



16th ANNUAL REPORT

2022-23

News Broadcasters & Digital Association

Board of Directors



Avinash Pandey
President



M.V. Shreyams Kumar
Vice President



Anuradha Prasad Shukla
Honorary Treasurer



Rajat Sharma



M. K. Anand



Rahul Joshi



I. Venkat



Kalli Purie Bhandal



Sonia Singh



Anil Kumar Malhotra

News Broadcasters & Digital Association

Board of Directors

Mr. Avinash Pandey

President
ABP Network Pvt. Ltd.

Mr. M. V. Shreyams Kumar

Vice President
Mathrubhumi Printing & Publishing Co. Ltd.

Mrs. Anuradha Prasad Shukla

Honorary Treasurer
News24 Broadcast India Ltd.

Mr. Rajat Sharma

Independent News Service Pvt. Ltd.

Mr. M. K. Anand

Bennett Coleman & Co. Ltd.

Mr. Rahul Joshi

TV18 Broadcast Ltd.

Mr. I. Venkat

Eenadu Television Pvt. Ltd.

Ms. Kalli Purie Bhandal

TV Today Network Ltd.

Ms. Sonia Singh

New Delhi Television Ltd.

Mr. Anil Kumar Malhotra

Zee Media Corporation Ltd.

Secretary General

Mrs. Annie Joseph

Auditors

S. S. Kothari Mehta & Co

Chartered Accountants

Bankers

Bank of India

Bank of Baroda

Registered Office

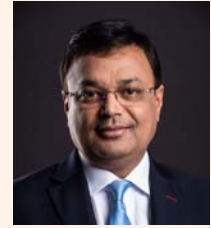
FF-42, Omaxe Square, Commercial Centre, Jasola, New Delhi – 110 025

Corporate Office

Mantec House, 2nd Floor, C-56/5 Sector 62, Noida – 201 301

CIN: U22211DL2007NPL165480

Message from President, NBDA



Dear Members,

It is my privilege to present the 16th Annual Report of the News Broadcasters & Digital Association and the initiatives and achievements undertaken in the past year. The management report details all the issues taken up by NBDA during the year.

Technology continues to be a game changer. Technological advancements have changed the rules of content creation, distribution and consumption, shifting content consumption from the big TV screen to a smaller one, offering a personalized viewing experience. Mobile screens - smartphones, tablets, laptops are emerging as preferred alternatives. The world is witnessing a cultural shift, where people are more interested in watching content on their mobile devices, instead of traditional TV viewing. With mobile phone penetration proliferating, almost everyone wants the convenience of a smartphone that allows them to download apps which provide content that can be viewed just about anywhere. Improvements in screen display, Video on Demand (VoD), improved internet speeds and bandwidths have all contributed to this parallel availability. Content consumption has become seamless due to its availability in multiple formats.

In these changing circumstances, however, television has not lost its relevance and is here to stay. Millions of households across the country watch news. Most news channels are free-to-air channels and therefore depend on advertising revenue for their commercial existence. To survive, they must get advertisements. Advertisers need viewers. Viewers are measured by the ratings, reach etc. The success or failure of a channel is judged by its ratings. However, it is unfortunate that the news genre does not get the ratings it deserves.

Since its inception, the industry initiative of setting up the Broadcast Audience Research Council (BARC) for having a credible and transparent audience measurement system for television channels is marred with serious issues resulting in mistrust between BARC and the news genre. The relaunch of the BARC ratings in March 2022 and the introduction of the 4-week rolling data reporting methodology are not working for the news genre. The most significant shortfall of the 4-week rolling data reporting methodology is its inherent inability to measure and evaluate content at the genre level. In unrolled data, the data is unusable for performance management of content creation. As a result, the news channels are unable and incapacitated to decide on the stories that the viewers are interested in. This has profoundly affected the editorial culture and the coverage of many news channels. It has resulted in promotion of frivolous content. The problem is further compounded by inadequate sample size and the tampering of the people meters. Unified measurement is also the need of the hour. It is unfortunate that BARC is silent and not willing to see reason on issues that are raised with it by the NBDA. I hope BARC will see reason in our demands and come to the table for discussions to sort out the issues amicably.

In the past year, NBDA has raised its concerns on issues which were critical for the news broadcasting industry such as the proposal to allocate frequencies in C-Band to the telecom sector, issues related to the establishment of a government constituted Fact Check Unit, Data Protection Bill etc . NBDA will continue striving to become the guiding light for the news broadcasting industry and hopes that news broadcasters will see the value in being associated with NBDA.

Every news and digital broadcaster should voluntarily join NBDA to make it a unified voice for the news genre. We would continue to diligently serve our members by working on agreed objectives.

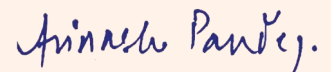
The model of self-regulation has succeeded primarily because of the advice and wise counsel that our members and editors receive from the Chairperson & Independent Members of NBDSA. I would like to place on record our sincere gratitude to Justice (Retd.) A K Sikri, Chairperson and Independent Members of NBDSA, for their invaluable support and time. As we look ahead, we must stand firm in our belief that self-regulation is the best model for regulating the news media. We must also work together to adhere to the Code of Ethics & Broadcasting Standards and Guidelines, both in letter and spirit.

We have had excellent relations with the government. I wish to express my gratitude to the Hon'ble Minister, Ministry of Information & Broadcasting [MoI&B], Secretary and Officials of the MoI&B , TRAI and various authorities for their continued interest, and confidence in NBDA.

To conclude, I am grateful to my colleagues on the Board for their valuable guidance and constant support. NBDA has had yet another successful year due to our collective collaboration. I would like to convey my sincere thanks to all our members for their continued trust and confidence in the management of the Company.

Finally, I would like to thank the Secretary General and the staff of NBDA Secretariat, Legal Counsel, Financial and Corporate Consultants as well as the Auditors of NBDA and Bankers for their valuable time and cooperation.

Best wishes



Avinash Pandey
President

Date: August 25, 2023

Notice

Notice is hereby given that the 16th Annual General Meeting of the Members of News Broadcasters & Digital Association will be held on Monday, the 18th September, 2023, at 12.00 noon at Multipurpose Hall, Kamaladevi Complex, India International Centre, 40, Max Mueller Marg, New Delhi – 110 003, to transact the following business:

Ordinary Business

1. To receive, consider and adopt the Audited Financial Statement of the Company for the financial year ended March 31, 2023 together with Auditor's Report and Director's Report thereon and for the purpose, to pass with or without modification(s) the following resolution as an Ordinary Resolution:

"RESOLVED THAT the Audited Financial Statement of the Company for the financial year ended March 31, 2023, together with Auditor's Report and Director's Report thereon, be and are hereby considered and adopted."

Special Business

2. To consider and if thought fit, to pass with or without modification(s) the following resolution as an Ordinary Resolution:

"RESOLVED THAT Mr. Anil Kumar Malhotra who was appointed as a Permanent Director of the Association by the Board of Directors on September 16, 2022 subject to approval of General Body Meeting and who holds office up to the date of this Annual General Meeting and in respect of whom the Association has received a notice in writing from a Member proposing his candidature for the office of Directorship duly seconded by another Member, be and is hereby appointed as a Permanent Director of the Association, not liable to retire by rotation, in terms of the provisions of Article 17 of the Articles of Association."

Special Business

3. To consider and if thought fit, to pass with or without modification(s) the following resolution as an Ordinary Resolution:

"RESOLVED THAT when required, all Members and Associate Members of NBDA will contribute towards meeting the legal expenses for engaging Senior Counsel(s) which includes fees for appearance on behalf of NBDA before the Courts, related conference charges, settling petitions, legal advice rendered and clerkage as raised by the Senior Counsel(s)."

"FURTHER RESOLVED THAT Secretary General, NBDA be and is hereby authorised to sign and to do all or any of the acts, deeds, matters, and things as may be considered expedient and necessary for implementing the said resolution on behalf of the Association."

Ordinary Business

4. To elect a representative of any member eligible for appointment to the office of Director in General Body Meeting on five posts under Article 24 of the Articles of Association. Election of a representative of any member eligible for appointment to the office of Director in General Body Meeting on five posts under Article 24 of the Articles of Association shall be held in the following manner:

A nomination under Article 24 of Articles of Association from a representative of any member eligible for appointment to the office of Director, who is willing to contest the Election on the five posts of the Board of Directors will be invited and after receiving the nomination, members of the association will be duly informed about the persons who have filed the nomination and eligible for contesting the election on the said post of Directors and such election shall be held by the method of voting as prescribed under Article 38 of the Articles of Association.

**By Order of the Board of Directors of
News Broadcasters & Digital Association**



Annie Joseph
Secretary General

Place: New Delhi
Date: August 25, 2023

Explanatory Statement Pursuant to Section 102 of the Companies Act, 2013

Special Business

Item No. 2

The Board of Directors of the Association appointed Mr. Anil Kumar Malhotra as a Permanent Director on September 16, 2022, subject to approval of General Body meeting on the Board of NBDA. The office of his Directorship expires on the date of this Annual General Meeting.

The Association has received a notice in writing from one Member proposing his candidature, which has been duly seconded by another Member, for his appointment as Director, who will be Permanent Director and not liable to retire by rotation under Article 17 of the Articles of Association of NBDA. The Board of Directors, therefore, recommends the Resolution to be passed by the Members as an Ordinary Resolution.

Relevant documents relating to said item is available for inspection by Members at the Registered Office of the Company. None of the Directors, except Mr. Anil Kumar Malhotra in respect of whom the Resolution is being moved, is concerned or interested, financially or otherwise, in the Resolution set out at Item No. 2 of this Notice.

Item No. 3

The issue for consideration before the Board relates to meeting the expenses for engaging Senior Counsel(s) and other Counsels and the related expenses for legal matters pending or matters that may arise in future in the Courts. With the limited financial resources, NBDA will not be able to meet the said expenses. Since the issues are related to the industry and affects all members, these expenses should be borne/ honored by the Members/ Associate Members of NBDA and should be equitably shared pursuant to Sub clause 15 and 16 of Clause III (B) of the Memorandum of Association. There are matters presently pending before the Supreme Court and High Courts, in which NBDA has intervened or filed writ petitions. There is a possibility that in the future critical industry matters may arise in the courts, which would need intervention of NBDA. The Board of Directors, therefore, recommends the Resolution to be passed by the Members as an Ordinary Resolution.

Relevant documents relating to said item are available for inspection by members at the Registered Office of the Company. None of the Directors, in respect of whom the Resolution is being moved, is concerned or interested, financially or otherwise, in the Resolution set out at Item No. 3 of this Notice.

**By Order of the Board of Directors of
News Broadcasters & Digital Association**



Annie Joseph
Secretary General

Place: New Delhi
Date: August 25, 2023

Notes

1. Member entities should provide Board Resolution under Section 113 of the Companies Act, 2013 authorising person(s) who will represent them at the Annual General Meeting. Such person(s) shall be deemed to be Member present in person.
2. Use of proxy in relation to any matter concerning the affairs of the Association is expressly forbidden.
3. A statement pursuant to Section 102 (1) of the Companies Act, 2013 relating to Special Business to be transacted at the meeting is annexed hereto.
4. Members are requested to bring their copy of the Annual Report to the meeting.
5. No person other than the authorized representative of the Member entity shall be entitled to attend the Annual General Meeting of the Association.
6. Members desirous of having any information on accounts are requested to send their queries to NBDA at its Registered Office, at least seven days before the date of the AGM, to make the requisite information available at the meeting.
7. Members attending the meeting are requested to bring the attendance slip, as appended to this Notice, duly filled in and present the same at the venue of the Annual General Meeting. No photocopies of the attendance slip will be accepted.
8. Relevant documents referred to in the accompanying Notice and the Statement are open for inspection by Members at the Registered Office of the Company on all working days during business hours up to the date of meeting.
9. Members who have not registered their e-mail addresses so far are requested to register their e-mail address for receiving all communication, including Annual Report, Notices etc. from the Company electronically.
10. Election of a representative of any member eligible for appointment to the office of Director in General Body Meeting of the Association on the five posts under Article 24 of the Articles of Association shall be held in the following manner:

A representative of any member eligible for appointment to the office of Director in General Body Meeting is willing to contest the election on the five posts of the Board of Directors may submit a nomination under Article 24 of Articles of Association before 14 days of the AGM, which is on 18th September 2023, on or before 4th September 2023.

