

- *If any person having in his possession or control any secret official code or pass word or any sketch, plan, model, article, note, document or information which relates to anything in such a place or which is likely to assist, directly or indirectly, an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under Government or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under Government, or as a person who holds or has held a contract made on behalf of Government, or as a person who is or has been employed under a person who holds or has held such an office or contract.*
- *Willfully communicates the code or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorized to communicate*

it, or a Court of Justice of a person to whom it is in the interests of the State, his duty to communicate it; or

- *Uses the information in his possession for the benefit of any foreign power or any other manner prejudicial to the safety of the State; or*
- *Retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it or willfully fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or*
- *Fails to take reasonable care of or so conducts himself as to endanger the safety of the sketch, plan, model, article, note document, secret official code or pass word or information, he shall be guilty of an offence under this section.*

The Commission recommends that more liberal Act must replace this section. Where the commission goes wrong is in suggesting that the provisions of the British Information Bill should serve as a model for India.

As regards access to information, the Commission has mentioned in a paragraph that Sweden was the first to legislate on the subject open Government being part of the Constitution. Denmark, Finland, The USA, Austria and France have laws on the subject. Austria has formed a Bill and so has Canada.

Mr. Justice P. N. Bhagwati has further held that the concept of an open Government is the emanation from the right to know which seems to be implicit in the right of free speech and expression.

Thus many a legal battles were fought before the right to information became a reality in this country.

Finally the Right to Information Act was enacted in October 2005.

The Indian Right to Information Act was introduced to the Indian Parliament in July 2000. It came into effect on 12 Oct 2005. Under this law the information has become a fundamental right of the citizen. Under this law all Government Bodies or Government funded agencies have to designate a Public Information officer (PIO). The PIO's responsibility is to ensure that information requested is disclosed to the petitioner within 30 days or within 48 hours in case of information concerning the life and liberty of a person. The law was inspired by previous legislations from select states (among them Maharastra, Goa, Karnataka, Delhi etc) that allowed

the right to information (to different degrees) to citizens about activities of any State Government body.

A number of high profile disclosures revealed corruption in various government schemes such as scams in Public Distribution Systems (ration stores), disaster relief, construction of highways etc. The law itself has been hailed as a landmark in India's drive towards more openness and accountability.

However the RTI India has certain weaknesses that hamper implementation. There have been questions on the lack of speedy appeal to non-compliance to requests. The lack of a central PIO makes it difficult to pin-point the correct PIO to approach for requests. The PIO being an officer of the Govt. institution may have a vested interest in disclosing damaging information on activities of his/her Institution, This therefore creates a conflict of interest. In the state of Maharashtra it was estimated that only 30% of the requests are actually realized under the Maharashtra Right to Information act. The law also bars disclosure of information that affects national security, defence, and other matters that are deemed of national interest.

1.3 SUMMARY:

- Mass media are quite powerful. But the exercise of power by the media gets regulated and controlled by the various laws and rules enacted from time to time. In a democratic society media enjoy more powers and face less restrictions and regulations. In an authoritarian form of governance, the working of the media is restricted and controlled to a great extent. Sometimes media in autocracies or under military rule are not all free.
- In India, the situation is a mixed one. The mass media enjoy certain freedom. But the Constitution imposes certain reasonable restrictions. Then there are laws that regulate the functioning of mass media in India. Media laws in India have a long history right from the British rule. The Government enacted several rules and regulations in India to perpetuate in rule. After independence, more laws have been enacted and the old ones amended for the benefit of the society.
- The Indian Constitution does not provide freedom for media separately. But there is an indirect provision for media freedom. It gets derived from *Article 19(1) (a)*. This Article guarantees *freedom of speech and expression*. The freedom of mass media is derived indirectly from this Article. Our Constitution also lays down some restrictions in the form of *Article 19(2)*.
- The press (or the mass media) has no special right, which are not to be given to, or which

are not to be exercised by the citizen in his individual capacity. The editors of a Press or the managers are all citizens and, therefore, when they choose to represent any newspapers, they are merely exercising their right of expression.

- Article 19 of the Indian constitution lays down, "All citizens shall have the right to freedom of speech and expression, to assemble peaceably, and without arms, to form associations or unions, to move freely throughout the territory of India, to reside in any part of the territory of India, to acquire hold and dispose of property and to practice any profession or to carry on any occupation, trade or business.

1.4 KEY WORDS:

Media Laws: Mass media, like any other organization, like to work in absolute freedom. The United States of America allows for explicit freedom for the media in its Constitution. But in most other countries, there is a situation of freedom and reasonable restrictions. In a few countries, there is no freedom for the mass media. But all countries have a wide variety of media related laws.

Reasonable Restrictions: Most countries realize that absolute freedom for media may not be a good idea. So certain reasonable restrictions are put on the media. These restrictions are with regard to morality, decency, defamation, security of the State, relationship with friendly countries, incitement to offence, communal harmony, etc.

Official Secrets: Every nation or country has certain secrets. These could be in the sphere of national security or related fields. But many countries try to put a wide variety of information as official secrets. And laws or Acts related to official secrets try to protect such information.

Registration of newspapers and Books: The Government always want to know which all newspapers and books are being published at any given time. So Acts like Registration of Newspapers and Books Act are enacted to keep track of all such publications.

1.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. What do you mean by Media Laws? Discuss briefly five most important media laws.
2. Why are media laws required? Discuss the importance of media laws.
3. What do you mean by Right to Information? Do you think, it should be made a fundamental right?
4. Do you think Official Secrets Act is a hindrance in the free flow of information? Discuss it.
5. Briefly introduce the different laws of both print media and electronic media.

1.6 REFERENCES / SUGGESTED READING:

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M. A. Mass Communication (2nd year)

MEDIA LAWS MMC 204 Lesson: 2

PRESS LAWS - I

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LESSON STRUCTURE:

This lesson shall provide detailed accounts to the various laws related to the Press in India. We shall start with the Law of Defamation. Next we shall focus on the Contempt of Court and the Official Secrets Act. Finally we shall try to understand the various facets of the Press and Books Registration Act. The lesson structure shall be as follows:

- 2.0 *Objectives*
- 2.1 *Introduction*
- 2.2 *Presentation of Content*
 - 2.2.1 *Law of Defamation*
 - 2.2.2 *Contempt of Court Act*
 - 2.2.3 *Official Secrets Act*
 - 2.2.4 *Press and Books Registration Act*
- 2.3 *Summary*
- 2.4 *Key Words*
- 2.5 *Self-Assessment-Questions (SAQs)*
- 2.6 *References/Suggested Reading*

2.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Know About the Law of Defamation,*
- *To Know About the Contempt of Court Act,*
- *To Know About the Official Secrets Act,*

- *To Know About the Press and Books Registration Act.*

2.1 INTRODUCTION:

Legislation in the shape of Laws and Acts, etc., is a convenient way of controlling the mass media. Many countries have tried this method since a long time now. Other means of suppressing media freedom are oppressive measures like raids, seizures, arrests, fines, etc.

Only few countries like the USA have ensured freedom of media in a direct manner. Most countries, like in India, have some indirect measure. Almost all countries have provisions that impose restrictions in a reasonable manner.

In India, much legislation has been enacted in this direction. Most Governments feel that they have the right to enact such Acts and Laws with a view towards restricting the freedom of expression *in the interest of the State, with regard to friendly relations with foreign States, with regard to public order, with regard to decency or morality, or in relation to contempt of court, defamation, or incitement to an offence.*

In this lesson, we shall discuss some important Laws related to the Press in India.

2.2 PRESENTATION OF CONTENT:

The content of this lesson shall be presented as follows:

- *Law of Defamation*
- *Contempt of Court Act*
- *Official Secrets Act*
- *Press and Books Registration Act.*

2.2.1 LAW OF LIBEL AND DEFAMATION:

Defamation simply means tarnishing some body's image. It is an injury to a man's reputation. It means speaking or writing something damaging or diminishing the status or personality or prestige of a person or an Organization. There are two types of Defamation:

Libel: It is a written form of defamation.

Slander: It is a spoken form of defamation

Section 499 of the Indian Penal Code defines defamation as:

'Whoever, by words either spoken or intended to be read, or by signs or by visible, representations makes or publishes any imputation concerning any person intending to harm, or having reason to believe that such imputation will harm the reputation of such person, is said except in cases hereinafter excepted to defame that person'.

There are four explanations and 10 exceptions of section 499. The four explanations are as follows.

It may amount to defamation:

- *To impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives;*
- *To make an imputation concerning a company or an association or collection of persons as such;*
- *To make an imputation in the form of an alternative or expressed ironically;*
- *But no imputation is said to harm a person's reputation unless that imputation directly or indirectly in the estimation of others lowers the moral or intellectual character of that person or lowers that character of that person in respect of his caste or his calling, or lowers the credit of that person or causes it to be believed that the body of that person is in- a loathsome state or in a state generally considered as disgraceful".*

There are ten exceptions in this Act. These are:

- **First Exception:** It is not defamation to impute anything, which is true concerning any person, if it were for the public good that the imputation should be made or published. Whether or not, it is for the public good is a question of fact.
- **Second Exception:** It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct and no further.
- **Third Exception:** It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching public question, and respecting his

character, so far as his character appears in that conduct, and no further.

- **Fourth Exception:** It is not defamation to publish a substantially true report of the proceedings of a court of justice, or the result of any such proceedings.
- **Fifth Exception:** It is not defamation to express in good faith any opinion. Whatever respecting the merits of any case, civil or criminal, which has been decided by a court of justice or respecting the conduct of any person as party witness or agent, in any case such of respecting the character of such person as far as his character appears in that conduct and no further.
- **Sixth Exception:** It is not defamation to express in good faith any opinion. Whatever respecting the merits of any performance, which its author has submitted to the judgement of the public, or respecting the character of the author so far as his character appears in such performance and no further.
- **Seventh Exception:** It is not defamation if a person having over another any authority, either conferred by law or arising out of any lawful contact made with that other to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.
- **Eighth Exception:** It is not defamation to prefer good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.
- **Ninth Exception:** It is not defamation to make an imputation on the character of another provided that imputation is made in good faith for the protection of the interest of the person making it or of any other person, or for the public good.
- **Tenth Exception:** It is not defamation to convey a caution in good faith to one person against another provided that such caution in be intended for the good of the person to whom it is conveyed, or of same person in whom that person is interested, or for the public good.

PUNISHMENT FOR DEFAMATION:

Three sections of the Indian Penal Code deal with the punishment for defamation. These are: Section 500, Section 501 and Section 502.

Section 500 of the Indian Penal Code lays down, "Whoever defames another shall

be punished with simple imprisonment for a term which may extend to two years or with fine or with both”.

Section 501 of the Indian Penal Code lays down, "Whoever prints (or engraves) any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both”.

Section 502 of the Indian Penal Code lays down, "Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both”.

2.2.2 CONTEMPT OF COURT ACT:

Contempt of Court is also one of the reasonable restrictions under Article 19(2) of the Indian Constitution. The Contempt of Court Act was enacted for the first time in the year 1952. But under this Act, there was no definite definition of contempt of court. Later on, the Contempt of Court Act was again enacted in 1971, which was further amended in 1976.

According to this modified Act, a person is said to be offender of Contempt of Court under following circumstances:

- *Charging the judge with unreasonability and inability.*
- *Expressing doubts on the prestige, status, rights or fairness of the judiciary.*
- *Publication of any comment on the matters, which are under the proceedings of the court and which may mislead the general public and which, lead them to be prejudiced.*
- *To cast aspersion or to attempt to influence or the judge, jury, advocates or witness of any matters which are under the proceeding of the court.*
- *To interfere in the judicial administration.*
- *To threaten the witnesses.*
- *To attempt to obstruct in the police inquiry against the order of the judge, publication of the proceedings of the court or the publications of the picture of the accused.*
- *Publication of the report of the proceedings of the court and distorting the facts.*

- *Wrongful publication of the proceedings of the court and distorting the facts.*

2.2.3 OFFICIAL SECRETS ACT, 1923:

This is an act, which consolidates the law relating to official secrets, and deals with offences like spying and wrongful communication of secret information. Section 3 of the Act makes it an offence if:

- *Any person for the purpose prejudicial to the public safety and the interests of the state approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or*
- *Makes any sketch, plan, model or note which is calculated to be or might be or is intended to be directly or indirectly useful to any other person any secret official code or pass word, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India the security of the state or friendly relations with foreign states;*

In a prosecution for an offence punishable under section 3(i) of the Act, with imprisonment for a term which may extend to 14 years.

It is not necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the state, and notwithstanding that no such act is proved against him, he may be convicted in the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was prejudicial to the safety or interest of the state. However, there have not been many cases of prosecution under this Act.

2.2.4 PRESS AND BOOKS REGISTRATION ACT:

The Press and Books Registration Act, 1867 was enacted with a view to evaluating the present position of books, newspapers and magazines in the country from time to time. The prominent sections of this Act are follows:

- Every book or paper printed within India shall have printed legibly on it the name of the printer and the place of the printing and of the publisher and the place of

publication.

- A printer can publish a paper (or anything which is of mass circulation) only after the permission of District Presidency and Divisional Magistrate.
- On every publication, the name of the proprietor and the editor must be printed on each issue.
- Printer and publisher should sign before the District Presidency or Sub Divisional Magistrate after giving the information of language and periodicity of the paper and after enclosing the written authority and the declaration of the owner of the paper
- The information of any change in the paper, language, periodicity publisher etc. must be given to the general officer and a new declaration must be received.
- After the acceptance of the declaration if any weekly for 6 weeks or any newspaper for 3 months is-not published then its authority-letter will be treated as cancelled or invalid or unacceptable.
- Where in any period of three months in daily, tri-weekly, bi-weekly, or fortnightly newspaper publishes issues the number of which is less than half of what should have been published in accordance with declaration will cease to have an effect and will be treated as invalid or unacceptable.
- A declaration will be treated as cancelled if the paper is not published within one year.
- The magistrate has power to make the declaration invalid or unacceptable by ordering to thoroughly inquire into the matter on the demand of the Press Registrar or any other person concerned.
- If the declaration of a paper is cancelled, then the incumbent has the right to go for an appeal well-within 60 days and not beyond that.
- It is mandatory to send one copy of every published paper to thy Press Registrar and two copies to the State Government free of cost.
- For not complying with the press laws, the editor and the printer of the paper are punishable with a fine, which may extend to two thousand rupees or with an imprisonment, which may extend to six months or with both.
- If the printer or publisher or editor is no more, then the information must reach the Magistrate or else there may be a fine, which may extend to two hundred only.
- If any person violating the provisions of section 4 of this Act and without having a

declaration possesses a press, then the Magistrate may fine him with Rs. 2000/- or with imprisonment of 6 months or with both.

- If any person v deliberately makes a false declaration then he may be punished with a fine of Rs. 2000/- and imprisonment of 6 months if he is proved to be so before the Magistrate.
- In India, if the Printer of a newspaper under section 11 (B) of this Act, does not send the copies to the Press Registrar, then on the complaint of the Press Registrar, he may be fined rupees fifty for each mistake.
- For sending wrong information to the Press Registrar, a person is punishable with fine which may extend to Rs. 500/-
- It is mandatory to send the details of the papers every year and on the directives of the Registrar; it should be punished also.
- The state Government with the permission of the central Government may by notification in the official gazette, exclude any class of books or papers from the operation of the whole or any part of this Act.
- This Act extends to the whole of India.

2.3 SUMMARY:

- Defamation simply means tarnishing some body's image. It is an injury to a man's reputation. It means speaking or writing something damaging or diminishing the status or personality or prestige of a person or an Organization. There are two types of Defamation: *Libel* is a written form of defamation and *Slander* is a spoken form of defamation
- Whoever, by words either spoken or intended to be read, or by signs or by visible, representations makes or publishes any imputation concerning any person intending to harm, or having reason to believe that such imputation will harm the reputation of such person, is said except in cases hereinafter excepted to defame that person.
- Contempt of Court includes: charging the judge with unreasonability and inability, expressing doubts on the prestige, status, rights or fairness of the judiciary, publication of any comment on the matters, which are under the proceedings of the court and which may mislead the general public and which, lead them to be

prejudiced, to cast aspersion or to attempt in influence or the judge, jury, advocates or witness of any matters which are under the proceeding of the court, to interfere in the judicial administration, to threat the witnesses, to attempt to obstruct in the police inquiry against the order of the judge, publication of the proceedings of the court or the publications of the picture of the accused, publication of the report of the proceedings of the court and distorting the facts, etc.

2.4 KEY WORDS:

Defamation: It simply means tarnishing some body's image. It is an injury to a man's reputation. It means speaking or writing something damaging or diminishing the status or personality or prestige of a person or an Organization. There are two types of Defamation:

Libel: It is a written form of defamation.

Slander: It is a spoken form of defamation

Contempt of Court: Contempt of Court includes: charging the judge with unreasonability and inability, expressing doubts on the prestige, status, rights or fairness of the judiciary, publication of any comment on the matters, which are under the proceedings of the court and which may mislead the general public and which, lead them to be prejudiced, to cast aspersion or to attempt in influence or the judge, jury, advocates or witness of any matters which are under the proceeding of the court, to interfere in the judicial administration, to threat the witnesses, to attempt to obstruct in the police inquiry against the order of the judge, publication of the proceedings of the court or the publications of the picture of the accused, publication of the report of the proceedings of the court and distorting the facts, etc.

2.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. What do you mean by defamation? What are the punishment for defamatory.
2. What is Contempt of Court? Under what circumstances, a person is said to be offender of Contempt of Court? Explain.
3. Explain the importance Official Secrets Act.
4. Discuss the Press and Books Registration Act? Explain the prominent sections of this

Act?

5. What is difference between libel and slander? Give the concept of defamation in the background of section 499 of the Indian Penal Code.

2.6 REFERENCES / SUGGESTED READING:

- **Basu, Durga Das** (1996) - 'Law of the Press' published by Prentice Hall of India Private Limited, New Delhi.
- **Basu, Durga Das** (1996) "Constitution of India" Published by Prentice Hall of India Private Limited, New Delhi.
- **Bagchi, B.M.** (1997) Press Laws.
- **Bhanawat, Sanjeev** (1993)-Press Kanon aur Patrakarita, Published by Sidhashri Parkashan, Jaipur.

M. A. Mass Communication (2nd year)

MEDIA LAWS MMC 204 Lesson: 3

PRESS LAWS - II

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LESSON STRUCTURE:

This lesson shall provide an introduction to few laws related to the Press in India. We shall start with the Copy Right Act. Next, we shall try to understand the various Acts and Committees related to the wages of working journalists in India. The lesson structure shall be as follows:

3.0 *Objectives*

3.1 *Introduction*

3.2 *Presentation of Content*

3.2.1 *Copyright Act*

3.2.2 *Acts and Committees relating to working journalists*

3.3 *Summary*

3.4 *Key Words*

3.5 *Self-Assessment-Questions (SAQs)*

3.6 *References/Suggested Reading*

3.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Know About the Copyright Act*
- *To Know About the Acts and Committees relating to working journalists*

3.1 INTRODUCTION:

Freedom means an atmosphere where one can work with out fear. Freedom is important for mass media as they perform many crucial tasks as part of their objectives. Certain countries recognize this and have

created such situations of freedom through legislation, etc. But in most countries the Press and other mass media work under constant vigil of Government bodies. There have been many instances when the freedom of media has been suppressed. There have been cases of oppression against the mass media.

Legislation in the shape of Laws and Acts, etc., help in regulating the mass media. Many countries have tried this method since a long time now.

In this lesson, we shall discuss about the Copyright Act and the Acts and Committees relating to working journalists.

3.2 PRESENTATION OF CONTENT:

In this lesson the content shall be presented in the following order:

- *Copyright Act.*
- *Acts and Committees relating to working journalists.*

3.2.1 COPY RIGHT ACT:

The Copyright Act was enacted in India in 1857. Prior to the enactment of the Indian Copyright Act, 1957, British Common Law governed the disputes of Copyright in India.

The British Copyright Act, 1911 was brought into force in India, by a proclamation in the Gazette of India on the 30th October 1912. Two years later, the Indian Copyright Act, 1914 was passed by the Indian Legislature incorporating the British Copyright Act, 1911 in its schedule and modifying and adding to some of its provisions in their application to India. Finally, after many modifications, the Copy Right Act was enacted in 1857.

COPY RIGHT- AN INTRODUCTION:

What a man produces by the application of his labour, intellect, or skill is his property. The creator has right to his properties. The Law of Copyright creates a further statutory intangible right of property in respect of such product if it is an original work.

It has been possible in this era of scientific progress that an author may have his/her copies of work, which may be published and circulated without the author's knowledge or permission. The possibility of its misuse has also increased with efficient coping in mechanism. Anybody by copying others work can not only earn money but also serve his own interest. In order to check such practices, the need for the Copy Right Act was seriously felt. The range of copyright is so broad that it includes picture, music, drama, literature, art, culture etc.

A writer or an artist after putting in thought, labour, time, intelligence, etc., creates and completes a work. This creation of that person is given legal protection by the Copy Right Act. This legal protection is valid in the same manner as a property acquired by dint of physical labour.

Under Article 14 of the Copyright Act 1957, the work of copyright has been comprehensively explained.

For the purpose of this Act, "Copyright" means the exclusive right by virtue of and subject to the provisions of this act.

In the case of literary, dramatic, or musical work, to do and authorize the doing of any of the following acts; namely,

- *To reproduce the work in any material form*
- *To publish the work*
- *To perform the work in public.*
- *To produce, reproduce, perform or publish any translation of the work.*
- *To make any cinematograph film or a record in respect of the work;*
- *To communicate the work by radio diffusion or to communicate to the public by loudspeaker or any other similar instrument the radio-diffusion of the work.*
- *To make any adaptation of the work.*
- *To do in relation to a translation or an adaptation of the work any of the acts' specified in relation to the work in the first four clauses.*

INFRINGEMENT OF COPYRIGHT:

Under Article 51 of the Copy Right Act, 1957, infringement of copyright has been discussed.

Copyright in a work is deemed infringed under the following circumstances:

When any person, without a license granted by the owner of the copyright or the Registrar of Copyrights under this Act in contravention of the conditions of a license so granted or of any condition imposed by a competent authority under this Act does anything the exclusive right to do which is by this Act conferred upon the owner of the copyright.

Copyright is also infringed when any person:

- Makes for sale or hire or sells or
- Distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

- By way of trade exhibition in public, or
- Imports (Except for the private and domestic use of the importer) into India, any infringing copies of the work.

Explanation: For the purpose's of this Section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed 'to be an 'infringing copy'.

No INFRINGEMENT:

Article 52 of the Copyright Act lays down that the following acts shall not constitute infringement of copyright, namely:

- A fair dealing with literacy, dramatic, artistic, musical work for the purpose of research or private study. Criticism or review whether of that work or of any other work is also not infringement of Copyright.
- A fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events: in a newspaper, magazine or similar periodical or by radio diffusion or in a cinematograph film or by means of photograph.
- The reproduction of literary, dramatic, musical or artistic work for the purpose of a report of a judicial proceeding.
- The reproduction of publication of a literary, dramatic, musical or artistic work in any work prepared by the secretariat of a Legislature or where the Legislature consists of two houses, by the secretariat of either house of the Legislature, exclusively for the use of the members of that legislature.
- The reproduction of literary, dramatic or musical works in a certain copy made or supplied in accordance with any law for the time being in force.
- The reading or recitation in public of any reasonable extract from a published literary or dramatic work.
- The publication in a collection mainly composed on copyright matter bonafide, intended for 'the use of educational institutions and so described in the title and in any advertisement issue a by or on behalf of the publisher, of short passages from published literary or dramatic works not themselves published for the use of educational institutions provided that not more than two such passages from works by the same author are published by the same publisher during any period.

Explanation: In the case of a work of joint authorship references in this clause to passages from work shall include references to passages from works by anyone or more of the authors of those passages or by anyone or more of the authors in collaboration with any other person, the re-production of a literary, dramatic, musical or artistic work:

- By a teacher or a pupil in the course of instruction as part of the questions to be answered in an examination, or in answers to such questions.
- The performance in the course of the activities of an educational institution, of a literary, dramatic or musical a work by the staff and student of the institution or of the cinematograph film or record if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution.
- The reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics unless the author of such article has expressly reserved to himself the right of such reproduction.
- The publication in newspaper, magazine, or other periodical of a report of a lecture delivered in public.
- The making of not more than three copies of a book by or under the direction of a person in charge of a public library for the use of library if such book not available for sale in India.
- The reproduction for the purposes of research or private study or with a view to publication of an unpublished literary dramatic, musical work kept in a library museum or other institution to which the public has access.
- Provided that where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, as the case may be, the provision of the clause shall apply only if such reproduction is made at a time more than 50 years from the date of the death of the author or, in the case of a work of joint authorship from the death of the author whose identity is known or, if the identity of more authors than one is known, from the death of such of those authors who dies last.

The reproduction of publication in the following manner is not infringement.

- Any matter, which has been published in any official Gazettes except an Act of a Legislature;
- Any Act of a legislature subject to the condition that such Act is reproduced or published together with any commentary there on any other original matter;
- The report of any committee, commission, council, board or other like body appointed by the Govt. if such report has been laid on the table of the Legislature, unless the reproduction or publication of such report is prohibited by the Govt;

- Any judgement or order of a court, tribunal or other judicial authority unless the reproduction or publication of such judgement or order is prohibited by the court.

