

## **A DRAFT OF THE PROPOSED BROADCASTING SERVICES REGULATION BILL, 2007**

*Whereas airwaves are public property and it is felt necessary to regulate the use of such airwaves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner;*

*Whereas the Broadcast media is a powerful purveyor of ideas and values and plays a pivotal role in not only providing entertainment but also disseminating information, nurturing and cultivating diverse opinions, educating and empowering the people of India to be informed citizens so as to effectively participate in the democratic process; preserving, promoting and projecting the diversity of Indian culture and talent;*

*Whereas Government has issued guidelines from time to time for regulating the Broadcasting Services and it is felt necessary to give a statutory effect to these guidelines and provide for a comprehensive legislation; Therefore this is a Bill*

*To promote facilitate and develop in an orderly manner the carriage and content of Broadcasting,*

*To provide for regulation of broadcasting services in India for offering a wide variety of entertainment, news, views and information in a fair, objective and competitive manner and to provide for regulation of content for public viewing and matters connected therewith or incidental thereto.*

*To provide for the establishment of an independent authority to be known as the Broadcast Regulatory Authority of India for the purpose of regulating and facilitating development of broadcasting services in India*

*To encourage Broadcasting services to be responsive to the educational, developmental, social, cultural and other needs and aspirations of people and include in their programming public service messaging and content*

BE it enacted by Parliament in the Fifty –Eighth Year of the Republic of India as follows: -

### **CHAPTER 1** **PRELIMINARY**

**1. Short title, extent and commencement:** (1) This Act may be called the Broadcasting Services Regulation Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

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

(a) “Authority” means the Broadcasting Regulatory Authority of India established under section 14;

(b) “Authorized Officer” with respect to a Broadcasting Service means

- i) an officer of the Central Government or the Authority or the State Government for such limits of jurisdiction as may be notified by the Central Government
- ii) on being empowered by the Central Government to notify, an officer of the Authority or State Government for such limits of jurisdiction as may be notified by the Authority or the State Government

(c) “Broadcaster” means any person who provides a content broadcasting service and includes a broadcasting network service provider when he manages and operates his own television or radio channel service.

- (d) “Broadcasting” means assembling and programming any form of communication content like signs, signals, writing, pictures, images and sounds, and either placing it in electronic form on electro-magnetic waves on specified frequencies and transmitting it through space or cables to make it continuously available on the carrier waves so as to be accessible to single or multiple users through receiving devices either directly or indirectly; and all its grammatical variations and cognate expressions;
- (e) “Broadcasting Service” means assembling, programming and placing communication content in electronic form on the electro-magnetic waves on specified frequencies and transmitting it continuously through broadcasting network or networks so as to enable all or any of the multiple users to access it by connecting their receiver devices to their respective broadcasting networks, and includes all the content broadcasting services and the broadcasting network services;
- (f) “Broadcasting Network Service” means a service, which provides a network of infrastructure of cables or transmitting devices for carrying broadcasting content in electronic form on specified frequencies by means of guided or unguided electromagnetic waves to multiple users, and includes the management and operation of any of the following:
  - i. Teleport / Hub / Earth Station
  - ii. Direct-to-Home (DTH) Broadcasting Network
  - iii. Multi-System Cable Television Network.
  - iv. Local Cable Television Network
  - v. Satellite Radio Broadcasting Network
  - vi. Such other Network Service as may be prescribed by the Central Government
- (g) “Cable Operator” means any person who manages and operates, or is otherwise responsible for, a multi-system or a local cable television network
- (h) “Cable television channel service” means the assembly, programming and transmission by cables of any broadcast television content on a given set of frequencies to multiple subscribers.
- (i) “Cable Television Network” means any system consisting of closed transmission paths and associated signal generation, control and distribution equipment, designed to receive and re-transmit television channels or programs for reception by multiple subscribers;
- (j) “Carrier” means the electro-magnetic waves that can travel on air or cable and are capable of carrying communication content in electronic form on specified frequencies
- (k) “Chairperson” means the Chairperson of the Authority appointed under section 15;
- (l) “Channel” means a set of frequencies used for transmission of a programme;
- (m) “Competent Authority” means the Authority designated by the Government for the purpose of this Act;
- (n) “Community radio service” means terrestrial radio broadcasting intended and restricted only to a specific group & within specified territory;
- (o) “Content” means any sound, text, data, picture (still or moving), other audio-visual representation, signal or intelligence of any nature or any combination thereof which is capable of being created, processed, stored, retrieved or communicated electronically;

(p)“Content Broadcasting service” means the assembling, programming and placing content in electronic form and transmitting or re-transmitting the same on electro-magnetic waves on specified frequencies, on a broadcasting network so as to make it available for access by multiple users by connecting their receiving devices to the network, and includes the management and operation of any of the following:

- i. Terrestrial television service;
- ii. Terrestrial radio service;
- iii. Satellite television service;
- iv. Satellite radio service;
- v. Cable television channel service;
- vi. Community radio service;
- vii. Such other content broadcasting services as may be prescribed by the Central Government.

(q)“Content Code” means broadcasting content certification and regulation rules as prescribed under section 4(3) of this Bill;

(r)“content produced in India” means a television or radio programme, excluding transmission of sporting events and compilations thereof, advertisements, and continuity announcements, which is produced—

- (i) by a broadcasting service licensee;
- (ii) by a person who is a citizen of, and permanently resident in India;
- (iii) by a juristic person, the majority of the directors, shareholders or members of whom are citizens of, and permanently resident in India;
- (iv) in a co-production in which persons referred to in subparagraphs (i), (ii) or (iii) have at least a fifty percent financial interest;
- (v) by persons referred to in subparagraphs (i), (ii), (iii) or (iv), in circumstances where the prescribed number of key personnel who are involved in the production of the television programme, are citizens of, and permanently resident in India; or
- (vi) by persons referred to in subparagraphs (i), (ii), (iii) or (iv), in circumstances where the prescribed percentage of the production costs are incurred in India;

(s)“Decoder” means an equipment for decoding an encrypted channel to facilitate its intelligible reception;

(t)“ Digital Addressable System” means a mechanism or electronic device or more than one electronic devices put in an integrated system through which digital broadcasting signals of a service provider can be sent in an encrypted or unencrypted form, which can be decoded by a mechanism or device or devices at the premises of the subscriber within the limits of authorisation made, on the choice and request of such subscriber, by the service provider to the subscriber;

(u)“Direct-To-Home Broadcasting Service” means a service for multi channel distribution of programmes direct to subscriber’s premises by uplinking to a satellite system specified for the purpose by the Competent Authority;

(v)“Downlinking” with reference to satellite broadcast or DTH Broadcasting service means reception of programmes transmitted from a satellite to an earth station or a receiving device;

(w)“Encrypted” means treated electronically or otherwise for the purpose of preventing intelligible reception by unauthorized persons;

(x)“Frequency” means frequency of electro-magnetic waves used for transmission of broadcasting service;

(y)“Foreign satellite broadcasting service’ means a broadcasting service provided by using a satellite, up linked from a foreign country and receivable in India;

(z)“Free-to-air broadcasting service” means a non encrypted broadcasting service made available for reception by receiving apparatus commonly available to the public without requiring payment of a subscription fee;

(aa)“interconnected undertakings” shall have the same meaning as assigned to it in the Monopolies and Restrictive Trade Practices Act, 1969

(ba)“License” means a license issued for any of the broadcasting services by the relevant Licensing Authority prescribed by the Central Government under this Act;

(ca)“Licensing Authority” means an officer of the Central Government or the Authority or the State Government, so notified by the Central Government in respect of any of the broadcasting services and for such limits of jurisdiction as may be determined by the Central Government.

(da)“Licensed service” means a broadcasting service licensed by the Licencing Authority;

(ea)“live” in relation to broadcasting of an event, or series of events, has the meaning generally accepted within the broadcasting industry.