After receiving the nomination, members will be duly informed about the persons who have filed the nomination and contesting the election on the post of Director under Article 24.

The Director(s), so elected shall be liable to retire at every Ordinary General Body Meeting in terms of Article 22 of the Articles of Association.

Extract of Article 24 of the Articles of Association of NBDA, is reproduced below:

Article 24. Nomination for Directorship

"A representative of any member (other than a retiring Director) shall be eligible for appointment to the office of Director at any General Body Meeting, if some member intending to propose him has not less than Fourteen days before the meeting, left at the office of the Association a notice in writing signifying his candidature for the office of Director or the intention of such member to propose him as a candidate for that

office, as the case may be. In order for such nomination to be effective, the same shall be proposed by one Member and seconded by another. The Association shall thereupon inform its members of the candidature of such person for the office of directorship by serving individual notices to all the members not less than 48 hours before the meeting.

However, there shall be no requirement for such nomination in case of a retiring Director offering himself for re-election.

The Association shall not be responsible for considering or remedying any defective, incomplete or delayed notice of candidature."

11. Under Article 3 of the Articles of Association, Associate Member shall neither be entitled to voting rights nor shall be eligible for election to the Board of Directors.
12. In terms of Article 38 of the Articles of Association, at any general meeting a resolution put to vote at the meeting shall be decided on a show of hands unless a poll is ordered by the Chairman on his own (before or on the declaration of the result of the show of hands).
13. The representative of any member eligible for appointment to the office of Director in General Body Meeting must be an employee or a Director of the Member entity and a Board resolution is submitted authorising the person to represent the Member entity on the Association.

Directors' Report to the Members

The Directors have pleasure in presenting the 16th Annual Report of your Association together with Audited Accounts for the period from April 1, 2022, to March 31, 2023.

Financial Review

	31.03.2023 (Amount in Rs. '00)	31.03.2022 (Amount in Rs. '00)
Income from Subscription	1,47,825	1,63,763
Other Income	27,400	32,362
Depreciation and amortization expense	380	384
Total Expenditure	1,85,303	1,86,427
Surplus/(Deficit) after depreciation and tax carried to General Reserve	(10,078)	9,698

Of the Income and Expenditure account a sum of Rs.94,138 (previous year Rs.68,045) has been transferred to special reserve.

Change in Nature of Services

There is no change in nature of services provided by the Association.

Directors

Mrs. Anuradha Prasad Shukla, Mr. M. V. Shreyams Kumar and Mr. I. Venkat were appointed as Additional Directors on February 1, 2012, March 29, 2014 and February 17, 2017 by the Board of Directors in terms of Articles 16 and 22 of the Articles of Association liable to retire at every Ordinary General Body Meeting. Members again approved their appointment in the last Annual General Meeting.

Mr. Anil Kumar Malhotra has been appointed Director w.e.f. 16.9.2022 in place of Mr. Sudhir Chaudhary who resigned from the Directorship of the Association with effect from 1.7.2022.

Membership of Association

The number of Members/Associate Members of the Association are 27 broadcasters representing 125 both channels and news digital platforms.

News Broadcasting & Digital Standards Authority (NBDSA)

News Broadcasting & Digital Standards Authority [NBDSA] is an independent self-regulatory adjudicatory body. The present composition of the NBDSA is as under:

Chairperson

Justice A. K. Sikri (Retd.)

Independent Members

1. Dr. Nasim Zaidi, former Chief Election Commissioner of India
2. Mr. Navtej Sarna, former India's Ambassador to the United States of America
3. Dr. Mohan Kumar, former India's Ambassador to France

Editor Members

1. Mr. Vishal Pant, Senior Executive Editor, India Today TV
2. Mr. Suman De, Senior Vice President - News & Programming & Editor, ABP Ananda
3. Mr. Rajnish Ahuja, Editor, Zee News
4. Mr. Sukesh Ranjan, Editor, News24

Auditors & Auditors' Report

M/s S.S. Kothari Mehta & Co., Chartered Accountants, were appointed as the Statutory Auditors of the Association to hold office for a period of five years from the conclusion of 14th Annual General Meeting until the conclusion of the Annual General Meeting in the year 2026.

The Statutory Auditors' Report on the Financial Statement of the Association for the financial year ended 31st March, 2023 is self-explanatory and do not require further comments in the Directors' report. The Audit Report does not contain any qualification, reservation or adverse remark.

Report on Conservation of Energy, Technology Absorption, Foreign Exchange Earnings and Outgo etc.

Information in accordance with the provisions of Section 134 (m) of the Companies Act, 2013 read with the Companies (Accounts) Rules, 2014 is given hereunder:

Energy conservation measures taken by the Association include: (1) use of LED/CFL lighting in the entire office area; (2) improved insulation using ceramic fibre in the heat treatment furnaces; (3) installation of heat reflecting film on windows of air-conditioned areas etc. At present, Association has not taken any steps for utilisation of alternate source of energy and no capital investment has been made on energy conservation equipment.

And other information in accordance with the provisions of Section 134 (m) of the Companies Act, 2013 read with the Companies (Accounting) Rules, 2013 regarding technology absorption is not applicable to the Association being involved in welfare services to its members.

Association has no foreign exchange earnings and outgo during the period.

Directors' Responsibility Statement

Pursuant to Section 134 (5) of the Companies Act, 2013, it is hereby confirmed:

- i. that in the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures, if any;
- ii. that the Directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the Association at the end of the accounting year and of the surplus of the Association for that year;
- iii. that the Directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the Association and for preventing and detecting fraud and other irregularities;

- iv. that the Directors had prepared the annual accounts on a going concern basis;
- v. the Directors had devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems were adequate and operating effectively.

Extract of Annual Report

Pursuant to Section 92 (3) and Section 134(3) (a) of the Companies Act, 2013 the Annual Return is available on the website of the Company at www.nbdanewdelhi.com and may be accessed through the web link <https://www.nbdanewdelhi.com/annual-return> as compliance under amended Companies (Management and Administration) Rules, 2014 *vide* MCA Notification No. GSR 538(E) dated 28th August, 2020.

Meetings of the Board

Eight meetings of the Board of Directors were held on 27.4.2022, 17.6.2022, 8.8.2022, 16.9.2022, 16.9.2022, 17.11.2022, 17.2.2023 and 4.5.2023 during the financial year.

Particulars of Loans, Guarantees or Investments under Section 186 of Companies Act, 2013

Company has not given any loan or provided any guarantees or made investment to any person under Section 186 of Companies Act, 2013.

Particulars of Contracts or Arrangements with Related Parties Referred to in Sub-Section (1) of Section 188 in the Prescribed Form

Company does not have any related party transaction with any person in any form as asked in Form AOC_2 under Rule 8 of The Companies (Account) Rules, 2014.

Management Report

Management Report containing a brief review of the activities of the Association and the state of the Company's affairs during the year under review is attached with this Report.

Material changes and commitments, if any, affecting the financial position of the Company which have occurred between the end of the financial year of the Company to which the financial statements relate and the date of the report:

Material changes occurred subsequent to the close of the financial year of the Company to which the balance sheet relates are: **None.**

A statement indicating development and implementation of a risk management policy for the Company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the Company:

Association is generating receipts through subscription from members and provide them welfare services. At present, Company has not developed and implemented any such policy and system which nullify any type of risk on its existence.

Details of material and significant orders passed by the Regulators or Courts or Tribunal impacting the going concern status and Company's operations in future:

No such order is passed by any such Regulators or Courts or Tribunal which impacts the going concern status and Company's operations in future.

Compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013

The Company has only four employees which includes two women employees. Under the provisions of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the Policy of Sexual Harassment of Women at Workplace, along with enclosure approved by the Board have been circulated to the Internal Complaints Committee Members, employees of NBDA and the Members of NBDA and also uploaded on the NBDA website. The Internal Complaints Committee has the following persons as its members:

1. Presiding Officer-NBDA Representative: Mrs. Anuradha Prasad Shukla
2. Member-NBDA Representative: Ms. Kshipra Jatana
3. Member-NBDA Representative: Mr. M. N. Nasser Kabir
4. External Member: Ms. Nisha Bhambhani

NBDA has not received any complaints under the provisions of this Act.

Details in respect of adequacy of internal financial controls with reference to financial statements:

The Company has in place adequate internal financial controls with reference to financial statements.

Details of Application made or any proceeding pending under the Insolvency and Bankruptcy Code, 2016 during the year along with their status as at the end of the financial year:

Neither any application was made nor any proceeding pending under the Insolvency and Bankruptcy Code, 2016 (31 of 2016) during the financial year.

Details of difference between amount of the valuation done at the time of onetime settlement and the valuation done while taking loan from the banks or financial institutions along with the reasons thereof:

As the Company has not done any onetime settlement during the year under review hence no disclosure is required.

Fraud Reported by Auditor, if any

No fraud was reported by Auditors during the year.

Acknowledgements

The Board of Directors wish to place on record their appreciation for the support and cooperation extended by every Member of the Association, the Secretariat, its Bankers, and valuable contribution made by the Consultants, Counsels and Officials of the Member Companies.

For and on behalf of the Board of Directors

	Sd/-	Sd/-	Sd/-
	Avinash Pandey	M.V. Shreyams Kumar	Anuradha Prasad Shukla
	President	Vice President	Honorary Treasurer
Place: New Delhi	[DIN No.: 02828532]	[DIN No.: 00877099]	[DIN No.: 00010716]
Dated: August 4, 2023			

Independent Auditor's Report

To the Members of News Broadcasters & Digital Association

Report on the Audit of the Financial Statements

Opinion

We have audited the accompanying financial statements of News Broadcasters & Digital Association ("the Association"), which comprise the Balance Sheet as at 31 March 2023, and the statement of Income and Expenditure and cash flow for the year then ended and notes to the financial statements comprising of a summary of significant accounting policies and other explanatory information (hereinafter referred to as "the financial statements").

In our opinion and to the best of our information and according to the explanations given to us, the aforesaid financial statements give the information required by the Companies Act 2013 ("The Act") in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India, of the state of affairs of the Company as at March 31, 2023, and the deficit and its cash flows for the year ended on that date.

Basis for Opinion

We conducted our audit in accordance with the Standards on Auditing (SAs) specified under Section 143(10) of the Companies Act, 2013. Our responsibilities under those Standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the Company in accordance with the Code of Ethics issued by the Institute of Chartered Accountants of India together with the ethical requirements that are relevant to our audit of the financial statements under the provisions of the Act and the Rules thereunder, and we have fulfilled our other ethical responsibilities in accordance with these requirements and the Code of Ethics. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Information Other than the Financial Statements and Auditor's Report Thereon

The Company's Board of Directors is responsible for the other information. Other information comprises the information included in the Director's report, does not include the financial statements and our Auditor's Report thereon. The Director's Report is expected to be made available to us after signing of this Auditor's Report.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated.

When we read the other information identified above if, we conclude that there is a material misstatement of this other information, we are required to report the matter to those charged with governance.