The production or publication of a translation in any Indian language of an Act of a Legislature and of any rules or orders made there under:

If no translation of such act or rules or orders in that language has previously been produced or published by the Govt. or (ii) where a translation of such Act or rules or orders in that language has been produced or published by the Govt., if the translation is not available for the sale to the public provided that such translation contains a statement at a prominent place to the effect that the translation has not been authorized or accepted as authentic by the Govt. According to the Copyright Act, 1957, the term of copyright was earlier 50 years from the ensuing calendar year. Calendar year begins from January 1 and ends on December 31.

On 28th December 1991, the then President P. Venkataraman brought about an Ordinance and changed the term of copyright from 50 years to 60 years.

PUNISHMENT OF CRIME:

Under Article 63 of this act there is mention of punishment of infringement of copyright. For infringement of copyright there is a punishment of one-year imprisonment or monetary fine or both.

3.2.2 ACTS & COMMITTEES RELATING TO WORKING JOURNALISTS:

According to Section 8(1) of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, the Central Government in manner hereinafter provided:

- *Fix rates of wages in respect of working journalists.*
- *Revise from time to time, at such intervals as it thinks fit, the rates of wages fixed under this Section or specified in the order made under Section 6 of the working Journalists (Fixation of Rates of Wages) Act, 1958.*
- *The rates of wages may be fixed or revised by the Central Government in respect of the working journalists for timework and for piecework.*

Section 9 of the Act lays down, "For the purpose of fixing or revising rates of wages in respect

of working journalists under this act, the Central Government shall, as and when necessary constitute a Wages Board - which shall consist of

- *Two persons representing employers in relation to newspaper establishments,*
- *Two persons representing working journalists.*
- *Three independent persons, one of who shall be a person who is, or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by the Government as the Chairman thereof.*

So far, the Central Government has appointed three Wage Boards, the first Wage Board under the chairmanship of Justice Palekar, the second Wage Board under the chairmanship of Justice O.K. Shindhe and the third Wage Board under the chairmanship of Justice Bachhawat.

Some of the labour laws are also applicable to the Press, which are as follows:

- *Trade Union Act, 1926.*
- *Payment of Wages Act, 1936.*
- *Industrial Disputes Act, 1947.*
- *Factories Act, 1948.*
- *Minimum Wages Act, 1948.*
- *Employees State Insurance Act, 1948.*
- *Employees Provident Fund and Miscellaneous Provisions Act, 1952*
- *Working Journalists (Fixation of Rates of Wages Act)*
- *Payment of Bonus Act, 1965.*

According to Section 10 (1) of the Working Journalists and other Newspaper Employees Conditions of Service and Miscellaneous Provisions Act, 1955, The Board shall, by notice published in such manner as it thinks fit, call upon-newspaper establishments and working journalists and other persons interested in the fixation or revision of rates of wages of working journalists to make such representations as they may be fixed or revised under this Act in respect of working journalists.

Section 12 (1) of this Act lays down, As soon as may be after the receipt of the recommendations of the Board, the Central Government shall make an order in terms of the recommendations or subject to such modifications which, in the opinion of the Central Government, do not effect important alterations in the character of the recommendations.

According to Section 13 of this Act, "on the coming into operation of an order of the

Central Government under Section 12, every working journalist shall be entitled to be paid by his employer wages at the rate which shall in no case be less than the rates of wages specified in the order,

According to Section 13-A (1) of the Act, "Notwithstanding any thing contained in this Act, Where the Central Government is of opinion that it is necessary so to do, it may after consultation-with the Board, by notification in the Official Gazette, fix interim rates of wages in respect of working journalists.

Section 13-A (2) of this Act lays down: Any interim rates of wages so fixed shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rates of wages fixed under Sub Section (1).

1.3 SUMMARY:

- What a man produces by the application of his labour, intellect, or skill is his property. The creator has right to his properties. The Law of Copyright creates a further statutory intangible right of property in respect of such product if it is an original work. The possibility of its misuse has increased with efficient coping in mechanism. Anybody by copying others work can not only earn money but also serve his own interest.
- When any person, without a license granted by the owner of the copyright or the Registrar of Copyrights under this Actor in contravention of the conditions of a license so granted or of any condition imposed by a competent authority under this Act does anything the exclusive right to do which is by this Act conferred upon the owner of the copyright.
- The Copyright Act lays down that the following acts shall not constitute infringement of copyright, namely: fair dealing with literacy, dramatic, artistic, musical work for the purpose of research or private study. Criticism or review whether of that work or of any other work is also not infringement of Copyright, fair dealing with a literary, dramatic, musical or artistic work for the purpose of reporting current events: in a newspaper, magazine or similar periodical or by radio diffusion or in a cinematograph film or by means of photograph, the reproduction of literary, dramatic, musical or artistic work for the purpose of a report of a judicial proceeding, etc.
- The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, the Central Government in manner hereinafter provided: *Fix rates of wages in respect of working journalists; Revise from time to time, at*

such intervals as it thinks fit, the rates of wages fixed under this Section or specified in the order made under Section 6 of the working Journalists (Fixation of Rates of Wages) Act, 1958; and The rates of wages may be fixed or revised by the Central Government in respect of the working journalists for timework and for piecework.

- The Indian Government has, so far, appointed three Wage Boards, the first Wage Board under the chairmanship of Justice Palekar, the second Wage Board under the chairmanship of Justice O.K. Shindhe and the third Wage Board under the chairmanship of Justice Bachhawat.
- Some of the labour laws applicable to the Press are as follows: Trade Union Act, 1926; Payment of Wages Act, 1936; Industrial Disputes Act, 1947; Factories Act, 1948; Minimum Wages Act, 1948; Employees State Insurance Act, 1948; Employees Provident Fund and Miscellaneous Provisions Act, 1952; Working Journalists (Fixation of Rates of Wages Act); and Payment of Bonus Act, 1965.

1.4 KEY WORDS:

Copy Right: A person creates a work of art by his or her labour, intellect, etc. The creator should have the right over that creation. This is the concept of copyright. No other person should be allowed to misuse that right. The Copy Right Act in India protects this right.

Working Journalists: Many people work in newspapers and other news related organizations. All these people are not journalists. Only those who do journalism related work is called journalists. These include reporters, correspondents, newsreaders or anchors, etc. Technicians working in newspapers and other news related organizations are not working journalists.

1.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. What do you mean by copyright? It Explain the infringement of Copyright.
2. Discuss the acts that do not constitute infringement of copyright as mentioned in the Section 52 of the Copy Right Act.
3. Throw light on the Copyright Act. Discuss the punishments for the infringement of the Copyright Act.
4. Discuss the term of Copyright giving some suitable examples.
5. Discuss at least two acts and two committees relating to wages of working journalists.

1.6 REFERENCES / SUGGESTED READING:

- Basu, Durga Das (1996) - "Law of the Press published by prentice Hall of India Private Limited, New Delhi.
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M. A. Mass Communication (2nd year)

MEDIA LAWS MMC 204 Lesson: 4

PRESS COUNCIL OF INDIA

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LESSON STRUCTURE:

This lesson shall provide a detailed account of the Press Council of India. We shall start with an introduction to the Press Council of India. Next, we shall try to understand the structure and functions of the Press Council of India. Finally we shall have an overview of Press Councils around the world. The lesson structure shall be as follows:

- 4.0 *Objectives*
- 4.1 *Introduction*
- 4.2 *Presentation of Content*
 - 4.2.1 *Press Council of India- An Introduction*
 - 4.2.2 *Structure and Functions of Press Council of India*
 - 4.2.3 *Overview of Press Councils of the World*
- 4.3 *Summary*
- 4.4 *Key Words*
- 4.5 *Self-Assessment-Questions (SAQs)*
- 4.6 *References/Suggested Reading*

4.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Know About the Press Council of India,*
- *To Know About the Structure and Functions of Press Council of India,*
- *To have an Overview of Press Councils of the World.*

4.1 INTRODUCTION:

The first press commission recommended that in order to protect the freedom of the press and to maintain high standards among journalists of both newspapers and news agencies, Press Council of India should be established. As a result, a Press council of India was set up on the 4th July, 1966 which started functioning from the 16th November (that's why this day is also celebrated as National Press day), 1966.

This type of practice was first initiated by Sweden. Presently more than 40 countries have set up press councils.

In this lesson, we will discuss the Structure and Functions of the Press council of India, and have an Overview the Press councils of the World.

4.2 PRESENTATION OF CONTENT:

The content of this lesson shall be presented as follows:

- *Press council of India*
- *Structure and Functions of the Press council of India*
- *Press councils of the World: An Overview*

4.2.1 PRESS COUNCIL OF INDIA- AN INTRODUCTION:

In India, the institution of Press Council started functioning from the 6th November 1966 following the enactment of the Indian Press Council Act, 1965. This was later amended on the 31st March 1970. The press council's term, which expired in December 1975, was not extended during the Emergency. The Press Council was dismantled on 1st January 1976.

When the Janata Party came to power, it reconstituted the Press Council of India in April 1979. This reconstitution followed the enactment of a new Press Council Act in 1978. Justice A.N. Grover, a former judge of the Supreme Court was appointed its chairman.

The objectives of the revived press council of India were to assure more freedom of the press and better journalistic standards. This second council was more or less on the same lines as the first press council of India.

The Press Council of India is empowered to hold enquiries on complaints, made to it or otherwise against, made to it or otherwise against offending newspaper and news agencies. For the purpose of performing its functions or holding any enquiry, the council has ample power throughout India, as are vested in a civil court, while trying a suit under the code of civil procedure in certain respects. These powers include summoning and enforcing the attendance

of persons and examining them on Oath, requiring discovery and inspection of the documents, receiving evidence on affidavits, requisitioning any public record and issuing commissions for the examination of witness or documents.

4.2.2 STRUCTURE & FUNCTIONS OF THE PRESS COUNCIL OF INDIA:

Unlike the United Kingdom and other Commonwealth countries, the Press Council of India is a statutory body and not a voluntary organization. It consists of 28 members headed by a chairman who is nominated by a committee made up of the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha, and an elected representative of the council members.

Of the 28 members, 13 are nominated in accordance with the procedure prescribed from among working journalists, of whom 6 are editors of newspapers and the other seven working journalists other than editors.

Six members represent various interests like those of the owners of big, medium and small newspapers, and of news agencies. Besides, there are 5 MPs nominated by the speaker of the Lok Sabha, and 2 from the Rajya Sabha.

Representation is also provided to specialists in law education, literature, science and culture. The professional members should be of at least 10 years standing in the profession and no more or no less. It also favoured grant of additional power to the council in regard to requisitioning of public records.

The Press Council of India recommended that the Press in order to achieve national unity should emphasis those aspects of the national life, which underline the common features of diverse faiths and religions and subordination of sectional interests to national unity and integrity.

The council identified certain aspects of journalism, which offended against journalistic properties and ethics and laid down guidelines for the conduct of newspapers. According to these guidelines, the press should avoid.

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency.
2. Employment of intemperate and unrestrained language in the presentation of news of views even as a piece of literary flourish or for the purposes of rhetoric or emphasis.
3. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievance whether the same be genuine or not;

4. Scurrilous and untrue attacks on communities or individuals particularly when they are accompanied by charges attributing misconduct to them due to their being members of a particular community or caste.
5. Falsely giving communal colour to incidents in which members of different communities happen to be involved.
6. Emphasizing matters that are apt to produce communal hatred or will or fostering feelings of distrust between communities.
7. Publishing alarming news, which is in substance untrue or making provocative comments on such news or views which are otherwise calculated to embitter relations between different communities or regional or linguistic groups.
8. Exaggerating actual happenings to achieve sensationalism and publication of news, which adversely affect communal harmony with banner headlines or in distinctive types.
9. Making disrespectful, derogatory or insulting remarks on or reference to this different religions or faiths or their funders.
10. 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 the communal ill feeling and accentuate discord.

Moreover, the council has constituted a research subcommittee to look into all aspects of the Official Secrets Act, Contempt of Court, Defamation, Parliamentary Privileges and various other enactments to ensure that the freedom of the Press is in no way endangered. But the fact remains that where a newspaper is unyielding, the Press Council is helpless. It is hence a matter of debate in the country today whether the council should have punitive powers.

FUNCTIONS OF THE PRESS COUNCIL OF INDIA:

The following are the functions of the Press Council of India:

- The first and foremost function of the press council of India is to protect the freedom of the press and to maintain and improve the standards of newspaper and news agencies in India.
- To help newspapers and news agencies to maintain their independence.
- To build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;

- To ensure on the parts of newspaper, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;
- To encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;
- To keep under review any development likely to restrict the supply and dissemination of news of public interest and importance.
- To keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the central government or are brought to its notice by any individual, association of person or any other organizations : provided that nothing in this clause shall prelude.
- To keep under reviews cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central Government or are brought to its notice by any individual, association of persons or any other organization.
- To undertake studies of foreign newspapers, including those brought out by any embassy or other representative in India or a foreign State, their circulation and impact.
- To promote a proper functional relationship among all classes of persons engaged in the production or publication of newspaper or in news agencies :
- To undertake such studies as may be entrusted to the Council and to express its opinion in regard to any matter referred to it by the Central Government.
- To do such other acts as may be incidental or conducive to the discharge of the above functions.
- Where, on receipt of a complaint made to it or otherwise, the council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconducts, the Council may, after giving the newspaper, or news agency, the editor or journalists concerned an opportunity of being heard, hold an enquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary to do so, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be : provided that the Council may not take cognizance of a

complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

- If the Council is of the opinion that it is necessary or expedient in the public interest to do so, it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars, relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.
- Nothing in sub-action (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.
- For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:
 - * Summoning and enforcing the attendance of persons and examining them on oath;
 - * Requiring the discovery and inspection of documents;
 - * Receiving evidence on affidavits;
 - * Requisitioning any public record or copies thereof from any court of office;
 - * Issuing commissions for the examination of witnesses or documents; and
 - * Any other matter, which may be prescribed.

An important part of this is that *nothing can compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by the newspaper or received or reported by that news agency, editor or journalist.*

4.2.3 PRESS COUNCILS OF THE WORLD- AN OVERVIEW:

Presently more than 40 countries have set up Press Councils in the world. An International Conference on Press Councils of the Worlds was held on October 22-24, 1992 in New Delhi, India. During the Conference the following observations were made and resolutions passed:

- *The Conference considered the proposal that Press Council be endowed with sanctions and powers in addition to the moral sanctions that they now enjoy, and the requirement that adverse adjudication be published in the newspaper concerned.*
- *Press Councils are based on the premise that they are to provide a democratic, efficient and inexpensive facility for the hearing of complaints about and by the Press.*

- *It was also observed that if Councils were to be endowed with the power to impose other sanctions, it would be equitable that the power to impose sanctions applies also when the Press makes complaints.*
- *Again it was observed that a power to impose meaningful sanctions raises a number of issues, including (a) the onus of proof, (b) the standard of proof, (c) the right to and cost of legal representation (d) whether review and/or appeal would be available.*
- *The effect of any or all of these issues changing Press Council procedures would militate against the basic premise that Press Council provide a democratic efficient and inexpensive facility for the hearing of complaints, and that the consequent inevitability would be that Press Councils would, in effect, become Courts exercising judicial powers, and the well-known problems of access cost, formality and delay would equally apply thus defeating the basic purpose of the Press Council.*
- *The Conference drew inspiration from, these words of Mahatma Gandhi: "The sole aim of journalism should be service. The newspaper press is a great power, but just as unchained torrent of water submerges the whole countryside and devastates crops, even so an uncontrolled pen serves but to destroy. If the control is from within it proves more poisonous than want of control. It can be profitable only when exercised from within".*
- *The Conference, therefore, resolved that for these reasons, Press Councils should not seek nor be granted the power to impose additional sanctions.*
- *The conference warmly welcomed the representatives of the British Press Complaints Commission and received their report with interest; The conference congratulated the BPC on providing so soon after its inception an outstanding, effective and efficient system of non-statutory self-regulation; nothing that the United Kingdom has been and remains an example in legal development and in the protection of traditional liberties; And nothing that any action in relation to Press regulation in the United Kingdom authorities may, therefore, maintain the traditional liberties of the British Press as well as the concept of non-statutory self-regulation which protects its traditional liberties, and enhances its responsibility.*
- *That the document "A Guide to journalistic Ethics" by the Press Council of India, sorted out from the adjudications of the Council and the guidelines issued by it in their wake, in an effort to 'build up' a code of conduct, be received; and that other Press Councils and similar Bodies be invited to prepare similar outlines with a view to their being discussed by Press Councils and similar bodies in anticipation of a World Association of Press Councils being established; and that the draft code of Ethics from Honolulu and Cyprus be received : and that the*

Conference expresses its appreciation to our colleagues from Cyprus and Honolulu for their work in drafting these documents.

- *At the Third Conference of International Press Councils and similar bodies in New Delhi in October 22-24, 1992 the conference noted its appreciation of the efforts and hospitality offered by hosts, the International Youth Centre and the Indian Press Council and the sponsors.*

The World Association of Press councils is an umbrella organization of Press Councils and similar Bodies Committed to championing the cause of free speech and freedom of a responsible Press. The chairman of the Indian Press Council, Mr Justice P.B. Sawant has been elected its President in the year 1997 for a six-year term. Other important office bearers include Prof. David Flint, Chairman of the WAPC Executive Council and presently Chairman of Australian Broadcasting Authority, Mr. R. Gunasingam of Malaysia, Secretary general of WAPC and Prof. Christopher Gronholm of Finland its Treasurer.

About 45 foreign delegates attended the Conference from about 17 countries representing various press and media Councils, apart from eminent persons of the Indian media, judiciary, bureaucracy and politics. While detailed suggestions that emerged out of the discussions are being examined the conclusions and recommendations adopted at the Conference follow.

CONCLUSIONS AND RECOMMENDATIONS:

The delegates at the International Conference of the World Association of press Councils hosted by the Indian Press Council in the city of New Delhi on the 4th and 5th April, 1998: Recognizing the contribution made by Mahatma Gandhi to the Freedom of the Press, Peace and amity in the world and noting that he believed that the sole aim of journalism is service, reaffirmed their belief:

- *That in all democratic States freedom of expression is recognized as an inviolable human right;*
- *That the States of the World have on several occasions solemnly declared their support for freedom of expression;*
- *That under international law freedom of expression and its corollary, freedom of the press, has emerged as a right of all humanity;*

- *That freedom of the press is recognized not simply as a freedom for journalists, editors or proprietor's - but rather as a right of all citizens to be informed on all matters of public interest;*
- *That it is implicit and inherent in the institution of a free press that the press exercises its powers and duties in a responsible manner;*
- *That it is recognized that the free press must be accountable to the public, but not to government;*
- *That the creation of such organs as independent Press Councils and similar bodies and the institutions of the Office of the Press Ombudsman are recognized as methods whereby; the freedom, the responsibility and the accountability of the press may be maintained and enhanced.*
- *That independent Press Councils provide, inter alia, a democratic, efficient and inexpensive forum for the hearing of complaints against and by the press, and for maintaining and assisting in the enhancement of its freedom, responsibility and accountability, and Declared:*
- *That the creation, development and enhancement of Press Councils should be encouraged.*

That the WAPC, particularly through the Press Councils accepting responsibility for a particular zone or region should lead in the creation and development of Press Councils;

1. *That a responsible media should respect the privacy of all people;*
2. *That the media may only intrude on the privacy of a person including a public figure where it is clearly in the public interest;*
3. *That the principles of a free and responsible media apply equally to new technological methods for the delivery of news and information, education, and entertainment, including the interest and satellite transmission;*
4. *That these principles also apply to news and information transmitted, published or sold across national boundaries.*
5. *That there is a need for transactional application of the highest media standards.*

4.3 SUMMARY:

- The first press commission recommended that in order to protect the freedom of the press and to maintain high standards among journalists of both newspapers and news agencies, Press Council of India should be established. As a result, a Press council of India was set up on the 4th July, 1966 which started functioning from the 16th November (that's why this day is also celebrated as National Press day), 1966.

- In India, the institution of Press Council started functioning from the 6th November 1966 following the enactment of the Indian Press Council Act, 1965. This was later amended on the 31st March 1970. The press council's term, which expired in December 1975, was not extended during the Emergency. The Press Council was dismantled on 1st January 1976. When the Janata Party came to power, it reconstituted the Press Council of India in April 1979. This reconstitution followed the enactment of a new Press Council Act in 1978. Justice A.N. Grover, a former judge of the Supreme Court was appointed its chairman.
- The Press Council of India is empowered to hold enquiries on complaints, made to it or otherwise against, made to it or otherwise against offending newspaper and news agencies. For the purpose of performing its functions or holding any enquiry, the council has ample power throughout India, as are vested in a civil court, while trying a suit under the code of civil procedure in certain respects.
- Unlike the United Kingdom and other Commonwealth countries, the Press Council of India is a statutory body and not a voluntary organization.
- The Press Council of India consists of 28 members headed by a chairman who is nominated by a committee made up of the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha, and an elected representative of the council members. Of the 28 members, 13 are nominated in accordance with the procedure prescribed from among working journalists, of whom 6 are editors of newspapers and the other seven working journalists other than editors. Six members represent various interests like those of the owners of big, medium and small newspapers, and of news agencies. Besides, there are 5 MPs nominated by the speaker of the Lok Sabha, and 2 from the Rajya Sabha. Representation is also provided to specialists in law education, literature, science and culture. The professional members should be of at least 10 years standing in the profession and no more or no less. It also favoured grant of additional power to the council in regard to requisitioning of public records.

4.4 KEY WORDS:

Press Council: Press Council is an organization that looks after the functioning of the Press. It is either a voluntary body or statutory body. In many countries, it is a voluntary body. But in India, the Press Council is statutory body. It has both Government nominees and people related to the Press as representatives. The Press Council in India looks after complaints against the working of the Press on India. It also recommends codes of ethics for the Press.

4.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. What is Press Council? Discuss its role in Indian Context.
2. Discuss the structure of Press Council of India.
3. Discuss the various functions of the Press Council of India.
4. Discuss the Press Council's guidelines for communal Writings.
5. "Press Council in India is a paper tiger with a rubber teeth". Discuss this statement briefly.
6. Present an overview of press councils of the world.

4.6 REFERENCES / SUGGESTED READING:

- Bhanawat, Dr. Sanjeev(1993)-"Press Kanoon our Patrakarita" published by Sidhshree Prakashan, Jaipur.
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M. A. Mass Communication (2nd year)

MEDIA LAWS MMC 204 Lesson: 5

ELECTRONIC MEDIA LAWS

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LESSON STRUCTURE:

This lesson shall provide an introduction to laws related to the Electronic Media in India. We shall start with the AIR and Doordarshan Code of Broadcasting News. Next, we shall try to understand the Cable Television Regulation Act. The lesson structure shall be as follows:

5.0 Objectives

5.1 Introduction

5.2 Presentation of Content

5.2.1 AIR and Doordarshan Code of Broadcasting News

5.2.2 Cable Television Regulation Act

5.3 Summary

5.4 Key Words

5.5 Self-Assessment-Questions (SAQs)

5.6 References/Suggested Reading

5.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Know About the AIR and Doordarshan Code of Broadcasting*
- *To Know About the Cable Television Regulation Act*

5.1 INTRODUCTION:

Radio and television have become two very important mass media in India. All India Radio and Doordarshan have been serving our information, entertainment, and education related needs

since a long time now. Since 1991, private TV channels have started playing an important role. Private FM radio channels have revived radio broadcasting in our country.

There are many laws related to the electronic media in India. In this lesson we shall discuss about two of these laws: AIR and Doordarshan Code of Broadcasting News and Cable Television Regulation Act.

5.2 PRESENTATION OF CONTENT:

The content of this lesson shall be presented as follows:

- *AIR and Doordarshan Code of Broadcasting News.*
- *Cable Television Regulation Act.*

5.2.1 AIR & DOORDARSHAN CODE OF BROADCASTING NEWS:

The nine-point broadcasting code is much more than the reasonable restrictions as mentioned in the Article 19 (2) of the Indian constitution. The code prohibits the following:

- *Criticism of friendly countries.*
- *Attack on religion or communities.*
- *Anything obscene or defamatory.*
- *Incitement to violence or anything against maintenance of law and order.*
- *Aspersions against the integrity of the President, Governorship, Judiciary.*
- *Anything amounting to contempt of court.*
- *Attack on a political party by name.*
- *Hostile criticism of any state or the Centre.*
- *Anything showing disrespect to the Constitution or advocating change in the Constitution by violence; but advocating changes in a constitutional way should not be debarred.*

The above-mentioned code applies to criticism in the nature of personal tirade, either of a friendly government or of a political party or of the Central Government or any State Government. But it does not debar reference to any or dispassionate discussion of policies pursued by any of them.

The Station Director is considered to be the right authority to temporarily interpret whether the code is violated or not. If the broadcaster does not accept the Station Director's points of view, then the Station Director has the instant power to refuse him or her broadcast. In case of unresolved differences of opinion between the Minister of a State Government and the Station Director, about the interpretation of the code, the matter will be referred to the Minister of

Information and Broadcasting, who will decide finally whether or not any change in the broadcasting is necessary to conform it to the code.