(fa)“Local cable operator” means any person who manages and operates or is responsible for the management and operation of a cable television network to provide a cable television service to multiple subscribers in a particular area

(ga)“Local Delivery service” means a service for multi-channel downlinking and distribution of television programmes by a land based transmission system using wired cable or wireless cable or a combination of both for simultaneous reception either by multiple subscribers directly or through one or more local cable operators

(ha)“Member” means a Whole-time Member of the Authority referred to in section 13 and includes the Chairperson;

(ia)“Multi-System Cable Television Network” means a system for multi-channel downlinking and distribution of television programmes by a land based transmission system using wired cable or wireless cable or a combination of both for simultaneous reception either by multiple subscribers directly or through one or more local cable operators

(ja)“Multi System Operator (MSO)” means any person who manages and operates a multi-system cable television network to provide a cable television service to multiple subscribers, which may or may not include other value added services including telecommunications and Internet.

(ka) “Network operator” means any person who provides a broadcasting network service.

(la)“News and Current Affairs Channel” means a channel that broadcasts programs containing reports and discussions on current events, ideas, individuals and institutions dealing with political, social, economic and such other subjects as are of general interest to the public at large, but does not include a channel that exclusively broadcasts scientific, cultural, educational or entertainment programs including news relating thereto.

(ma)” Non Prime Band” shall be interpreted in relation to Prime Band

(na)“Notification” means a notification published in the official Gazette or posted on the official web site of the Ministry of Information & Broadcasting or of the Authority or of the Council, as the case may be, and the expression “notified” to be construed accordingly;

(oa) “ Person” as mentioned in the definitions of Cable operator, Local Cable Operator and Multi-System Operator means

ii) An individual who is a citizen of India;

iii) An association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;

- iv) A company as defined in section 3 of the Companies Act, 1956 (1 of 1956) with such eligibility conditions as may be specified by the Central Government or the Authority;
  - (pa)“Prescribed” means prescribed by rules notified under this Act;
  - (qa)“Prasar Bharti” means the Corporation known as the Prasar Bharati (Broadcasting Corporation of India) established under subsection (1) of section 3 of the Prasar Bharti ( Broadcasting Corporation of India ) Act,1990;
  - (ra)“Prime Band” constitutes frequencies relating to channel falling in band 1 (Channels 2 to 4 ranging from 47 to 68 MHz) and Band III (Channels 5 to 12 ranging from 174 to 230 MHz)
  - (sa)“Private communication” means:
    - (i) A communication between two or more persons that is of a private or domestic nature;
    - (ii) An internal communication of a business, government agency or other organization for the purpose of the operation of the business, agency or organization; and
    - (iii) Communication in such other circumstances as may be prescribed.
  - (ta) “ Program” in relation to broadcasting service, means:
    - (i) Any matter the purpose of which is related to entertain, educate or inform public or
    - (ii) Any advertising or sponsorship matter, whether or not of a commercial kind;

But does not include any matter that is wholly related to or connected with any private communication.
  - (ua) “Public service broadcaster” means Prasar Bharati or any other entity which may be notified as public service broadcaster by Central Government
  - (va)“Public Service Broadcasting” means the broadcasting of content that is socially , economically and culturally relevant and is in public interest and welfare
  - (wa)“Public Service Broadcasting Channel” means a radio or television channel of Public Service Broadcaster i.e Prasar Bharati or any other Channel so notified by the Central Government on the recommendations of the Public Service Broadcasting Council
  - (xa)“Public Service Broadcasting Council’ means an autonomous body constituted as per section 30 of this Act
  - (ya)“Public Service Broadcasting Obligation Fund” refers to the fund created as per provisions of subsection (4) of section 14 of this Act.
  - (za)“ Public Service Broadcasting Obligation” shall mean obligations supposed to be discharged by a broadcasting service provider as per provisions of section 13 of this Act
  - (ab)“Registered channel” means a broadcasting channel registered under this Act
  - (bb) “Regulations” means regulations made by the Authority or by the Council under this Act;
  - (cb)“Satellite television service” means a television broadcasting service provided by using a satellite, and received with or without the help of a local delivery system but does not include Direct-to-Home delivery service;
- Explanation:** Decision of the Authority whether a particular service falls in the category of a satellite broadcasting service or a Direct-to-Home delivery service shall be final.

(db)“Satellite radio service” means a radio broadcasting service provided by using a satellite and directly receivable through receiver sets by multiple subscribers in India;

(eb) “Service provider” means provider of a broadcasting service;

(fb) "sporting events of national importance" means such national or international sporting events; held in India or abroad, as may be notified by the Central Government in the Official Gazette to be of national importance;

(gb)“Subscriber” of a service means a person who receives the service at a place indicated by him without further transmitting it to any other person;

(hb)“Subscription fee” means any form of consideration given by subscriber;

(ib)“Terrestrial television service” means a television broadcasting service provided over the air by using a land based transmitter and directly received through receiver sets by the public but does not include a local delivery service;

**Explanation:** Decision of the Authority whether a particular service falls in the category of a terrestrial television service or a local delivery service shall be final;

(jb)“Terrestrial radio service” means a radio broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public;

(kb)“Whole-time Member” means a Whole-time Member of the Authority appointed under section 13;

(lb)“Wireless cable” means a land based wireless transmission system used for multi-point multi-channel distribution of programmes on frequencies designated for the purpose by the Competent Authority;

(mb)“Uplinking” with reference to satellite broadcast or Direct-to-Home service means uplinking of programme transmission from an earth station or a transmitting device to the satellite;

(nb)“Year” means the financial year.

## **CHAPTER 2**

### **REGULATION OF BROADCASTING SERVICES**

**3. Broadcasting services not without license:** (1) No person shall, after the commencement of this Act, provide any broadcasting service, or broadcast any program or channel, without obtaining a license for such service or permission for such program or registration of such channel, in accordance with the policy guidelines prescribed under this Act for regulating such broadcasting service, program or channel.

Provided that the cable operators registered under the Cable Television Networks (Regulation) Act, 1995 may continue to provide cable services in accordance with the conditions laid down in section 49 of this Act;

Provided further that the permissions issued, license agreements signed with private operators, and registration of channels done, by the Central Government, from time to time under respective guidelines listed under sub-section (3) of this section, read with Indian Telegraph Act, 1885, prior to the commencement of this Act shall be deemed to be licenses issued under the provisions of this Act from the respective dates of issue of such permission or signing of such license agreement, or registration of such television channel, and shall be valid till the date of expiry of the original permission or

license agreement or registration, as the case may be, notwithstanding anything contained in this Act or any other law for the time being in force.

Provided further that the Central Government or the Authority may make appropriate modifications, additions and deletions in the terms and conditions of such permissions or licences or registrations or any agreements already executed as mentioned in the second proviso to bring them in conformity with the provisions of this Bill or any Rules or Regulations or Guidelines issued thereunder

Provided further that the Central Government may, by notification, exempt Prasar Bharti or any other Public service Broadcasting Channel, as may be specified, from all or any of the provisions of this Act.

Provided further that the Government may, by notification, exempt such non-commercial establishments under common ownership from obtaining a license for a Local Delivery Service without using wireless cable, for the purpose of providing such service for the exclusive use of their members subject to such conditions and restrictions as may be specified.

**4. Registration of channels and compliance with the Content Code:** (1) Every service provider shall register his television or radio channel with the Authority in the manner prescribed.

(2) The Authority may refuse to register a channel, if it is of the considered opinion that the content of the channel is likely to threaten the security and integrity of the State or threaten peace and harmony or public order in the whole or a part of the country, or threaten relations with foreign countries

Provided that no such order of refusal shall be issued without giving a reasonable opportunity to the applicant company or the service provider of being heard.

(3) No service provider shall provide any broadcasting content that is not in conformity with the broadcasting content certification and regulation rules, hereafter referred to as 'the Content Code', as may be prescribed by the Government under this Act

Provided that till such time as the Content code is notified under this Act, all service providers shall adhere to the Programme Code and the Advertising Code prescribed under the Cable Television Network Rules 1994.

