

Subject: **comments on review of uplinking and downlinking guidelines - reg.**

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From: MediaWatch-India <mediawatchindia123@gmail.com>

To

The Secretary,
Telecom Regulatory Authority of India, New Delhi.

Sir,

Sub: comments on review of uplinking and downlinking guidelines - reg.

On behalf of 'MediaWatch-India', a voluntary organisation working for decency and accountability in media, we would like to submit the following regarding review of uplinking and downlinking guidelines, as sought in para 3.37 (Any other issues) of the consultation paper.

While offences and penalties are one of the vital parts of uplinking and downlinking guidelines, it is surprising to see the government had specifically not made the same as part of current review.

Presently for violation of terms and conditions under uplinking and downlinking guidelines (para 8/6), the minimum penalty prescribed is prohibition of broadcast for upto 30 days. For second and subsequent violations, the number of days of prohibition increases and so on and as an extreme measure, cancellation of licence.

Further, as per section 20 of cable network Act, Central government can "by order, regulate or prohibit the transmission or re-transmission of such programme".

While the penalties are as above, they are being imposed on the recommendations of interministerial committee and with the approval of "competent Authority". The inter-ministerial committee is a pure bureaucratic body which is least eligible to recommend penalties for content violations which often involve sensitive, subjective and "freedom-of-expression-related" issues.

More glaringly, the penalty is finally confirmed with the approval of "competent authority", that is the minister of Information and broadcasting, who is a single person and a career politician.

In no progressive democracy in the world, the decisions regarding penal action and quantum of penalties for content violations on TV and radio channels are taken by bureaucratic committees and politicians/ministers. India is an infamous exception in this regard.

This is because despite a clear-cut direction by the Supreme Court in "air waves case" and recommendations by countless number of committees and institutions including TRAI, the successive governments had not taken concerted efforts towards establishing a dedicated authority for regulation of broadcast media in the country.

The half-baked regulation of tariff and technology issues by TRAI and bureaucratic control of content by a Ministerial wing of government (MIB) are indeed anomalous in a progressive democratic country like ours.

In this scenario, the present penal provisions in guidelines sound so heavy and stringent that they are not at all implemented by MIB. Even for minor violation, it is difficult for anyone to imagine to award a penalty of prohibition for upto 30 days. So, the penalties in guidelines are only on paper and the MIB often "closes" most of the violations with an advisory/warning and no legal action follows.

In the light of above, MWI suggests as follows:

A. The penalty structure for violations should be in a graded manner: 1. warning shall be issued for minor/first violation. 2. Financial sanction, say, of minimum Rs. 2 lakhs and a maximum of Rs.5 lakhs for second violation 3. Prohibition of telecast for up to 10 days 4. Prohibition of telecast upto 30 days 5. Prohibition of telecast upto 90 days. 6. Prohibition of telecast upto 6 months 7. Cancellation of licence.

[The above suggestion is only illustrative and the gradation of penalties may be finalised/recommended based on the international practices. (One useful reference in this regard can be para 7.64 of "guidelines for broadcasting regulation", 2nd edition, issued by UNESCO)]

B. The recommendation regarding determination of violation and quantum of penalty should not be by IMC but shall be decided by a representative body comprising members from different sections of society.

Yours faithfully,

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Thanking you.

Yours sincerely,
Edara Gopi Chand,
Vice-President, 'MediaWatch-India'.
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"A small body of determined spirits fired by an unquenchable faith in their mission can alter the course of history." -
Mahatma Gandhi.