CODE OF COMMERCIAL BROADCASTING:

The code for commercial broadcasting spells out the general rules of conduct in advertising, discusses the procedure for the enforcement of the code, gives excerpts from the code of ethics issued by the Advertising Council of India and incorporates the code of standards in relation to the advertisement of medicines and treatments. It also highlights standards of practice for Radio and Television advertising and for advertising agencies.

The main points of the code are following:

- *Advertising should be prepared in accordance with the laws of the country and should not offend against morality, decency, and the religious susceptibilities of the people.*
- *No advertisement should be allowed:*
 - * *Which mocks at any race, caste, colour, creed or nationality except for the specific purpose of effective dramatization in combating prejudice?*
 - * *Which is against any of the objectives, principles or provisions of the Constitution?*
 - * *Which provokes people to crime or to promote disorder, violence or breach of law?*
 - * *Which puts criminality as desirable or furnishes details of crime or initiation thereof?*
 - * *Which is likely to unfavorably affect friendly relations with foreign states?*
 - * *Which exploits national emblems, the Constitution, or the person or personality of national leaders or State dignitaries?*
 - * *On cigarettes and tobacco products.*

CODE FOR COMMERCIAL ADVERTISING ON TELEVISION:

The code for commercial advertising (TV) is as under:

- *Advertising should be prepared in accordance with the laws of the country and should not offend against morality, decency and religious susceptibilities of the people.*
- *No advertisement should be allowed:*
 - * *Which mocks at any race, caste, colour, creed, and nationality except for the specific purpose of effective dramatizations such as combating prejudice?*
 - * *Which is against any of the objective, principles, or provisions of the Constitution of India?*
 - * *Which provokes people to crime or to promote disorder, violence or breach of law?*

- * *Which puts criminality as desirable or furnishes details of crime or initiation thereof?*
- * *Which may unfavorably affect friendly relations with foreign states?*
- * Which exploits the national emblems, or any part of the Constitution, or the person or personality of national leader or state dignitary?
- * *On cigarettes and tobacco products,*
- No advertisement shall be permitted the object whereof are wholly or mainly of a religious or political nature; advertisements must not be directed towards any religious or political end or have any relation to any industrial dispute.
- *Advertisement for services concerned with the following are not acceptable: Money lenders; Chit funds and saving schemes other than those conducted by nationalized banks; Matrimonial agencies; Unlicensed employment services; Fortune tellers or soothsayers, etc. and Those with the claims of hypnotism would be excluded from advertising on Television.*
- Advertisers or their agents must be prepared to produce evidence to substantiate any claim or illustrations.
- Advertisements should not contain disparaging reference to another product or service.
- Visual and verbal representation of actual and comparative prices and costs must be accurate and should not mislead on account of undue emphasis or distortion.
- Testimonials must be genuine and must not be used in a manner likely to mislead the viewers. Advertisers or the agencies must be prepared to produce evidence in support of any testimonial and any claims it may contain.
- The Director General, Doordarshan, in all other matters, will be guided for purposes of commercial telecasting in Doordarshan by the code of Ethics for Advertising in India, as modified from time to time.
- Notwithstanding anything contained here in this code is subject to such modifications as may be made or issued by the Government of India from time to time.

NEWS POLICY FOR BROADCAST MEDIA:

Both Radio and Television play a vital role in the formation of the public opinion. So, the Government of India seriously realized that there should be clear-cut news policy for broadcast media.

Following is the news policy for Broadcast media issued by the Ministry of Information and Broadcasting to AIR & DD on May 4, 1982 and placed before the Lok Sabha on July 13, 1982.

- There should be a clear-cut distinction between news and views. News should be factual, accurate and objective. There should be no editorialization of news.
- News should be selected on the basis of news value.
- Though the selection of news should be done on the basis of news value, yet its presentation should be according to the medium and the audience.
- Apart from factuality and accuracy in the news, attempts should be made to give the background of the news also.
- There should be the highest stage of responsibility in broadcast news. AIR and Doordarshan should not broadcast any news on the basis of its publication in newspapers and magazines. They should develop their own sources for the verification of events.
- In a developing country like India, AIR and Doordarshan should highlight development news, its relevance, its achievements and problems. Other than that they (AIR & DD) should also motivate the people to participate in development activities. For that they should not only depend on news agencies, but put out well-grounded stories on their own.
- Due to the limitations of time, news in AIR and Doordarshan cannot be like that of newspapers.
- The news relating to the implementation of the Government programmes should get due coverage.
- The main objective of the current affairs programmes should be to enlighten the people on various aspects of political, economic, social and cultural developments. The treatment of the subject should be comprehensive projecting different viewpoints. It should aim at providing adequate background for a proper understanding and interpretation of events and issues.
- Internal evaluation of news and current affairs programmes after their broadcast should be the regular exercise on daily basis.
- The style of language of broadcast medium should be ear pleasing and not eye-pleasing like print media.
- In case of politically controversial news, AIR and Doordarshan should try to maintain a balance while presenting the viewpoints of all the sides. If a variety of viewpoints cannot be projected in the same bulletin, the balance should be achieved within a reasonable period of time.

- Regarding international news, news of developing countries, especially from that of our neighbors should get priority.
- AIR and Doordarshan should aim at creating an informed public opinion on international events and developments. In preparing news, national interest must be kept in mind.
- The provision of regular evaluation of the language of bulletins is a must. There has to be a much greater emphasis on specialization and training of the news/personnel within AIR and Doordarshan. A stylebook in each language should be prepared without delay.
- The professional capacity of the people who run the news and current affairs programmes is vital and important, because they have immensely great role in the implementation of these policies and norms. Again, the choice of personnel is most important. A professional must have had training in news work. He should be able to choose the items well and to rewrite the stories to suit the medium. Professional training and appreciation of the role of the media in a democratic society will give him the confidence to take the right decisions.

BROADCASTING CODE GOVERNING ALL INDIA RADIO AND DOORDARSHAN:

Recognizing the immense power of Radio and Television for both good and evil and the solemn responsibilities are placed upon all broadcasters.

- To ensure the objective presentation of news and fair and unbiased comment;
- To promote the advancement of education and culture;
- To raise and maintain high standards of decency and decorum in all programmes;
- To provide programmes for the young which, by variety and content, will inculcate the principles of good citizenship;
- To promote communal harmony, religious tolerance and international understanding;
- To treat controversial public issues in an impartial and dispassionate manner;
- To respect human rights and dignity.

This code was adopted by the fourth Asian Broadcaster Conference convened at Kuala Lumpur in 1962 and to which all India Radio was a party.

5.2.2 CABLE TV REGULATION ACT, 1995:

Let us start with a few operational definitions:

- *"Cable Operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;*
- *"Cable Service" means the transmission by cable of programmes including re-transmission by cables of any broadcast television signals;*
- *"Cable television network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;*
- *"Company" means a company as defined in section 3 of the Companies Act, 1956;*
- **"PERSON" MEANS:**
 - * *An individual who is a citizen of India;*
 - * *An association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;*
 - * *The citizens of India hold a company in which not less than fifty-one percent of the paid-up share capital;*
- *"Prescribed" means prescribed by rules made under this Act;*
- *"Programme" means any television broadcast and includes-*
 - Exhibition of film, features, dramas, advertisements and serials through videocassette recorders or video cassette players.
 - Any audio or-visual live performance or presentation and the expression "programming service" shall be construed accordingly;
- *"Registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specifically to perform the functions of the registering authority under this Act;*
- *"Subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other persons.*

REGULATION OF CABLE TELEVISION NETWORK:

- No person shall operate a cable television network unless he is registered as a cable operator under this Act;
- Provided that a person operating a cable television network, immediately before the commencement of this Act, may continue to do so for a period of ninety days from such commencement; and if he has made an application for registration as a cable operator under

section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

- Any person who is operating or is desirous of operating a cable television network may apply for registration as cable operator to the registering authority.
- An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.
- On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration:
- Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to grant registration to him if it is satisfied that he does not fulfill the conditions specified in clause (e) of section 2.
- No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code;
- Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialized gadgets or decoder.
- No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code;
- Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialized gadgets or decoder.
- Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and the cable operator shall maintain such register for a period of one year after the actual transmission or re-transmission of the said programmes.
- Every cable operator or using a dish antenna or "Television Receive Only" shall, from the commencement of this Act, re-transmit at least two Doordarshan channels of his choice through the cable service.
- The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.
- No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standard in accordance with the provisions of the Bureau of Indian Standards Act, 1986, (63

of 86) use any equipment in his cable television network unless such equipment conforms to the said Indian Standard.

- Every cable operator shall ensure that the cable television network being operated by him does not interfere in any way, with the functioning of the authorized telecommunication systems.
- Seizure and Confiscation of Certain Equipment
- If any officer, not below the rank of a Group 'A' officer of the Central Government authorized in this behalf by the Government (hereinafter referred to as the authorized officer), has reason to believe that the provisions of section 3 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.
- The authorized officer shall retain no such equipment for a period exceeding ten days from the date of its seizure unless the approval of the District Judge with the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.
- The equipment seized under sub-section (1) of section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.
- No seizure or confiscation of equipment referred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act.
- No order adjudicating confiscation of the equipment referred to in section 12 shall be made unless the cable operator has been given a notice in writing, informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter:
- Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment shall be returned after the expiry of that period of the cable operator from whose possession it was seized.
- Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908 shall, so far as may be, apply to every proceeding referred to in sub-section (1).

- Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such court.
- The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.
- No further appeal shall lie against the order of the court made under sub-section (2).

OFFENCES AND PENALTIES:

- Whoever contravenes any of the provisions of this Act shall be punishable:
 - * For the first offence, with imprisonment for a term, which may extend to two years or with fine, which may extend to one thousand rupees or with both;
 - * For every subsequent offence, with imprisonment for a term, which may extend to five years and with fine, which may extend to five thousand rupees.
- Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.
- Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer, of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- "Company" means any body corporate and includes a firm or other association of individuals; and
- "Director" in relation to a firm, means a partner in the firm.

- No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by such officer, not below the rank of a Group 'A' officer of the Central Government, as the State Government may, by notification in the Official Gazette, specify in this behalf.

Note: The detailed Act is given in the Annexure-I. Also given in Annexure-II are latest the modifications to this Act.

5.3 SUMMARY:

- The broadcasting code prohibits the following: *Criticism of friendly countries, Attack on religion or communities, Anything obscene or defamatory, Incitement to violence or anything against maintenance of law and order, Aspersion against the integrity of the President, Governorship, Judiciary, Anything amounting to contempt of court, Attack on a political party by name, Hostile criticism of any state or the Centre, Anything showing disrespect to the Constitution or advocating change in the Constitution by violence; but advocating changes in a constitutional way should not be debarred.*
- The Code of Commercial Broadcasting includes the following points: Advertising should be prepared in accordance with the laws of the country and should not offend against morality, decency, and the religious susceptibilities of the people, No advertisement should be allowed, Which mocks at any race, caste, colour, creed or nationality except for the specific purpose of effective dramatization in combating prejudice, Which is against any of the objectives, principles or provisions of the Constitution, Which provokes people to crime or to promote disorder, violence or breach of law, Which puts criminality as desirable or furnishes details of crime or initiation thereof, Which is likely to unfavorably affect friendly relations with foreign states, Which exploits national emblems, the Constitution, or the person or personality of national leaders or State dignitaries, and On cigarettes and tobacco products.

5.4 KEY WORDS:

Broadcasting Code: The broadcasting code prohibits the following: *Criticism of friendly countries, Attack on religion or communities, Anything obscene or defamatory, Incitement to violence or anything against maintenance of law and order, Aspersion against the integrity of the President, Governorship, Judiciary, Anything amounting to contempt of court, Attack on a political party by name, Hostile criticism of any state or the Centre, Anything showing disrespect*

to the Constitution or advocating change in the Constitution by violence; but advocating changes in a constitutional way should not be debarred.

Cable Operator: Cable Operator means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network.

Cable Service: Cable Service means the transmission by cable of programmes including re-transmission by cables of any broadcast television signals;

Cable television network: Cable television network means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

Subscriber: Subscriber means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other persons.

5.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. Discuss briefly the News Policy for Broadcast Media.
2. Discuss the Code of Commercial Broadcasting for AIR & DD.
3. Discuss the Code of Commercial Advertising for TV.
4. Throw light on the Cable Television Regulation Act.
5. Explain the offences and penalties for violating the Cable TV Regulation Act.

5.6 REFERENCES / SUGGESTED READING:

- o Basu, Durga Das (1996) - "Law of the Press published by prentice Hall of India Private Limited, New Delhi.
- o Bhanawat, Sanjeev (L993) - Press Kanoon aur Patrakarita, published by Sidhashri Prakashan, Jaipur.
- o "Media Problems and Prospects (1983)" published by National Media Centre.
- o Rayudu, C.S. (1993) - "Media and Communication Management" published by Himalaya Published House, New Delhi.
- o Report (1995-96) of the Ministry of Information & Broadcasting (Annexure xiv).

Annexure - I

THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995[1]

No.7 of 1995

(25th March , 1995)

An Act to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto .

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. (1) This Act may be called the Cable Television Networks (Regulation) Act, 1995.

(2) It extends to the whole of India

(3) It shall be deemed to have come into force on the 29th day of September, 1994.

2. In this Act, unless the context otherwise requires -

[2](a) "authorised officer" means, within his local limits of jurisdiction;-

(i) a District Magistrate, or

(ii) a Sub-divisional Magistrate, or

(iii) a Commissioner of Police,

and includes any other officer notified in the Official Gazette, by the Central Government or the State Government, to be an authorised officer for such local limits of jurisdiction as may be determined by that Government;

[3](aa)"cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

(b)"cable service" means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;

(c)"cable television network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(d)"company" means a company as defined in section 3 of the companies Act, 1956;

(e)"person" means –

(i) an individual who is a citizen of India;

(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;

(iii) a company in which not less than fifty-one per cent of the paid-up share capital is held by the citizens of India;

(f)"prescribed" means prescribed by rules made under this Act;

(g)"programme" means any television broadcast and includes –

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;

(ii) any audio or visual or audio-visual live performance or presentation, and the expression "programming service" shall be construed accordingly;

(h)"registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Act;

(i)"subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

Short title extent and commencement

Definitions

1 of 1956

CHAPTER II

REGULATION OF CABLE TELEVISION NETWORK

3. No person shall operate a cable television network unless he is registered as a cable operator under this Act:

Provided that a person operating a cable television network, immediately before the commencement of this Act, may continue to do so for a period of ninety days from such commencement; and if he has made an application for registration as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

4. (1) Any person who is operating or is desirous of operating a cable television network may apply for registration as cable operator to the registering authority.

(2) An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

(3) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration:

Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to grant registration to him if it is satisfied that he does not fulfil the conditions specified in clause (e) of section 2.

5. No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code;

[4][proviso omitted]

6. No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code:

[5][proviso omitted]

7. Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes.

[6]8.(1) Every cable operator shall, from the commencement of the Cable Television Networks (Regulation) Amendment Act, 2000, re-transmit at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band, in satellite mode on frequencies other than those carrying terrestrial frequencies.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.

(3)The Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 may, by notification in the Official Gazette, specify the number and name of every Doordarshan channel to be re-transmitted by cable operators in their cable service and the manner of reception and re-transmission of such channels.

9. No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986, use any equipment in his cable television network unless such equipment conforms to the said Indian Standard.

10. Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems.

Cable television network not to be operated except after registration

Registration as cable operator.

Programme code.

Advertisement Code.

Maintenance of register .

36 of 2000

Compulsory transmission of Doordarshan channels

25 of 1990

Use of standard equipment in cable television network.

63 of 1986

Cable television network not to interfere with any telecommunication system.

CHAPTER III

SEIZURE AND CONFISCATION OF CERTAIN EQUIPMENT

11. [7](1) If any authorised officer has reason to believe that the provisions of sections 3, 5, 6 or 8 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.

(2) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

12. The equipment seized under sub-section (1) of section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.

13. No seizure or confiscation of equipment referred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act.

14. (1) No order adjudicating confiscation of the equipment referred to in section 12 shall be made unless the cable operator has been given a notice in writing, informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter :

Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment shall be returned after the expiry of that period to the cable operator from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908 shall, so far as may be, apply to every proceeding referred to in sub-section (1).

15. (1) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such Court.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.

(3) No further appeal shall lie against the order of the court made under sub-section (2).

Power to seize equipment used for operating the cable television network.

Confiscation

Seizure or confiscation of equipment not to interfere with other punishment.

Giving of opportunity to the cable operator of seized equipment.

5 of 1908

Appeal.

CHAPTER IV

OFFENCES AND PENALTIES

. Whoever contravenes any of the provisions of this Act shall be punishable, -

(a) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both;

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

17. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

18. No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made [8]"by any authorised officer".

Punishment for contravention of the provisions of this Act.

Offences by companies

Cognizance of offences.

CHAPTER V

MISCELLANEOUS

19. Where [9]"any authorised officer" thinks it necessary or expedient so to do in public interest, he may, by order, prohibit any cable operator from transmitting or re-transmitting [10]"any programme or channel if, it is not in conformity with the prescribed programme code referred to in section 5 and advertisement code referred to in section 6 or if it is" likely to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquillity.

20. [11](1) Where the Central Government thinks it necessary or expedient so to do in public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

[12](2) Where the Central Government thinks it necessary or expedient so to do in the interest of the-

(i) sovereignty or integrity of India; or

(ii) security of India; or

(iii) friendly relations of India with any foreign State; or

(iv) public order, decency or morality,

it may, by order, regulate or prohibit the transmission or re-transmission of any channel or programme.

[13](3) Where the Central Government considers that any programme of any channel is not in conformity with the prescribed programme code referred to in section 5 or the prescribed

advertisement code referred to in section 6, it may by order, regulate or prohibit the transmission or re-transmission of such programme”.

21. The provisions of this Act shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940, the Pharmacy Act, 1948, the Emblems and Names (Prevention of Improper Use) Act, 1950, the Drugs (Control) Act, 1950, the Cinematograph Act, 1952, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, the Prevention of Food Adulteration Act, 1954, the Prize Competitions Act, 1955, the Copyright Act, 1957, the Trade and Merchandise Marks Act, 1958, the Indecent Representation of Women (Prohibition) Act, 1986 and the Consumer Protection Act, 1986.

22. (1) The Central Government may, by notification in the official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the form of application and the fee payable under sub-section (2) of section 4;
- (b) the programme code under section 5;
- (c) the advertisement code under section 6;
- (d) the form of register to be maintained by a cable operator under section 7;
- (e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in sessions, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23.(1) The Cable Television Networks (Regulation) Ordinance, 1995 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provision of this Act.

Power to prohibit transmission of certain programmes in public interest.

Power to prohibit operation of cable television network in public interest.

Application of other laws not barred.

23 of 1940, 8 of 1948, 12 of 1950, 26 of 1950, 37 of 1952, 21 of 1954, 37 of 1954, 42 of 1955, 14 of 1957, 43 of 1958, 60 of 1986, 68 of 1986

Power to make rules.

Ord .3 of 1995

Repeal and savings.

CABLE TELEVISION NETWORKS RULES, 1994

(as amended upto 8.9.2000)

TO BE PUBLISHED IN THE GAZETTE OF INDIA
(EXTRAORDINARY) PART II, SECTION 3, SUB-SECTION (i)
GOVERNMENT OF INDIA
MINISTRY OF INFORMATION AND BROADCASTING
NOTIFICATION

New Delhi, the 29th September, 1994

G.S.R. 729 (E) – In exercise of the powers conferred by sub-section (1) of section 22 of the Cable Television Networks (Regulation) Ordinance, 1994 (Ordinance No.9 of 1994) the Central Government makes the following Rules namely:

1. Short title and commencement .- (1) These rules may be called the Cable Television Networks Rules, 1994.
(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) “cable operator” means any person who provides cable service through a cable television network or otherwise control or is responsible for the management and operation of a cable television network;
 - (b) “cable service” means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;
 - (c) “cable television network” means any system consisting of a set of closed transmission paths and associated signals generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;
 - (d) “company” means a company defined in section 3 of the Companies Act, 1956;
 - (e) “form” means form appended to these rules;
 - (f) “person “ means –
 - (i) an individual who is a citizen of India;
 - (ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;
 - (iii) a company in which not less fifty-one percent of the paid-up share capital is held by the citizens of India :
 - (g) “programme” means any television broadcast and includes;
 - (i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;
 - (ii) any audio or visual or audio-visual live performance or presentation;
and the expression “programming service” shall be construed accordingly;
 - (h) “registering authority” means the registering authority notified under clause (h) of section 2 of the Cable Television Networks (Regulation) Ordinance 1994;
 - (i) “subscriber” means a person who receives the signal of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.
3. Application for registration as a cable television network in India. - (1) Every application for registration as a cable television network in India shall be made in writing in Form I and shall be renewable after every twelve months.
(2) The application shall be addressed to the Registering Authority and delivered to his office in Form 1.
1(3) (a) Every application for registration or renewal of registration shall be accompanied by –
 - (i) a fee of rupees five hundred only; and
 - (ii) the requisite documents mentioned in Form 1 and Form 2.

(b) Every application for issue of duplicate certificate of registration shall be accompanied by –

 - (i) a fee of rupees two hundred and fifty only; and
 - (ii) the requisite documents mentioned in Form 1.
- 2(4) The amount of fee shall be deposited in the Head Post Office where the application for registration or renewal of registration or issue of duplicate certificate of registration is being made.
- 3(5) The amount of the fees shall be deposited under the Head ‘Un-Classified Receipts (U.C.R.)’.
4. Examination of Applications: (1) On receipt of an application under rule 3, the registering authority shall examine the application having regard to the provisions of section 4 of the Ordinance.

5. Registration:- (1) On being satisfied that the applicant fulfills the provisions of the Ordinance, the registering authority shall issue a registration certificate in Form 3. Provided that where the registering authority is satisfied that the registration cannot be granted to the applicant, he shall inform the applicant in Form 4.

4(2) On receipt of an application under clause (b) of sub-rule (3) of rule 3 for issue of duplicate certificate the Registering Authority shall examine the application having regard to the provisions of rule 3 and shall issue a duplicate Registration Certificate in Form 3 A.

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.

5(o) is not suitable for unrestricted public exhibition.

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.

6(3) No cable operator shall carry or include in his cable service any programme in respect of which copyright subsists under the Copyright Act, 1972 (14 of 1972) 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.

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.

7(viii) promotes directly or indirectly production, sale or consumption of-

(A) cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants;

(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.

8(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 standards of practice for advertising agencies as approved by the Advertising Agencies Association of India, Bombay, 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.

8. Register.- Each cable operator shall maintain a register in Form 5 for each month of the year for which the registration is granted.

9FORM 1

(See rule 3 (1))

(To be submitted in duplicate)

Form of application for *registration/renewal of registration/issue of duplicate certificate of registration as a cable operator.

To

The Head Postmaster

Head Post Office

Application for *registration/renewal of registration/issue of duplicate certificate of registration as a cable operator.

1. (a) Name of Applicant (individual/firm/company/association of persons/body of individuals)*

(b) *Age/Date of establishment/Date of incorporation.

2. (a) Address (office)
- (b) Telephone number (if any)
3. (a) Nationality (for individual applicants/body of individuals)
- (b) By birth/domicile.
4. (a) Amount of fee paid for *registration/renewal/issue of duplicate certificate
Rs.....
- (b) Name of Head Post Office.....
(Attach copy of challan vide which the fees have been deposited)
5. Area in which cable television network is working/proposed to be set up.....
6. Date from which the cable television network is operating/proposed to be set up.....
7. Number of channels being provided/proposed to be provided (with names).....
8. (a) Whether using Television Receive Only(TVRO) Yes/No
- (b) If yes, number and size of TVRO.....
- (c) Location.....
9. Names of Doordarshan satellite channels included in cable service.....
10. Copy of earlier registration certificate enclosed. Yes/No
(To be filled in only for renewal of registration).
11. (a) State reasons for issue of duplicate certificate of registration.....
(attach mutilated or defaced original certificate of registration/copy of report made to the police in case of theft or loss of the original certificate)
- (b) Period of validity of the original Registration Certificate for which the duplicate Registration Certificate is being sought.....
(To be filled in only for issue of duplicate Registration Certificate)
12. Declaration in Form 2 enclosed. Yes/No

(To be filled in for *registration/renewal of registration only)

I/We ----- the applicant(s)

*(Individual/firm/company/association of persons/body of individuals) do hereby declare that the above facts are correct in all respects.

*(Individual/firm/company/association of

Signature of Applicant
persons/body of individuals

Place:

Name -----

Date:

Address -----

FORM 2

I/We ----- the applicant(s) *(individual/firm/company/association of person/body of individuals) for registration as a cable operator/renewal of registration as a cable operator do hereby declare that:-

(i) I/We shall ensure that my / our television network shall be run in accordance with the provisions of the Cable Television Networks (Regulation) Ordinance 1994 at all times.

(ii) I/We shall not permit/associate any person who is not eligible to run a cable television network under the Cable Television Networks (Regulation) Ordinance 1994 to run/with the running of my/our cable television network.