**5. Central Government to exercise certain powers in a situation of external threat or war involving India :**

(i) The Central Government may at any time, if it appears necessary or expedient to do so in public interest, in respect of a broadcasting service, in a situation of external threat or war involving India, direct the service provider to stop broadcasting its service or transmit in its broadcasting service such programmes or announcements in such manner as may be considered necessary. The service provider shall immediately comply with all such directions failing which the Central Government may direct the Licencing Authority to suspend or revoke its licence.

(ii) A copy of every direction issued under this section shall be laid before each house of Parliament

**6. Central Government to exercise certain powers in exceptional circumstances:** (i)

The Central Government may under exceptional circumstances, if it appears necessary or expedient to do so in public interest, in respect of any broadcasting service, which is

considered prejudicial to relations with a foreign country, public order, or internal security, direct the service provider to stop broadcasting its service or transmit in its broadcasting service such programmes or announcements in such manner as may be considered necessary. The service provider shall immediately comply with all such directions failing which the Central Government may direct the Licencing Authority to suspend its licence

(ii) An appeal against any such order or direction under subsection (i) shall lie to the High court.

(iii) A copy of every direction issued under this section shall be laid before each house of Parliament

## **7 Mandatory sharing of Sports Broadcasting signals with Prasar Bharti :**

(1) For the purpose of ensuring the widest availability of broadcast signals for viewing in India, no content rights owner or holder and no television or radio broadcasting service provider shall carry a live or delayed live television broadcast on any cable or Direct-to-Home network or radio commentary broadcast on its Amplitude Modulation (AM) and Frequency Modulation (FM) channels in India of sporting events of national importance, unless it simultaneously offers the same live or delayed live broadcasting signal, without its advertisements, to the Prasar Bharati to enable it to re-transmit the same on its terrestrial networks and Direct-to-Home networks in such manner and on such terms and conditions as may be specified.

Provided that if a content rights owner or holder is not generating any radio commentary of the event, then Prasar Bharati shall have the right to produce the radio commentary for transmission on its Amplitude Modulation (AM) and Frequency Modulation (FM) channels subject to the condition that the revenue derived from such broadcast shall be shared on a 50:50 basis after exclusion of production cost

(2) The terms and conditions under sub-section (1) shall also provide that the advertisement revenue sharing between the content rights owner or holder and the Prasar Bharati shall be in the ratio of not less than 75:25 in case of television coverage and 50:50 in case of radio coverage.

(3) The Central Government may specify a percentage of the revenue received by the Prasar Bharati under sub-section (2), which shall be utilised by the Prasar Bharati for broadcasting other sporting events.

## **8. Compulsory transmission of Public Service Broadcasting channels:**

(1) Every cable operator shall re-transmit,-

(i) channels operated by or on behalf of Parliament in the manner and name as may be specified by the Central Government by notification in the Official Gazette;

(ii) 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 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 Central Government may, by notification in the Official Gazette, specify the name of every Doordarshan channel and any other public service broadcasting channel to be retransmitted by cable operators in their cable service as also the number of

channels to be carried in the non-prime band and the manner of reception and retransmission of such channels.

**(4) The Central Government may specify the number and names of channels to be mandatorily carried by other categories of Broadcasting Network service Providers and the manner of reception and retransmission of such channels.**

**9. Introduction of digital addressable systems (DASs) in broadcasting network services:** (1) Where the Central Government is satisfied that it is necessary in public interest to do so, it may, by notification, make it obligatory for every broadcasting network service provider in the country to transmit or re-transmit content of any or all channels provided by him, through a digital addressable system with effect from such date as may be specified in the notification.

(2) With a view to ensuring that the broadcasting network service providers comply with the obligation under sub-section (1), the Central Government may, by notification, prescribe a transitional scheme for introduction of digital addressable systems (DASs) by service providers, with effect from such date as may be specified in the notification, and different dates may be specified for different types of service providers in different States, cities, towns or areas, which may, inter alia, provide for the following:

- (a) Policy guidelines, transitional arrangements and the time frame within which the service providers in different areas shall complete the process of providing the DASs to all their viewers,
- (b) Obligations of the broadcasters in terms of declaration of prices of their registered channels, commercial arrangements with their distributors and networks service providers etc.
- (c) Obligations of the Multi-service Operators (MSOs) and Local Cable Operators (LCOs) who introduce DASs in terms of their supply, maintenance, quality of service standards, subscriber management system etc.
- (d) Obligations of the MSOs and LCOs who continue for the time being with the existing non-addressable systems in terms of declaration of the available number, names and prices of channels, maintenance of subscriber registers and furnishing periodical information etc.
- (e) Rights and obligations of the viewers in terms of getting quality of service, options to choose channels, making payments for the DASs and monthly subscriptions for the channels, proper upkeep and use of DASs etc.
- (f) Powers and functions of the Authority in terms of regulation of, and adjudication on, the commercial arrangements among various service providers, prescribing quality of service standards, enforcement of license conditions and other obligations under the scheme on the service providers and the viewers etc.
- (g) Such other terms and conditions of the scheme as are considered necessary and desirable for ensuring the successful transition from the existing technology to the digital addressable systems within the time frame prescribed under sub-section (1).

(3) Notwithstanding anything contained in sub-sections (1) and (2) or any other law for the time being in force, the Central Government shall have the power, for reasons to be recorded in writing, to postpone or advance any specified date or dates, or

by notification, modify, suspend or revoke a notification already issued or any other order or direction issued by it or the Authority

Provided that any order issued or action taken by the Central Government or the Authority or by any other person in pursuance of the earlier notification or order shall, unless specified otherwise, be deemed to be valid and continue to be in operation as if the earlier notification had never been modified, suspended or revoked, as the case may be.

**10. Powers and functions of the Central Government:** The Central Government shall have the authority to -

- i) Prescribe policy guidelines and procedures for the grant, refusal or revocation of licenses/ registration for all types of broadcasting services;
- ii) Designate and notify such officers of the Central Government, State Governments or the Authority as may be considered necessary, as the Licensing Authorities to grant, refuse or revoke licenses/ registration in respect of such broadcasting services and for such limits of jurisdiction as may be prescribed;
- iii) Prescribe the terms and conditions of licenses / registration to service providers and procedures to ensure their compliance by the service providers;
- iv) Prescribe license fees and processing fees for grant of licenses / permissions / registration for different types of broadcasting services;
- v) Prescribe policy guidelines, including transitional arrangements, to facilitate the introduction of digital addressable systems in broadcasting services throughout the country in a time-bound manner;
- vi) Prescribe guidelines and norms to evaluate and certify broadcasting content and the terms and conditions of broadcasting different categories of content by the service-providers;
- vii) Prescribe policy guidelines and institutional arrangements for self-regulation of broadcasting content by the service providers in conformity with the prescribed norms;
- viii) Prescribe guidelines and institutional arrangements for complaint / grievance redressal against violations of the prescribed norms of broadcasting content code by service providers;
- ix) Prescribe policy guidelines to facilitate competition and promote efficiency in the operation of broadcasting services so as to facilitate growth in such services;
- x) Prescribe policy guidelines laying down terms and conditions for mandatory sharing of broadcasting signals with prasar Bharati relating to sporting events of national importance
- xi) Prescribe a percentage of revenue received by Prasar Bharati under subsection (3) of section 7, which shall be utilized by the Prasar Bharati for broadcasting other sporting events
- xii) Prescribe such eligibility conditions and restrictions on ownership as mentioned in section 12
- xiii) Prescribe limits on Public service Broadcasting obligations as mentioned in section 13
- xiv) Exercise, or authorize other existing institutions to exercise, any or all the powers and perform any or all the functions of the new institutions, pending their creation and operationalisation.