Responsibility of Management for Financial Statements

The Company's Board of Directors is responsible for the matters stated in Section 134(5) of the Companies Act, 2013 ("the Act") with respect to the preparation of these financial statements that give a true and fair view of the financial position, financial performance and cash flow of the Company in accordance with the accounting principles generally accepted in India, including the accounting Standards specified under Section 133 of the Act. This responsibility also includes maintenance of adequate accounting records in accordance with the provisions of the Act for safeguarding of the assets of the Company and for preventing and detecting frauds and other irregularities; selection and application of appropriate accounting policies; making judgments and estimates that are reasonable and prudent; and design, implementation and maintenance of adequate internal financial controls, that were operating effectively for ensuring the accuracy and completeness of the accounting records, relevant to the preparation and presentation of the financial statement that give a true and fair view and are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Company's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Company or to cease operations, or has no realistic alternative but to do so. Those Board of Directors are also responsible for overseeing the Company's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an Auditor's Report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with SAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with SAs, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances. However, the provisions of Section 143(3)(i) of the Companies Act, 2013 are not applicable on the Company as per MCA Notification No. G.S.R. 583(E) dated June 13, 2017, read with corrigendum dated July 13, 2017 on reporting on internal financial controls over financial reporting, accordingly, we are not responsible for expressing our opinion on whether the Company has adequate internal financial controls system in place and the operating effectiveness of such controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our Auditor's Report to the related

disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our Auditor's Report. However, future events or conditions may cause the Company to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

Materiality is the magnitude of misstatements in the financial statements that, individually or in aggregate, makes it probable that the economic decisions of a reasonably knowledgeable user of the financial statements may be influenced. We consider quantitative materiality and qualitative factors in (i) planning the scope of our audit work and in evaluating the results of our work; and (ii) to evaluate the effect of any identified misstatements in the financial statements.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide those charged with governance with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, related safeguards.

Report on Other Legal and Regulatory Requirements

1. This Report does not include a statement on the matters specified in paragraph 3 & 4 of the Companies (Auditor's Report) Order, 2016 issued by the Central Government in terms of Section 143(11) of the Companies Act, 2013, since in our opinion and according to the information and explanations given to us, the said Order is not applicable to the Company.
2. As required by Section 143(3) of the Act, we report that:
 - a. We have sought and obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purposes of our audit. In our opinion proper books of account as required by law have been kept by the Company so far as it appears from our examination of those books;
 - b. The Balance Sheet and Income and Expenditure Account and the cash flow dealt with by this Report are in agreement with the books of account;
 - c. In our opinion, the aforesaid financial statements comply with the Accounting Standards specified under Section 133 of the Act, read with relevant Rules issued thereunder;
 - d. On the basis of written representations received from the Directors as on March 31, 2023, and taken on record by the Board of Directors, none of the Directors is disqualified as on March 31, 2023, from being appointed as a Director in terms of Section 164(2) of the Companies Act, 2013.
 - e. This Report does not include Report on the internal financial controls under clause (i) of Sub-section 3 of Section 143 of the Companies Act, 2013 (the 'Report on internal financial controls'), since in our opinion and according to the information and explanation given to us, the said Report on internal financial controls is not applicable to the Company in the current year basis the exemption available to the Company under MCA Notification No. G.S.R. 583(E) dated June 13, 2017, read with corrigendum dated July 13, 2017 on reporting on internal financial controls over financial reporting.
 - f. The Provision of Section 197 read with Schedule V of the Act are not applicable to the Company, since the Company is not a public company as defined under Section 2(71) of the Act. Accordingly, reporting under 197(16) is not applicable.

- g. With respect to the other matters to be included in the Auditors Report in accordance with the Rule 11 of the Companies (Audit and Auditors) Rules, 2014, in our opinion and best to our information and according to the explanation given to us:
1. There are no pending litigations impacting financial position of the Company as on 31st March, 2023.
 2. The Company did not have any long-term contracts including derivative contracts for which there were any material foreseeable losses.
 3. There were no amounts which were required to be transferred to the Investor Education and Protection Fund by the Company.
 4.
 - a. The Management has represented that, to the best of its knowledge and belief, no funds (which are material either individually or in the aggregate) have been advanced or loaned or invested (either from borrowed funds or share premium or any other sources or kind of funds) by the Company to or in any other person or entity, including foreign entity ("Intermediaries"), with the understanding, whether recorded in writing or otherwise, that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Company ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;
 - b. The Management has represented, that, to the best of its knowledge and belief, no funds (which are material either individually or in the aggregate) have been received by the Company from any person or entity, including foreign entity ("Funding Parties"), with the understanding, whether recorded in writing or otherwise, that the Company shall, whether, directly or indirectly, lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;
 - c. Based on the audit procedures that have been considered reasonable and appropriate in the circumstances, nothing has come to our notice that has caused us to believe that the representations under sub-clause (i) and (ii) of Rule 11(e), as provided under (a) and (b) above, contain any material misstatement.
 5. The Company is registered as limited by Guarantee; hence it has neither declared nor paid any dividend during the year and until the date of this report in compliance with Section 123 of the Act.
 6. As proviso to Rule 3(1) of the Companies (Accounts) Rules, 2014 is applicable for the Company only w.e.f. April 1, 2023, reporting under this clause is not applicable.

For S S Kothari Mehta & Company

Chartered Accountants
Firm Regn. No. 000756N

Sd/-

Naveen Aggarwal

Partner

Membership No. 094380

UDIN: 23094380BGUNCB2463

Place: New Delhi

Date: August 4, 2023

NEWS BROADCASTERS & DIGITAL ASSOCIATION

Balance Sheet as at 31st March, 2023

(All amounts in '00 unless otherwise stated)

	Particulars	Note No.	As at 31st March, 2023	As at 31st March, 2022
I	EQUITY AND LIABILITIES			
	(1) Members' Funds			
	(a) Entrance Fees	1	15,500	16,500
	(b) Reserves and Surplus	2	366,656	373,735
	(2) Non- Current Liabilities			
	(a) Long Term Provisions	3	39,256	33,399
	(3) Current Liabilities			
	(a) Short Term Borrowings	4	19,226	2
	(b) Short Term Provisions	5	710	718
	(c) Other Current Liabilities	6	–	63
	TOTAL		441,348	424,417
II	ASSETS			
	(1) Non-Current Assets			
	(a) Property, Plant & Equipment and Intangible Assets			
	(i) Property, Plant & Equipment	7	1,752	2,132
	(b) Other Non-Current Assets	8	1,890	1,890
	(2) Current Assets			
	(a) Cash and Cash Equivalents	9	409,507	404,612
	(b) Short-Term Loans and Advance	10	15,181	4,631
	(c) Other Current Assets	11	13,018	11,152
	TOTAL		441,348	424,417

Significant accounting policies and other Notes to Accounts 17-28

The accompanying Notes are the integral part of the Financial Statements

As per our Report of even date attached

For S.S. Kothari Mehta & Company

Chartered Accountants

Firm Regn. No. 000756N

Sd/-

Naveen Aggarwal

Partner

M No. – 094380

Place : New Delhi

Date : August 4, 2023

For and on behalf of the Board

Sd/-

Avinash Pandey

President

DIN No: 02828532

Sd/-

Anuradha Prasad Shukla

Honorary Treasurer

DIN No: 00010716

Sd/-

M.V. Shreyams Kumar

Vice President

DIN No: 00877099

Sd/-

Annie Joseph

Secretary General

PAN No: ADTPJ0257E

NEWS BROADCASTERS & DIGITAL ASSOCIATION

Income & Expenditure Account for the year ended March 31st, 2023

(All amounts in '00 unless otherwise stated)

	Particulars	Note No.	Year Ended 31st March, 2023	Year Ended 31st March, 2022
	Income			
I.	Subscription	12	147,825	163,763
II.	Other Income	13	27,400	32,362
III.	Total Income (I + II)		175,225	196,125
IV.	Expenditure			
	Employee Benefit Expenses	14	123,514	123,537
	Finance Cost	15	229	59
	Depreciation and Amortization Expense	7	380	384
	Administrative & Other Expenses	16	61,180	62,447
	Total Expenditure		185,303	186,427
V.	Surplus/(Deficit) before Tax (III - IV)		(10,078)	9,698
VI.	Tax Expense:			
	(1) Current Tax		-	-
	(2) Deferred Tax		-	-
VII.	Surplus/ (Deficit) for the Year (V - VI)		(10,078)	9,698

Significant accounting policies and other Notes to Accounts 17-28

The accompanying Notes are the integral part of the Financial Statements

As per our Report of even date attached

For S.S. Kothari Mehta & Company
Chartered Accountants

Firm Regn. No. 000756N

Sd/-

Naveen Aggarwal

Partner

M No. – 094380

Place : New Delhi

Date : August 4, 2023

For and on behalf of the Board

Sd/-

Avinash Pandey

President

DIN No: 02828532

Sd/-

Anuradha Prasad Shukla

Honorary Treasurer

DIN No: 00010716

Sd/-

M.V. Shreyams Kumar

Vice President

DIN No: 00877099

Sd/-

Annie Joseph

Secretary General

PAN No: ADTPJ0257E

NEWS BROADCASTERS & DIGITAL ASSOCIATION

Cash Flow Statement for the year ended March 31st, 2023

(All amounts in '00 unless otherwise stated)

Particulars	Note	Year ended March 31, 2023	Year ended March 31, 2022
A. Cash Flow Operating Activities			
Net Operating Surplus before Tax & Extraordinary Items		-10,078	9,698
Adjustments for:			
Net Operating Surplus before Tax			
Depreciation	7	380	384
Interest Income	13	-23,450	-21,820
Operating Surplus before Working Capital changes		-33,148	-11,737
Movements in Working Capital			
(Increase) / Decrease in Other Current Assets	11	-1,866	6,700
(Increase) / Decrease in Short Term Loans and Advances	10	-10,552	3,551
Increase / (Decrease) in Long Term Provisions	3	5,857	5,116
(Increase) / Decrease in Short Term Borrowings	4	19,224	-9,578
Increase / (Decrease) in Short Term Provisions	5	-7	40
Increase / (Decrease) in Other Current Liabilities	6	-63	3
Cash Generated from Operations Before Tax		-20,555	-5,906
Net Direct Taxes Paid			
Net Cash from Operating Activities (A)		-20,555	-5,906
B. Cash Flow From Investing Activities			
Purchase of Fixed Assets	7	-	-458
Interest received		23,450	21,820
Net Cash from Investing Activities (B)		23,450	21,362
C. Cash Flow From Financing Activities			
Entrance fees received	1	2,000	1,500
Interest Paid (Net)		0	0
Net Cash from Financing Activities (C)		2,000	1,500

Particulars	Note	Year ended March 31, 2023	Year ended March 31, 2022
Net Increase in Cash & Cash equivalent		4,894	16,956
Cash & Cash equivalent at the beginning of the year	9	404,612	387,656
Cash & Cash equivalent at the end of the year	9	409,507	404,612

Significant accounting policies and other Notes to Accounts 17-28
The accompanying Notes form the integral part of the Financial Statements
As per our Report of even date attached

For S.S. Kothari Mehta & Company
Chartered Accountants
Firm Regn. No. 000756N

For and on behalf of the Board

Sd/-
Naveen Aggarwal
Partner
M No. – 094380
Place : New Delhi
Date : August 4, 2023

Sd/-
Avinash Pandey
President
DIN No: 02828532
Sd/-
Anuradha Prasad Shukla
Honorary Treasurer
DIN No: 00010716

Sd/-
M.V. Shreyams Kumar
Vice President
DIN No: 00877099
Sd/-
Annie Joseph
Secretary General
PAN No: ADTPJ0257E

NEWS BROADCASTERS & DIGITAL ASSOCIATION

Notes Forming Part of Balance Sheet

Note # 1

Members Funds

(All amounts in '00 unless otherwise stated)

Particulars	As at 31st March, 2023	As at 31st March, 2022
Entrance Fees		
Entrance fees as per last Balance Sheet	16,500	15,000
Addition during the year	2,000	1,500
Transferred to Capital reserve	3,000	-
	15,500	16,500