(iii) I/We shall strive to the best of my / our ability to provide cable service to the satisfaction of the subscriber (s) of my/our cable television network.

- (iv) I/We shall strive to the best of my / our ability to ensure that my / our cable television network is not used for any unlawful purpose.
- (v) I/We shall obtain the necessary approval/clearance from the relevant authority for the running of my / our cable television network.
- (vi) I/We shall abide by any direction issued by the Central Government in respect of the running of a cable television network within India.

Signature of Applicant

* (Individual/firm/company/association of persons / body of individual

Place: Name -----

Date: Address -----

* Score out the word or words which are not applicable

FORM 3

(See rule 5)

Government of India

Head Post Office

REGISTRATION CERTIFICATE NUMBER

1. Shri/Shrimati/M/s ----- resident of -----is registered as a cable operator (individual, firm, *Company, association of persons or body of individuals) for running a cable television network at the following address ----- in the city/town of ----- for a period of twelve months with effect from -----

His Registration Number is -----

- 2. This Certificate is only valid for the premises stated above.
- 3. This Registration Certificate is not transferable.
- 4. The Certificate shall remain valid for the period indicated above or till the holder carries on the cable service or where the surrender of the certificate is accepted by the competent authority.

Head Post Master

Head Post Office

Place : ----- (town/city)

Date:

TO BE DISPLAYED PROMINENTLY ON THE PREMISES OF THE CABLE OPERATOR.

10FORM 3A

(See Rule 5(2))

Government of India

Head Post Office

DUPLICATE REGISTRATION CERTIFICATE

1. Shri/Shrimati/M/s.....resident ofis registered as a cable operator *(individual/firm/company/association of persons or body of individuals) for running a cable television network at the following addressin the city/town offor a period of twelve months with effect from.....(date from which the original Registration Certificate was valid).

His Registration number is

- 2. This Certificate is valid only for the premises stated above.
- 3. This Registration Certificate is not transferable.

4. The Certificate shall remain valid for the period indicated above or till the holder carries on the cable service or where the surrender of the certificate is accepted by the competent authority.

Head Post Master
Head Post Office
.....(town/city)

Place:

Date:

TO BE DISPLAYED PROMINENTLY ON THE PREMISES OF THE CABLE OPERATOR
FORM 4

(See proviso to rule 5 (1))

To

Sir,

Reference your application dated ----- for registration as a cable operator. The necessary registration cannot be granted to you for the following reason (s): -

- (i) Application is incomplete.
- (ii) Registration fee has not been tendered.
- (iii) Applicant is not a citizen of India.
- (iv) Less than fifty one percent of the paid-up share capital of the applicant company is held by citizens of India.

Head Post Master
Head Post Office
Place:

Date:

FORM 5

(See rule 8)

Form of register to be maintained by each cable operator.

Sl. No.	Encrypted Channel/ Programme	Duration		Date	Month	Year
		From	to			
1.	2.	3.	4.	5.	6.	7.

Signature of cable operator

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

GOVERNMENT OF INDIA
MINISTRY OF INFORMATION AND BROADCASTING
New Delhi the 29th September, 94
NOTIFICATION

In exercise of the powers conferred by clause (h) of section 2 of the Cable Television Networks (Regulation) Ordinance, 94, the Central Government hereby notifies the Head Post Master of a Head Post Office, of the area within whose territorial jurisdiction of office of the cable operator is situated, as the Registering Authority for registering cable television networks in the said area for the purposes of the said ordinance.

Annexure - II

Notification dated 27/02/2004 under Cable TV Act
Ministry of Information and Broadcasting
New Delhi, the 27th February, 2004

WHEREAS section 4A of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995) (hereinafter referred to as the Act) envisages transmission of programmes of a pay channel through an addressable system [hereinafter referred to as Conditional Access System (CAS)]; AND WHEREAS the Government of India in the Ministry of Information and Broadcasting, by notification number S.O. 39(E) dated the 14th January, 2003, made it obligatory for the cable operators to transmit programmes of every pay channel, through CAS in the Chennai Metropolitan area, Municipal Council of Greater Mumbai area, Kolkata Metropolitan area and the National Capital Territory of Delhi within six months from the 15th January, 2003;

AND WHEREAS by notification number S.O. 792(E) dated the 10th July, 2003, the implementation of CAS was deferred to the 1st September, 2003;

AND WHEREAS by notification number S.O. 1000(E) dated the 29th August, 2003, the implementation of CAS was withdrawn in the National Capital Territory of Delhi;

AND WHEREAS a number of parties approached the Honble High Court of Delhi, against the withdrawal of CAS in the National Capital Territory of Delhi;

AND WHEREAS the Honble Delhi High Court in its Order dated the 4th December, 2003 quashed the notification of the Government of India in the Ministry of Information and Broadcasting number S. O. 1000 (E) dated the 29th August, 2003;

AND WHEREAS the Cable operators in Delhi decided to implement CAS from the 15th December, 2003;

AND WHEREAS the Hon'ble High Court of Delhi in the Civil Writ Petition number 8993 and 8994 of 2003 in its order dated the 26th December, 2003, declined to restrain the Government from implementing CAS in the National Capital Territory of Delhi and decided to review the situation after three months;

AND WHEREAS the Hon'ble High Court of Delhi observed in its aforesaid order, inter alia, that .we desire that in this period of three months all the loopholes, difficulties faced by the consumers, effect of the implementation and problems, if any, arising out of the implementation can be assessed and remedial measures be taken in that regard.

There has to be some regulatory body in terms of the synopsis of comments which have been filed by the respondent to see the implementation. We would like the respondent to enlighten this Court of the steps taken in this direction before the next date of hearing

AND WHEREAS in compliance of order dated the 26th December, 2003 of the Honble Delhi High Court and also with a view to address the issues arising on account of implementation of CAS, the Central Government, brought broadcasting services and cable services within the ambit of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) on the 9th January, 2004 and entrusted the additional functions to the Telecom Regulatory Authority of India (TRAI) by the notification of the Government of India in the Ministry of Communication and Information Technology number S. O. 45 (E) dated the 9th January, 2004;

AND WHEREAS the Central Government has requested the TRAI to specify standard norms for, and periodicity of, revision of rates of pay channels, including interim measures;

AND WHEREAS the TRAI was also requested to make recommendations regarding the terms and conditions on which the CAS shall be provided to customers and the parameters for regulating maximum time for advertisements in pay channels as well as other channels;

AND WHEREAS the State Governments of National Capital Territory of Delhi, Maharashtra, Tamilnadu and West Bengal have, from time to time, approached the Central Government for

deferment or withdrawal of CAS citing various reasons relating to consumers interest, including the issue of pricing of pay channels and terms and conditions for procurement of Set Top Boxes;

AND WHEREAS in the course of implementation of CAS, a deep divide has been noticed among the stakeholders, that is to say the broadcasters, multi-service operators and local cable operators, impinging on the consumers interest;

AND WHEREAS consequent upon entrusting the additional functions to the TRAI, it initiated a number of steps to assess the difficulties faced by the consumers, the effect of the implementation of CAS and the problems faced during the course of implementation. As part of the consultation process, the TRAI obtained comments on relevant matters in writing as well as through its meetings with various stakeholders, examined the views or comments received from the four State Governments of Delhi, West Bengal, Maharashtra and Tamilnadu and also considered the regulatory practices in other countries. The TRAI is in the process of preparing a detailed Consultation Paper;

AND WHEREAS as the process of consultation and examination of various issues connected with the implementation of CAS is likely to take some more time, the TRAI, as an interim measure, has recommended that the implementation of CAS in the four metros be either denotified or kept in abeyance for at least three months and necessary action be taken keeping in view of the directions of the Honble High Court of Delhi dated the 26th December, 2003 in the Civil Writ Petition number 8993 and 8994 of 2003;

Whereas it has been brought out by the TRAI in its Interim Recommendation that a large number of issues concerning particularly the general consumers need to be resolved for a meaningful implementation of CAS;

AND WHEREAS it has also been observed that the provisions of section 4A of the Act have not been uniformly implemented on ground, thereby resulting in illegalities;

AND WHEREAS the Honble High Court, in its order dated the 26th December, 2003, has also stressed that the consumer grievances should be addressed by the providers of CAS;

AND WHEREAS it is essential for the Government to address the issues which have arisen during the course of implementation of CAS, particularly relating to the consumers interest, such an exercise would involve detailed consultations with the concerned State Government and the TRAI requires some more time to examine these issues and make its final recommendations;

AND WHEREAS after careful consideration of all the relevant facts and circumstances, including the interim recommendations made by the TRAI, the Central Government is of the view that the implementation of CAS should be in a manner that is in the larger interest of the public and safeguards the interest of consumers, which unfortunately, in the present situation, is not possible unless the issues raised above are addressed;

AND WHEREAS it has now become necessary in the public interest to suspend the relevant notifications

concerning implementation of CAS and simultaneously take a review, after due consultation with the

TRAI and other agencies, with the objective of notifying fresh dates and areas; and

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 4A, read with section 9 of the Cable Television Networks (Regulation) Act, 1995 (7 of 1995), the Central Government, having been satisfied that it is necessary in public interest so to do, hereby suspends the operation of the notifications of the Government of India in the Ministry of Information and Broadcasting number S.O. 39(E) dated the 14th January, 2003 and S. O. 792(E) dated the 10th July, 2003 read with the notification dated 14th January, 2003 on and

from the date of publication of this notification until such date as may be notified by the Central Government.

M. A. Mass Communication (2nd year)

MEDIA LAWS MMC 204 Lesson: 1

ETHICS IN ADVERTISING

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LESSON STRUCTURE:

This lesson shall provide an introduction to laws related to ethics in advertising. We shall start with *Puffery in Advertising*. Next, we shall try to understand *Comparative Advertising*, *Negative Advertising*, *Advertising for Children*, *Good Taste and Advertising*, and *Stereotypes in Advertising*. Finally we shall discuss about *Advertising of Controversial Products*, *Advertising and Sex*, and *certain Major Issues of Advertising Criticism*. The lesson structure shall be as follows:

- 6.0 *Objectives*
- 6.1 *Introduction*
- 6.2 *Presentation of Content*
 - 6.2.1 *Puffery in Advertising*
 - 6.2.2 *Comparative Advertising*
 - 6.2.3 *Negative Advertising*
 - 6.2.4 *Advertising for Children*
 - 6.2.5 *Advertorials and Infomercials*
 - 6.2.6 *Good Taste and Advertising*
 - 6.2.7 *Stereotypes in Advertising*
 - 6.2.8 *Advertising of Controversial Products*
 - 6.2.9 *Advertising and Sex*
 - 6.2.10 *Major Issues of Advertising Criticism*
- 6.3 *Summary*
- 6.4 *Key Words*

6.5 *Self-Assessment-Questions (SAQs)*

6.6 *References/Suggested Reading*

6.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Know About Puffery in Advertising*
- *To Know About Comparative Advertising*
- *To Know About Negative Advertising*
- *To Know About Advertising for Children*
- *To Know About Advertorials and Infomercials*
- *To Know About Good Taste and Advertising*
- *To Know About Stereotypes in Advertising*
- *To Know About Advertising of Controversial Products*
- *To Know About Advertising and Sex*
- *To Know About Major Issues of Advertising Criticism*

6.1 INTRODUCTION:

Advertising is omnipresent, it is alluring, it is inviting and it involves people. Advertising creates images or personalities for the products advertised. To create images advertising uses a variety of things like drama, action, romance, emotions, music, a lot of characters etc. It also uses what is called the 'metaphor of ideas'. In simple terms 'metaphor of ideas' is nothing but puffery or exaggeration.

Advertising also uses many other means that are controversial. Many of these practices are considered unethical. These include: Comparative Advertising, Negative Advertising, Advertising for Children, Advertorials and Infomercials, Good Taste and Advertising, Stereotypes in Advertising, Advertising of Controversial Products, and Advertising and Sex, etc.

In this lesson, we shall discuss about all these issues in detail.

6.2 PRESENTATION OF CONTENT:

The content of this lesson shall be presented as follows:

- *Puffery in Advertising*
- *Comparative Advertising*
- *Negative Advertising*

- *Advertising for Children*
- *Advertorials and Infomercials*
- *Good Taste and Advertising*
- *Stereotypes in Advertising*
- *Advertising of Controversial Products*
- *Advertising and Sex*
- *Major Issues of Advertising Criticism*

6.2.1 PUFFERY IN ADVERTISING:

Critics claim that puffery forms the main element of most advertisements. Products are shown to have a lot of qualities, which they do not possess in reality. On the other hand advertisers and advertising personnel defend the use of puffery. The defenders of puffery opine that it helps in differentiating products from their competitors.

They say that people are not expected to believe puffery literally. Like no one believes that they can 'walk on air' when they listen to the 'Force 10' shoes model saying I am waling on air. This line is a metaphor used to talk about the lightness of the shoes. Also puffery is being increasingly used, as there is no legal ban on it. Puffery is considered to be 'opinion' and not 'factual information'. And people (advertisers) are free to give their opinions.

However, many times it becomes difficult to distinguish between truth and puffery. Advertising people claim that customers are reasonable and thinking persons, and thus do not believe every thing that is being said in the ads. But research has been consistently revealing that many people do believe the tall and exaggerated claims made in the ads and fall prey to them. Some advertisers also try to venture into the gray area between truth and deception.

For example food and toy advertisers often use special effects to exaggerate the quality and other features of their products. Similarly many advertisers dramatize their brands to such an extent that reality takes a back seat. Like if you are not wearing 'VIP Frenchie' underwear, you would not get a girl friend. Chewing 'Chick lets' attracts girls to you. If you drink 'Fanta' then anything is possible. Suzuki Shogun motorcycle, when riding past, lights up houses and leaves many to wonder.

One major controversy in the international advertising field was created by one ad of Volvo cars. This car is considered to be safe and durable. To highlight these qualities of the car, the advertisement showed only Volvo survives a crash. Subsequent inquiries showed that the

car used in the ad had additional reinforcement and support. Also they had removed the support structures from other cars shown in the ad.

We have many cases of deception in India also. Both Wheel (washing bar) and Vim (utensil washing bar) show lemons prominently on the package. The ads of these two products also claim their products contain the power of lemon. However, it has been found that these products only use lemon flavour.

Such cases, where fraud and deception are exposed, make advertisers more cautious about crossing the line between puffery and deception. Puffery, to the extent it is not harmful, is okay. But deception and dishonesty are unethical practices.

6.2.2 COMPARATIVE ADVERTISING:

Puffery, deception and fraud are, however, a small part of unethical practices in the field of advertising. One major area of concern is comparative advertising. One classic example of this is the Captain Cook salt ad. Tata salt was the undisputed leader in the salt market when Captain Cook entered the field. The new comer dared to compare its features with the established market leader. The comparison was done in an imaginative and humorous way. The model in the ad (Sushmita Mukherji) made fun of all the good features of Captain Cook salt. Its whiteness, no moisture content and free flowing nature were mocked. However, the ad was actually making fun of the lack of these characteristics in Tata salt. And the audience got the message. This ad led to an ad-war between Tata and Captain Cook.

While many ads claim that the brands advertised are superior to their competitors, some others try to make the packaging look like major brands. Some other people use similar sounding brand name like GOLOFLAKE for GOLD FLAKE or LIFEBUY for LIFEBOUY. Advertisers use comparative advertising even at the risk of getting exposed. And in today's highly competitive market, comparative advertising has become a major weapon. Also people do not mind doctoring or manufacturing data. False and misleading information are fed through advertising.

One example is the Pepsodent ad that was banned. This ad claimed that Pepsodent was 102% better than its competitor. (Yeh Toothpaste hai ya Tendulkar). The competitor was Colgate and it complained to the MRTP Commission. An inquiry followed and the Pepsodent ad was banned. Many newspapers and magazines use the circulation figures and the readership figures to claim they are the number one.

In addition to playing with numbers and information (facts), advertisers also play with subjective material. Someone calls on the customers to Believe in t he Best. Some one else comes and claims to be Better than the best. One television company claims to have the flattest screen. Another TV manufacturer claims to have a screen, which is flatter than the flattest. These kind of comparative claims are difficult to either prove or disprove. Advertising practitioners feel that there is no stopping comparative advertising as long as there is competition. However, on the plus side for the consumers, competition not only leads to comparative advertising, it also leads to better and much improved products.

Some times advertisers try to copy other's advertisements. Plagiarism or imitation is on the rise even in the field of advertising. Competing advertising often prepare strikingly similar advertisements. Some say that this is mere coincidence. Some say it is plagiarism.

In the 1980's a television ad of American Honda Company showed a Honda car blasting off sideways like a spaceship. About five years later another car company Oldsmobile showed a similar ad comparing the car with a spaceship using visuals similar to the old Honda ad. This ad created a lot of controversies.

One recent example from India is about the some model (Ruby Bhatia) being used by these competing toothpastes - Colgate and Closeup. Opinions are divided about this particular case.

Some people say imitating ads remind consumers about the original product. Some others feel that the copied ad does lot of damage to the original product.

Also copying a lifting of ideas is practiced a lot in the advertising world. Creative Black Books, which feature award winning ads from all over the world, have become the sources of ideas instead of the copywriter's own imagination. Copywriters and visualizers refer these Black Books and shamelessly lift ideas. Some call it inspiration. Some say that they change the context and are not exactly copying. Some others call it creative adoption. However, to many lifting ideas is plain plagiarism or copying. We have already discussed how established brand names are copied.

6.2.3 NEGATIVE ADVERTISING:

While most ads try to highlight the best features of the brands advertised and use a positive approach, many ads try to show their competitors in a bad light using a negative approach. This kind of approach is mostly used for political advertising and especially in the USA. The ads created for US Presidential campaigns are mostly negative where opposing candidates are

ruthlessly dissected. In the brutal and highly competitive atmosphere of US politics, Presidential candidates hurl defamatory accusations at one another.

Research has shown that negative approach (which often amounts to character assassination) works well in case of political advertising. It destroys the opponents. However, negative approach does not work in case of general commercial advertising.

6.2.4 ADVERTISING FOR CHILDREN:

Advertising directed at children is another problem area. Children are a very important part of most markets. Children spend a lot of money on their own doing their own shopping. Children also initiate and influence purchase decisions of many products to a great extent. This is the reason why children are targeted not only in case of children's products but also for a wide range of other products.

Children are an impressionable age. The critical faculties of thinking are not developed in children. Thus they are vulnerable to advertising - particularly TV advertisements. The glamour and hype on TV attracts the immature minds and children can not make rational buying decisions as they can not distinguish between the boundaries of reality and fantasy in the make believe world of television advertising. Children are mesmerized by the attractive moving images and buy (or force their parents to buy) the products advertised on TV.

6.2.5 ADVERTORIALS:

Another type of advertising that often comes under criticism is the use of advertorials. An advertorial is half advertisement and half editorial. It is advertisement written in the form of a news story or an article - using the format and language of newspapers. These are mostly placed as part of the editorial content of a newspaper or magazine. Although the word advertorial is used, it is usually put in an obscure corner and set in very small type size making it almost invisible. Advertorials are used to promote goods, services and also institutions.

Advertorials are highly controversial. These aim to win public opinion rather than sell products. Another form of advertorials is the infomercial. It is the audio-visual media counterpart of advertorials. When an advertisement is disguised as a piece of information on radio or television, it is called an infomercial. An infomercial is half information and half commercial or advertisement.

6.2.6 GOOD TASTE IN ADVERTISING:

Different people have different opinion about what constitutes good taste. What is good taste to some people is objectionable to others. Different things offend different people. For example some people like the Kamasutra ads and consider these to be sensual. Many others find these ads obscene. Even the ads of Deluxe Nirodh that shows a couple under an umbrella (Pyar hua ekraar hua) are considered to be obscene. Many people object to social ads promoting use of condoms and other contraceptives being shown during prime time on Doordarshan. Also many people object to advertisements of products like sanitary napkins. And the excessive use of sex, nudity and violence is considered to be not in good taste.

Maintaining good taste in advertisements in a country like India is very difficult. Advertisers have to keep in mind the different religious, regional, and linguistic variations as also the different cultural & societal practices.

6.2.7 STEREOTYPES IN ADVERTISING:

Stereotyping involves presenting a group of people in a pattern or manner that lacks individuality. This involves generalization. We have many stereotypes in our society like people consider that Punjabis are boisterous, Bengalis and Keralites are intellectuals etc. Also all South Indians eat only *dosa*, *idli* and *sambar*. Mothers in law and daughters in law always fight. Fathers never take any interest in house management. Advertising uses many stereotypes as in case of the 'Papa to Buddhu hai' ad; Chipkti rahti hai, meri saas jaisi.

The most controversial of the stereotypes portrayed in advertisements is that of women. Women are usually shown as preoccupied with beauty, household chores and mother hood. Earlier housewives were portrayed as being too much concerned about the cleanliness of their homes, health of family members etc. She was portrayed as the 'super women' as in the ads of Trupti atta.

Also young girls are shown as too much occupied with beauty and winning boys. Not many advertisements recognize the diversity of women's roles. Also sometimes ads show such qualities of women that it becomes difficult to identify with them. While there is not much of change in the portrayal of women in ads, some changes are taking place as far as men are concerned. The Ariel washing powder ad shows the husband washing clothes at home. Even Kapil Dev is shown washing clothes in one ad. In another ad a child claims 'my daddy strongest'. While these changes are highly welcome, the challenge before advertisers is to portray the different segments of people realistically, in diverse roles and without hurting any segments.

6.2.8 ADVERTISING OF CONTROVERSIAL PRODUCTS:

Three main products, which fall under this category, are condoms, alcohol, and tobacco products. Alcohol and tobacco advertising have been banned in many countries including India (on DD and AIR) and the USA television networks. While alcohol and tobacco product manufacturers say that truthful and non-deceptive advertising of legal products is constitutional. Supporters of the ban say that advertising of such products might result in sickness, or even death of users. However, alcohol advertisers try and convey messages about moderate drinking like Baccardi ad 'Baccardi mixes with every thing but it does not mix with driving'. But where there is a ban on advertising of such products, advertisers use surrogate advertising like promoting other products of the same name. So we have matchboxes, playing cards, cut glasses, pet bottles, diaries and annual planners being advertised which clearly promote alcohol or tobacco products.

Many media do not accept condoms ads, although there is no ban on it. Newspapers rarely accept condom ads. Television has only recently started telecasting condom ads. Only magazines publish condom ads regularly. However, many people feel with the menace of AIDS and the increased cases of sexually transmitted diseases, all media should accept condom ads.

6.2.9 ADVERTISING AND SEX:

This is perhaps the most controversial aspect of advertising. It is not much of an ethical issue. It is more of a social issue. Earlier we discussed about the portrayal of woman as stereotypes. Let us discuss about the portrayal of women as glamour props. Scantly clad women might be okay for an ad for a condom. But such a lady featured in ads for tyres, pens or suitcases or shoes and coffee does not make any sense. Like the now banned Tuff shoe ad featured two models (Madhu Sapre and Millind Soman) almost nude. They were wearing only Tuff shoes and had a huge python draped around their bodies.

The ad for MR Coffee showed a couple in an intimate position and the head line read 'real pleasure does not come in an instant'. This particular coffee is the filter variety and was trying to secure its position against the instant coffees. Another recent ad of Smirnoff showed the map of India. The southern tip was represented as the private parts of a lady. Also a lot of ads show bare male bodies. The VIP Frenchie ad featuring a male model in a bathing robe is considered to be highly obscene by many. Also many ads show men in bathing trunks.

6.2.10 ISSUES REGARDING CRITICISM OF ADVERTISING:

Here one is reminded of what historian Stephen Fox had to say about advertising, "False in tone, tense in pace, vacant and self-hating, overheated and oversexed". Vance Packard, long time back, had called it the hidden persuader. In 1976, eminent economist Robert Heilbroner called advertising "the single most value destroying activity of business civilization". American advertising historian Richard Pollay once said, "Advertising reinforces materialism, cynicism, irrationality, selfishness, anxiety, social competitiveness, powerlessness and loss of self respect".

Too strong criticisms, you would say. And as if all these were not enough came a Gallop Poll in the mid eighties. This opinion poll listed advertisers at third position from the bottom in a list of honesty among 25 occupations or professions. Only car salesmen and insurance salesman were considered more dishonest than advertising people.

Advertising is more criticized than other professions because of its high volume and high visibility. Advertising is criticized as a one-sided communication, with the inherent potential of deception, as self interested persuasion as opposed to objective product information, a means to cause people to think or act in accordance with advertisers interest.

Advertising as a deceptive persuader is also criticized on three issues of ethical concern

- *Advocacy*
- *Accuracy,*
- *Acquisitiveness.*

ADVOCACY: Critics often say that advertisements should give only information. Ads should be objective and neutral. But the goal of advertising is to persuade people by creating a distinct image for the brand advertised. For this advocacy or taking sides is a must.

ACCURACY: Does buying a particular TV set (ONIDA) make you proud and makes you neighbours envious? Does drinking a cold drink make anything possible? Are the products of particular home appliance company the best (Believe in the Best, BPL). This kind of subjective treatment and also inaccurate, deceptive and misleading claims are a matter of big concern for critics. However, as the saying goes "you can fool all the people some time, you can fool some people all the time, but you can not fool all the people all the time". In fact, it is difficult to fool some people all the time. People are smart enough to recognize exaggeration, big and false claims etc.