#### **11. validation of the guidelines already issued:**

(1) The following guidelines issued and amended by the Central Government from time to time before coming into force of this Act, shall be deemed to have been issued under this Act:

- (i) Uplinking Guidelines of 2000
- (ii) FM Radio Policy for private agencies of 2000 (Phase 1)
- (iii) DTH Policy Guidelines of 2001
- (iv) SNG/DSNG Use Guidelines of 2002
- (v) Community Radio Policy of 2002
- (vi) Revision of Uplinking Policy Guidelines of March 2003
- (vii) Revision of Uplinking Policy Guidelines of August 2003
- (viii) FM Radio Policy Phase 2 of July 2005
- (ix) Downlinking Guidelines of November 2005
- (x) Consolidated Uplinking Guidelines of December 2005

(2) Notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken by the Central Government or the Prasar Bharati in pursuance of the Guidelines referred to in sub-section (1) shall be deemed to be and to have always been for all purposes in accordance with the law, as if the Guidelines had been validly in force at all material times and notwithstanding anything as aforesaid and without prejudice to the generality of the foregoing provisions, no legal proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court or any decree or order which would not have been so given had the Guidelines been validly in force at all material times.

**12. Restrictions on accumulation of interest:** (1) The Central Government shall have the authority to prescribe such eligibility conditions and restrictions with regard to accumulation of interest at national, state or local level in the broadcast segments of the media by the print or other media as may be considered necessary from time to time, to prevent monopolies across different segments of the media as well as within the broadcast segments, to ensure plurality and diversity of news and views.

(2) No content broadcasting service provider together with its interconnected undertakings shall have more than the prescribed share of paid up equity or have any other financing or commercial arrangement that may give it management control over the financial, management or editorial policies of any broadcasting network service provider.

Provided that this condition will not be applicable in cases where a content broadcasting service provider requires a teleport or such other infrastructure for captive use to make its content available to other broadcasting network service providers.

(3) No broadcasting network service provider together with its interconnected undertakings shall have more than the prescribed share of paid up equity or have any other financing or commercial arrangement that may give it management control over the financial, management or editorial policies of any content broadcasting service provider.

(4) No content broadcasting service provider together with its interconnected undertakings shall have more than the prescribed share of the total number of channels in a city or a state subject to a prescribed overall ceiling for the whole country.

(5) The restrictions as required under subsections (1) to (4) above shall be laid down by the Central Government in consultation with the Authority, on the basis of a review to be conducted every 3 years by the Authority.

Provided that till such a review is done by the Authority and restrictions revised by the Government the prescribed share under subsection(2) and (3) shall be taken as 20% and the overall ceiling on the total number of channels under subsection(4) as 15%.

Provided further that in a subsequent review the Central Government shall not reduce the prescribed share to a level below that prescribed under first proviso

Provided further that any broadcasting service provider, in breach of the restrictions as provided under the first proviso of this subsection, shall submit his compliance plan to the Government within two months and shall come into compliance within one year of the coming into force of this Act.

**13. Public Service Broadcasting Obligations:** (1) Every broadcasting service provider shall discharge such public service broadcasting obligations as the Central Government may prescribe from time to time in accordance with the limits indicated below:

- (a) The share of content produced in India shall be as prescribed by the Central Government and shall not be less than 15% of the total content of a channel broadcast during every week.
- (b) The share of public service/social messaging through advertisements and such other promotional materials/messages shall be as notified by Central Government from time to time and not more than 10% of the total commercial time of a channel broadcast during every week.
- (c) The share of public service/socially relevant program content shall be as notified by Central Government from time to time and not more than 10% of the total program content of a channel broadcast during every week.

Provided that the Central Government may provide a time frame to comply with any one or more of the obligations as mentioned above,

Provided further that Central Government may lay down policy Guidelines to either exempt or to allow partial compliance or the permissible manner of compliance with respect to an individual broadcaster or certain categories of broadcasters.

(2) In the event of failure to comply with the public service obligation, every content-broadcasting service provider shall be liable to pay such amount to the Authority, as may be calculated by the Authority in the manner prescribed by the Central Government towards its public service obligation.

(3) (i) Public Service Broadcasting Council as constituted under the Act shall discharge the responsibility of ensuring compliance of public service broadcasting obligations by broadcasters and shall suggest to the Authority the amount of penalty to be paid by a broadcaster for non-compliance of its obligations as laid down under subsection (1)

(ii) Public Service Broadcasting Council will also lay down regulations from time to time as to what will constitute public service/socially relevant programming or messaging and how its share is to be calculated.

(4) The amount of penalty paid shall be deposited in a fund to be called the “ public service broadcasting obligation fund”.

### **CHAPTER 3**

#### **BROADCASTING REGULATORY AUTHORITY OF INDIA**

**14. Establishment and incorporation of the Authority:** (1) With effect from such date, as the Central Government may by notification appoint in this behalf, there shall be established for the purposes of this Act an Authority, to be known as the Broadcast Regulatory Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Authority shall consist of one Chairperson and not more than six whole-time Members . One third of the Members shall be Women.

(4) The head office of the Authority shall be New Delhi.

#### **15. Appointment of Chairperson and Members:**

(1) The Chairperson and Members of the Authority shall be appointed by the Central Government on the recommendations of a Committee consisting of the Chairman of the Council of States (Rajya Sabha), the Speaker of the House of the People (Lok Sabha) and the Leader of the opposition in the House of the People (Lok Sabha) ). The quorum for making this recommendation shall be two ( 2 ) in case the post of Leader of Opposition is vacant.

(2) The Central Government shall intimate the vacancies to the Committee and also provide a list of names of eligible applicants for consideration. The Committee shall be free to consider any other eligible names as it deems fit.

(3) If the Committee fails to arrive at a consensus within 30 days of submission of the list of eligible applicants or in three sittings, whichever is earlier, the matter will be placed before the President of India for a decision.

(4)The whole-time Chairperson and six whole-time members of the Authority shall be so appointed as to include one each from amongst eminent persons who have special knowledge of and professional experience of at least 25 years in, the fields of

- (a) Television, Radio, Cinema, Advertising, Audio-Visuals, Fine Arts etc.;
- (b) Journalism, Mass Communication, Literature, Social Sciences etc.;
- (c) Finance, Commerce, Audit, Accountancy etc.;
- (d) Electronics, Telecommunication, Information Technology etc;
- (e) Consumer Affairs, Social Work/Service, Civil Society Organizations etc.;
- (f) Law, Judiciary etc.;
- (g) Public Administration, Management etc.;

(5) The recommendations made by the Committee constituted under subsection(1) shall be binding for the purposes of appointment under this section.

#### **16. Term of office, conditions of service etc. of the Chairman and other members:**

(1) Before appointing any person as the Chairperson or a whole-time member, the Central Government shall satisfy itself that the person does not have any such

financial or other interest as is likely to affect prejudicially his functions as such member.

- (2) The Chairperson and other whole-time members shall hold office for a term of six years from the date on which they enter upon their offices or till they attain the age of sixty-five years, whichever is earlier. But one-third of the Members shall retire on the expiration of every second year.
- (3) As soon as may be after the establishment of the Authority, the Central Government may, by order, make such provision as it thinks fit for curtailing the term of office of some of the Members then appointed in order that one third of the Members holding office shall retire in every second year thereafter
- (4) The Chairperson or a member shall not be eligible for a second term but a member will be eligible for appointment as Chairperson of the Authority for the remaining part of his term.
- (5) Where before the expiry of the term of office of a person holding the office of Chairman, or any other Member, a vacancy arises, for any reason whatsoever, such vacancy shall be deemed to be a casual vacancy and the person appointed to fill such vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.
- (6) The Chairperson or a whole-time member shall not take up any commercial employment in the organizations that fall within the operational jurisdiction of the Authority, after demitting office within a period of one year without the prior permission of the Central Government.
- (7) The salary and allowances payable to and other conditions of service of the Chairperson and other whole-time members shall be such as may be prescribed.
- (8) A person having commercial employment or interest, direct or indirect, in any broadcasting services provider, newspaper, advertising or programme producing agency shall not be eligible for appointment or continuation as Chairperson or a whole-time member.

**17. Powers of the Chairperson:** The Chairperson shall have powers of general superintendence and direction in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise such powers of the Authority, and shall discharge such functions of the Authority, as may be prescribed.