Note # 2

Reserve & Surplus

Particulars	As at 31st March, 2023	As at 31st March, 2022
Reserve and Surplus		
(a) Capital Reserve		
As per last Balance Sheet	7,000	7,000
Addition during the year	3,000	-
	10,000	7,000
(b) Special Reserve		
As per last Balance Sheet	121,853	135,257
Addition/(Transfer) during the year (Refer Note 23)	(27,715)	(13,404)
	94,138	121,853
(c) Surplus/(Deficit) i.e. Balance in the Statement of Income & Expenditure		
As per last Balance Sheet	4,882	6,780
Addition during the year	(10,078)	9,698
Amount transferred to Corpus Fund	(20,000)	(25,000)
(Appropriations)/transfer from Special Reserve	27,715	13,404
	2,518	4,882
(d) Corpus Fund (Refer Note 26)		
As per last Balance Sheet	240,000	215,000

Particulars	As at 31st March, 2023	As at 31st March, 2022
Addition Amount transferred from Income & Expenditure A/c	20,000	25,000
	260,000	240,000
	366,656	373,735

Note # 3 Long Term Provisions

Particulars	As at 31st March, 2023	As at 31st March, 2022
Provision for Gratuity (Refer Note 25)	39,256	33,399
	39,256	33,399

Note # 4 Short Term Borrowings

Particulars	As at 31st March, 2023	As at 31st March, 2022
Bank Overdraft*	19,226	2
	19,226	2

*Secured against Fixed Deposit amounting to Rs. 87,489.44/-

Note # 5 Short Term Provisions

Particulars	As at 31st March, 2023	As at 31st March, 2022
Provision for expenses	710	718
	710	718

Note # 6 Other Current Liabilities

Particulars	As at 31st March, 2023	As at 31st March, 2022
Statutory Dues payable	-	63
	-	63

Note # 7

Property Plant & Equipment

(All amounts in '00 unless otherwise stated)

Particulars	Gross Block				Depreciation				Net Block	
	April 1, 2022	Addition	Disposal/ Adjustments	March 31, 2023	April 1, 2022	Addition during the year	Sale/ Adjustment	March 31, 2023	March 31, 2023	March 31, 2022
Computer	9,724	-	-	9,724	8,532	230	-	8,762	962	1,192
Office Equipment	9,256	-	-	9,256	8,351	125	-	8,476	779	905
Furniture & Fixtures	237	-	-	237	201	25	-	226	11	36
Leasehold Improvement	43,014	-	-	43,014	43,014	-	-	43,014	-	-
Total	62,230	-	-	62,230	60,098	380	-	60,478	1,752	2,132
Previous Year	61,772	458	-	62,230	59,714	384	-	60,098	2,132	2,059

Note # 8

Other Non-Current Assets

Particulars	As at 31st March, 2023	As at 31st March, 2022
Security Deposit	1,890	1,890
	1,890	1,890

Note # 9

Cash and Cash Equivalents

Particulars	As at 31st March, 2023	As at 31st March, 2022
Balance with Banks		
In Current Account	7,737	10,824
Cash on Hand	59	126
	7,796	10,950
Current Portion		
Fixed Deposits with Bank*	401,710	393,662
	409,507	404,612

* Including amount under lien with Bank for Credit facilities Rs. 87489.44/-

Note # 9.1**Fixed Deposits with Bank**

(All amounts in '00 unless otherwise stated)

Particulars	As at 31st March, 2023	As at 31st March, 2022
Fixed Deposits with Bank		
Upto 12 months maturity from date of acquisition	401,710	393,662
Shown as Current Assets	401,710	393,662

Note # 10**Short Term Loans and Advances**

Particulars	As at 31st March, 2023	As at 31st March, 2022
Unsecured considered good		
Advances recoverable in cash or kind or value to be received	15,181	3,856
TDS Receivable	-	775
	15,181	4,631

Note # 11**Other Current Assets**

Particulars	As at 31st March, 2023	As at 31st March, 2022
Interest accrued on Fixed deposits	13,018	1,152
	13,018	11,152

NOTES FORMING PART OF INCOME & EXPENDITURE ACCOUNT**Note # 12****Revenue From Operations**

Particulars	Year Ended 31st March, 2023	Year Ended 31st March, 2022
Subscription	147,825	163,763
	147,825	163,763

Note # 13**Other Income**

Particulars	Year Ended 31st March, 2023	Year Ended 31st March, 2022
Interest Income	23,450	21,820
Miscellaneous Income	3,950	10,542
	27,400	32,362

Note # 14

Employee Benefit Expenses

(All amounts in '00 unless otherwise stated)

Particulars	Year Ended 31st March, 2023	Year Ended 31st March, 2022
Salaries and Wages	109,867	111,309
Contribution to Provident Fund	7,680	6,968
Gratuity Expense	5,856	5,116
Staff Welfare Expenses	112	144
	123,514	123,537

Note # 15

Finance Cost

(All amounts in '00 unless otherwise stated)

Particulars	Year Ended 31st March, 2023	Year Ended 31st March, 2022
Interest on Bank Overdraft	229	59
	229	59

Note # 16

Administrative & Other Expenses

Particulars	Year Ended 31st March, 2023	Year Ended 31st March, 2022
Printing & Stationary	890	1,138
Legal & Professional Charges	34,469	37,390
Meeting Expenses	5,238	6,450
Communication Expenses	353	355
Travelling & Conveyance Expenses	264	131
Rent & Electricity	15,724	14,267
Website Maintenance Expenses	1,191	1,334
Repairs & Maintenance-Computer	664	114
Repairs & Maintenance-Building	586	398
Office Insurance-Noida	65	77
Miscellaneous Expenses	16	62
Amount Written Off	393	-
Rates & Taxes	690	68
Auditor Remuneration:		
Audit Fee	600	600
Tax Matters	-	-
Out of pocket expenses	36	63
	61,180	62,447

17. Brief Information of the Company

News Broadcasters & Digital Association is a Private Company Limited by Guarantee not having a Share Capital, not for Profit having CIN – U22211DL2007NPL165480 registered under Section 8 of the Companies Act, 2013 (Section 25 of the erstwhile Companies Act, 1956) with the main objectives inter alia, to promote, aid, help, encourage, develop, protect and secure the interests of the news broadcasters in the Indian television Industry and other related entities and to promote awareness about the latest developments in the television industry relating to news broadcasting and to disseminate knowledge amongst its members and the general public regarding such developments.

18. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

- a. The Company follows the mercantile system of accounting and recognizes income and expenditure on accrual basis. The accounts are prepared on historical cost basis in accordance with generally accepted accounting principles in India, accounting standard specified under Section 133 of Companies Act 2013, read with Rule 7 of Companies (Accounts) Rules 2014, the Companies Act 2013 (to the extent applicable) as a going concern.

b. **REVENUE RECOGNITION**

Subscription from the members is recognized on an accrual basis considering the reasonable certainty for the ultimate collection.

c. **PROPERTY PLANT EQUIPMENT AND DEPRECIATION**

- i. Property plant equipment are stated at cost inclusive of all related and other incidental expenses less accumulated depreciation.
- ii. Depreciation on property plant equipment is provided in accordance with Schedule II of the Companies Act, 2013 based on Straight Line Method pro-rata over the remaining useful life of the assets. The useful life of asset taken for the aforesaid depreciation is as under :-

Assets	Useful Life
Computers Hardware	3 Years
Office Equipment	5 Years
Furniture & Fixture	10 & 8 Years

d. **TAXATION**

The Company is exempt from tax on income under Section 11 & 12 of the Income Tax Act, 1961; hence no provision has been made for the same.

e. **ENTRANCE FEE**

Entrance fees are treated as Capital Receipts and hence been shown separately.

Forfeited entrance fee is transferred to Capital Reserve in the case of removal or resignation of any Member.

f. **EMPLOYEE BENEFITS**

Gratuity Liability is provided on actual basis pro-rata to the number of years served based on the principles stated under the Payment of Gratuity Act, 1972.

g. **PROVISIONS, CONTINGENT LIABILITY & CONTINGENT ASSETS**

- i. Provisions involving substantial degree of estimation in measurement are recognized when the present obligation resulting from past events give rise to probability of outflow of resources embodying economic benefits on settlement.

- ii. Contingent liabilities are not recognized and are disclosed in Notes.
- iii. Contingent assets are neither recognized nor disclosed in financial statements.
- iv. Provisions are reviewed at each Balance sheet date and adjusted to reflect the current best estimates.

h. USE OF ESTIMATES:

The presentation of financial statements in conformity with the generally accepted accounting principles requires estimates and assumptions to be made that affect reportable amount of assets and liabilities on the date of financial statements and the reported amount of revenues and expenses during the reporting period. Difference between the actual results and estimates are recognized in the year in which the results are known / materialized.

OTHER NOTES TO ACCOUNTS

19. In the opinion of the management, the value on realization of current assets, loans and advances in the ordinary course of activities would not be less than the amount at which they are stated in the Balance Sheet and provisions for all known liabilities has been made.
20. The Company is a Small & Medium sized Company (SMC) as defined in the general instructions in respect of Accounting Standards specified under Section 133 of The Companies Act, 2013 read with Rule 7 of Companies (Account) Rules 2014 notified under the Companies Act, 2013. Accordingly, the Company has complied with the Accounting Standards applicable to a Small & Medium sized Company.
21. Based on the information available with the Company, no balance is due to Micro & Small Enterprises as defined under the Micro, Small and Medium Enterprises Development Act, 2006 as on 31st March 2023. Further during the year no interest has been paid, accrued or payable under the terms of the said Act.
22. The Company is registered under Section 8 of the Companies Act, 2013 (Section 25 of the erstwhile Companies Act, 1956) and further it has got the registration under Section 12AA of the Income Tax, 1961. Accordingly, income is also exempted from Tax u/s 11 & 12 of the said Act. Therefore, the provisions of the Accounting Standard, AS-22 on Accounting for Taxes on Income, are not applicable on the Company.
23. Special reserve has been created under Section 11 of the Income Tax Act, 1961, by transferring the unutilized amount in excess of 15% of the total income, for the purpose of building the infrastructure of the Association with a view to achieve the objects stated in the Memorandum of Association.
- However, during the year, Company has incurred expenditure of Rs. 121854 hundred (Previous Year Rs. 81448 hundred/-) from special reserve created under Section 11 of the Income Tax Act, 1961, towards the objectives as stated above.
24. The lease rental charge during the period & obligation on long term non-cancellable operating lease payable as per the rental status the respective agreement as follows:

(Amount in Rs. 00)

Particulars	2022-2023	2021-2022
Lease payment for the year	13088	11,912
	2022-2023	2021-2022
Lease Obligations Payable		
- within one year	14397	13,088
- in a period between one year and five years	3683	180,80
- in a period after five years		-

25. Gratuity provision has been provided pro-rata based on the current salary drawn and number of years of services. Management is of the opinion that this provision will not be materially different from actuarial calculations as provided in Accounting Standard-15.

26. During the year Board of Directors decided to set aside Rs. 20,000 hundred/- of the surplus of the Association as corpus fund for the purpose of long-term Association requirement. Accordingly, disclosure has been made in Note 2 relating to reserves and surplus.