And in this time when marketers are trying to build consumer loyalty, advertisers can try to fool or mislead people only at great risks.

ACQUISITIVENESS: This issue is about advertising's power of creating and fostering materialism. Critics say that advertising leads us to accumulate material objects and that we are 'corrupted', coerced' or influenced to buy many things that we do not need. However, what advertising does is to give us 'options' and help us make "informed buying decisions ". Still somehow, ethical problems have become part and parcel of advertising. To avoid this advertisers should weight the pros and cons, the good and the bad, the healthy and harmful effects or advertisements before they are released through the media. Answers to the following questions provide a guideline to avoid ethical controversies

- *Who should, and should not, be advertised to?*
- *What should, and should not, be advertised?*
- *What should, and should not, be the content of advertising messages?*
- *What should, and should not be the tone of the advertising message?*

Unfortunately, answers to these questions are not always straightforward. So in Addition, advertisers should consider a number of other issues like the Company's position and reputation, its objectives, the social and legal environment, the market situation etc. before finalizing ads so as to avoid controversies

6.3 SUMMARY:

- Advertising creates images or personalities for the products advertised. To create images advertising uses a variety of things like drama, action, romance, emotions, music, a lot of characters etc. It also uses what is called the 'metaphor of ideas'. In simple terms 'metaphor of ideas' is nothing but puffery or exaggeration.
- Many ads claim that the brands advertised are superior to their competitors; some others try to make the packaging look like major brands. Some other people use similar sounding brand name like GOLOFLAKE for GOLD FLAKE or LIFEBUY for LIFEBUOY. Advertisers use comparative advertising even at the risk of getting exposed. And in today's highly competitive market, comparative advertising has become a major weapon. Also people do not mind doctoring or manufacturing data. False and misleading information are fed through advertising.

- Many ads try to show their competitors in a bad light using a negative approach. This kind of approach is mostly used for political advertising. Research has shown that negative approach (which often amounts to character assassination) works well in case of political advertising. It destroys the opponents. However, negative approach does not work in case of general commercial advertising.
- Children are an impressionable age. The critical faculties of thinking are not developed in children. Thus they are vulnerable to advertising - particularly TV advertisements. The glamour and hype on TV attracts the immature minds and children can not make rational buying decisions as they can not distinguish between the boundaries of reality and fantasy in the make believe world of television advertising. Children are mesmerized by the attractive moving images and buy (or force their parents to buy) the products advertised on TV.
- Advertorials are highly controversial. These aim to win public opinion rather than sell products. Another form of advertorials is the infomercial. It is the audio-visual media counterpart of advertorials. When an advertisement is disguised as a piece of information on radio or television, it is called an infomercial. An infomercial is half information and half commercial or advertisement.
- Different people have different opinion about what constitutes good taste in advertising. For example some people like the Kamasutra ads and consider these to be sensual. Many others find these ads obscene. Even the ads of Deluxe Nirodh that shows a couple under an umbrella (Pyar hua ekraar hua) to be obscene. Many people object to social ads promoting use of condoms and other contraceptives being shown during prime time on Doordarshan.

6.4 KEY WORDS:

Controversial Practices in Advertising: Advertising uses many other means that are controversial. Many of these practices are considered unethical. These include: Comparative Advertising, Negative Advertising, Advertising for Children, Advertorials and Infomercials, Good Taste and Advertising, Stereotypes in Advertising, Advertising of Controversial Products, and Advertising and Sex, etc.

Puffery: In many advertisements, products are shown to have a lot of qualities, which they do not possess in reality. On the other hand advertisers and advertising personnel defend the use of puffery. Also puffery is being increasingly used, as there is no legal ban on it. Puffery is considered to be 'opinion' and not 'factual information'. And people (advertisers) are free to give their opinions.

Comparative Advertising: One major area of concern is comparative advertising. Many ads claim that the brands advertised are superior to their competitors; some others try to make the packaging look like major brands. Some other people use similar sounding brand name like GOLOFLAKE for GOLD FLAKE or LIFEBUY for LIFEBUOY. Advertisers use comparative advertising even at the risk of getting exposed. And in today's highly competitive market, comparative advertising has become a major weapon. Also people do not mind doctoring or manufacturing data. False and misleading information are fed through advertising.

Negative Advertising: Many ads try to show their competitors in a bad light using a negative approach. This kind of approach is mostly used for political advertising and especially in the USA. The ads created for US Presidential campaigns are mostly negative where opposing candidates are ruthlessly dissected. In the brutal and highly competitive atmosphere of US politics, Presidential candidates hurl defamatory accusations at one another. Research has shown that negative approach (which often amounts to character assassination) works well incase of political advertising. It destroys the opponents.

Advertising for Children: Children are a very important part of most markets. Children spend a lot of money on their own doing their own shopping. Children also initiate and influence purchase decisions of many products to a great extent. This is the reason why children are targeted not only in case of children's products but also for a wide range of other products.

Advertorial: An advertorial is half advertisement and half editorial. It is advertisement written in the form of a news story or an article - using the format and language of newspapers. These are mostly placed as part of the editorial content of a newspaper or magazine. Although the word advertorial is used, it is usually put in an obscure corner and set in very small type size making it almost invisible. Advertorials are used to promote goods, services and also institutions.

Advertising and Good Taste: Different people have different opinion about what constitutes good taste. What is good taste to some people is objectionable to others. Different things offend different people. Many people object to advertisements of products like sanitary napkins. And the excessive use of sex, nudity and violence is considered to be not in good taste.

6.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. Write a detailed note on the use of exaggeration, deception, and bad taste in advertising.
2. Write a detailed note on the use of sex in advertising.
3. Write a detailed note on advertorials and infomercials.

4. Write a detailed note on comparative advertising and negative advertising.
5. Write a detailed note on the major issues of criticism in advertising.

6.6 REFERENCES / SUGGESTED READING:

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LAWS OF ADVERTISING

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LESSON STRUCTURE:

This lesson shall provide an introduction to laws related to advertising in India. We shall start with the *Code of Ethics by Advertising Council of India*, *DAVP's Code of Advertising*, and *AIR and DD's Code of Advertising*. Next, we shall try to understand the various laws related to advertising like the *Drug and Magic Remedies Act*, and the *Non-Banking and Financial Institutions Advertising Act*. The lesson structure shall be as follows:

- 7.0 *Objectives*
- 7.1 *Introduction*
- 7.2 *Presentation of Content*
- 7.2.1 *Advertising Laws- An Introduction*
- 7.2.2 *Code of Ethics by Advertising Council of India*
- 7.2.3 *Drug and Magic Remedies Act*
- 7.2.4 *Non-Banking and Financial Institutions Advertising Act*
- 7.2.5 *Code of Commercial Advertising on Doordarshan*
- 7.3 *Summary*
- 7.4 *Key Words*
- 7.5 *Self-Assessment-Questions (SAQs)*
- 7.6 *References/Suggested Reading*

7.0 OBJECTIVES:

The objectives of this lesson are as follows:

- Advertising Laws- An Introduction
- *To Know About the Code of Ethics by Advertising Council of India*
- *To Know About the Drug and Magic Remedies Act*
- *To Know About the Non-Banking and Financial Institutions Advertising Act*
- *To Know About the Code of Commercial Advertising on Doordarshan*

7.1 INTRODUCTION:

Advertising is the most visible activity of any business. By trying to attract people to use their products, companies also invite public criticism and attack if their products don't measure up. It

is often accused by the critics that subtle lies, sex and misleading claims are used in advertising to manipulate the decisions of the people. It not only crosses the limits of business codes and norms of the society but hurts the sensitivity of their consumers too. But, on the other hand, the defenders argue in favour of such practices. And there cannot be any end to this debate.

It is very difficult to demarcate what is ethical and what is unethical. It is as intangible as the concepts of morality or idea of right or wrong. Therefore, it is very difficult to define what is ethically right or wrong or morally acceptable. The concept of morality vis-à-vis sex varies widely over the globe. While advertisements of condoms like Kamasutra or Kohinoor have created furore in Indian society, such ads are commonplace in other countries.

The broad concept of ethics, however, accepts that any advertising that is not true or uses questionable means would be considered unethical.

7.2 PRESENTATION OF CONTENT:

The content of this lesson shall be presented as follows:

- **ADVERTISING LAWS- AN INTRODUCTION**
- **CODE OF ETHICS BY ADVERTISING COUNCIL OF INDIA**
- *Drug and Magic Remedies Act*
- *Non-Banking and Financial Institutions Advertising Act*
- *Code of Commercial Advertising on Doordarshan*

7.2.1 ADVERTISING LAWS- AN INTRODUCTION:

To protect the consumer against misleading advertisements a number of laws have been passed all over the world. In India, it was started in 1868, when commercial activities were included under the purview of the Indian Penal Code. With growing competitiveness in the market & growth of consumer awareness, additions and amendments are being introduced in the legal system to control the erring advertisers. Some of the major laws are listed here:

INDIAN PENAL CODE, 1868: With regard to advertising, the IPC provides that “a book, pamphlet, paper writing, drawing, painting, representations, figures or any other object shall be deemed to be obscene if it is lascivious or appeals to prurient interests or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read see, or hear the message contained or embodied in it.” The code, though does not refer to advertising in particular, covers advertising as part of the activities listed above.

INDIAN CONTRACT ACT, 1872: This Act governs the rights and duties of advertising agencies.

THE PUNJAB EXCISE ACT, 1914: This Act prohibits advertising offering or soliciting the use of liquor in any form in the area of Punjab. An extension of this Act also prohibits such advertisements in the Union Territory of Delhi.

THE DRUGS AND COSMETICS ACT, 1940: This Act enables the Government to regulate the import, manufacture, distribution and sale of drugs and cosmetics.

DRUGS AND MAGIC REMEDIES (OBJECTIONABLE ADVERTISEMENTS) ACT, 1954: This Act prohibits publication of objectionable advertisements in newspapers and magazines or otherwise relating to alleged cures for venereal diseases, sexual stimulants and alleged cures for diseases and conditions peculiar to women. The Act controls drug advertisements and also advertisements of remedies stated to have magical qualities known as magic remedies. In this case an advertisement includes 'any notice, circular, label, wrapper or other documents and announcement made by any means or producing or transmitting light, sound or smoke'.

YOUNG PERSON (HARMFUL PUBLICATION) ACT, 1956: This Act provides 'penalty for a person who sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation any harmful publication or for purpose of sale, hire distribution, public exhibition or circulation, prints, makes known by any means whatsoever, that any publication harmful for young people.

COPYRIGHT ACT, 1957: This Act, which protects the copyright, also protects the right of the copywriter and other creators of advertisements.

MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT 30, 1984: Popularly known as the MRTP Act, this Act and its amendments have made special provisions for regulating misleading advertisements and unfair trade practices etc.

THE CODE OF COMMERCIAL BROADCASTING:

This Code has laid down the following general rules of conduct in advertising:

- Advertising should be so designed as to conform to the laws of the country and should not offend against morality, decency and religious susceptibilities of the people.

o No advertisement should be permitted:

- * *Which derides any race, caste, colour, creed, nationality except wherein such usage would be for the specific purpose of effective dramatization, such as combating prejudice;*
- * *Which is against any of the objectives, principles, or provisions of the Constitution of India;*
- * *Which will tend to incite people to crime or to promote disorder, violence or breach of law;*
- * *Which presents criminality as desirable, or furnish details of crime or imitation thereof;*
- * *Which would adversely affect friendly relations with foreign states;*
- * *Which exploits the national emblem, or any part of the Constitution, or the person or personality or national leader or State dignitary;*
- * *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 or have any relation to any industrial dispute;*
- * *Advertisement for services concerned with the following are not acceptable; (a) Money-lenders; (b) Chit Funds and Saving Schemes other than those conducted by nationalized or recognized banks; (c) Matrimonial agencies; (d) Unlicensed employment services; (e) Fortune-tellers or sooth-Sayers, etc., and those with the claims of hypnotism would be excluded from advertising on T.V.;*
Betting tips and guide books, etc., relating to horse racing or other games of chance shall not be accepted;
- * *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 property or quality, which is incapable of being established, or proved, e.g., care for baldness;*
- * *Scientific or statistical excerpts from technical literature, etc., must be used only with a proper sense of responsibility to the ordinary viewer. Irrelevant data and scientific jargon must not be used to make claims appear to have a scientific basis they do not possess. Statistics of limited validity should not be presented in such a way as to make it appear that they are universally true;*
- * *Advertisers or their agents must be prepared to produce evidence to substantiate any claims or illustrations;*
Advertisements should not contain disparaging reference to another product or service;
- * *Imitation likely to mislead viewers even though it may not be of such a kind as to give room for legal action or be deemed, as breach of copyright must be avoided;*

- * *Visual and verbal representation of actual and comparative prices and costs must be accurate and should not mislead on account of undue emphasis or distortion; and*
- * *Testimonials must be genuine and must not be used in a manner likely to mislead the viewers. Advertisers or the agencies must be prepared to produce evidence in support of any testimonial and any claims it may contain.*

- In all other respects, the Director General, AIR or DD be guided for purposes of commercial broadcasting and telecasting on AIR or DD by the Code of Ethics for Advertising in India issued by the Advertising Council of India, as modified from time to time.
- Notwithstanding anything contained herein, this code is subject to such modification or direction as may be made or issued by the Government of India from time to time.

7.2.2 CODE OF ETHICS BY ADVERTISING COUNCIL OF INDIA:

The following are excerpts from the Code of Ethics for Advertising issued by the Advertising Council of India:

- Advertising should be so designed as to conform not only to the laws but also the moral, aesthetic and religious sentiments of the country.
- No advertisement likely to bring advertising into contempt or disrepute should be permitted. Advertising should not take advantage of the superstition or ignorance of the general public.
- No advertisements of talismans, charms and character reading from photographs or such other matter as will trade on the superstition of general public shall be permitted.
- Advertising should be truthful avoid distorting facts and misleading the public by means of implications and omissions. For instance, it should not mislead the consumer by false statements as to:
 - * The character of the merchandise, i.e., its utility, materials, ingredients, origin, etc.;
 - * The price of the merchandise, its value, its suitability of terms of purchase;
- * The services accompanying purchase, including delivery, exchange, return, repair, upkeep, etc.;
 - * Personal recommendations of the article of service. Testimonials which are fictitious and /or fraudulent or the originals of which cannot be produced must not be used. Anyone using testimonials in advertisements is as responsible for the statements made in them, as he would be if he had made them himself;
 - * The quality of the value of competing goods or the trustworthiness of statements made by others.

- No advertisement should be permitted to contain any claim so exaggerated as to lead inevitably to disappointment in the mind of the public. Special care is called for in the following cases:
 - * Advertisements addressed to those suffering from illness. (In this respect the Code of Standards of Advertising in relation to medicine must be adhered to);
 - * Advertisements inviting the public to invest money. Such advertisements should not contain statements, which may mislead the public in respect of the security offered, rates of return etc;
 - * Advertisements inviting the public to take part in lotteries or competitions such as are permitted by law or which hold out the prospects of gifts. Such advertisements should state clearly all the conditions for the lotteries or competition or the conditions for the distribution of the gifts;
 - * The publication of employment notices requiring fees for application forms, prospects, etc., and security deposits should be forbidden except when such advertisement emanate from governmental or quasi-governmental sources.
- Methods of advertising designed to create confusion of the mind of the consumer as between goods by one maker and another maker are unfair and should not be used. Such methods may consist in:
 - * The imitation of the trade mark or name of competitor or the packaging or labeling of goods; or
 - * The imitation of advertising devices, copy, layouts or slogans.
- Advertising should endeavour to gain the goodwill of the public on the basis of the merits of the goods or services advertised. Direct comparison with competing goods or firms and disparaging references are in no circumstances permitted.
- Vulgar, suggestive, repulsive or offensive themes or treatments should be avoided in all advertisements. This also applies to such advertisements, which in themselves are not objectionable as defined above, but which advertise objectionable books, photographs or other matter and thereby lead to their sale and circulation.
- No advertisement should offer to refund money paid.
- The use of National Emblems is prohibited by law in advertisements, trade marks, etc., except by Governmental agencies. Also the use of the pictures of Mahatma Gandhi, the President, the Vice-President and the Prime Minister of India is forbidden in such advertisements, trade marks, etc., except by previous permission. This rule does not

apply to advertising of books, films or other items in which these personages form the chief subject.

7.2.3 DRUGS & MAGIC REMEDIES ACT, 1954:

This act is known as the Drugs and Magic Remedies (objectionable advertisements) act, 1954. This act was enacted to control the advertisements of drugs in certain cases, to prohibit the advertisements for certain drugs for matters connected therewith.

DEFINITIONS:

The important terms appearing in the Act such as advertisement, drug, magic remedy, and registered medical practitioner have been defined in the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954. The definitions are as follows:

Advertisement: “Advertisement” includes any notice, circular, label, wrapper, or other document, and any announcement made orally or by any means of producing or transmitting light sound or smoke. (Section 2(a) of the Act).

Drug: “Drug” includes:

- (i) A medicine for the internal or external use of human being or animals;
- (ii) Any substance intended to be used for or in the diagnosis, cure, mitigation, treatment or prevention of disease in human beings or animals;
- (iii) Any article, other than food, intended to affect or influence in any way the structure or any organic function of the body of human beings or animals;
- (iv) Any article intended for use as a component of any medicine, substance or article, referred to in sub-clauses (i) (ii) and (iii). (Section 2(b) of the Act).

Magic Remedy: “Magic remedy” includes a talisman, mantra kavacha, and any other charm of any kind which is alleged to possess miraculous powers for or in diagnosis, cure, mitigation, treatment or prevention of any disease in human beings or animals, or for affecting or influencing in any way the structure or any organic function of the body of human beings or animals. (Section 2(c) of the Act).

Registered Medical Practitioner: “Registered medical practitioner” means any person -

- Who holds a qualification granted by an authority specified in, or notified under, Section 3 of the Indian Medical Council Act, 1956; or
- Who is entitled to be registered as a medical practitioner under any law for the time being in force in any State to which this Act extends relating to the registration of medical practitioners. (Section 2(c) of the Act).

WHAT ARE OBJECTIONABLE ADVERTISEMENTS?

Section 3 of the Act prohibits advertisements of certain drugs for treatment of certain diseases and disorders. Accordingly, no person shall take any part in the publication of any advertisement referring to any drug in terms, which suggest or are calculated to lead to the use of that drug for:

- (a) The procurement of miscarriage in women or prevention of conception in women; or
- (b) The maintenance or improvement of the capacity of human beings for sexual pleasure; or
- (c) The correction of menstrual disorder in women; or
- (d) The diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the schedule, or any other disease, disorder or condition (by whatsoever name called which may be specified in the rules made under this Act.

Provided that no such rule shall be made except:

- (i) In respect of any disease, disorder or condition which requires timely treatment in consultation with a registered medical practitioner or for which there are normally no accepted remedies; and
- (ii) After consultation with the Drugs Technical Advisory Board constituted under the Drugs and Cosmetics Act, 1940 and, if the Central Government considers necessary, with such other persons having special knowledge or practical experience in respect of Ayurvedic or Unani systems of medicines as that Government deems fit.

Note: Advertisements of the nature described in this section, tend to cause the ignorant and the unwary to resort to self-medication with harmful drugs and appliances which cause great harm, the Act puts a stop to such undesirable advertisements in the public interest. The provision is subject to the other provisions of this Act. Such provisions are to be found in Section 14.

The Supreme Court has ruled that the advertisements affected by the Act do not fall within the purview of 'freedom of speech' in Article 19(1)(a) of the Constitution.

PROHIBITION OF MISLEADING ADVERTISEMENTS RELATING TO DRUGS:

Section 4 of the Act prohibits misleading advertisements relating to drugs. Accordingly no person shall take any part in the publication of any advertisement relating to a drug if the advertisement contains any matter which:

- (a) Directly or indirectly gives a false impression regarding true character of the drug; or
- (b) Makes a false claim for the drug; or
- (c) Is otherwise false or misleading in any material particular.

Prohibition of Advertisement of Magic Remedies

This Act also prohibits the advertisement of magic remedies for treatment of certain diseases and disorders. According to the Act, no person carrying on or purporting to carry on the profession of administering magic remedies shall take any part in the publication of any advertisement referring to any magic remedy which directly or indirectly claims to be efficacious for any of the purposes specified in Section 3.

PROHIBITION OF IMPORT INTO AND EXPORT FROM INDIA OF ADVERTISEMENTS:

Section 6 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954. prohibits import into and export from India of certain advertisements. No person shall import into or export from India any document containing an advertisement of the nature referred to in Section 3 or Section 4 or section 5 as discussed above. It is also prohibited of import into and export from India any documents containing any such advertisements shall be deemed to be goods of which the import and export has been prohibited under Section 19 of the Sea Customs Act, 1878. All the provisions of the Sea Customs Act, 1878 shall have effect accordingly.

PENALTY:

Any person contravenes any of the provisions of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 is punishable by the Act. It takes two forms such as:

- (a) In the case of a first conviction, with imprisonment which may extend to six months, or with fine, or with both;
- (b) In the case of a subsequent conviction, with imprisonment which may extend to one year or with fine, or with both. (Section 7 of the Act).

SEARCH AND SEIZURE:

Any person authorized by the State Government is empowered under the Act to enter, search, seize and examine any record register, document. Under Section 8 of the Act, any Gazetted Officer authorized by the State Government may:

- (a) Enter and search at all reasonable times, with such assistants, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;
- (b) Seize an advertisement, which he has reason to believe contravenes any of the provisions of this Act;
- (c) Examine any record, register, document or any other material object found in any place mentioned in clause (a) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

There are provisions in Code of Criminal Procedure, 1973 relating to search or seizure. These provisions are also equally applicable to any search or seizure under Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.

OFFENCES BY COMPANIES: (SECTION 9 OF THE ACT):

1. If the person contravening any of the provisions of this Act is a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.
2. Notwithstanding anything contained in Sub-section (1) where an offence under this Act has been committed by the company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or the officer of the company, such director, manager, secretary or other officer of the company shall be liable to be proceeded against and punished accordingly.

For the purpose of this section company means any corporate body and includes a firm or other association of individuals and director in relation to a firm means a partner in the firm.

COGNIZABILITY AND JURISDICTION:

An offence punishable under this Act shall be cognizable. This is notwithstanding anything contained in the Code of criminal Procedure, 1978, (Section 9-A). As regard jurisdiction to try

offences, no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954.

EXCEPTIONS OR SAVINGS:

The following are the exceptions as to the application of this Act. Accordingly under Section 14 of the Drugs and Magic remedies (Objectionable Advertisements) Act, 1954, nothing in this Act shall apply to:

- (a) Any signboard or notice displayed by a registered medical practitioner on his premises indicating that treatment for any disease, disorder or condition specified in Section 3, the Schedule or the rules made under this Act, is under taken in those premises; or
- (b) Any treatise or book dealing with any of the matters specified in Section 3 from bona fide scientific or social stand point; or
- (c) Any Advertisement relating to any drug sent confidentially, in the manner prescribed under Section 16 only to a registered medical practitioner; or
- (d) Any Advertisement relating to drug printed or published by the government; or
- (e) Any Advertisement relating to a drug printed or published by any person with the previous sanction of the Government granted prior to the commencement of the Drugs and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963.

POWER OF THE CENTRAL GOVERNMENT: (SECTION 16 OF THE ACT):

1. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
2. In particular and without prejudice to the generality of the foregoing power, such rules may:
 - (a) Specify any disease, disorder or condition to which the provisions of Section 3 shall apply;
 - (b) Prescribe the manner in which advertisements of articles or things referred to in Clause (c) of Section 14 may be sent confidentially.
3. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions aforesaid both Houses agree in making any modification in the rule shall thereafter have effect only in such modification in the modified form or be of no effect, as the case may be,

so however, that any such modification annulment shall be without prejudice to the validity of anything previously done under that rule.

7.2.4 NON-BANKING FINANCIAL COMPANIES (ADVERTISEMENT) RULES, 1977:

The Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977 came into force on the 1st day of July 1977. It applies to all non-banking financial companies and miscellaneous non-banking companies.

FORM AND PARTICULARS OF ADVERTISEMENTS:

1. Every company intending to invite or allowing or causing any other person to invite or cause to be invited on its behalf, any deposits from the public, other than its directors, shareholders or employees shall issue an advertisement for the purpose in a leading English newspaper and one vernacular newspaper circulating in the state in which the registered office of the company is situated.
2. No such company shall issue or allow any other person to issue or cause to be issued on its behalf any advertisement inviting deposits unless such advertisement is issued on the authority and in the name of the Board of Directors of the company and contains a reference to the conditions subject to which deposits shall be accepted by the company, the date on which the said Board of Directors has approved the text of the advertisement and the following information, namely:
 - (a) The name of the company;
 - (b) The date of incorporation of the company;
 - (c) The business carried on by the company and its subsidiaries with details of branches or units, if any;
 - (d) Brief particulars of the management of the company;
 - (e) Names, addresses and occupations of the directors;
 - (f) Profits of the company before and after making provisions for tax for three financial years immediately preceding the date of advertisement;
 - (g) Dividends declared by the company in respect of the said years;
 - (h) A summarized financial position of the company as in the two audited balance sheets immediately preceding the date of advertisement.