**18. Removal, suspension or resignation of Chairperson and members:** (1) The Central Government may remove from office or suspend the Chairperson or any member of the Authority who:

- (a) Ceases to be a citizen of India; or
- (b) Is adjudged an insolvent; or
- (c) Is convicted or any offence involving moral turpitude; or
- (d) Is, in the opinion of the Central Government, unfit to continue in office by reason of infirmity or body or mind; or
- (e) Engages during his term of office in any paid employment outside the duties of his office;
- (f) Acquires such financial or other interest as is likely to affect prejudicially his functions as a Chairperson or member;
- (g) Abuses his position so as to render his continuance in office prejudicial to public interest.

(2) The Chairperson or any other member may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, the Chairperson or the member shall be deemed to have vacated his office.

**19. Meetings of the Authority or its committees:** (1) The Authority may constitute committees of the Authority for specific purposes, and make regulations for the transaction of business at the meetings of the Authority as well as its committees

(2) The Authority or its committee shall meet at such time and place and shall observe such procedure in regard to the transaction of business at its meetings as may be provided by regulations.

(3) The Chairperson shall preside at the meetings of the Authority or its committee, and if for any reason he is unable to attend any meeting, any other whole-time member elected by the members present at such meeting, shall preside at the meetings.

(4) A member shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Authority without the leave of the Chairperson.

(5) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have and exercise a second or casting vote.

**20. Vacancies not to invalidate proceedings:** No act or proceedings of the Authority shall be invalid merely by reason of-

- (a) Any vacancy in, or any defect in the constitution of, the Authority; or
- (b) Any defect in the appointment of a person acting as a member; or
- (c) Any irregularity in the procedure of the Authority not affecting the merits of the case.

**21. Regional offices of the Authority:** The Authority may, with the prior approval of the Central Government set up Regional Offices at Ahmedabad, Bangalore, Bhopal, Chennai, Delhi, Guwahati, Kolkata, Lucknow, Mumbai, Patna and such other regional offices at places to be notified by the Govt., and to perform such functions and with such jurisdictions as may be prescribed. At each such Regional Offices there shall be one Regional Director to be appointed by the Central Government to discharge the functions delegated to him by the Authority.

**22. Secretary and other officers and employees of the Authority:** (1) Secretary of the Authority shall be the Chief Executive Officer of the Authority. Subject to the provisions of section 17 of the Act, the Secretary shall exercise such powers and discharge such functions of the Authority as may be delegated to him by the Authority.

(2) The Central Government shall make available to the Authority, a panel of not less than three officers of the rank of the Additional Secretary to the Government of India, and the Authority may select one of them and recommend his appointment as Secretary of the Authority to the Government.

(3) The Central Government shall make available a panel of not less than three officers of the rank of Joint Secretary to the Government of India for each of the ten Regional Offices, and the Authority may select one from each panel and recommend his/her appointment to the Government. As and when more regional offices are opened, the Authority may seek officers of the rank of Joint Secretary or Director to the Government of India, as the case may be, for appointment as their Regional Directors.

(4) The Authority may appoint such officers and other employees, as it considers necessary for the efficient discharge of its functions under this Act in the manner as provided by the regulations.

(5) The salary and allowances payable to and other conditions of service of the officers and other employees of the Authority shall be such as may be determined by regulations.

**23. Powers and functions of the Authority:** (1) Authority shall exercise the following powers and functions:

- (a) Notify the terms and conditions of licenses for various categories of service providers, in accordance with the policy guidelines prescribed by the Government;
- (b) Recommend to the Central Government, guidelines or norms or amendments of prescribed guidelines or norms, in the light of its experience in the discharge of its functions, as well as on such other issues as may be referred to it by the Government;
- (c) Grant registration to TV and Radio channels as provided under Section 4 of the Bill;
- (d) Lay-down the standards of quality of service to be provided by the service providers and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of broadcasting service;
- (e) Notify detailed regulations to implement the policy guidelines prescribed by Government and take all necessary legal and administrative actions to ensure their compliance by the service providers
- (f) Formulate and determine conditions for fair, equitable and non discriminatory access to broadcasting services
- (g) Consider and publish its findings for wider public debate on issues of public importance relating to broadcasting services and their program content;
- (h) Facilitate competition and promote efficiency in the operation of broadcasting services so as to facilitate growth in such services;
- (i) Advise the Central Government in the matters relating to the development of broadcasting technology and any other matter relatable to broadcasting industry in general;
- (j) Evolve codes and practices in respect of such other services which are neither licensed nor registered under this Act as may be notified by the Central Government from time to time and lay down obligations on services providers for such codes and practices in a manner as may be prescribed;
- (k) Hear appeals against the orders and directions of the Licensing Authorities
- (l) Adjudicate on disputes between two or more Licensing Authorities or between a licensing authority and one or more service providers under jurisdiction of other licensing authorities, or between two or more service providers under jurisdiction of more than one licensing authority
- (m) Certify content in respect of such categories of programs or advertisements or promotional materials as require certification before broadcast, as may be prescribed in the Content Code;
- (n) Adjudicate between licensing authorities or consumers or complainants and the service providers in respect of violations of the Content Code, and impose penalties in accordance with prescribed norms;
- (o) Perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.

(2) The Authority may, for the discharge of its functions under sub-section (1) of this section, issue such directions from time to time to the service providers, as it may consider necessary.

(3) The Authority may by general or special order, delegate to its Chairperson or a Member or Secretary or Regional officers or any other officer of the Authority or to any “Authorized Officer”, subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

**24. Powers and functions of the Licensing Authorities:** (1) The Licensing Authorities shall exercise all or any of the following powers and functions with respect only to the service provider licenced by it

- (a) Grant, refuse or revoke licenses / registration in respect of such broadcasting services and for such limits of jurisdiction as may be prescribed;
- (b) Inspect, enquire or supervise, or direct an “authorized officer” to inspect, enquire or supervise all or any of the service providers to ensure compliance with the terms and conditions of their respective licenses
- (c) Ensure technical compatibility and effective inter-connection between service providers
- (d) Arbitrate between service providers in respect of commercial arrangement mandated by the Central Government or the Authority for sharing their revenue derived from providing broadcasting services;
- (e) Ensure effective compliance of such public service broadcasting obligations as may be prescribed for its licensees;
- (f) Perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act.
- (g) Adjudicate between consumers and service providers, in respect of complaints and disputes regarding the quality or standards of service and payments by the consumers.
- (h) Impose in accordance with prescribed norms, all or any of the penalties, individually or in combination, in case of breach of any terms and conditions of the license / permission / registration, after providing an opportunity to the concerned service provider of being heard  
Provided that the violations of the Content Code shall be punishable only by the Authority, and the licensing authority shall have the power to enforce compliance with such punishment by the service provider.

**25. Powers and functions of the ‘Authorized Officers’:** Subject to such directions as may be given from time to time by the Central Government or the Authority, every authorized officer shall have the following powers:

- (i) To inspect, search and seize equipment etc. under section 26 of this Act.
- (ii) To prosecute, on a written complaint by the concerned Licensing Authority, such licensed service providers or other persons as are found to have committed offences under the Act.
- (iii) To co-ordinate with the Licensing Authorities to ensure that the terms and conditions of the licenses are not violated by any service provider
- (iv) To receive and enquire into complaints from consumer groups or individual consumers or others regarding content or quality of service and report to the Licensing Authority for appropriate action.

- (v) Any other powers and functions as may be delegated to him by the Authority as deemed necessary.

**26. Seizure and confiscation of certain equipment:** (1) If any authorized officer has reason to believe, or is directed by the Licensing Authority or the Authority or the Central Government, as the case may be, that the provisions of sub-section (1) of section 3, with respect to requirement of licences for broadcasting services ; or sub-section (1) of section 4 with respect to registration of channels ; or of section 5 with respect to directions of the Central Government in case of external threat or war; or section 6 with respect to directions of the Central Government in case of exceptional circumstances , of this Act have been or are being contravened by any person, he may seize the equipment being used by such person for operating such unlicensed service or broadcasting such unregistered channel or program or for failure to comply with the directions under section 5 or 6 of the Act.