27. Additional Regulatory Information

Particulars	Numerator	Denominator	Current year	Previous year	Variance	Remarks
Current ratio (in times)	Current Assets	Current Liability	22	537	-96%	Due to bank overdraft balance outstanding in Current year
Debt-Equity ratio (in times)	Total Debt	Shareholders Equity	N/A	N/A	N/A	Due to Entity don't have any share capital
Debt service coverage ratio (in times)	Earning available for debt service	Debt Service	(0.5)	167	100%	Due to bank overdraft balance outstanding in Current year
Return on equity ratio (in %)	Net profit after tax	Average total Equity	N/A	N/A	N/A	Due to Entity don't have any share capital
Inventory turnover Ratio	Cost of goods sold	Average Inventory	N/A	N/A	N/A	Due to Entity don't have any inventory of goods
Trade receivables turnover ratio (in times)	Revenue from operation	Average Trade receivable	N/A	N/A	N/A	Due to Entity does not have trade receivables
Trade payables turnover ratio (in times)	Net Credit Purchase	Average Trade payable	N/A	N/A	N/A	Due to Entity does not have trade payables
Net capital turnover ratio (in times)	Net Sales	Average Working Capital	0.35	0.40	-11%	
Net profit ratio (in %)	Net Profit	Net Subscription	-7	6	-215%	Due to deficit in Income & Expenditure statement in current year compared to previous year.
Return on capital employed (in %)	Earnings Before interest & Taxes	Capital employed	-3	2	-201%	Due to deficit in Income & Expenditure statement in current year compared to previous year
Return on investment (in %)	Income generated from invested funds	Average invested funds in treasury investments	N/A	N/A	N/A	The entity has no investment

28. Figures of the previous year have been rearranged/ regrouped/reclassified wherever necessary.
As per our report of even date attached

For S.S. Kothari Mehta & Company
Chartered Accountants
Firm Regn. No. 000756N

For and on behalf of the Board

Sd/-
Naveen Aggarwal
Partner
M No. – 094380
Place : New Delhi
Date : August 4, 2023

Sd/-
Avinash Pandey
President
DIN No: 02828532

Sd/-
Anuradha Prasad Shukla
Honorary Treasurer
DIN No: 00010716

Sd/-
M.V. Shreyams Kumar
Vice President
DIN No: 00877099

Sd/-
Annie Joseph
Secretary General
PAN No: ADTPJ0257E

Management Report for the year 2022-23

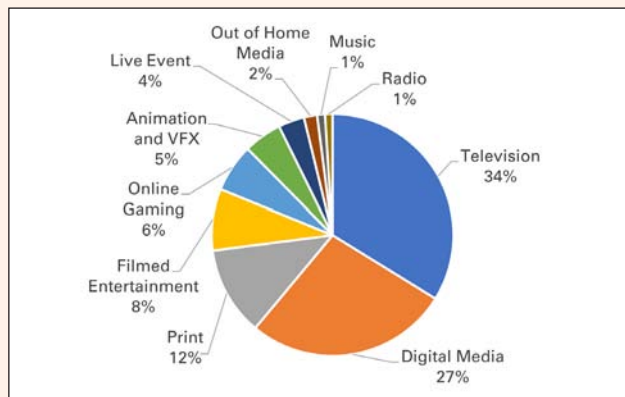
Year in Review

In 2022, the Indian Media & Entertainment (M&E) Industry continued on its path to recovery to reach INR 2.1 trillion (US\$26.2 billion), surpassing the industry forecasts and the 2019 pre-pandemic levels¹. The M&E Industry which has been termed as the 'sunrise sector' is expected to sustain this growth momentum and grow 11.5% to reach INR 2.34 trillion by 2023. The sector is further expected to reach INR 2.83 trillion (US\$35.4 billion) by 2025² and INR 7.5 trillion (US\$100 billion) by 2030³.

Segment Overview

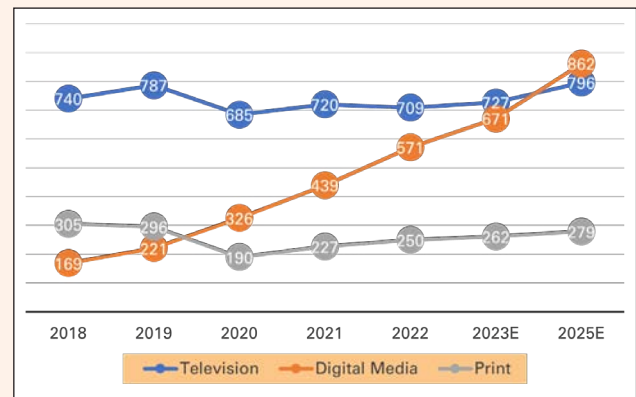
During the year, growth was observed in all segments of the M&E Industry apart from Television which marginally declined by 1.5%. Nonetheless Television segment retained its position as the largest segment in the M&E Industry, followed by Digital Media which also maintained its position as the second largest segment in the M&E Industry for a third year in row followed by a revived Print⁴. (Figure 1 and 2)

Figure 1. Segment-wise Growth



Source: FICCI -EY Media & Entertainment Report 2023

Figure 2. Segment-wise Growth across Television, Digital Media and Print (2018-2025E)



Source: FICCI -EY Media & Entertainment Report 2023

While Digital Media noted the highest absolute growth at INR 132 billion from 2021 to 2022, Filmed Entertainment and Live Events witnessed the most percentage growth at 85% and 128% respectively. Further, traditional media comprising of Television, Print, Filmed Entertainment, Out of Home Media, Radio and Music together contributed towards half of the growth in the sector.

Within the Television segment, distribution revenues continued to shrink for a third year in a row after a high of 468 billion dollars in 2019. Between 2021 and 2022, revenues of Television segment reduced by INR 11 billion.

¹FICCI -EY Media & Entertainment Report 2023 titled 'Windows of Opportunity: India's Media & Entertainment Sector - Maximizing across Segments' Page 10

²ibid

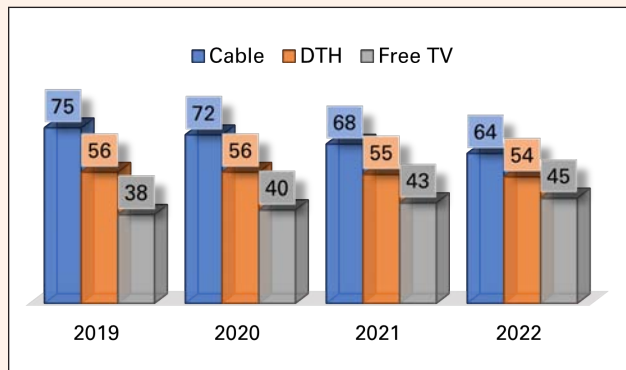
³Gaurav Laghate 'Indian media and entertainment industry should target to reach \$100 bn by 2030: MIB Secretary' (Economic Times, 27th September 2022)

⁴ibid

There was also a decline in subscription revenues, which was largely attributable to consumers migrating to Free TV, digital streaming and connected TVs. It may be noted herein that while a degrowth of 3.8% was observed in the subscription revenue of the television segment due to the decline in the number of subscribers of Pay TV, as Cable lost nearly four million homes and DTH lost approximately one million homes, however the number of subscribers of the Free TV platform, Free Dish increased owing to inexpensive television channels and onboarding of new channels on the platform. Industry Reports estimate that there are nearly 45 million subscribers on Free Dish⁶. (Figure 3)

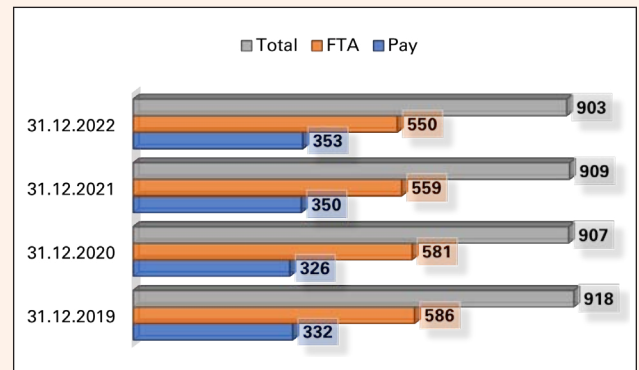
Notwithstanding the decline in subscription revenues, a marginal increase was observed in the number of Pay TV Channels. According to the EY-FICCI Media & Entertainment Report for the year 2022-2023, the increase in the number of Pay TV Channels reflected the impact of NTO on the broadcasters. (Figure 4)

Figure 3. Subscription Revenues - Television subscriptions in millions⁶



Source: FICCI - EY Media & Entertainment Report 2023

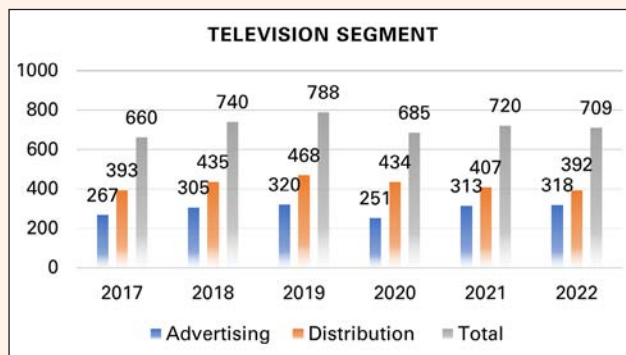
Figure 4. Number of Television Channels



Source: TRAI Performance Indicator Report October - December 2022

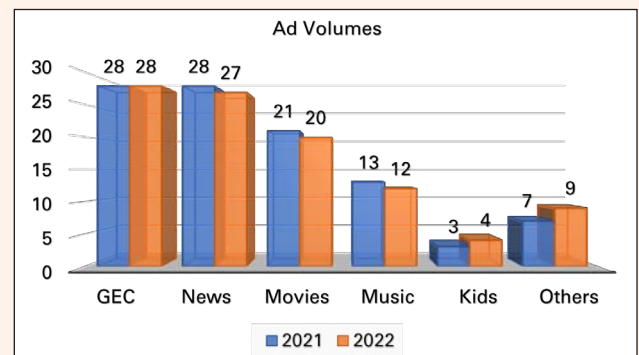
Further, despite the decline in distribution (subscription) revenues, the future of the segment is far from being bleak, which is evidenced by the improvement in the advertising revenues. As per estimates, the advertising revenues of television segment grew by 2% to almost reach the pre-pandemic levels.⁷ (Figure 5)

Figure 5. INR billion (gross of taxes) | EY analysis



Source: FICCI - EY Media & Entertainment Report 2023

Figure 6. Comparison of Genre wise share of Ad Volumes



Source: TAM AdEx Report 'Rewinding Y 2022 for Television Advertising'

* Figures expressed in percentage

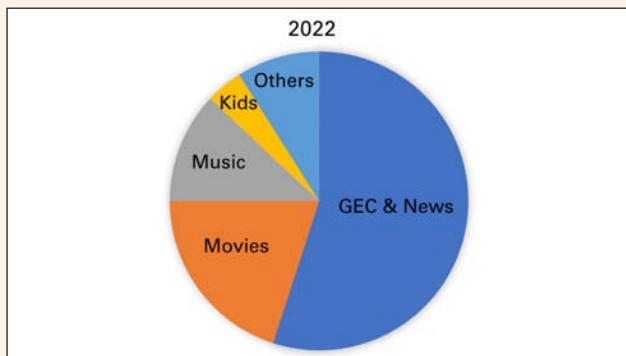
⁶FICCI - EY Media & Entertainment Report 2023, Page 48

⁶ibid

⁷FICCI - EY Media & Entertainment Report 2023, Page 46

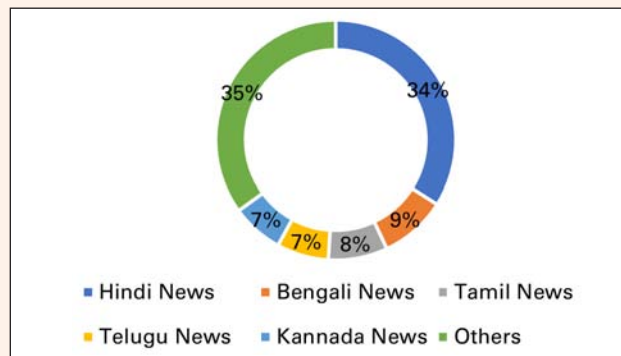
As per Industry Reports, in comparison to 2019, there was an increase of 26% in the Ad Volumes on Television in 2022⁹. Further, from the perspective of Advertisers, General Entertainment Channels (GEC) overtook News to become the most popular genre for advertising. Nonetheless, the two genres contributed to almost 55% of the ad volumes in the M&E Industry.⁹ (Figure 6 and 7). Within the sub-genre of News, Hindi News which includes both Hindi Regional News and Hindi Business News retained its position as the top sub-genre of news in terms of Ad volumes.¹⁰ (Figure 8). Additionally, in comparison to 2021, there was an increase in the number of advertisers who advertised on Marathi News and Bengali News¹¹.