- (i) The amount which the company can raise by way of deposits under the directions and the aggregate deposits actually held on the last day of the immediately preceding financial year;
- (j) A statement to the effect that on the day of the advertisement, the company has no overdue deposits other than unclaimed deposits or a statement showing the amount of such overdue deposits, as the case may be;
- (k) A declaration to the effect: (i) that the company has complied with the provisions of the directions applicable to it; (ii) that the compliance with the directions does not imply that repayment of deposits is guaranteed by the Reserve Bank of India; and (iii) that the deposits accepted by the company (other than secured deposits, if any, accepted under the provisions of the directions the aggregate amount of which may be indicated) are secured and ranking pari passu with other unsecured liabilities.

VALIDITY OF ADVERTISEMENTS:

An advertisement issued in accordance with the results shall be valid until the expiry of six months from the date of closure of the financial year in which it is issued or until the date on which the balance-sheets laid before the company in the general meeting or where the annual general meeting for any year has not been held, the latest day on which that meeting should have been held in accordance with the provisions of the Companies Act, 1956, which ever is earlier, and a fresh advertisement shall be made in each succeeding financial year for invitation of deposits during that financial year.

COPY OF THE ADVERTISEMENT TO BE FILED WITH THE RESERVE BANK:

No advertisement shall be issued by or on behalf of company unless, on or before the date of its issue, this has been delivered to the Regional Office of the (Department of Non-Banking Companies) of the Reserve Bank of India within whose jurisdiction the registered office of such company is situated, a copy thereof signed by a majority of the directors constituting the Board of Directors which approved the advertisement or by their agents authorizing in writing.

Explanation

For the purpose of this sub-rule, the date of the issue of the newspaper in which the advertisement appears shall be taken as the date of issue of the advertisement.

7.2.5 CODE OF COMMERCIAL ADVERTISING ON DOORDARSHAN:

Doordarshan follows specific stipulations on advertising as per the Code for Commercial Advertising on Doordarshan, which was presented to the Parliament in May 1987. The Code includes 33 dos and don'ts for advertisers on television (DD) and incorporates the provisions of the Indecent Representation of Women Act and Consumer Act, 1986.

The Code states that any advertisement unduly influencing children will not be accepted. Other types of advertising to be rejected include the following types of advertisements: (i) that suggest in any way that unless the children themselves buy or persuade others to buy the products or services, they will be failing in their duty or lacking in loyalty to any person or organization; (ii) which lead the children to believe that if they do not own or use the product they will be inferior to other children or that they will be condemned for not owning or using it.

The section on women stipulates that no advertisement shall be permitted which:

(i) Projects derogatory image of women; (ii) portrays them in a manner that emphasizes passive and submissive qualities and encourages them to play a submissive role in the society; (iii) encourages mutual disrespect between the sexes; and (iv) does not ensure the portrayal of women (female form) in tasteful and aesthetic standard and is not within the established norms of good taste and decency.

SELF-REGULATION: IN SPITE OF THE COMPREHENSIVE RULES AND REGULATIONS AS ALSO DEFINED CODES FOR CHECKING UNETHICAL ADVERTISING, UNSCRUPULOUS ADVERTISERS OFTEN TAKE THE CONSUMERS AND GENERAL PUBLIC FOR A RIDE.

Such problems have led the advertising professionals all over the world to commit themselves to the idea of self-regulation. Printer's Ink, an advertising trade publication had developed a model statute in 1911, which was passed as legislation. Similarly, advertising professionals in India have also reacted to unethical approach of unscrupulous advertising.

In April 1982, the Ad Club of Bombay appointed a committee to formulate a regulatory code for the profession, advertisers and the media. The initial draft of the code was based largely on similar codes prevalent in UK and the USA. This was basically set out to ensure that the consumers are protected against spurious advertising and that generally accepted norms of morality are upheld. Subsequently, the Advertising Standards Council of India (ASCI) was set up to "crack down on misleading and unethical advertisements".

The membership of ASCI is divided into four categories: advertisers, the press, advertising agencies and allied professions. In this context it should, however, be noted that number of members is abnormally low compared to the wide range of membership.

The Indian Newspaper Society (INS, formerly IENS), an autonomous body with members comprising newspapers and magazines, has also developed a Code of Advertising Ethics,

which is followed by its member publications. Another body, Consumer Education Research Centre (CERC) is also doing commendable service in creating awareness among the consumers against unethical and misleading advertising and fighting the cases against erring advertisers.

CASES:

Some typical recent Indian advertisements have created flutters among the consumers and few offenders have been hauled up also.

Obscene Ads: In such advertisements the complaints felt that either the visual or copy or both were obscene or in bad taste. The erring advertisers were Vitamin E Skin Oil for using the visual of an obscene mannequin, Cholaiyal Pharmaceuticals for its ad of Medimix Ayurvedic soap using obscene visual of Krishna and Gopis; Maxwell Industries for using obscene visual and copy for its VIP brand underwear; Apache Jean (P) Ltd for both obscene visual and copy.

Misleading Ads: Misleading advertisements usually make claims, which can be generally categorized as puffery claims; data based claims and testimonial claims. While puffery claims are made without implying scientific bases for it, data based claims are suggest that a test or study or some kind of scientific effort has been made to produce the basis for the claim. False testimonial claims are made by using name, signature, photograph or video or film clippings etc.

Let us quote a few examples of these types of misleading claims. Complaints were lodged against Kelvinator India who claimed the performance of Avanti 150 cc two-wheeler. Racold Appliances claiming their washing machine as the only automatic one. Glindia claimed drinking Complian helps one to emerge as a top-ranker. TTK & Co. claimed only the new Prestige pressure cooker was 100 per cent safe and it was the safest.

Ads using sex: Advertising is often put on the docks for exploiting and projecting sexist themes. Guidelines on this are 'woefully sketchy'. Yet the changing value system and the contemporary norms of the society are overlooked very often by the traditional approach towards sex which creates embarrassment to a particular segment who are quick to react to such advertising negatively. Many of these ads have been found to be objectionable by the law enforcing authorities, which had to be withdrawn. But many others have been allowed considering the logic and reasonableness behind the creative strategies. The most controversial in this category are the advertising on condoms like Kamasutra, which depicts a young couple in

amorous positions. After this campaign many other ad campaigns have used sex, either directly or indirectly.

7.3 SUMMARY:

- By trying to attract people to use the advertised products, advertising invites public criticism and attack if their products don't measure up. It is often accused by the critics that subtle lies, sex and misleading claims are used in advertising to manipulate the decisions of the people. It not only crosses the limits of business codes and norms of the society but hurts the sensitivity of their consumers too. But, on the other hand, the defenders argue in favour of such practices. And there cannot be any end to this debate.
- It is very difficult to demarcate what is ethical and what is unethical. It is as intangible as the concepts of morality or idea of right or wrong. Therefore, it is very difficult to define what is ethically right or wrong or morally acceptable. The concept of morality vis-à-vis sex varies widely over the globe. While advertisements of condoms like Kamasutra or Kohinoor have created furore in Indian society, such ads are commonplace in other countries.
- With regard to advertising, the IPC provides that "a book, pamphlet, paper writing, drawing, painting, representations, figures or any other object shall be deemed to be obscene if it is lascivious or appeals to prurient interests or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read see, or hear the message contained or embodied in it." The code, though does not refer to advertising in particular, covers advertising as part of the activities listed above.
- The Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977 came into force on the 1st day of July 1977. It applies to all non-banking financial companies and miscellaneous non-banking companies. Every company intending to invite or allowing or causing any other person to invite or cause to be invited on its behalf, any deposits from the public, other than its directors, shareholders or employees shall issue an advertisement for the purpose in a leading English newspaper and one vernacular newspaper circulating in the state in which the registered office of the company is situated.
- Doordarshan follows specific stipulations on advertising as per the Code for Commercial Advertising on Doordarshan, which was presented to the Parliament in May 1987. The Code includes 33 dos and don'ts for advertisers on television (DD) and incorporates the provisions of the Indecent Representation of Women Act and Consumer Act, 1986.

- Misleading advertisements usually make claims, which can be generally categorized as puffery claims; data based claims and testimonial claims. While puffery claims are made without implying scientific bases for it, data based claims are suggest that a test or study or some kind of scientific effort has been made to produce the basis for the claim. False testimonial claims are made by using name, signature, photograph or video or film clippings etc.
- Advertising is often criticized for exploiting and projecting sexist themes. Guidelines on this are 'woefully sketchy'. Many of ads have been found to be objectionable by the law enforcing authorities, which had to be withdrawn or modified. The most controversial in this category are the advertising on condoms like Kamasutra, which depicts a young couple in amorous positions. After this campaign many other ad campaigns have used sex, either directly or indirectly.

7.4 KEY WORDS:

Indian Penal Code, 1868: With regard to advertising, the IPC provides that “a book, pamphlet, paper writing, drawing, painting, representations, figures or any other object shall be deemed to be obscene if it is lascivious or appeals to prurient interests or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read see, or hear the message contained or embodied in it.” The code, though does not refer to advertising in particular, covers advertising as part of the activities listed above.

Indian Contract Act, 1872: This Act governs the rights and duties of advertising agencies.

The Punjab Excise Act, 1914: This Act prohibits advertising offering or soliciting the use of liquor in any for in the area of Punjab. An extension of this Act also prohibits such advertisements in the Union Territory of Delhi.

The Drugs and Cosmetics Act, 1940: This Act enables the Government to regulate the import, manufacture, distribution and sale of drugs and cosmetics.

Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954: This Act prohibits publication of objectionable advertisements in newspapers and magazines or otherwise relating to alleged cures for venereal diseases, sexual stimulants and alleged cures for diseases and conditions peculiar to women. The Act controls drug advertisements and also advertisements of remedies stated to have magical qualities known as magic remedies. In this case an advertisement includes 'any notice, circular, label, wrapper or other documents and announcement made by any means or producing or transmitting light, sound or smoke'.

Young Person (Harmful Publication) Act, 1956: This Act provides 'penalty for a person who sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation any harmful publication or for purpose of sale, hire distribution, public exhibition or circulation, prints, makes known by any means whatsoever, that any publication harmful for young people.

Copyright Act, 1957: This Act, which protects the copyright, also protects the right of the copywriter and other creators of advertisements.

Monopolies and Restrictive Trade Practices Act 30, 1984: Popularly known as the MRTP Act, this Act and its amendments have made special provisions for regulating misleading advertisements and unfair trade practices etc.

Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules: The Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977 came into force on the 1st day of July 1977. It applies to all non-banking financial companies and miscellaneous non-banking companies. Every company intending to invite or allowing or causing any other person to invite or cause to be invited on its behalf, any deposits from the public, other than its directors, shareholders or employees shall issue an advertisement for the purpose in a leading English newspaper and one vernacular newspaper circulating in the state in which the registered office of the company is situated.

Code of Commercial Advertising on Doordarshan: Doordarshan follows specific stipulations on advertising as per the Code for Commercial Advertising on Doordarshan. The Code states that any advertisement unduly influencing children will not be accepted. Other types of advertising to be rejected include the following types of advertisements: (i) that suggest in any way that unless the children themselves buy or persuade others to buy the products or services, they will be failing in their duty or lacking in loyalty to any person or organization; (ii) which lead the children to believe that if they do not own or use the product they will be inferior to other children or that they will be condemned for not owning or using it.

Obscene Ads: In such advertisements the complaints feel that either the visual or copy or both were obscene or in bad taste.

Misleading Ads: Misleading advertisements usually make claims, which can be generally categorized as puffery claims; data based claims and testimonial claims. While puffery claims are made without implying scientific bases for it, data based claims are suggest that a test or study or some kind of scientific effort has been made to produce the basis for the claim. False testimonial claims are made by using name, signature, photograph or video or film clippings etc.

Ads using sex: Advertising is often criticized for exploiting and projecting sexist themes. Guidelines on this are 'woefully sketchy'. Many of ads have been found to be objectionable by the law enforcing authorities, which had to be withdrawn or modified. The most controversial in

this category are the advertising on condoms like Kamasutra, which depicts a young couple in amorous positions. After this campaign many other ad campaigns have used sex, either directly or indirectly.

7.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. What do you mean by Media Laws? Discuss briefly five most important media laws.
2. Why are media laws required? Discuss the importance of media laws.
3. What do you mean by Right to Information? Do you think, it should be made a fundamental right?
4. Do you think Official Secrets Act is a hindrance in the free flow of information? Discuss it.
5. Briefly introduce the different laws of both print media and electronic media.

7.6 REFERENCES / SUGGESTED READING:

- Basu, Durga Das (1996) - "Law of the Press published by prentice Hall of India Private Limited, New Delhi.
- Bhanawat, Sanjeev (L993) - Press Kanoon aur Patrakarita, published by Sidhashri Prakashan, Jaipur.
- "Media Problems and Prospects (1983)" published by National Media Centre.
- Rayudu, C.S. (1993) - "Media and Communication Management" published by Himalaya Published House, New Delhi.
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CODES OF ETHICS IN PUBLIC RELATIONS

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LESSON STRUCTURE:

This lesson shall provide an introduction to the codes of ethics with relation to Public Relations in India. We shall start with the Codes of Ethics by the Public Relations Society in India (PRSI). Next, we shall discuss the Codes of Ethics by the International Public Relations Association (IPRA). The lesson structure shall be as follows:

- 8.0 *Objectives*
- 8.1 *Introduction*
- 8.2 *Presentation of Content*
- 8.2.1 *Public Relations- An Overview)*
- 8.2.2 *Codes of Ethics by the International Public Relations Association*
- 8.3 *Summary*
- 8.4 *Key Words*
- 8.5 *Self-Assessment-Questions (SAQs)*
- 8.6 *References/Suggested Reading*

8.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To have an Overview of Public Relations*
- *To Know About the Codes of Ethics by the International Public Relations Association (IPRA).*

8.1 INTRODUCTION:

Public Relations is an important weapon in the arsenal of companies, organizations, and institutions. It is a major tool of creating and sustaining mutual beneficial two-way communication between the organization and its publics. But some times ethical PR practices are not adopted. This is a matter of great concern.

But the PR industry, particularly the apex bodies in the field of PR, has adopted self-regulatory practices. Major apex bodies like the International Public Relations Association (IPRA) and the Public Relations Society in India (PRSI) have formulated Codes of Conduct or Codes of Ethics. These codes are adopted and practiced by the member organizations.

8.2 PRESENTATION OF CONTENT:

The content of this lesson shall be presented as follows:

- *Public Relations- An Overview*

- *Codes of Ethics by the International Public Relations Association (IPRA).*

8.2.1 PUBLIC RELATIONS- AN OVERVIEW:

Public Relations can be defined as the helping an organization and its publics adapt mutually to each other. The present state of affairs in modern world has evolved during the last few decades. The changes in our social, political and social fabric for the last few centuries was gradual with less perceptible change.

But the 20th century has been branded as the century of tremendous development. The first part of the century was that of inventions in different fields. All-important discoveries and scientific principles were formulated which transformed themselves into better inventions.

While the middle half was marked by the era of military dominance and administration. In this, dictators and autocrats were the real centres of power and control. Their command was word of law and the philosophy of democracy and socialism were subordinated.

This continued after the Second World War. But soon, the countries realized their grave mistake of relying on militarism and gradually the last half of the century envisaged a visible shift from military to economic development.

All these forces have increased the tempo of the development and have cast the masses into diversified groups. All these groups have different loyalties and objectives. But they work together for progress and development. The advents of modern technologies like Radio, TV, Newspapers and other media have accelerated the change manifold.

All these led to a free flow of information to every section of society. The masses saw, felt and analyzed it. Hence the individual's scope of awareness and judgement increased rapidly. Consequently the leaders began to lose their power and control on the affairs and importance of masses and their opinion became paramount.

Democracy spread and their masters no longer guided the people but they began to assert themselves guided by their own opinions. Hence role of PR became important in the changed scenario. PR ensures synchronization of different group's values help them channelise into developing a goodwill which will be beneficial to every body the practitioner and the receiver both. Every profession works in the certain boundaries, which are defined by values it provides to others rather than pursuing its own interest.

Ethics constitutes the facts behind the benefits derived by the public. It demands the pursuance and maintenance of these values. PR is a universal activity. It functions in all aspects

of life. Each member of the public participates in the principles of public relations in seeking the acceptance, cooperation etc. PR is executing it in a more professional way.

The practices prohibited are those, which tend to place representatives of media or Government under any obligation to the member, employer or the client, which is against their obligation to the media e.g. any form reward or compensation given to media persons to obtain preferential treatment in News etc.

Hosting luncheon meetings of journalists is a common practice to get some favour. However ethics doesn't prohibit hosting cocktail or dinner parties of media persons for genuine exchange of News and information but there should exist healthy spirit. Distributing expensive gifts, which tend to corrode ethical values. Other things include arranging facilities, comforts, and providing trips for media men; related to genuine news interest.

8.2.2 CODES OF ETHICS BY THE IPRA:

Every field has some minimum basic standards to justify their practices. The same is true for the field of PR also. This is done in order to maintain personal and professional sanctity of the profession of PR. For the same reason PR professionals from all over the world formed an organization called IPRA (International Public Relations Association) in 1955. The IPRA Convention in 1961, held at Venice, Italy formulated a code of conduct for PR.

This includes four levels of responsibilities:

- *Downwards (conduct towards colleagues)*
- *Upwards (clients and employer).*
- *Divergent (towards public and media)*
- *Inwards (personal)*

The IPRA code includes guidelines about professional conduct by PR personnel.

PERSONAL AND PROFESSIONAL INTEGRITY:

IPRA has framed the constitution embodying some measures which every PR man is supposed to observe at professional while PR at personal level demands respect for high moral values and standards.

CONDUCT TOWARDS COLLEAGUES:

- All members will co-operate with each other in observing and enforcing the code of conduct.

- A member shall refrain from harming the professional image and reputation of the member. In case of having evidences of unfair and unethical trade practices towards other member, the grieving member should bring it to the notice of IPRA.

CONDUCT TOWARDS PUBLIC AND MEDIA:

- A member will refrain from joining the trade practices, which tends to corrupt the integrity of channels of public communication.
- A member will not spread false and misleading information
- A member shall not work for a announced cause but will serve and hidden, undisclosed interest of his/her client/employer
- All the time a member will be loyal and faithful to the organization not other than presently served by him/her.
- 5 A member will conduct his/her professional activities with respect ot public interest and for the dignity of the individual.

CONDUCT TOWARDS EMPLOYERS AND CLIENTS:

- A member will not demand that his/her compensation or fee is contingent on achievements of certain results.
- A member would not resort to unfair methods which are derogatory and harm the reputation of another client/employer
- It is the moral duty of a member to be fair in dealings towards his/her past, present and prospective clients/employer
- A member will safeguard the interest and confidence of past present and prospective client/employer
- A member will not represent conflicting or competing interest without the express of consent of those concerned
- While performing the services, a member shall not accept fee, or other valuable consideration in connection with those services from anyone other than his/her client.

IPRA has it constitution also, which embodies the specific and primary purposes for which association has been formed. These purposes include

- Exchange of ideas and practices among PR professionals.
- To undertake steps for the benefit of all members by organizing seminars, workshops, conducting studies etc
- To promote healthy practices and nurture moral standards in PR

Pursuing the above goals of high standard and competence in PR, IPRA General Assembly on May 12th 1965 at Athens (Greece), unanimously adopted a international Code Of Ethics bounded by a strict moral code. The code of ethics is based on certain grounds, which gained prominence after the Second World War when League of Nations (United Nations) was formed. All member nations agreed to abide by the UN Charter, which affirms its faith in fundamental Human Rights, dignity and respect for a human being. Humans have not only physical and material needs but also moral, social and intellectual needs also.

And in this changed scenario PR professional can help to meet these needs especially social needs. This code of ethics by adopted by PRSI (Public Relations Society of India with slight modification.

It was unanimously agreed that all members of IPRA will abide by this code of ethics and whenever a complaint against a particular member is produced with evidence before IPRA which shows that the member has intentionally violated the code of ethics and infringed upon his/her duty, then this kind of wrongdoing will deemed to be serious and appropriate penalty can be imposed on it.

- Defensible rights entitled under universal declaration of human rights.
- Ensure the establishment of communication channels by allowing free flow of information to provide awareness, solidarity and personal involvement and sense of responsibility to its group members.
- Ponder that his/her conduct in life also is bound to have reflection in his professional life, as both are inseparable.
- To act in such a manner to secure the confidence of those with whom she/he comes into contact.

ENSURE:

- To discharge his professional duties according to the moral values and principles and universal declaration of human rights
- To respect and honour the human dignity and recognize the right of each individual to judge himself.
- To take into account in every circumstances, the interest of all the parties involved i.e. the organization he serves and taking care of the public interest also.

- To establish and foster psychological, moral and intellectual conditions for communication between the parties and simultaneously recognizing their right to express their views.
- To discharge his commitments and duties without any misunderstanding so as to ensure integrity and loyalty towards client/employer or public concerned.

PR PERSONNEL WON'T:

- Be a party to a venture, which is illegal, unethical and doesn't recognise human dignity and respect.
- Circulate and disseminate misleading information, or information based on evidences and well acknowledged facts.
- Do and support practices, which subordinate truth to other things.
- Incite or create subconscious motivation by using manipulative techniques. Hence individual cannot control his free will and can't be held accountable for action taken against them. Such manipulative traps should not be used to achieve certain results.

8.3 SUMMARY:

- Public Relations can be defined as the helping an organization and its publics adapt mutually to each other. The present state of affairs in modern world has evolved during the last few decades. The changes in our social, political and social fabric for the last few centuries was gradual with less perceptible change.
- PR is a major tool of creating and sustaining mutual beneficial two-way communication between the organization and its publics. But some times ethical PR practices are not adopted. This is a matter of great concern. But the PR industry, particularly the apex bodies in the field of PR, has adopted self-regulatory practices. Major apex bodies like the International Public Relations Association (IPRA) and the Public Relations Society in India (PRSI) have formulated Codes of Conduct or Codes of Ethics. These codes are adopted and practiced by the member organizations.
- Hosting luncheon meetings of journalists in order to get some favour. However ethics doesn't prohibit hosting cocktail or dinner parties of media persons for genuine exchange of News and information but there should exist healthy spirit. Distributing expensive gifts, which tend to corrode ethical values. Arranging facilities, comforts, and providing trips for media men, which are unrelated to genuine news interest.

- PR personnel have four levels of responsibilities: Downwards (conduct towards colleagues), Upwards (clients and employer), Divergent (towards public and media), and Inwards (personal).

8.4 KEY WORDS:

Public Relations: Public Relations can be defined as the helping an organization and its publics adapt mutually to each other. The present state of affairs in modern world has evolved during the last few decades. The changes in our social, political and social fabric for the last few centuries was gradual with less perceptible change.

PR Ethics: PR is a major tool of creating and sustaining mutual beneficial two-way communication between the organization and its publics. But some times ethical PR practices are not adopted. This is a matter of great concern. But the PR industry, particularly the apex bodies in the field of PR, has adopted self-regulatory practices. Major apex bodies like the International Public Relations Association (IPRA) and the Public Relations Society in India (PRSI) have formulated Codes of Conduct or Codes of Ethics. These codes are adopted and practiced by the member organizations.

Unethical Practices: Hosting luncheon meetings of journalists in order to get some favour. However ethics doesn't prohibit hosting cocktail or dinner parties of media persons for genuine exchange of News and information but there should exist healthy spirit. Distributing expensive gifts, which tend to corrode ethical values. **Responsibilities of PR Personnel:** PR personnel have four levels of responsibilities: Downwards (conduct towards colleagues), Upwards (clients and employer), Divergent (towards public and media), and Inwards (personal).

8.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. Write a detailed note on the ethical issues in PR.
2. Write a detailed note on the IPRA code of ethics.
3. Write a detailed note on the code of ethics of PRSI.

8.6 REFERENCES / SUGGESTED READING:

- Basu, Durga Das (1996) - "Law of the Press published by prentice Hall of India Private Limited, New Delhi.
- Bhanawat, Sanjeev (L993) - Press Kanoon aur Patrakarita, published by Sidhashri Prakashan, Jaipur.
- "Media Problems and Prospects (1983)" published by National Media Centre.
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- COMMUNICATOR (VOL. XXXXI, NO. 28, APRIL - JUNE 1996) published by the Indian Institute of Mass Communication, New Delhi.

COMMITTEES & COMMISSIONS REGARDING MEDIA

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LESSON STRUCTURE:

This lesson shall give an overview about the various committees and commissions regarding media in India. We shall discuss the Verghese Committee, the Chanda Committee, the P.C. Joshi Committee, the Bachhawat Committee, the First Press Commission, and the Second Press Commission. The lesson structure shall be as follows:

- 9.0 *Objectives*
- 9.1 *Introduction*
- 9.2 *Presentation of Content*
- 9.2.1 *Verghese Committee*
- 9.2.2 *Chanda Committee*
- 9.2.3 *P.C. Joshi Committee*
- 9.2.4 *Bachhawat Committee*
- 9.2.5 *First Press Commission*
- 9.2.6 *Second Press Commission*
- 9.3 *Summary*
- 9.4 *Key Words*
- 9.5 *Self-Assessment-Questions (SAQs)*
- 9.6 *References/Suggested Reading*

9.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Know About the recommendations of the Verghese Committee*
- *To Know About the recommendations of the Chanda Committee*
- *To Know About the recommendations of the P.C. Joshi Committee*
- *To Know About the recommendations of the Bachhawat Committee*
- *To Know About the recommendations of the First Press Commission*
- *To Know About the recommendations of the Second Press Commission*

9.1 INTRODUCTION:

Since Independence, efforts have been made to find out about the working conditions and ground realities with regard to the media in our country. The Government of India has, from time

to time, constituted commissions and committees in this regard. These commissions and committees study the situation and give expert opinions and suggestions.