Provided that the authorized officer shall not retain such equipment for a period exceeding 30 days from the date of its seizure without the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made.

(2) The equipment so seized under sub-section (1) above shall be liable to confiscation unless the person operating such service or channel complies with the provisions of the Act within a period of sixty days from the date of such seizure.

(3) The District Judge shall not pass any order adjudicating confiscation unless the person operating such service or channel has been given a reasonable opportunity in writing to make his representation against the proposed confiscation.

**27. Finance, Accounts and Audit:** (1) The proceeds of the license / registration / permission fees in respect of broadcasting services shall be credited to the Consolidated Fund of India.

(2) The Central Government may for enabling the Authority to discharge its functions efficiently, after due appropriation made by Parliament by law in this behalf, pay to the Authority in each financial year such sums of money as the Government considers necessary by way of grants-in-aid.

(3) The Authority shall have its own fund and all the receipts of the Authority shall be credited to the fund and all payments by the Authority shall be made there from. All money belonging to the fund shall be deposited in one or more Scheduled Banks in such manner as the Authority may decide and Authority may spend such sums as it thinks fit for performing its function under this Act.

(4) The Authority shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing-

(a) The expenditure which is proposed to be met from the internal resource of the Authority; and

(b) The sums required from the Central Government to meet other expenses, And copies thereof shall be forwarded to the Central Government.

(5) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.

(6) The accounts of the Authority shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor General.

Provided the matters relating to the adjudication by the Authority, manner and number of issue of licenses and quantum of license fee, levied by the Authority or the

nature and quantum of penalties imposed by the Authority on any service provider, shall lie outside the purview of such Audit.

(7) The Comptroller and Auditor General of India and any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(8) The accounts of the Authority as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

(9) The Authority shall, after the end of each financial year, shall submit to the Central Government a report on their activities during the preceding financial year and containing such information relating to the proceedings and policy of the Authority, as the Government may prescribe from time to time.

(10) The Central Government shall cause such report to be laid before each House of Parliament.

**28. Furnishing of returns, etc. to the Central Government:** (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing program for the promotion and development of the broadcasting services, as the Central Government may, from time to time, require.

(2) The Authority shall prepare once every year in such form and at such time as may be prescribed, an annual summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

**29. Power of the Authority to make regulations:** (1) The Authority may, by notification, make regulations not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: -

- (a) The manner of appointment of officers and other employees of the Authority under sub-section (4) of section 22;
- (b) The salary and allowances payable to and other conditions of service of the officers and other employees of the Authority under sub-section (5) of section 22;
- (c) The terms and conditions, fees and procedure to be followed for granting licenses /registration under clause (a) of sub-section (1) of section 23;
- (d) The times and places at which meetings of the Authority and its committees may be held and, the procedure to be followed in regard to the transaction of the business at such meetings under sub-section (1) and sub-section (2) of section 19;
- (e) The technical and other quality standards and the reasonable quality of reception under clause (d) of sub-section (1) of section 23;

- (f) The places and types and quantity of equipment to be provided, free of cost, by the licensee service provider for monitoring of content and the quality of technical standards of service, and the manner in which such monitoring may be carried out by the licensing authorities or authorised officers under clause (e) of sub-section (1) of section 23.
- (g) The delegation of powers and functions to the Chairman, members and other officers of the Authority under sub-section (3) of section 23;
- (h) The documentary record and transmission schedule to be maintained by the licensees under sub-section (1) of section 51;
- (i) The manner in which broadcasters shall establish and operate the system of self-certification of broadcasting content under sub-section (vii) of section 10;
- (j) Any other matter in respect of which provision is, in the opinion of the Authority, necessary for the performance of its functions under this Act.

Provided that the regulations under clauses (a), (b) and (c) shall be made with the prior approval of the Central Government.

## CHAPTER 4

### PUBLIC SERVICE BROADCASTING COUNCIL

**30. Establishment of Public Service Broadcasting Council, term of office of members thereof.**—(1) There shall be established, by notification a Council, to be known as the Public Service Broadcasting Council

(2) The Broadcasting Council shall consist of —

(i) a President and five other members to be appointed by the Central Government from amongst persons of eminence in public life, media and civil society organisations; and one representative of Prasar Bharati

(ii) at least two persons in the Council should be women

(3) The President of the Broadcasting Council shall be a whole-time member and every other member shall be a part-time member and the President or the part-time member shall hold office as such for a term of three years from the date on which he enters upon his office.

(4) The President of the Broadcasting Council shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension (if any), provident fund and other matters as may be prescribed:

Provided that the salary and allowances and the conditions of service shall not be varied to the disadvantage of the President of the Broadcasting Council after his appointment.

(5) The other members of the Broadcasting shall be entitled to such allowances as may be prescribed.

**31. Powers and functions of the Public Service Broadcasting Council.—** (1) The Public Service Broadcasting Council shall exercise the following powers and functions:

(ii) Ensure effective compliance of public service broadcasting obligations cast upon broadcasting service providers as per the provisions of this Act, and in the event of failure of a licensed service provider to meet such obligations, suggest to the Authority the amount of penalty to be levied and collected as per guidelines laid down by Central Government;

(iii) make recommendations to the Central Government on whether a broadcasting channel deserves to be categorized as a public service broadcasting channel

(iv) institute national awards for public service broadcasting

(v) define from time to time as to what will constitute public service /socially relevant programming or messaging

(vi) produce or organize the production of benchmark quality content, public service messages and programmes that private television can use to fulfill its public service broadcasting regulations

(vii) create and administer mechanisms to provide free airtime for public service content created or funded by civil society groups and NGOs etc, which may also include starting a public service broadcasting channel

(viii) support formal training courses, workshops, seminars, discussions, research in Public Service Broadcasting for content producers, media watchers, critics and those working in the social sector

**32. Powers of the President:** The President shall have powers of general superintendence and direction in the conduct of the affairs of the Council and he shall, in addition to presiding over the meetings of the Council, exercise such powers of the Council, and shall discharge such functions of the Council, as may be prescribed.

**33. Removal or resignation of President and members:** (1) The Central Government may remove from office the President or any member of the Council who:

- (a) Ceases to be a citizen of India; or
- (b) Is adjudged an insolvent; or
- (c) Is convicted or any offence involving moral turpitude; or
- (d) Is, in the opinion of the Central Government, unfit to continue in office by reason of infirmity or body or mind; or
- (e) Acquires such financial or other interest as is likely to affect prejudicially his functions as a Chairperson or member;
- (f) Abuses his position so as to render his continuance in office prejudicial to public interest.

(2) The President or any other member may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, the President or the member shall be deemed to have vacated his office.

**34. Meetings of the Council or its committees:** (1) The Council may constitute committees of the Council for specific purposes, and make regulations for the transaction of business at the meetings of the Council as well as its committees

(2) The Council or its committee shall meet at such time and place and shall observe such procedure in regard to the transaction of business at its meetings as may be provided by regulations.

(3) The President shall preside at the meetings of the Council or its committee, and if for any reason he is unable to attend any meeting, any other member elected by the members present at such meeting, shall preside at the meetings.

(4) A member shall be deemed to have vacated his office if he absents himself for three consecutive meetings of the Council without the leave of the President.

(5) All questions which come up before any meeting of the Council shall be decided by a majority of the votes of the members present and voting and, in the event of an equality of votes, the President, or in his absence, the person presiding, shall have and exercise a second or casting vote.

**35. Vacancies not to invalidate proceedings:** No act or proceedings of the Council shall be invalid merely by reason of-

- (a) Any vacancy in, or any defect in the constitution of, the Council; or
- (b) Any defect in the appointment of a person acting as a member; or
- (c) Any irregularity in the procedure of the Council not affecting the merits of the case.