Figure 7. Genre wise share of Ad Volumes for the year 2022



Source: TAM AdEx Report 'Rewinding Y 2022 for Television Advertising'

Figure 8. Sub Genre wise share of Ad Volumes for the year 2022



Source: TAM AdEx Report titled 'Rewinding Y 2022 for Advertising in News Genre'

In terms of viewership and consumption, amongst families Television continued to be a preferred platform for consumption of content together. Additionally, compared to 2019 the time spent by consumers watching TV also increased by 0.6 hours.¹²

According to industry forecasts, the television segment is expected to grow at a CAGR of 4% and reach INR 796 billion by 2025, with advertising revenues growing at CAGR of 5.3% and subscription revenues growing at CAGR of 2.7%.¹³ Furthermore, by 2030 revenue obtained from advertising will become the predominant source of revenue for the segment.¹⁴

The segment of Digital Media also continued on its trajectory of growth in 2022 with digital advertising and subscription witnessing a growth to reach INR 499 billion and INR 72 billion respectively.¹⁵ However, search and social media along with ecommerce advertising continues to be the predominant source of advertising revenues, with OTT/Digital Platforms of News Companies generating only 3% of digital advertising revenues. (Figure 9)

Digital News subscriptions reached approximately INR 1.2 billion, with approximately 1.5 million subscribers paying for exclusive and premium news across all news platforms. These figures are expected to grow and double by 2025 as focus on specialty news and custom knowledge product increases.¹⁶

⁹FICCI -EY Media & Entertainment Report 2023, Page 60

⁹TAM AdEx Report titled 'Rewinding Y 2022 for Television Advertising'

¹⁰TAM AdEx Report titled 'Rewinding Y 2022 for Advertising in News Genre'

¹¹FICCI -EY Media & Entertainment Report 2023, Page 65

¹²BCG Report titled 'Shaping the Future of Indian M&E' dated November 2022, Page 20

¹³FICCI -EY Media & Entertainment Report 2023, Page 49

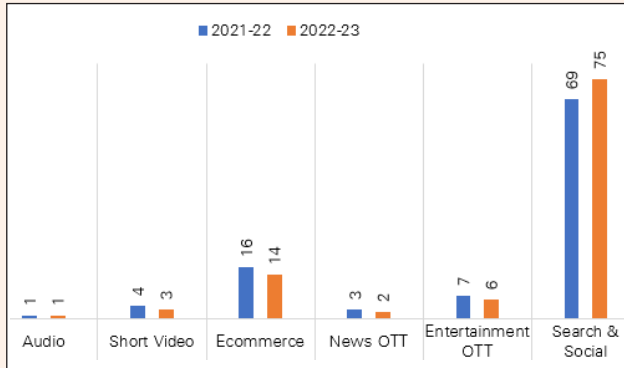
¹⁴BCG Report dated November 2022, Page 20

¹⁵FICCI -EY Media & Entertainment Report 2023, Page 73

¹⁶ibid

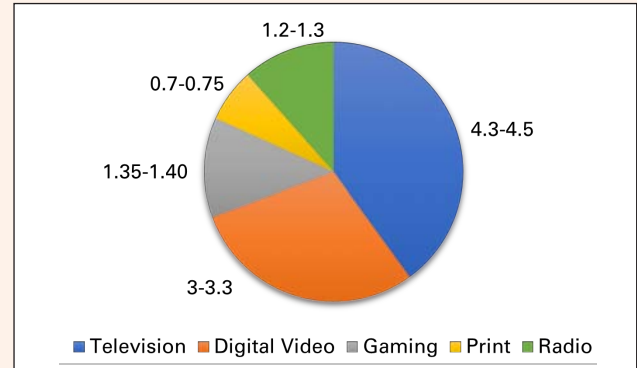
Per capita media consumption also continued to grow across all segment with digital consumption again leading the way largely led by changes in the consumption pattern as result of the Covid-19 pandemic.¹⁷ (Figure 10)

Figure 9. Composition of Digital Advertising Revenues



Source: FICCI -EY Media Entertainment Reports
*Figures expressed in percentage, EY Estimates

Figure 10. Number of Hours of consumption/Day



Source: BCG Report dated November 2022

It is estimated that in 2022 there were nearly 527 million viewers of online videos/content, which is an increase of 30 million viewers from 2021.¹⁸ Further, audience of online news also increased to 473 million users in 2022, which means that more than half of the internet users consumed online news content.¹⁹ According to a survey conducted by ABP News and EY jointly, while Social Media platforms emerged to be the most preferred platform amongst audiences, young and old to access news, however maximum time was spent on Television for consumption of news.²⁰ This is consistent with the findings of the survey conducted by Reuters Institute for Study of Journalism, according to which online including social media was the predominant source of news for 72% of the respondents.²¹ Therefore, there appears to be strong connection between social media platforms and news.²²

As more digital news content is placed behind paywall, industry reports estimate that by 2025, digital news could generate subscription revenue of INR 2.4 billion, which could further increase to INR 4.8 billion through bundling.²³

With improvements in digital infrastructure, the gap between television and digital media is expected to further reduce and the segment is expected to grow at 15% CAGR and become INR 862 billion by 2025.²⁴

The proliferation of connected TVs, availability of low-cost internet, increasing employment of artificial intelligence and changing consumer patterns, has resulted in the M&E sector becoming platform agnostic. In the era of 'multi-media-multi-window',²⁵ new models for monetizing content would continue to evolve which would underscore the consumers desire for 'value'.

¹⁷BCG Report dated November 2022, Page 13
¹⁸FICCI -EY Media & Entertainment Report 2023, Page 73
¹⁹FICCI -EY Media & Entertainment Report 2023, Page 81
²⁰FICCI -EY Media & Entertainment Report 2023, Page 123
²¹Reuters Institute Digital News Report 2023, Page 131
²²ibid
²³FICCI -EY Media & Entertainment Report 2023, Page 90
²⁴FICCI -EY Media & Entertainment Report 2023, Page 74
²⁵FICCI -EY Media & Entertainment Report 2023, Page 25

Representations to Government

In the process of managing its policy environment, the Association draws constantly on the goodwill of the Government. During the year under review, the Association took up issues that concern news and digital broadcasters with the Government from time to time. President NBDA and the Board Members of NBDA called on the following officials:

1. Mr. Anurag Thakur, Minister for Information and Broadcasting
2. Mr. Apurva Chandra, Secretary, Ministry of Information and Broadcasting
3. Mr. Vikram Sahai, Joint Secretary, Ministry of Information and Broadcasting
4. Mr. Sanjeev Shankar, Joint Secretary, Ministry of Information and Broadcasting
5. Mr. Sanjeev Kumar Sharma, Advisor (Broadband & Policy Analysis), TRAI

Ministry of Electronics and Information Technology (MeitY)

Digital Personal Data Protection Bill, 2022

MeitY on 18.11.2022 released the Draft Digital Personal Data Protection Bill, 2022 (Draft Bill), for public consultation. The Draft Bill which is the fourth iteration of a data protection framework seeks to establish a comprehensive legal framework governing digital personal data protection in India, which provides for the processing of digital personal data in a manner that recognizes the right of individuals to protect their personal data, societal rights and the need to process personal data for lawful purposes.

On 16.12.2022 NBDA submitted its concerns with respect to the Draft Bill which are given hereinunder:

Absence of Exemptions for Journalistic Purpose

On a perusal of the Draft Bill it appears that broadcasters/ media companies / press / journalists have not been excluded from the purview of the Draft Bill. The earlier version of the draft Personal Data Protection Bill 2018 ("2018 Draft Bill") had envisaged certain exemptions for 'research, archiving or statistical purposes' and 'journalistic purposes' and had even proposed a definition of 'journalistic purposes' under Clause 3(25) of the 2018 Draft Bill. However, while 'research, archiving or statistical purposes' continues to be exempted from the purview of the Draft Bill, no reasons have been given as to why 'journalistic purposes' has not been given such exemption.

Under Clause 2(5) the term "Data Fiduciary" refers to "any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data." On a combined/harmonious reading of Clause 2(5) with the definition of a person under Clause 2(12), it appears that even a journalist, broadcaster and/or a media company may be regarded as a Data Fiduciary under the Draft Bill. While under Clause 18(3) of the Draft Bill, the Central Government has the power to exempt certain Data Fiduciaries or class of Data Fiduciaries from the application of certain provisions in the Draft Bill, however, in the absence of explicit/specific exemption, journalists, broadcasters and/or media companies may be considered as Data Fiduciaries.

The inclusion of journalists, broadcasters and/or media companies as Data Fiduciary under the Draft Bill would have serious adverse consequences on the free speech rights of the media/press, especially, if the Data Principal is a member of the executive, political leader or a public servant/official/figure or a deceased.

While the Draft Bill seeks to protect the privacy of individuals relating to their digital personal data, however it is also necessary and important to balance the fundamental right of freedom of speech and expression of the media/citizens with the fundamental right to privacy of an individual.

“News” as a genre is distinct from other genres and has a greater right of free speech under Article 19(1)(a) as it also involves dissemination of information of public interest to the citizens, since the general public has a right to receive information under Article 19(1)(a) of the Constitution.

The Draft Bill must therefore achieve a balance between competing interests such as the right to free flow of information through freedom of speech and expression and the right to restrict such flow in the interest of privacy and safeguarding of the handling of personal data. Freedom of speech and expression is necessary to ensure a participatory democracy where citizens have free and fair access to information. However, on a reading of several provisions of the Draft Bill, it appears that the right of privacy is the only fundamental right which has been considered and given weightage.

Under Article 19(1)(a) of the Constitution the freedom of speech and expression that is available to a citizen not only encompasses the public’s right to be informed but also equally includes the media’s right to report on issues without restrictions except the restrictions enumerated in Article 19(2) of the Constitution. Therefore, since Article 19(2) does not contain the word ‘privacy’, ‘privacy’ cannot become an indirect restriction on the right to freedom of speech and expression. It would be unconstitutional to give the right of privacy of a citizen greater importance than the right to freedom of speech and expression which are not only the rights of the media but are also rights that viewers enjoy.

For journalists, broadcasters and/or media companies, such excessive provisions which are regressive in nature, will not only create an atmosphere of fear which will deter journalists from publishing news/current affairs, but will also have a ‘*chilling effect*’ on the media and will impede its functioning.

In the absence of specific exemptions or exclusions, all the provisions that apply to Data Fiduciaries would also apply to journalists, broadcasters and/or media companies and failure to comply with same may attract penalties upto Rs.500 crores. Such harsh penalties will affect the economics and business of the media companies and thereby directly impact the free speech rights of the media and threaten their existence apart from creating an atmosphere, which will result in a ‘*chilling effect*’. The provisions enumerated under the Draft Bill would be burdensome especially for media companies as their businesses is based on collecting any and all sorts of information which is ‘news’, which is thereafter disseminated in public interest and may include personal information of an individual too. In fact, media companies will have a problem telecasting ‘live news’, if media companies are declared to be Data Fiduciaries under the Draft Bill.

NBDA therefore submitted that journalists, broadcasters and/or media companies should not be regarded Data Fiduciaries and Data Processors under the Draft Bill. In the alternative, it was suggested that comprehensive stipulations relating to journalistic exemptions should be included in the Draft Bill, particularly since several provisions are unworkable for journalists, broadcasters and/or media companies.

The Draft Bill should adopt the principles present in the GDPR, wherein under Article 85, exemptions have been granted to processing of data carried out for journalistic purposes.

Without prejudice to its submissions seeking the exclusion of journalists, broadcasters and/or media companies from the purview of the Draft Bill or exemption for journalistic purposes, NBDA had also elaborated in detail, the issues which may arise from the individual clauses in the event that the above mentioned persons/entities are included within the purview of the Draft Bill, which *inter alia* related to:-

Objective and Purpose of the Draft Bill

The Draft Bill solely focuses on personal data, thereby excluding non-personal data from its purview. It also dispenses with further classification of personal data as sensitive personal data which were present in the 2018 Draft Bill, which identified passwords, financial data, biometrics, caste, sexual orientation, etc. as sensitive

personal data and required explicit consent of the Data Principal for processing such sensitive personal information.