The very first such attempt was the establishment of the First Press Commission in 1952. This Commission gave its recommendations in 1954. The Second Press Commission was established in 1978. The major committees set up at different times in India are the Verghese Committee, the Chanda Committee, the P.C. Joshi Committee, and the Bachhawat Committee.

In this lesson, we shall discuss about these committees and commissions.

9.2 PRESENTATION OF CONTENT:

In this lesson, the following various committees and commissions regarding Media in India will be discussed:

- *Verghese Committee*
- **CHANDA COMMITTEE**
- *P.C. Joshi Committee*
- *Bachhawat Committee*
- *First Press Commission*
- *Second Press Commission*

9.2.1 VERGHESE COMMITTEE (1978-79):

After March 1977 elections the ruling Janata Party declared that it would make Doordarshan and AIR "genuinely autonomous", and constituted a working group on autonomy for DD and AIR on August 17, 1977 with *B.G. Verghese* as its chairman. The members of the working group were as mentioned below:

1. *B.G. Verghese (Chairman)*
2. *V.S. Rajadhyakshya*
3. *Chanchal Sarkar*
4. *A.G. Noorani*
5. *Dr. Malcom S. Adiseshiah*
6. *P.L. Deshpandey*
7. *Uma Shanker Joshi*
8. *Prof. J.D. Sethi*
9. *P.J. Phernandes*
10. *C.R. Subramaniam*
11. *Mrs. NayarnTara Sahgal*
12. *Dr. Ishwar Das (Member Secretary)*

MAIN RECOMMENDATIONS OF THE VERGHESE COMMITTEE:

The working group submitted its report to the Government in February 1978. The main recommendations were:

- *An autonomous national trust should be established under which Akashvani and Doordarshan would function. This trust was named as - "Akash Bharati": the National Broadcast Trust.*
- *The National Broadcast Trust has to be highly sensitive to react swiftly to the needs and sentiments of its audience. At the same time, it will have steadfastly to withstand the day-to-day political and other pressures to which its power will expose it.*
- *The working group was of the view that there should not be autonomous regional corporations or even a federation of State Government corporations.*
- *Trust is proposed under which a highly decentralized structure is envisaged. There will be a large measure of power delegated to the regional and local level so that the organization enjoys the advantages of a quick decision-making, sensitivity to local problems, familiarity with local customs and taste, and close linkages with various governments and institutions.*
- *Radio and Television should work for the public purpose. They should function within the framework of a broad perspective of national communication policy.*
- *The proposed autonomous broadcasting trust should be owned by the nation and it should be accountable to Parliament.*
- *The priority of broadcasting has to change from urban-elite to rural, semi-urban and urban poor. It should try to bridge the gap between the people of rural and urban areas.*
- *The idea of one autonomous corporation each for All India Radio and Doordarshan did not find support from the working group. It suggested for one autonomous national trust for both Radio and Television. It also rejected the concept of autonomous regional corporations, but envisaged decentralization of the working system of the National Broadcasting Trust.*
- *The autonomy of the authority and independence from the control of the Government should be guaranteed by our Constitution.*
- *The working group was of the opinion that all the national broadcasting services should be vested exclusively in an independent, impartial, and autonomous organization established by Parliament to act as a trustee for the national interest.*

- *A restricted power can legitimately be given to the Government to require the Trust to refrain from broadcasting any matter, which has a clear relation to national security, the preservation of public order, and other matter of grave public importance. A power can also be conferred on the Government to require broadcasting in cases of emergency. In broadcasting such announcements, the Corporation shall announce that such a requirement has been made.*
- *The President and the Prime Minister should have access to Akashvani and Doordarshan for national broadcast. A similar right should extend to the Governors and Chief Ministers of States for State broadcasts over regional network.*
- *Once the National Broadcast Trust comes into being, the Ministry of Information and Broadcasting should shed its direct responsibility for broadcasting and might thereafter appropriately be redesigned "Ministry of Information".*
- *In regard to the relationship between the broadcasting organizations and parliament, the compromise between the claims of autonomy and of accountability is to impose on the Trust a duty to report to Parliament through its budget and an annual report together with its accounts and auditor's comments thereon. The report should also incorporate the report of the Complaints Board and a review of operations of the Licensing Board and the franchise stations. Members of parliament have an Internet right to ask questions.*
- *Financial accountability would be ensured through independent commercial audit. In view of the unique characteristics of the broadcast system, the working group recommended that its accounts be commercially audited by any approved firm of auditors of standing, and not be subject to the jurisdiction of the comptroller and Auditor-General of India.*
- *At the top of Akash Bharati or National Broadcast Trust, the working group recommended a Board of Trustees or Nyasi Mandal consisting of 12 persons, but not to exceed 21 if there is need for inducting additional members. The Trustees will be guardians of the charter given to the National Broadcast Trust by statute. The group recommended the appointment of a Board of Trustees of 12 members consisting of a chairman and three other full-time members who would devote themselves to the fields of current Affairs, Extension and Culture respectively. They will operate through the CGB.*
- *In addition, to the chairman and three other full-time Trustees, the working group recommended that of the eight other part-time Trustees at least one other should be highly experienced in the field of finance and management and another should be an eminent scientist or engineer familiar with the technology of broadcasting.*

- *The trustees shall be appointed for a term of six years, one third of the members retiring every alternate year. The order of retirement among the initial 12 Trustees should be settled by draw of lots with the provision that the chairman and the three full-time functional Trustees shall be deemed to have six year term.*
- *The working group recommended that the trustees should enjoy the status of Supreme Court Judges and should be subject to similar disqualifications and procedures for removal. The age bar, however, need not apply.*
- *The working group recommended the establishment of complaints Board of Nyasi Mandal, a quasi-judicial body of four persons selected by the Chief Justice of India.*
- *The National Broadcasting Trust will not be liable to corporate taxation. Its profits, if any, will be ploughed back for programmed improvement and system expansion along lines approved by Parliament, which will scrutinize its annual report and accounts.*
- *There should be a Broadcast Review Commission every seven years.*
- *On May 16, 1979 the then Union Minister for Information & Broadcasting Mr. Lal Krishna Advani introduced this Bill to the Lok Sabha, which envisaged setting up of an autonomous corporation known as Prasar Bharati. In 1980, the Government again changes after Mrs. Indira Gandhi took over as Prime Minister; this report was shelved (postponed).*

9.2.2 CHANDA COMMITTEE (1964-66):

A committee under the chairmanship of Mr. Ashok Kumar Chanda was constituted in December 1964. The members of the working group were as mentioned below:

- (i) Mr. Ashok Kumar Chanda (chairman)
- (ii) M. Chalpati Rao
- (iii) Hazari Prasad Dwivedi
- (iv) Vidya Charan Shukala
- (v) Ashok Mitra
- (vi) Dr. Laxmi Sighvi
- (vii) Ms. Mehra Masani (Director of AIR's programme -Member Secretary)

MAIN RECOMMENDATIONS OF THE CHANDA COMMITTEE:

The working group presented its report for granting autonomy to All India Radio in April 1966. The main recommendations were:

- Akashwani and Doordarshan should be separated. It was accepted w.e.f. 1st April, 1976.
- AIR should function like an autonomous corporation. It was not accepted.

- The working group recommended, "It is not possible in the Indian context for a creative medium like broadcasting to flourish under a regiment of departmental rules and regulations. It is only by an institutional change that AIR can be liberated from the present rigid, financial and administrative procedures of Government". The Government rejected it and said, "The present is not an opportunity to consider the conversion of an AIR into an autonomous corporation.
- A National Council for Mass Communication should be set up. The Government accepted it in principle, but has done nothing so far.

9.2.3 P. C. JOSHI COMMITTEE (1984-85):

For granting autonomy to Doordarshan, a working group under the chairmanship of Dr. P.C. Joshi, the then Director, Indian Institute of Economic Growth, New Delhi, was constituted in 1983. The other members were as mentioned below:

- (ii) Sai paranjpye
- (iii) A. Padmasee
- (iv) G.N.S. Raghavan
- (v) Mrs. Rani Chhabra
- (vi) Miss Rina Gill
- (vii) Prof. Yogendra Singh
- (viii) Mohan Upreti
- (xi) Dr. Bhupen Hazarika
- (x) Dr. K.S. Gill
- (xi) R.B.L. Shrivastav
- (xii) Manzurul Amin (Member Secretary)

MAIN RECOMMENDATIONS OF THE P. C. JOSHI COMMITTEE:

Main Recommendations of this committee were:

- Since Doordarshan does not enjoy "functional freedom" and the lack of such freedom is having an adverse effect on the planning and quality of its programmes, the working group recommended the setting up of National Doordarshan Council which would have roles to perform:

* To review and guide the Doordarshan's performance as a guardian of Doordarshan's functional and professional autonomy.

* Since in a developing country like India, there is a threat to its national, cultural identity, so there is a need for checking the imported programmes from the outside.

* Since due to the yawning gap between profession and practice and no proper use of Doordarshan for development and education as per its prior pronouncements, its (DD) credibility has gone down tremendously. Therefore, the development potential of Doordarshan should be fully exploited.

- On the basis of the evidence presented by Doordarshan personnel and media experts, the working group was convinced that instead of providing support and encouragement to creativity, the present structure and management style hampers creativity and initiative at all levels. The working group, therefore, was persuaded that the overall planning, reorientation and specific proposals for relevant software couldn't be implemented effectively within the existing framework.
- The issue of reforms in structure and in management style is much more complex and subtle than is captured by the fashionable cliché "government control vs. autonomy". A structure may be fully autonomous from government control and yet still be a formidable constraint on the release of creativity. An institution may continue to be within the government framework and yet be so restructured as to assist creativity and innovation as, for instance in the case of the Atomic Energy and Space Research Centres.
- A hierarchical administrative framework with an anti-interaction management style operates Doordarshan, which is a product of the most advanced, post-industrial technology and values. The user of the medium within this obsolete framework is reduced to an unenthusiastic and uninspired operator without either vision or involvement. Urgent reforms in this structure and management style are necessary if we are to enter a new era of software planning and production which is relevant to the needs and problems of the country and which can also inspire the creative instincts and talents of the communicators.
- Though the government has not accepted the Verghese Group's recommendations of statutory autonomy for Akashwani and Doordarshan, its spokesmen have said that they are for functional freedom for the two organizations. It is not clear from their pronouncements whether it is proposed to confer such freedom, or whether the claim is that functional freedom is already available. From the study of the working of Doordarshan the working group were persuaded that it did not enjoy functional freedom,

and that the lack of such freedom was having a detrimental effect on the planning and quality of its programmes.

- It is impossible and desirable, even while Indian television continues to be run by the Government as a departmental undertaking, to effect a substantial delegation of powers to Doordarshan and within it from level to level, and to insulate the organization's day-to-day functioning, within the parameters of clearly spelt out policy, from non-professional pressure and interference.

9.2.4 BACHHAWAT COMMITTEE (1988):

A committee under the chairmanship of Mr. Justice Bachhawat was constituted in 1988 to review the wages of the journalists.

- The committee severely commented on the national wage policy and recommended that there should be equitable national wage policy.
- The committee recommended that somehow journalism has turned out to be a "poorly paid profession" and thus there is extreme dearth of high creativity, originality and professionalism. So, their wages must be suitably and desirably raised.
- The committee also recommended that there should be grouping of newspapers according to their circulation and revenue and there should be a salary slab for different groups of newspapers.
- The committee also defined and fixed different salary slabs for different group:
 - a. After the submission of Bachhawat committee report several newspapers started dividing into small groups to show less circulation and less revenue. For example earlier, there was "Free Press Journal" published from Bombay and Indore. But after this report this organization was divided into two groups "Free Press Journal" Bombay and "Free Press" Indore. Similarly Times of India group started treating its different editions separately. It categories, its Bombay and Delhi edition as group 1A whereas Patna, Jaipur, Lucknow etc. as lower group. The situation was even worse in the Nav Bharat Times. As a result, there were long strikes in Nav Bharat Times, Patna and also Lucknow.*
 - b. As a result its Patna and Lucknow editions were closed down.*
 - c. Rajasthan Patrika was the first newspaper to totally implement the report of Bachhawat committee. Then comes "The Hindu". After that it was "The Hindustan Times". It treated equally to both its Patna edition and Delhi edition.*

9.2.5 FIRST PRESS COMMISSION (1952-54):

On 23rd September 1952, the Ministry of Information and Broadcasting constituted the first Press Commission. The members of the working group were as mentioned below:

1. *Justice J.S. Rajadhyakshya (Chairman)*
2. *Dr. C.P. Ramaswamy Aiyer*
3. *Acharya Narendra Deo*
4. *Dr. Jakir Hussain*
5. *Dr. V.K. R.V. Rao*
6. *P.H. Patwardhan*
7. *Tribhuwan Narain Singh*
8. *Jaipal Singh*
9. *J. Natrajan*
10. *A.R. Bhalla*
11. *M. Chalpati Rao*

MAIN RECOMMENDATIONS OF THE FIRST PRESS COMMISSION:

Main Recommendations were:

- To protect the freedom of the Press and to maintain high standards of journalism, Press Council should be established. It was accepted and the Press Council of India was established on July 4, 1966 which started functioning from November 16, (on this date, National Press Day is celebrated) 1966.
- To prepare the accounts of the Press and the position of every year, there should be appointment of the Registrar of Newspaper for India (RNI). It was also accepted and in July 1956, RNI was appointed.
- Price-page schedule should be introduced. It was also accepted in 1956.
- For maintaining a cordial relationship between the Government and the Press, a Press consultative Committee should be constituted. It was accepted and a Press consultative committee was constituted on 22nd September 1962.
- Working Journalists Act should be implemented. The Government implemented this and in 1955 the working journalists and other Newspaper Employees (conditions of services) and Miscellaneous Provisions Act was set up.

- There should be establishment of a Fact Finding Committee to evaluate the financial position of the newspapers and news agencies. It was accepted and on 14th April, 1972, a Fact Finding Committee was set up which submitted its report on 14th January, 1975.
- For protecting the main principles of the freedom of the Press and to help the newspapers against monopolistic tendencies, a Newspaper Financial corporation should be constituted. It was accepted in principle and on 4th December 1970, a Bill was also presented in the Lok Sabha, but it lapsed.

9.2.6 SECOND PRESS COMMISSION (1978):

The Government of India constituted the Second Press Commission on May 29, 1978. The members of this commission were as mentioned below:

1. *Justice P.K. Goswami, Retired Judge, Supreme Court (chairman),*
2. *Prem Bhatia, Editor Tribune,*
3. *S.N. Dwivedi, Former MP,*
4. *M. Harish, Urdu Journalist,*
5. *Prof. R.J. Mathai, IIM, Ahmedabad,*
6. *Y.N. Mehta, Advocate,*
7. *V.K. Narshinghan, Editor, Deccan Herald, Bangalore,*
8. *F.S. Nariman, Senior Advocate, Supreme Court,*
9. *H.S. Vatsayayan, Editor Nav Bharat Times, Delhi,*
10. *Arun Shourie, Senior Fellow, ICSSR (Till September, 1978),*
11. *Mr. Nikhil Chakarvartty (appointed in December, 1978, after Arun Shourie's resignation)*

After the new Government came to power on the 14th January, 1980, Goswami team resigned and then the Second Press Commission was reconstituted on 21st April, 1980 under the chairmanship of Retired Judge of the Supreme Court, Mr. Justice K.K. Mathew. The members were:

- *Justice K.K. Mathew*
- *Justice Shishir Kumar Mukherji (Retired Judge of the Calcutta High Court)*
- *Mrs. Amrita Pritam, Poet and Novelist*
- *P.B. Gadgil, Journalist*
- *I.A. Siddhiq, Editor, Komi Abag, Lucknow*

- *Rajendra Mathur, Editor, Naiduria, Indore*
- *Girilal Jain, Editor, The Times of India, Delhi*
- *Madan Bhatia, Advocate, Supreme Court*
- *Ranbit Singh, Editor, Milap*
- *Prof. H.K. Paranjpe, Economist.*

MAIN RECOMMENDATIONS OF THE SECOND PRESS COMMISSION:

The main recommendations of the Second Press Commission were:

- *An attempt should be made to establish a cordial relation between the Government and the Press.*
- *For the development of small and medium newspapers, there should be establishment of Newspaper Development Commission.*
- *Newspaper industries should be separated from industries and commercial interests.*
- *There should be appointment of Board of Trustees between editors and proprietors of the newspaper.*
- *Price-page schedule should be introduced.*
- *There should be a fixed proportion of news and advertisement in small, medium and big newspaper.*
- *Newspaper industries should be relieved from the impact of foreign capital.*
- *No predictions should be published in newspapers and magazines.*
- *The misuse of the image of the advertisement should be discontinued.*
- *The Government should prepare a stable Advertisement Policy.*
- *The Press Information Bureau should be reconstituted.*
- *Press laws should be amended.*

9.3 SUMMARY:

- Since our country became independent in 1947, efforts have been made to find out about the working conditions and ground realities with regard to the media in our country. The Government of India has, from time to time, constituted commissions and committees in this regard. These commissions and committees study the situation and give expert opinions and suggestions.

- The very first such attempt was the establishment of the First Press Commission in 1952. This Commission gave its recommendations in 1954. The Second Press Commission was established in 1978. The major committees set up at different times in India are the Verghese Committee, the Chanda Committee, the P.C. Joshi Committee, and the Bachhawat Committee.
- Main Recommendations of the Verghese Committee were: An autonomous national trust should be established under which Akashvani and Doordarshan would function. This trust was named as - "Akash Bharati": the National Broadcast Trust.
- The main recommendations of the Chanda Committee were: Akashwani and Doordarshan should be separated. It was accepted w.e.f. 1st April 1976. The working group recommended, "It is not possible in the Indian context for a creative medium like broadcasting to flourish under a regiment of departmental rules and regulations. It is only by an institutional change that AIR can be liberated from the present rigid, financial and administrative procedures of Government". The Government rejected it and said, "The present is not an opportunity to consider the conversion of an AIR into an autonomous corporation.
- Main Recommendations of this committee were: Since Doordarshan does not enjoy "functional freedom" and the lack of such freedom is having an adverse effect on the planning and quality of its programmes, the working group recommended the setting up of National Doordarshan Council. Since due to the yawning gap between profession and practice and no proper use of Doordarshan for development and education as per its prior pronouncements, its (DD) credibility has gone down tremendously. Therefore, the development potential of Doordarshan should be fully exploited.
- A committee under the chairmanship of Mr. Justice Bachhawat was constituted in 1988 to review the wages of the journalists. The committee severely commented on the national wage policy and recommended that there should be equitable national wage policy. The committee recommended that somehow journalism has turned out to be a "poorly paid profession" and thus there is extreme dearth of high creativity, originality and professionalism.
- Main Recommendations of the First Press Commission include: To protect the freedom of the Press and to maintain high standards of journalism, Press Council should be established. It was accepted and the Press Council of India was established on July 4, 1966 which started functioning from November 16, (on this date, National Press Day is celebrated) 1966,

To prepare the accounts of the Press and the position of every year, there should be appointment of the Registrar of Newspaper for India (RNI). It was also accepted and in July 1956, RNI was appointed, Price-page schedule should be introduced. It was also accepted in 1956.

- o The main recommendations of the Second Press Commission were: An attempt should be made to establish a cordial relation between the Government and the Press, For the development of small and medium newspapers, there should be establishment of Newspaper Development Commission, Newspaper industries should be separated from industries and commercial interests, There should be appointment of Board of Trustees between editors and proprietors of the newspaper, Price-page schedule should be introduced, There should be a fixed proportion of news and advertisement in small, medium and big newspaper, Newspaper industries should be relieved from the impact of foreign capital, No predictions should be published in newspapers and magazines, and The misuse of the image of the advertisement should be discontinued.

9.4 KEY WORDS:

Commissions and Committees with regard to Media: The Government of India has, from time to time, constituted commissions and committees in this regard. These commissions and committees study the situation and give expert opinions and suggestions. The very first such attempt was the establishment of the First Press Commission in 1952. This Commission gave its recommendations in 1954. The Second Press Commission was established in 1978. The major committees set up at different times in India are the Verghese Committee, the Chanda Committee, the P.C. Joshi Committee, and the Bachhawat Committee.

Main Recommendations of the Verghese Committee: The working group of the Verghese Committee submitted its report to the Government in February 1978. The main recommendations were: An autonomous national trust should be established under which Akashvani and Doordarshan would function. This trust was named as - "Akash Bharati": the National Broadcast Trust. The National Broadcast Trust has to be highly sensitive to react swiftly to the needs and sentiments of its audience. At the same time, it will have steadfastly to withstand the day-to-day political and other pressures to which its power will expose it.

Main Recommendations of the Chanda Committee: The Chanda Committee presented the report for granting autonomy to All India Radio in April 1966. The main recommendations were: Akashwani and Doordarshan should be separated. It was accepted w.e.f. 1st April, 1976. AIR

should function like an autonomous corporation. It was not accepted. A National Council for Mass Communication should be set up. The Government accepted it in principle, but has done nothing so far.

Main Recommendations of the P. C. Joshi Committee: Main Recommendations of this committee were: Since Doordarshan does not enjoy "functional freedom" and the lack of such freedom is having an adverse effect on the planning and quality of its programmes, the working group recommended the setting up of National Doordarshan Council.

Bachhawat Committee: A committee under the chairmanship of Mr. Justice Bachhawat was constituted in 1988 to review the wages of the journalists. The committee severely commented on the national wage policy and recommended that there should be equitable national wage policy. The committee recommended that somehow journalism has turned out to be a "poorly paid profession" and thus there is extreme dearth of high creativity, originality and professionalism.

Main Recommendations of the First Press Commission: The main recommendations of the First Press Commission were: To protect the freedom of the Press and to maintain high standards of journalism, Press Council should be established. It was accepted and the Press Council of India was established on July 4, 1966 which started functioning from November 16, (on this date, National Press Day is celebrated) 1966, To prepare the accounts of the Press and the position of every year, there should be appointment of the Registrar of Newspaper for India (RNI). It was also accepted and in July 1956, RNI was appointed.

Main Recommendations of the Second Press Commission: The main recommendations of the Second Press Commission were: Newspaper industries should be separated from industries and commercial interests, There should be appointment of Board of Trustees between editors and proprietors of the newspaper, Price-page schedule should be introduced, There should be a fixed proportion of news and advertisement in small, medium and big newspaper, The Government should prepare a stable Advertisement Policy, The Press Information Bureau should be reconstituted, and Press laws should be amended.

9.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. Discuss briefly the Verghese Committee report regarding granting autonomy to All India Radio and Doordarshan.
2. Highlight the striking points of the A.K. Chanda Committee report regarding granting autonomy to All India Radio.

3. Explain the P.C. Joshi Committee report regarding granting autonomy to Doordarshan.
4. Comment briefly on the Bachhawat Committee report in regard to wages of working journalists.
5. Discuss the main recommendations of the first Press Commission.
6. Enumerate the important recommendations of the Second the Second Press Commission.

9.6 REFERENCES / SUGGESTED READING:

- **Bhanawat, Dr. Sanjeev** (1993)-"Press Kanoon aur Patrakarita"; Sidhshree Prakashan, Jaipur.
- **Report of the Ministry of Information & Broadcasting (1978)** - Annexure X.
- **Mehta, D.S.** (1992) - "Mass Communication and Journalism in India" published by Allied Publishers Limited, New Delhi.
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MEDIA ETHICS

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LESSON STRUCTURE:

This lesson shall give an introduction to media ethics. We shall start with a broad introduction to ethics. We shall then discuss the Ethical practices in the field of journalism. This shall be followed by the Industry codes of ethics in India. Finally, we shall discuss about the advertising codes of ethics. The lesson structure shall be as follows:

- 10.0 Objectives
- 10.1 Introduction
- 10.2 Presentation of Content
 - 10.2.1 Ethics Defined
 - 10.2.2 Ethics in Journalism
 - 10.2.3 Industry Codes of Ethics
 - 10.2.4 Advertising Codes of Ethics
- 10.3 Summary
- 10.4 Key Words
- 10.5 Self-Assessment-Questions (SAQs)
- 10.6 References/Suggested Reading

10.0 OBJECTIVES:

The objectives of this lesson are as follows:

- *To Get Familiar with the Concept of Ethics*
- *To Know About Ethics in Journalism*
- *To Know About the Industry Codes of Ethics*
- *To Know About the Advertising Codes of Ethics*

10.1 INTRODUCTION:

Principles such as objectivity, impartiality, truthfulness and freedom of information are some very contentious issues before the mass media today. Most of these issues refer to the important concepts of *safeguarding freedom of information, freedom of access to information sources; objectivity, accuracy, truthfulness or the non-misrepresentation of facts; responsibility vis-à-vis the public and its rights and interests and in relation to national, racial and religious*

communities, the nation, the state and maintenance of peace; unfounded accusations, violation of privacy, right or reply, etc.