**36. Secretary and other officers and employees of the Council:** (1) Secretary of the Council shall be the Chief Executive Officer of the Council. Subject to the provisions of section 32 of the Act, the Secretary shall exercise such powers and discharge such functions of the Council as may be delegated to him by the Council.

(2) The Central Government shall make available to the Council, a panel of not less than three officers of the rank of the Joint Secretary to the Government of India, and the Council may select one of them and recommend his appointment as Secretary of the Council to the Government.

(4) The Council may appoint such officers and other employees, as it considers necessary for the efficient discharge of its functions under this Act in the manner as provided by the regulations.

(5) The salary and allowances payable to and other conditions of service of the officers and other employees of the Council shall be such as may be determined by regulations.

**37. Finance, Accounts and Audit:**

(1) The Central Government may for enabling the Council to discharge its functions efficiently, after due appropriation made by Parliament by law in this behalf, pay to the Council in each financial year such sums of money as the Government considers necessary by way of grants-in-aid.

(2) The Council shall have its own fund and all the receipts of the Council shall be credited to the fund. All money belonging to the fund shall be deposited in one or more Scheduled Banks in such manner as the Council may decide and Council may spend such sums as it thinks fit for performing its function under this Act.

(3) The Council shall be able to collect any amount or donation or grant from any government or non government body as a contribution towards public service broadcasting obligation fund.

(4) The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing-

(a) The expenditure which is proposed to be met from the internal resource of the Council; and

(b) The expenditure which is proposed to be met from public service broadcasting obligation fund

(c) The sums required from the Central Government to meet other expenses, and copies thereof shall be forwarded to the Central Government.

(5) The Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and in such manner as may be prescribed.

(6) The accounts of the Council shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Council to the Comptroller and Auditor General.

(7) The Comptroller and Auditor General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Council.

(8) The accounts of the Council as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

(9) The Council shall, after the end of each financial year, submit to the Central Government a report on its activities during the preceding financial year and containing such information relating to the proceedings and policy of the Council, as the Government may prescribe from time to time.

(10) The Central Government shall cause such report to be laid before each House of Parliament.

**38. Furnishing of returns, etc. to the Central Government:** (1) The Council shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing program for the promotion and development of the public service broadcasting, as the Central Government may, from time to time, require.

(2) The Council shall prepare once every year in such form and at such time as may be prescribed, an annual summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

**39. Power of the Council to make regulations:** (1) The Council may, by notification, make regulations not inconsistent with this Act and the rules or guidelines issued thereunder, for enabling it to perform its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: -

- (a) The manner of appointment of officers and other employees of the Council ;
- (b) The salary and allowances payable to and other conditions of service of the officers and other employees of the Council
- (c) The times and places at which meetings of the Council may be held and, the procedure to be followed in regard to the transaction of the business at such meetings
- (d) The delegation of powers and functions to the President, members and other officers of the Council
- (e) The documentary record to be maintained by the licensees
- (f) The manner in which broadcasters shall establish and operate the system of self-certification of public service/ socially relevant programming or messaging
- (g) Constitution of public service/socially relevant programming or messaging and calculation of its share
- (h) Any other matter in respect of which provision is, in the opinion of the Council, necessary for the performance of its functions under this Act.

Provided that the regulations under clauses (a)&(b) above shall be made with the prior approval of the Central Government

## **CHAPTER 5**

### **OFFENCES, PENALTIES AND APPEALS**

**40. Punishment for offences under this Act:** (1) A person who in contravention of the provisions of this Act, provides, distributes or receives any broadcasting service which is not licensed under sub-section (1) of section 3 or broadcasts a channel which is not registered under sub-section (1) of section 4, or abets or assists transmission or distribution of such service or content, as the case may be, in any manner shall be guilty of committing an offence of illegal broadcasting, and on conviction, shall be punishable with imprisonment which may extend up to three years, or with fine which may extend

up to rupees twenty five Lakhs or both, and for subsequent offence and conviction such imprisonment may extend to five years or fine up to rupees fifty Lakhs, or with both.

Provided that unauthorized decoding or receiving of a program that is not permitted or of a channel that is not registered or dealing in or distribution of equipment for the purpose shall also constitute an offence of illegal broadcasting and shall be dealt with accordingly.

(2) Whoever contravenes the provisions of sections 5 of this Act shall be punishable:

(a) For the first offence, with imprisonment for a term which may extend upto three years or with fine which may extend to rupees twenty five lakhs 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 rupees fifty lakhs or with both.

(3) Whoever contravenes the provisions of sections 6 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 rupees ten lakhs 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 rupees twenty-five lakhs

**41. Offences by companies:** (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 for such 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 an offence under this Act has been committed by a company and it is proved that it has been committed with the consent or connivance of, or is attributable to the 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 purpose 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.

**42. Cognizance of offences:** (1) No court shall take cognizance of any offence punishable under this Act except upon a complaint made in writing by any authorized officer.

(2) No Court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate of First Class shall try any offence punishable under this Act.

**43. The Authority to prescribe penalties for violations of license conditions etc.:** Subject to the provisions of subsection (ii), the Authority may prescribe the penalties to be imposed for violation of various terms and conditions of the license / permission / registration subject to the condition that such penalties shall not exceed a fine of rupees fifty lakhs, besides suspension or revocation of such license / permission / registration,

subject further to the condition that no penalty shall be imposed unless and until a reasonable opportunity has been given to the service provider to explain its position.

(ii) . The Authority may specify penalties to be imposed, including suspension or revocation of licence , permission or registration, for violation of various terms and conditions as may be specified under section 7, subject to the condition that amount of a pecuniary penalty shall not exceed one crore rupees:

Provided that no penalty shall be imposed without giving a reasonable opportunity to the service provider:

Provided further that no act or omission on the part of any person after the 11 th November, 2005 and before the date of promulgation of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Ordinance, 2007( Ord 4 of 2007), shall be subjected to penalties.

**44. The Licensing Authorities to impose penalties:** (1) Subject to the provisions of section 31 of this Act, every licensing authority shall have the power to impose any of the following penalties, individually or in combination, in respect of licences issued by it, in case of breach of any terms and conditions of the license or permission or registration, as the case may be, namely: -

- (i) Direct the licensee to broadcast a correction or an apology or not to repeat a programme; and/or
- (ii) Impose a fine which may extend up to rupees five lakhs in case of cable operators and to twenty five lakhs in case of others
- (iii) Suspend the license for a specified period; or
- (iv) Curtail the period of the license; or
- (v) Revoke the license.

Provided that no such penalty shall be imposed without giving a reasonable opportunity to the concerned service provider of being heard in person or through a legal representative.

Provided that the violations of the Content Code shall be punishable only by the Authority, and the licensing authority shall have the power to enforce compliance with such punishment by the service provider.

(2) Pending disposal of the case, the Licensing Authority may, if it considers it expedient or desirable in public interest to do so, direct the concerned service provider to stop the repeat broadcast or broadcasts of a particular program or portion thereof which is under investigation or enquiry, and the service provider shall immediately comply with such a direction

Provided that no such interim direction shall be issued without giving a reasonable opportunity, as far as practical, to the concerned service provider of being heard in person or through a legal representative.

**45. Appeals against the orders of the Licensing Authorities:** An aggrieved person may prefer an appeal against an order or direction of any of the Licensing Authorities to the Authority within a period of thirty days of such an order or direction.

Provided that the Authority may entertain the appeal after expiry of the said period of 30 days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

**46. Appeals against the orders of the Authority:** An aggrieved person may prefer an appeal against the order or direction of the Authority before the Film Certification Appellate Tribunal (FCAT) in respect of cases of violations of the Content Code, and before the Telecom Disputes Settlement and Appellate Tribunal (TDSAT) in respect of cases of all other violations of the terms and conditions of license within a period of 30 days of such an order or direction.