The exclusion of further classification of personal data as sensitive personal data in the Draft Bill was a significant departure from the data privacy standards followed across the world. By excluding such categorization, it appeared that the Draft Bill aimed at treating all forms of datasets at par with one another, and therefore imposed onerous burden on Data Fiduciary.

That unlike prominent privacy legislations across the globe which rely upon provisioning of a gestation period for implementation of the compliance measures, the Draft Bill stated that the Central Government will be responsible for notifying provisions, at later dates, which might not be the most efficient form of seeking compliance. It was suggested that a longer timeline should be afforded before rolling out the implementation measures, a practice followed by the government while implementing the CERT-In directions.

Clause 2 - Definitions

In the Draft Bill extensive changes have been made to the definitions under Clause 2, which are riddled with ambiguity and do not fall in line with the universally accepted principles of privacy, which govern data privacy practices and frameworks across jurisdictions.

The Draft Bill sought to define the term 'automated', to enable users to understand the scope of the Draft Bill, which solely restricts itself to automated processing and collection of data by digital means. This definition has been newly introduced; and does not find reference in nuanced data privacy frameworks like the GDPR.

The Draft Bill sought to include individuals below the age of 18, within the definition of a 'Data Principal'. NBDA suggested that there was a need to reconsider the age of 'child' as contemplated under Clause 2(3) read with Clause 10 of the Draft Bill. Even in India, eighteen years age is not uniformly applied across legislations and there are different criteria for different purposes.

NBDA stated that the Draft Bill widens the ambit of 'public interest' under Clause 2(18), to include prevention of dissemination of false statements of fact. Public interest does not mean mere curiosity or the interests of particular localities which may be affected by the matters in question. It may also be noted that prevention of dissemination of false statements of facts is already a requirement imposed upon news agencies, digital media platforms, under relevant legislations. Furthermore, imposition of such terms within a data privacy legislation may prove counterproductive, and raise issues of widescale surveillance and monitoring, under the garb of removal of fake information from the Internet.

Clause 6 - Notice

Under Clause 6, Data Fiduciaries are required to provide an itemized notice to users, upon enactment of the Draft Bill, describing the personal data already collected, and the processing actions taken upon such information. Therefore, if journalists, broadcasters and/or media companies are regarded as Data Fiduciaries under the Draft Bill, they would under Clause 6(2) also be required to provide such itemized notice to the Data Principal. The retrospective obligation sought to be imposed in respect of past data under the Draft Bill would not be feasible for journalists, broadcasters and/or media companies to implement. Further, failure to comply with the provisions of Draft Bill may result in heavy penalties being levied on journalists, broadcasters and/or media companies. The retrospective impact of such provision may also be a burdensome compliance for journalists, broadcasters and/or media companies including small and medium entities, who may not have maintained records of the purpose of processing of personal data in the past in the absence of a law requiring this and may also not have the wherewithal to accommodate such processing.

Clause 8 - Deemed Consent

The provision for 'Deemed Consent' is ambiguous as it fails to clarify who would determine or under what parameters the processing of personal data by a Data Fiduciary could be regarded to be undertaken "*for any fair and reasonable purpose*." While the Government can specify fair and reasonable purposes through rules, however, it was suggested that Clause 8(9) of the Draft Bill should be amended to allow Data Fiduciaries alone to determine what amounts to 'fair and reasonable' and the same ought not to be uniformly prescribed since the purposes and requirements of each Data Fiduciary may vary.

Further, if journalists, broadcaster and/or media companies are regarded as Data Fiduciaries under the Draft Bill, the requirement to weigh the legitimate interest of Data Fiduciary against the rights of the Data Principal under Clause 8(9) of the Draft Bill may entail evaluating and balancing the right of freedom of speech and expression of the media against the right to privacy of an individual, which may threaten media's rights under Article 19(1) (a) of the Constitution.

That while provisions relating to Deemed Consent are welcome exception however, the same ought to be categorized as non-consent-based grounds of processing else, they may still be amenable to withdrawal of consent by Data Principal, which may not be implementable.

Despite being a longstanding industry demand 'legitimate business interest' and 'performance of a contract' have not been explicitly included as grounds to process personal data without consent.

Legislations such as the GDPR have multiple grounds for lawful processing of personal data apart from 'consent', which the Draft Bill appeared to have clubbed under the single head of 'Deemed Consent.'

The expression 'corporate espionage' and 'mergers and acquisition' appearing in Clause 8 (7) and Clause 8(8) (b) respectively need to be clarified since the terms are vague, ambiguous and liable to be misinterpreted and thereby misused.

Clause 9 - General obligations of Data Fiduciary

Under Clause 9(4) of the Draft Bill, every Data Fiduciary and Data Processor is required to employ reasonable security safeguards to protect personal data in its possession or under its control and to prevent personal data breach. Failure to take reasonable security safeguards may entail a penalty of upto Rs. 250 crores on the Data Fiduciary and Data Processor. Further, failure to report a personal data breach to the proposed Data Protection Board of India (DPB) and affected Data Principals, could also entail penalties up to Rs. 200 crores. Data Fiduciaries/Data Processors can only make reasonable endeavors to prevent personal data breach and that Internet based systems, communications and processing can never be inter-alia guaranteed to be secure and/or hack-proof.

In case of any cyber security incidents, Data Fiduciaries/Data Processors themselves are victims, and as such, a clear stipulation ought to be added in the Draft Bill that personal data breaches on account of cyber security incidents shall not be treated as non-compliance of the provisions of the Draft Bill.

The requirement under Clause 9(5) of the Draft Bill for Data Fiduciaries to notify the proposed DPB, in the event of any personal data breach, may create an overlap in compliance obligations, as Data Fiduciaries are also required to report personal data breaches to Computer Emergency Response Team (CERT-In).

In the past stakeholders from the data processing industry have indicated that they may not be able to report data breaches as they do not have visibility over the data they process. Therefore, onerous penalty provisions in case of failure to report a breach, at least when done unknowingly/unintentionally, must be dispensed with.

The obligation sought to be cast on the Data Fiduciary under Clause 9(6) is vague and ambiguous as it fails to clearly clarify the parameters which would determine that the purpose for which personal data was collected and the period for which it should be retained.

Clause 10 - Additional obligations in relation to processing of personal data of children

While Clause 10(1) of the Draft Bill requires the Data Fiduciary to obtain verifiable consent before processing personal data of a child. However, no guidance has been provided in the Draft Bill as to what would amount to 'verifiable parental consent' and how the same should be obtained. Therefore, it was suggested that the manner of obtaining verifiable parental consent ought to be dealt with in the Draft Bill itself.

The obligation on a Data Fiduciary not to undertake processing of personal data of child that is likely to cause harm is open-ended, vague and susceptible to be misinterpreted specially, in view of an open-ended definition of 'harm' under the Draft Bill. The obligation that Data Fiduciary shall not undertake tracking or behavioral monitoring or targeted advertising for children is excessive. Needless to state that intention behind the provision cannot be to prohibit any and all advertisements relating to goods / services that may be beneficial or useful for children *inter-alia* since any such attempt may impinge on Articles 19(1)(a) and 19(1)(g) rights of the media.

Clause 11 - Additional obligations of Significant Data Fiduciary

The Draft Bill does not actually define a 'Significant Data Fiduciary'. However, it reserves Central Government's right to identify a Data Fiduciary or class of Data Fiduciaries as Significant Data Fiduciary based upon its assessment of relevant factors including the ones specified in Clause 11 such as risk of harm to the Data Principal, volume and sensitivity of personal data etc.

From a perusal of Clause 11 it is apparent that vast and unlimited powers have been conferred on the Executive to identify any Data Fiduciary as a Significant Data Fiduciary, which needs to be amended to ensure that all the relevant parameters are duly captured in the Draft Bill itself to avoid any ambiguity and misuse of power by the Executive. Further, since even journalists, broadcasters and/or media companies can be regarded as Significant Data Fiduciaries under the Draft Bill, they may also be required to appoint a Data Protection Officer, Independent Data Auditor and undertake such other measures including Data Protection Impact Assessment, which would be onerous requirements for journalists, broadcasters and/or media companies.

Clause 13 - Right to correction and erasure of Personal Data

The requirement to comply with requests to erase personal data under Clause 13(2)(d) would be unworkable for journalists, broadcasters and/or media companies as the same will create issues such as editing programmes, reports, documentaries, etc., in case Data Principal(s) seek erasure of their personal data in programmes, reports, debates, documentaries, etc. Analysis, reports, programmes, etc. on issues of public interest such as scams, wrong doings, etc. strengthens democracy however, by allowing erasure of information, and consequently restricting the availability or access to such information for media / journalistic purposes results in seriously threatening the media's rights under Article 19(1) (a). There is a need to align provisions of Clause 13(2)(d) of the Draft Bill with Clause 9(6)(b) of the Draft Bill i.e., by allowing Data Fiduciaries to retain data for 'business purposes' as well.

Clause 14 - Right of grievance redressal

The timeline prescribed under the Draft Bill, for responding to the grievances of a Data Principal is extremely short and needs to be enhanced as it does not factor the time that may be spent in resolving issues relating to incomplete/incorrect information in the complaints.

Clause 18 - Exemptions

Under Clause 18 of the Draft Bill widescale exemptions have been provided to state instrumentalities, for processing user data without their consent, in the interests of the sovereignty and security of the State. Furthermore, State instrumentalities are not required to adhere to principles of data retention, and may retain user information for an indefinite period, without any qualifying criteria, for determination of the same. Under the Draft Bill user privacy may be compromised to protect legitimate State interests.

Clause 18(3) allows the Central Government to exempt any Data Fiduciary from the provisions of the Draft Bill, without providing any parameters and governing principles. Further, Clause 18(4) also does not explain the reason or basis for granting the State (or any instrumentality of the State) an over-riding power or right against erasure of personal data.

Clause 19 - Data Protection Board of India and Functions thereof

NBDA submitted that it was necessary to ensure that the composition of the DPB provides for the appointment of Chairperson and members with judicial background. Further, in case of creation of benches, it should be mandated that each such bench ought to have a member with a judicial background as the presiding officer of such bench. In addition, the DPB which is sought to be established under the Draft Bill should comprise of experts who have extensive knowledge of the subject matter. In the present context, setting up of the DPB would invariably mean involvement of individuals who have the technical expertise, understand the principles and rights of the stakeholders and are also able to appreciate the needs, concerns and limitations of the private entities – the Data Fiduciaries and the Data Processors.

The stipulation that the DPB may perform such functions as may be assigned is open-ended, vague and excessive. It is also not clear as to how the Draft Bill envisages implementing the principles of natural justice. If the DPB is involved in an issue, relating to prescribing standards or conducting an investigation, then the DPB should not decide on issues that involve interpretation of standards prescribed by it, or involve correctness of investigations conducted by it. There should be an independent oversight mechanism put in place to look into such matters. Clause 20(1)(a) of the Draft Bill should be amended to explicitly provide that any '*substantial*' non-compliance may attract penalty.

Clause 22 - Review and Appeal

Clause 22(3) of the Draft Bill, which excludes the jurisdiction of civil courts should be amended to specify that in addition to civil courts, other authorities too shall have no jurisdiction to entertain any suit or take any action in respect of matters concerning the Draft Bill.

Clause 23 - Alternate Dispute Resolution

The introduction of provisions relating to Alternative Dispute Resolution (ADR) in Draft Bill are a welcome step. However, the same may be strengthened by mandating compulsory, good faith and bona fide participation in ADR as a condition precedent before any grievance can be filed with the DPB. Further, prior to approaching the DPB under Clause 14 or invoking provisions relating to ADR under Clause 23, there should be a requirement to approach the industry body self-regulatory mechanism such as News Broadcasting & Digital Standards Authority (NBDSA). Provisions relating to voluntary undertaking ought to be introduced at the stage of grievance redressal at the level of Data Fiduciary as well as at the stage of ADR.