We shall try to discuss about the attempts by both the media and other institutions like Governments, etc., with regard to formulation of codes of ethics. We shall discuss about ethics. We shall also discuss the Ethical practices in the field of journalism along with the industry codes of ethics in India including the prevalent advertising codes of ethics.

10.2 PRESENTATION OF CONTENT:

The content of this lesson shall be presented as follows:

- *Ethics Defined*
- *Ethics in Journalism*
- *Industry Codes of Ethics*
- *Advertising Codes of Ethics*

10.2.1 ETHICS DEFINED:

In subject of ethics, right from the ancient days of Plato to the present has been a matter of serious preoccupation with philosophers, social reformers, academics and concerned citizens of society. The subject is important not only because it is fundamental to the survival of civilized society, but also because it eludes proper definition in concrete terms.

By general understanding, ethics has to do with conduct-with conduct that is "right" in view of given society and time period, with conduct that is good out of sense of duty or conviction rather than from fear of punishment. By common consent, various Modes of behaviour and conduct are viewed as "good" and various others as "bad" even though in today's society there may be wide Individual differences as to the understanding of what is "good" or what is "bad".

In short ethics are rules of conduct or principles of morality that point us towards the right or best way to act in a situation. Over the years, philosophers have developed a number of general ethical principles that serve as guidelines for evaluating our behaviour. These principles, however, do not contain magic answers to every ethical dilemma. In fact, different ethical principles often suggest different ethical principles often suggest different and conflicting courses of action. There is no "perfect" answer to every problem. Also, these ethical principles are based on western thought. Other cultures may have developed totally different systems. Nonetheless, these principles can provide a framework for analyzing what is proper for examining choices and for justifying our actions.

10.2.2 ETHICS IN JOURNALISM:

There is general recognition of the fact that journalists have responsibilities not only vis-à-vis their own convictions but also towards the public. Summarily, four kinds of responsibility may be defined:

- Contractual responsibility in relation to the media and their internal organization;
- A social responsibility entailing obligations towards public opinion and society as a whole;
- Responsibility or liability deriving from the obligation to comply with the law;

- Responsibility towards the international community, relating to respect of universal values. These four types of responsibilities may in certain respects be contradictory or even conflicting.

The International Commission for the Study of Communication Problems, appointed by UNESCO pointed out: Profession ethical norms first began to be codified in all regions of the world. They vary considerably both in their form and scope. In some countries, different codes govern the press, broadcasting and the cinema. These codes are formulated and adopted voluntarily by the professionals and their associations; in other cases, however, the law imposes these.

OMBUDSMAN:

Some newspapers have tried to incorporate an idea from Scandinavia into their operations in order to provide some internal criticism. An individual employed by the paper (called an ombudsperson), is assigned to handle complaints from readers who feel that they have got a raw deal and to criticize in general the performance of the paper's staff. The idea, however, has not made a big splash nationwide, and only a few papers maintain such an institution. In India The Times of India had appointed Justice P.B. Bhagwati as the ombudsman.

All these laws, regulations, codes evolved by the government and professional bodies tend to serve the media and society towards regulating their working. It is done in a manner so as to have a positive impact and serve the larger societal objectives. To what extent these professional codes actually serve their purpose would largely depend on the journalists and professional working in the media and the implementation through regulatory mechanism evolved over a period of time.

In India, the Press Council of India (PCI) has been mandated to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards. The PCI has brought out an updated and succinct compilation of principles of journalistic ethics, sorted out from the adjudicators of the Council and the guidelines issued from time to time.

In the 'Preface to the publication, A Guide to Journalistic Ethics, brought out by PCI in 1995, it has been stated that most of these principles are not cast-iron statutory rules but broad general principles which will help the journalist to self regulate his or her conduct along the path to professional ethics.

NORMS OF JOURNALISTIC ETHICS:

Some of the important norms of Journalistic Ethics enumerated in the above publication are as under:

Accuracy and fairness:

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. Publication of inaccurate, baseless, graceless, misleading or distorted material should be avoided.

Caution against defamatory writing:

Newspapers should not publish anything, which is manifestly defamatory or libelous against any individual or organization unless after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good.

Privacy:

Intrusion or invasion of the privacy of individuals is not permissible unless outweighed by genuine public interest. The private life, even of a public figure is his or her own. Exposure or invasion of his or her personal privacy or private life is not permissible. Unless of course there is clear evidence that the wrong-doings in question have a reasonable nexus with the misuse of his or her public position or power and has an adverse impact on public interest.

Victims of sex crimes-Caution against publication of names or pictures:

While reporting crime involving rape, abduction or kidnap of women/females or sexual assault on children, on raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs or the victims or other particulars leading to their identity should not be published. While such publication serves no legitimate public purpose, it may bring social ostracism to the victims and social embarrassment to their relations, family, friends, community, religious order or the institution to which they belong.

Paramount interests of state, society and rights of individuals not be jeopardized:

Newspapers should, as a matter of self- regulation, exercise due restraint and caution in presenting any news comment or information which is likely to jeopardize, 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.

Governing communal disputes/clashes:

News, views or comments relating to communal or religious disputes/clashes should 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 should be reported in a manner as may not undermine the people's confidence in the law and order machinery of the State. 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, should be avoided.

Headings must not be sensational:

In general, and particularly, in the context of communal disputes or clashes,

- Provocative and sensational headlines should be avoided.
- Headings must reflect and justify the matter printed under them.
- Headings containing allegations made in statements should either identify the body or the source making it or at least carry quotations marks.

Newspapers should avoid crass commercialism:

While newspapers are entitled to ensure, improve or strengthen their financial viability by all legitimate means, they should not engage themselves through the print media, in crass commercialism or unseemly cut-throat commercial competition with their rivals, for earning ever-more profits for their proprietors, in a manner which is repugnant to high professional standards and good taste, and tends to downgrade the primary role of the free Press as an essential institution of democracy to a secondary, subservient place.

LOWERING OF ETHICAL VALUES IN JOURNALISM:

During the past few years, the lowering of ethical values in the media have been widely reported. The pernicious practice of accepting envelopes containing gift cosponsor hard cash by

the press reporters in India at the press conferences where new issues are launched has been widely commented upon.

Writing in *The Tribune* 'Strange Results of Liberalization' of the eminent columnist M.V. Kamath says: What journalists should be concerned about is the corruption of their brethren on a scale that is mind-boggling. Giving a graphic account of the process of cash collection in a day in the life of a reporter, Kamath also points to another aspect of the problem-Conformity. "Does that mean there are no honest journalists in the profession? The issue is not honesty but conformity. If the honest journalist refuses to accept the gifts given to him he falls foul of his colleagues. Everyone accepts gifts. That is done thing."

Writing of *Business, Journalists in Vidura* (July 1995), Nandini Sahai opined: Then there is another class of journalists who are not doing too badly. They call at announcing share-issues. They stand to take home quite a neat sum at the end of the month, mostly in the form of gift coupons and gifts. The *Vidura* issue of June 1994 has Mr. Dilip Cherian saying, "My own personal experience is that in business journalism the chances of becoming corrupt are much higher. It has also succeeded in creating a breed of journalists who badly "offer to pay" the newspaper for the privilege of being their financial correspondent."

Not that the phenomenon of journalists getting rich in the course of newsgathering is peculiar to India. In China, a lot of Chinese journalists write advertisements in the guise of news after receiving various benefits. In April 1994, the Chinese Communist Party launched a drive to root out the spreading phenomenon of paid news coverage (cheque-book journalism) in the country's media. A circular put out by the Central Committee's propaganda department called for, "unremitting efforts by party organizations to educate journalists on press ethics."

There is also a need to look into financial inducements that are offered to newsmen by political ties and companies. Similarly, a fiscal ceiling needs to be arrived at regarding the gifts that companies disburse to newsmen. Should they be limited to calendars or diaries? Or should they include products like watches or suit lengths? How far can one go in accepting such freebies - a free trip, a free lunch? Or may be more? This is a grave ethical question again, and needs to be attended to if doubts have to be removed from people's minds regarding the integrity of the media.

It is suggested that a code of ethics needs to be formulated by media men, which should be displayed in the reporter's room and on the news desk. It should also be published once a year in all newspapers so that readers know' the ethical standards to which newspapers subscribe.

10.2.3 INDUSTRY CODES:

There are many apex organizations that have codes of ethics for members and member organizations. Here are a few of these industry codes:

AINEC CODE OF ETHICS:

Some of the professional bodies connected with the Indian press have formulated voluntary codes of conduct as part of their efforts at self-regulation. The Code of Ethics, evolved by the All India Newspapers Editor's Conference (AINEC), which is applicable to the members of that body. This code, though drafted in general terms, emphasizes the need for journalists to attach due importance to human and social rights in discharge of their professional obligation, to observe special restraint in reporting or commenting on communal matters and to promote national unity. The code is essentially persuasive in character; no sanctions have been prescribed for its breach or any machinery created for its enforcement.

- As the Press is a primary instrument in the creation of public opinion. Journalists should regard their calling as a trust and be eager to serve and guard their public interests.
- In the discharge of their duties journalists should attach due value to fundamental, human rights and social rights, and shall hold good faith and fair play in news reports and comments as essential professional obligations.
- Journalists should observe special restraint in reports and comments dealing with tensions, likely to lead, or leading to civil disorder.

** Journalists shall particularly observe maximum restraint in publishing reports and comments relating to communal tension, incidents, riots, and incipient situations likely to lead to communal disturbances. The identification of communities, which may lead to chain reactions, should be avoided.*

** Journalists should endeavour at all times to promote the unity of the country and nation, pride in the country, its people, its achievements and its strength in diversity. Journalists should be most circumspect in dealing with movements and ideas, which promote regionalism at the cost of national unity.*

* Any reportage on ideas of fresh partition and secessionism must be treated with the greatest caution; any comment likely to give comfort to the proponents of such ideas and further their interests should

be avoided. The integrity of the country and of Indian people must be considered sacrosanct and beyond question.

- Journalists should endeavour to ensure that information disseminated is factually accurate. No fact shall be distorted or the essential facts deliberately omitted. No information known to be false shall be published.
- Responsibility shall be assumed for all information and comment published. If responsibility is disclaimed, this will be explicitly stated.
- Confidences shall always be respected. Professional secrecy must be preserved.
- Any report found to be inaccurate and any comment on inaccurate reports shall be voluntarily rectified. It shall be obligatory to give fair publicity to a correction of contradiction when a report published is shown to be false or inaccurate in material particulars.
- Journalists shall not exploit their status for non-journalistic purposes.
- Journalists shall not allow personal interest to influence professional conduct.
- There is nothing so unworthy as the acceptance or demand of a bribe or inducement for the exercise by a journalist of his power to give or deny publicity to news or comments.
- Freedom in the honest collection and publication of news and facts and the rights of their comments and criticism and principles, which every journalist should always defend.
- Journalists shall be very conscious of their obligation to their fellows in the profession and shall not seek to deprive fellow-journalists of their livelihood by unfair means.
- The carrying on of personal controversies in the press in which no public interest is involved shall be regarded as derogatory to the dignity of the profession.
- It is unprofessional to give currency to rumours or loose talk affecting the private life of individuals. Even verifiable news affecting the private life of individuals shall not be published unless the public interest as distinguished from public curiosity demands its publication.
- The Press shall refrain from publishing matters likely to encourage vice and crime.

10.2.4 ADVERTISING CODES OF ETHICS:

The advertising industry has made rapid strides especially since the early nineties. The policy of economic liberalization and growth of economy have largely been contributory factors, apart from technological advances.

The advertising industry has been frequently criticized for putting out misleading or exaggerated claims in respect of product, goods and services advertised. It has also been perceived as guilty of glorifying certain habits or tendencies regarded as undesirable, and encouraging consumerist culture. This has quite often led to demands for stricter legal controls. The industry, on the other hand, promises to meet the situation through a system of self-regulation.

The one general difficulty about self-regulating measures or industry codes is the enforcement of such regulations. In this context, K.S. Venkateswaran, in his book *Mass Media Laws and Regulations in India*, says: *Exaggerated claims, appalling bad taste, economy of truth in providing information about products and services, and a general lack of concern for consumer's interest have given the industry a bad side to its reputation which it could do without.*

Most of the countries have a number of institutions and professional bodies designed to perform a self-regulatory role. Their performance has been sometimes termed as 'media accountability system'- which is meant to increase the social responsibility of media. Such bodies evolve codes for self-regulation and monitor their implementation. They have also been called media monitors.

Media monitors also perform another useful function. They provide a valuable forum to the users of the media to express their criticisms or opinions concerning the performance of the media. In the case of newspapers, for example, an effective press council can ensure that the reader is not short-charged by unscrupulous or shoddy journalistic practices. The council can give him a platform from which to ventilate his grievances against biased, inaccurate or inadequate reporting on matters of legitimate public interest.

Similarly, a good broadcasting standards council can go a long way in ensuring that the general public is protected from the evils of gratuitous violence or sex on radio and television without having to suffer the harsher alternative of statutory censorship.

In the field of advertising, the Advertising Standards Council of India (ASCI) an umbrella trade body of advertising agencies in the country, drew up a Code of Self-Regulation in 1985 which seeks *inter alia*: to ensure the truthfulness and honesty of representations and claims made in advertisements and to safeguard against misleading advertisements; to ensure that advertisements are not offensive to generally accepted standards of public decency; to safeguard against the indiscriminate use of advertising for the promotion of hazardous or otherwise unacceptable products; and to ensure that advertisements observe fairness in competition.

The Code is administered by a Consumer Complaints Council of the ASCI consisting of 14 members, eight of whom are from professions or backgrounds unrelated to advertising. Complaints can be brought to the Council by any one alleging a breach of the code and the council investigates them. If after proper enquiry the Council comes to the conclusion, by a

simple majority, that a complaint is justified, it would make a report to the Board of Governors of the ASCI who will then proceed to implement it as expeditiously as possible.

As Advertising Agencies Association of India (AAAI) is another representative body of the advertising, the AAAI has adopted a code of standards of advertising practice, which covers advertising ethics vis-à-vis the customers and advertisers.

CODE OF ETHICS FOR ADVERTISING IN INDIA:

Some excerpts from the Code of Ethics for Advertising in India, issued by the Advertising Council of India, are reproduced below. The excerpts include general rules of conduct in advertising, instructions to avoid vulgarity and indecency, and use of National Emblems.

Along with the development of a very complex distribution system, the requirements of a market economy, faced with the need for ensuring a regular flow of mass production, have given rise to the development of new techniques of sales promotion.

Of these, advertising has proved itself to be inestimable value for producers and distributors as well as for consumers. It enables the former to maintain contact with customers who are widely scattered and often unknown, and it assists the latter in choosing those goods and services that are the best suited to their particular requirements.

Advertising has become an important social and economic force in the world of today. It is, therefore, essential that any unfair advertising practice likely to alienate public confidence should be eliminated. Hence the need for rules of conduct drawn up for the purpose of preventing possible abuses and of promoting responsibility towards the consumer on the part of the advertisers, advertising agencies and media owners and suppliers.

Recognizing that the legitimate function of advertising is the advocacy of the merits of particular products or services this code is intended to be applied in the spirit as well as in the letter and should be taken to set out the minimum standards to be observed by the parties concerned. This Code does override all ethical standards in advertising laid down by individual organizations, but it does not supersede the standards of practice laid down by individual organizations as incumbent upon their own members and applying to their particular trade or industry.

- Advertising should be so designed as to conform not only to the law but all of the moral, aesthetic and religious sentiments of the country in which it is published.

- No advertisement likely to bring advertising into contempt or disrepute should be permitted. Advertising should not take advantage of the superstition or ignorance of the general public.
- No advertisements of talismans, charms and character reading from photographs or such other matter as will trade on the superstition of the general public shall be permitted.
- Advertising should be truthful, avoid distorting facts and misleading the public by means of implications and omissions. For instance, it should not mislead the consumer by false statements as to:
 - * The character of the merchandise i.e. its utility, materials, ingredients, origin, etc.
 - * The price of the merchandise, its value, its suitability or terms of purchase.
 - * The services accompanying purchase, including delivery, exchange, return, upkeep etc.
 - * Personal recommendations of the article or service. Testimonials which are fictions and/or fraudulent or the originals of which cannot be produced must not be used. Anyone using testimonials in advertisements is as responsible for the statements made in them, as he should be if he had made them himself.
 - * The quality of the value of competing goods or the trustworthiness to statements made by others.
- No advertisement should be permitted to contain any claim so exaggerated as to lead inevitably to disappointment in the mind of the public. Special care is called for in the following cases:
 - * Advertisement addressed to those suffering from illness. (In this respect the Code of Standards of Advertising in relation to medicine must be adhered to).
 - * Advertisements inviting the public to invest money. Such advertisements should not contain statements which may mislead the public in respect of the security offered, rates of return, etc.
 - * Advertisements inviting the public to take part in lotteries or competitions such as are permitted by law or which hold out the prospect of gifts. Such advertisements should state clearly all the conditions for the lottery or competition or the conditions for the distribution of the gifts.
 - * The publication of employment notices requiring fees for application forms, prospects, etc and security deposits should be forbidden except when such advertisement emanate from Government or quasi-Government sources.

- Methods of advertising designed to create confusion in the mind of the consumer as between goods by one maker and another maker are unfair and should not be used. Such methods may consist in:
 - * The imitation of the trademark or name of the competitor or the packaging or labeling of goods; or
 - * The imitation of advertising devices, copy, layouts or slogans.
- Advertising should endeavour to gain the goodwill of the public on the basis of the merits of the goods or services advertised. Direct comparison with competing goods or firing and disparaging references are in no circumstances permitted.
- Indecent, vulgar, suggestive, repulsive or offensive themes of treatment should be avoided in all advertisements. This also applies to such advertisements themselves are not objectionable as defined above but which advertise objectionable books, photographs or other matter and thereby lead to their sale and circulation.
- No advertisement should offer to refund money paid.
- Law in advertisements prohibits the use of National Emblems in trademarks, etc. except by Governments or governmental agencies. Also the use of the pictures of Mahatma Gandhi, the President, the Vice-President and the Prime Minister of India is forbidden in such advertisements, trademarks, etc. except by previous permission. This rule does not apply to advertising of books, films or other items in which these personages form the chief subject.

CONSUMER REDRESSAL FORUMS:

Having recognized the need to protect consumers from unfair treatment at the hands of suppliers of goods and services, including advertisers, the government passed a law in 1986-the 'Consumer Protection Act'. The Act affords a legally enforceable right and offers remedies against misleading or false representation.

Under this Act, any consumer who feels that he has suffered harm or damage as a result of such advertisements can lodge a complaint with a Consumer Redressal Forum at district, state or national level. It will, however, be important to note that Code of Ethics would not be effective, unless there is a strong mechanism to oversee its implementation. The ASCI also will have to decentralize its functioning so that even a lay man becomes aware as to where and to whom the complaints could be addressed. At present there is a long road ahead in India for the advertising industry to adopt these ethical practices.

Whereas it is difficult to say how far such efforts in enforcing ethical standards would succeed, the fact remains that professional bodies of working journalists will have to do lot more to enforce codes of conduct evolved by these bodies for their members.

10.3 SUMMARY:

- Principles such as objectivity, impartiality, truthfulness and freedom of information are some very contentious issues before the mass media today. Most of these issues refer to the important concepts of *safeguarding freedom of information, freedom of access to information sources; objectivity, accuracy, truthfulness or the non-misrepresentation of facts; responsibility vis-à-vis the public and its rights and interests and in relation to national, racial and religious communities, the nation, the state and maintenance of peace; unfounded accusations, violation of privacy, right or reply, etc.*
- By general understanding, ethics has to do with conduct-with conduct that is "right" in view of given society and time period, with conduct that is good out of sense of duty or conviction rather than from fear of punishment. By common consent, various Modes of behaviour and conduct are viewed as "good" and various others as "bad" even though in today's society there may be wide Individual differences as to the understanding of what is "good" or what is "bad".
- Journalists have the following responsibilities: Contractual responsibility in relation to the media and their internal organization; A social responsibility entailing obligations towards public opinion and society as a whole; Responsibility or liability deriving from the obligation to comply with the law; Responsibility towards the international community, relating to respect of universal values. These four types of responsibilities may in certain respects be contradictory or even conflicting.
- Some newspapers have tried to incorporate an idea from Scandinavia into their operations in order to provide some internal criticism. An individual employed by the paper (called an ombudsperson), is assigned to handle complaints from readers who feel that they have got a raw deal and to criticize in general the performance of the paper's staff. The idea, however, has not made a big splash nationwide, and only a few papers maintain such as institution. In India The Times of India had appointed Justice P.B. Bhagwati as the ombudsman.
- 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. Publication of inaccurate, baseless, graceless, misleading or distorted material should be avoided.

- Newspapers should not publish anything, which is manifestly defamatory or libelous against any individual or organization unless after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good.
- Intrusion or invasion of the privacy of individuals is not permissible unless outweighed by genuine public interest. The private life, even of a public figure is his or her own. Exposure or invasion of his or her personal privacy or private life is not permissible. Unless of course there is clear evidence that the wrongdoings in question have a reasonable nexus with the misuse of his or her public position or power and has an adverse impact on public interest.
- In general, and particularly, in the context of communal disputes or clashes: Provocative and sensational headlines should be avoided, Headings must reflect and justify the matter printed under them, Headings containing allegations made in statements should either identify the body or the source making it or at least carry quotations marks.
- While newspapers are entitled to ensure, improve or strengthen their financial viability by all legitimate means, they should not engage themselves through the print media, in crass commercialism or unseemly cut-throat commercial competition with their rivals, for earning ever-more profits for their proprietors, in a manner which is repugnant to high professional standards and good taste, and tends to downgrade the primary role of the free Press as an essential institution of democracy to a secondary, subservient place.
- While reporting crime involving rape, abduction or kidnap of women/females or sexual assault on children, on raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs or the victims or other particulars leading to their identity should not be published. While such publication serves no legitimate public purpose, it may bring social ostracism to the victims and social embarrassment to their relations, family, friends, community, religious order or the institution to which they belong.

10.4 KEY WORDS:

Ethics: By general understanding, ethics has to do with conduct-with conduct that is "right" in view of given society and time period, with conduct that is good out of sense of duty or conviction rather than from fear of punishment. By common consent, various Modes of behaviour and conduct are viewed as "good" and various others as "bad" even though in today's society there may be wide Individual differences as to the understanding of what is "good" or

what is "bad".

Journalists' Responsibilities: Journalists have the following responsibilities: Contractual responsibility in relation to the media and their internal organization; A social responsibility entailing obligations towards public opinion and society as a whole; Responsibility or liability deriving from the obligation to comply with the law; Responsibility towards the international community, relating to respect of universal values. These four types of responsibilities may in certain respects be contradictory or even conflicting.

Ombudsman: Some newspapers have tried to incorporate an idea from Scandinavia into their operations in order to provide some internal criticism. An individual employed by the paper (called an ombudsperson), is assigned to handle complaints from readers who feel that they have got a raw deal and to criticize in general the performance of the paper's staff. The idea, however, has not made a big splash nationwide, and only a few papers maintain such an institution. In India The Times of India had appointed Justice P.B. Bhagwati as the ombudsman.

Accuracy and fairness: 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. Publication of inaccurate, baseless, graceless, misleading or distorted material should be avoided.

Caution against defamatory writing: Newspapers should not publish anything, which is manifestly defamatory or libelous against any individual or organization unless after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good.

Privacy: Intrusion or invasion of the privacy of individuals is not permissible unless outweighed by genuine public interest. The private life, even of a public figure is his or her own. Exposure or invasion of his or her personal privacy or private life is not permissible. Unless of course there is clear evidence that the wrong-doings in question have a reasonable nexus with the misuse of his or her public position or power and has an adverse impact on public interest.

Paramount interests of state, society and rights of individuals not be jeopardized: Newspapers should, as a matter of self-regulation, exercise due restraint and caution in presenting any news comment or information which is likely to jeopardize, 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.

Headings must not be sensational: In general, and particularly, in the context of communal disputes or clashes: Provocative and sensational headlines should be avoided, Headings must reflect and justify the matter printed under them, Headings containing allegations made in

statements should either identify the body or the source making it or at least carry quotations marks.

Consumer Redressal Forums: Having recognized the need to protect consumers from unfair treatment at the hands of suppliers of goods and services, including advertisers, the government passed a law in 1986-the 'Consumer Protection Act'. The Act affords a legally enforceable right and offers remedies against misleading or false representation. Under this Act, any consumer who feels that he has suffered harm or damage as a result of such advertisements can lodge a complaint with a Consumer Redressal Forum at district, state or national level.

10.5 SELF-ASSESSMENT QUESTIONS (SAQs):

1. What do you mean by Media Ethics? Discuss.
2. Why are media ethics important? Discuss.
3. What are the major ethical codes in print media in India? Discuss.
4. What are the major ethical codes in electronic media in India? Discuss.
5. What are the major ethical codes in the field of advertising in India? Discuss.
6. What are the major ethical codes in the field of PR in India? Discuss.

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