Provided that the Tribunal may entertain the appeal after expiry of the said period of 30 days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

**47. Appeals before the Supreme Court:** (1) Notwithstanding anything contained in the Code of Civil Procedure or in any other law, an appeal by either party to the dispute shall lie against any order, not being an interlocutory order, of the TDSAT or FCAT, as the case may be, to the Supreme Court on one or more of the grounds specified in Section 100 of that Code.

(2) No appeal shall lie against any decision or order made by the TDSAT or FCAT, as the case may be, with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of 90 days from the date of the decision or order appealed against,

Provided that the Supreme Court may entertain the appeal after expiry of the said period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

**48. Transfer of pending cases to the Authority:** (1) On the date to be notified by the Central Government, after the establishment of the Authority, all proceedings pending before the Telecom Regulatory Authority of India (TRAI) shall be deemed to be pending before the Authority and shall be disposed off in accordance with the provisions of this Act.

(2) On the date to be notified by the Central Government, after the establishment of the Authority, all proceedings pending before the Ministry of Information and Broadcasting, Government of India shall be deemed to be pending before the Authority and shall be disposed of in accordance with the provisions of this Act.

**49. Civil Court not to have jurisdiction:** No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Authority or the Licensing Authority, as the case may be, is empowered by or under this Act to determine and no injunction shall be granted by any civil court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by and under this Act.

## **CHAPTER 6**

### **MISCELLANEOUS**

**50. Power of the Central Government to issue directions:** (1) The Central Government may, from time to time, issue to the Authority such directions as it may deem necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign countries, public order.

(2) Without prejudice to the foregoing provisions, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any such direction is given under this sub-section.

(3) The decision of the Central Government whether a question is one of policy or not shall be final.

**51. The Authority to follow principles of natural justice:** (1) The Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Authority shall have powers to regulate its own procedure including the fixing of places and times of its enquiry.

(2) The Authority shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: -

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of documents;
- (c) Receiving evidence on affidavits;
- (d) Issuing commissions for the examination of witnesses or documents;
- (e) Requisitioning any public record or document or a copy of such record or document, from any office;
- (f) Reviewing its decisions;
- (g) Dismissing an application for default or deciding it, ex-parte;
- (h) Setting aside any order of dismissal of any application for default or any other passed by it, ex-parte;
- (i) Any other matter, which may be prescribed.

**52. Service providers to maintain records:** (1) Every service provider shall maintain such documentary records and transmission schedules as may be specified in the policy guidelines, notified under this Act and allow inspections of the facilities and such documentary records and transmission schedules by any person authorized by the Authority.

(2) The Authority may call for any information from the service provider, which is necessary for transparency and ascertaining the true ownership of the service provider.

(3) The Authority or any officer authorized by the Authority shall have power to inspect and obtain information wherever necessary, from programme producers, distributors and advertising agents.

(4) For effective enforcement of restrictions on holding of licenses, as provided under section 10, the Authority or any officer authorized by the Authority for that purpose, shall have all the powers of an inspecting officer as provided under Section 209-A of the Companies Act, 1956.

(5) It shall be the duty of every service provider to carry out the directions of the Authority given under this section.

(6) If default is made by a service provider in complying with the provisions of sub-section (5), the Authority may take such action as provided under section 32 (1) after providing him an opportunity of being heard.

**53. Members and employees of the Authority to be public servants:** The Chairman, every member, every officer or other employee of the Authority, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**54. Protection of action taken in good faith:** No suit or other legal proceeding shall lie against the Government, Authority, or any Member or Officer or other employee thereof for anything which is in, good faith done or intended to be done in pursuance of this Act or of any rules or regulations made there under.

**55. Exemption from tax on wealth and income:** Notwithstanding anything contained in the Wealth Tax Act, 1957, the Income Tax Act, 1961, or any other enactment for the time being in force relating to wealth, income, profit or gains, the Authority shall not be liable to pay wealth tax, income tax, or any other tax in respect of their wealth, income, profit or gains derived.

**56. This Act to have over-riding effect:** (1) This Act shall have overriding effect over provisions of any other law for the time being in force and shall be given effect to, notwithstanding anything contained in any other law for the time being in force and notwithstanding any rights claimed under contract or created under any other law for the time being in force.

(2) Notwithstanding anything contained in section 31 or section 37 of the Indian Copyright Act, 1957, where one or more persons have made complaints in respect of a work which has been published or performed in public or which has already been broadcast or whose licensed reproductions have already been made available in public, licenses shall be granted to all such complainants under sub-section (1) of section 31 of the Indian Copyright Act 1957.

**57. Power of the Central Government to make rules:** (1) The Central Government may, by notification, makes rules for carrying out 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) To determine other circumstances for communication under sub-clause (c) of clause (ii) of section 2;
- (b) To notify the sporting events and to lay down the procedure to be followed for enabling their being shared with Prasar Bharti under section 6;
- (c) The policy guidelines, designate licensing authorities, specify terms and conditions, and procedures for grant of the licenses/ permissions/ registration to the service provider under clauses (i) to (iv) of section 9;
- (d) To lay down a time frame for change over to digital addressable networks for broadcasting content, and commercial and technical arrangements during the transition phase under clause (v) of section 9;
- (e) The lay down the Content Code and procedures to be followed for content certification by the service providers, adjudication of complaints against content certification and appeals against imposition of penalties, under clauses (vi) to (viii) of section 9;
- (f) The norms of public service broadcasting obligations, rates and procedures for levying and collection of fees, and setting up institutional arrangement and norms for managing and operating the public service broadcasting obligation fund under clauses (x) and (xi) of section 9;

- (g) The eligibility conditions and restrictions to prevent accumulation of interest in licensed services and restrictions on controlling interest in print media and electronic media as well as within different segments of the electronic media under section 10;
- (h) The salaries and allowances payable and other conditions of service of the Chairperson and whole-time members under sub-section (5) of section 14;
- (i) The places where the Regional Offices may be set up and the functions to be performed by such offices under section 19;
- (j) The form in which and the time at which in each year the Authority shall prepare a budget under sub-section (4) of section 25;
- (k) The form and the manner in which the annual statement of accounts shall be prepared under sub-section (5) of section 25;
- (l) The information relating to the proceedings and policy of the Authority to be contained in a report to be submitted by the Authority under sub-section (9) of section 25;
- (m) Any other matter which is required to be or may be prescribed.

**58. Rules and regulations to be laid before Parliament:** Every rule and every regulation 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 session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in, the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.

**59. Application of certain laws:** the provisions of this Act shall be in addition to the provisions of the Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933 and, in particular, nothing in this Act shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of such Authority.

**60. Power to remove difficulties:** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as it may deem necessary, for the removal of the difficulty.

Provided that no such order shall be made after the expiry of a period of three years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made before each House of Parliament.

**61. Repeal and saving:** (1)(i) The Cable Television Networks (Regulation) Act 1995 is hereby repealed.

(ii) Notwithstanding such repeal any cable operator registered under that Act as on the date of repeal, may continue to provide his services, provided he makes an application to the Authority for the grant of a license for any of the broadcasting network services within six months from the date of the commencement of this Act or where he has made such an application, till the disposal of such application, whichever is later.

(iii) The Authority may on receipt of an application under sub-section (2) grant a license for any of the broadcasting network services subject to fulfillment of such eligibility and other terms and conditions as may be prescribed.

(iv) The cable operators operating under sub-section (2) above shall continue to be regulated as if the Cable Television Networks (Regulation) Act, 1995 has not been repealed during the interregnum i.e. the period from the commencement of this Act and disposal of his application for the license or a period of six months, whichever is later.

(v) Notwithstanding such repeal, all cable operators registered under that Act as on the date of repeal, shall continue to comply with the provisions of the Program Code under Rule 6 and the Advertising Code under Rule 7 of the Cable Television Networks Rules, 1994 prescribed under that Act, till the said Codes are replaced by the new guidelines and norms (the Content Code) provided for under sub-section (vi) of section 9 of this Act.

(2) The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 Is hereby repealed. Notwithstanding the repeal of the Sports Broadcasting Signals ( Mandatory Sharing with Prasar Bharati) Act, 2007, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.