Clause 25 - Penalties

Clause 25 of the Draft Bill prescribes the maximum penalties to be Rs. 500 crores in each instance. Notably, both Data Processors and Data Fiduciaries can be penalized up to Rs. 250 crores if they fail to put in place reasonable security safeguards to prevent personal data breaches. The Joint Parliamentary Committee on the Personal

Data Protection Bill had recommended that the government should be flexible in determining penalties by considering rapidly evolving technologies. While the Draft Bill also allows the government to amend penalties, it prescribes an upper limit. Clause 25(2) of the Draft Bill does provide for a principle-based approach to factor certain aspects before imposing penalties and on its quantum, however there is no guidance whatsoever on how these principles are to be applied by the DPB. The Draft Bill also does not provide for factoring of precedents and/or actions taken in good faith or absence of mens-rea. The statutory maximum penalty should differ from contravention to contravention. For example, it maybe higher for a fixed sum or a percentage of the turnover or qualifying revenue of an enterprise (e.g. 3% or 10%).

Stipulations relating to financial penalties as envisaged in Clause 25(1) read with Schedule-1 of the Draft Bill are excessive, need to be rationalized and should be watered down.

Considering that time will be required to put in place robust mechanism to deal with expectations envisaged in the Draft Bill, NBDA suggested that Clause 25(1) and Schedule-1 of the Draft Bill should be brought into effect at least after three (3) to five (5) years from the date of notification. That even in the case of GDPR, two years' time was given before the provisions were adopted.

Other Issues:

Excessive Delegation

The Draft Bill suffers from excessive delegation of powers as it contains twenty-nine instances where Government has been vested with various powers. NBDA noted with concern that majority of such instances do not provide for any legislative guidance on the form and manner on how such delegated powers are to be exercised.

Interpretation

The stipulation under Clause 3(1) of Draft Bill which attempts to place Rules framed under the Draft Bill at the same pedestal as provisions of the Draft Bill itself, need to be removed inter-alia since an executive decision cannot be given the same weightage as a legislative action.

Transparency

The Draft Bill contains enabling provisions and envisages exercise of various expansive powers by the Government. In the interest of transparency, a Clause ought to be introduced in the Draft Bill that contemplates that the Government should ensure transparency while exercising its powers and discharging its functions. Seeking stakeholders opinions/views before finalizing the Draft Bill and Rules will go a long way in ensuring that not only is each issue analyzed thoroughly beforehand but will also reduce challenges, litigations and disputes.

Clause 27 - Power of Central Government to amend Schedules

Clause 27 of the Draft Bill which provides for power of the Central Government to amend Schedules is excessive and goes beyond the scope of the Draft Bill. The same also does not contemplate the matters in respect of which such amendments may be issued other than enhancement of penalties by up to two times the penalties specified in Schedule-1.

Clause 17 - Transfer of personal data outside India

The Draft Bill does not provide any references to compliances necessary to transfer data outside India. The Central Government has retained the power to notify such countries where cross border data transfers may be executed upon an assessment of factors to be specified at a later stage by the Central Government. NBDA suggested that detailed rules governing transfer of data outside India needs to be captured in the Draft Bill and robust restrictions should be incorporated to prevent transfer of data outside India as the Draft Bill does not distinguish between personal data and sensitive personal data. The absence of such distinction may create

additional ambiguity in compliance for BFSI service providers who are regulated by sectoral regulations for matters on cross border data transfer and have acute requirements for data localization.

The Digital Personal Data Protection Act has been notified by the Government on 11.08.2023.

Draft Amendment to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 [IT Rules 2021]

On 2.1.2023, the Draft Amendment concerning Online Gaming was issued by MeitY. Subsequently, on 17.1.2023, MeitY also issued the proposed amendment which provided for constitution of a Fact Check Unit. NBDA submitted its comments to the amendments, which are as follows:

PART A – Fact Check Unit

1. Amendment to Rule 3(1)(b)(v) of the IT Rules, 2021

The proposed amendment to the IT Rules, 2021, dated 17.1.2023 sought to amend Rule 3(1)(b)(v) to cast an obligation on intermediaries to make reasonable efforts to cause user of its computer resource not to *inter-alia* share any information that is identified as ‘fake’ or ‘false’ by Press Information Bureau (PIB), or any other agency designated by the Government. NBDA stated that the Proposed Amendment is susceptible to be misinterpreted and, in any event, adversely impacts the freedom of speech and expression of the media, by making the Government the adjudicator in respect of information available on the internet.

Through the proposed amendment, it appears that the Government intends to appoint PIB or any other agency as the exclusive fact checker and consequently, it is the Government Agencies which will finally determine which news content is fake and subsequently direct the intermediaries to take down the same. NBDA submitted that both PIB or any other agency appointed by the Government are interested parties, and therefore, their actions/directions may amount to censorship, thereby violating the 19(1)(a) rights of the media. There is a clear conflict of interest in appointing PIB/any other agency for fact checking news content as being fake or not as substantial information in news content relates to reporting of government affairs/business. Therefore, PIB/ or any other agency appointed by government cannot be given the absolute power to determine, which information is fake/false.

In view of the foregoing, NBDA submitted that intermediaries may be coerced or directed to take down alleged ‘fake / false’ information, which will have a direct impact on the news content published by the members of NBDA. Furthermore, such directions imposed on the intermediaries will violate the principles of natural justice of the digital news media as the content will be taken off without giving the stakeholders a hearing. This would be a clear impingement of the Article 19(1)(a) rights of the media under the Constitution.

An entirely new censorship framework has been created for the digital news media through the intermediaries which is at variance with what is statutorily prescribed under Section 69A of the Information Technology Act 2000 (“IT Act”). Section 69A contains restrictions under which MeitY can order the take down of content, which restrictions are essentially the restrictions enumerated under Article 19(2) of the Constitution. The proposed amendment introduces PIB and any other agencies, which are at present not statutorily empowered to direct intermediaries to take-down online content or news.

The proposed amendment also violates the principles laid down in *Shreya Singhal v. Union of India (2015) 5 SCC 1*, which upheld the constitutional validity of Section 69A on the ground that content can be blocked under the section only after giving a reasoned order and after following the procedural safeguards including giving the concerned/affected party an opportunity of being heard.

The proposed amendment is vague in that, it neither defines “fake” or “false” news nor does it lay down the parameters or the process which will be followed by PIB and other government agencies to determine what would amount to “fake” or “false” news.

Rule 3(1)(b)(v) is not acceptable as it will result in suppression of all and any legitimate criticism or analysis of the government and its policies. In fact, substantial information published by digital news media relates to government affairs, business, policies and activities. Therefore, this Rule is a violation of the free speech rights of the media as well as the citizen's right to receive information under Article 19(1)(a) and needs to be deleted.

Despite legality of IT Rules, 2021 being contentious as challenges to the validity and constitutionality of the IT Rules, 2021 are pending before Hon'ble High Courts/Hon'ble Supreme Court, MeitY has continued to expand its powers under these IT Rules, 2021 by introducing an additional layer of censorship, wherein government-appointed agencies have been given the power to decide which content stays up on the internet, and which does not.

NBDA submitted that without prejudice to its submission to ensure independence of media, the proposed amendment should be withdrawn in view of the fact that the government should have no role to play in amending, modifying or deleting content relating to news and current affairs. NBDA also suggested that:

- a. There should be a separate detailed consultation done on this issue.
- b. There should be a clear definition of what can be termed as Fake/ False information.
- c. There should be defined and objective criteria/ parameters on which the information can be evaluated as Fake/ False information.
- d. There should be defined process/ guidelines for deciding which information is Fake/ False.

NBDA had also stated that it has provided comments on Rule 3(1)(b)(v) of the proposed amendment with an aim to pre-empt any unintended consequences of interference with the free speech rights of digital news media platforms.

It may be noted that subsequent to the submission of comments, MeitY vide notification dated 6.04.2023 notified the Information Technology (Intermediary Guidelines and Digital Ethics Code) Amendment Rules, 2023.

NBDA has filed an Intervention Application in the matter of Editors Guild of India vs Union of India WP (L) 14955 of 2023 challenging Rule 3(II)(A) and (C) of the Information Technology (Intermediary Guidelines and Digital Ethics Code) Amendment Rules, 2023, which provided for constitution of a Fact Check Unit.

PART B – Online Gaming

On 2.1.2023, MeitY issued the draft amendment to the IT Rules, 2021 which sought to bring online gaming within the purview of IT Rules 2021 and regulate online gaming industry by requiring an online gaming intermediary *inter alia* to observe additional due diligence while offering online games, be part of a self-regulatory body (SRBs), only publish games approved by such SRBs, follow know-your-customer (KYC) norms and set up a grievance redressal system.

NBDA stated that digital news media platforms do not fall within the purview of an 'intermediary' and/or 'online gaming intermediary' under the IT Act and IT Rules, 2021. However, in view of the fact that Rule 6A of the draft amendment empowers the MeitY to classify 'any' game available on the internet, even if it does not involve making a deposit, as an 'online game', NBDA submitted its comments on the draft amendments.

NBDA stated that while it believed that regulating the online gaming sector was important however, on a perusal of the draft amendment, it had certain concerns, as given below:

Draft Amendment is ultra vires the IT Act

The draft amendment seeks to regulate 'online games' and 'online gaming intermediaries' by bringing them within the purview of Part II of the IT Rules, 2021.

Online gaming platforms are not classified as intermediaries under the IT Act. Further, the terms 'online games' or 'online gaming intermediary' have not been defined under the IT Act. The IT Act was never enacted, nor was the objective of the IT Act to regulate 'online games'; therefore, regulating online gaming does not fall within the purview of the IT Act.

On 23.12.2022, a gazette notification was released which amended the Allocation of Business Rules, 1961, to designate MeitY as the nodal Ministry in respect of online gaming in India. However, since the IT Act does not contemplate regulation of 'online games' or 'online gaming intermediaries', delegated legislation such as the IT Rules 2021 cannot regulate 'online games' or 'online gaming intermediaries' as it would be ultra vires the parent Act.

Ambiguity in the Definition of 'Online Game'

From the definition, of 'online game' under Rule 2 (qa), it is understood that any online game that does not require a deposit and does not involve any expectation of earning winnings would not be included within the said Rule.

The definition of 'online game' under the draft amendment is ambiguous and wide as it fails to adequately clarify what kind of games could be regarded as online games and therefore be subject to obligations sought to be imposed by the draft amendment.

Based on the business models followed, online gaming platforms can be broadly categorized as Casual Games, Real Money Games [RMG], E-Sports / E-Games – E-Sports, Fantasy Sports and Games with in-built in-app purchases.

It is presumed that the term 'online games' as defined under the draft amendment would only include RMGs and Fantasy Sports, which involve payment of 'deposits' and 'expectation of winning' within its ambit. Casual Games for e.g., Ludo King and Candy Crush Saga, would not be covered under the definition of 'online games'. However, in the absence of a precise definition, it is unclear whether games which do not require players to pay participation fee but require in-app purchases would also qualify as '*online games*' under the draft amendment.

The confusion regarding the category/type of games that fall within the ambit of 'online games' is further compounded by the fact that the draft amendment also fails to distinguish a game of skill from a game of chance played for money.

It may be noted herein that deposits and winnings referred to under the draft amendment can be in both 'cash or kind'. A perusal of the draft amendment reveals that the term 'kind' may have been included in the definition of deposits and winnings to include 'non-monetary tokens' or 'online currencies'. However, in the absence of an explicit definition, the term 'kind' may be construed to include games that do not require the user to make a deposit or offer the user any expectation of winning. As a result, the term 'online games' can be misinterpreted to include even Casual games, which may be incorrectly brought under the ambit of 'online games' and thereby be subject to regulation.

In view of the above, clarity is required regarding the category/type of games that fall within the ambit of '*online game*' and whether it specifically covers only skill-based games.

NBDA suggested that an explanation may be added to the definition, which clarifies that Casual Games and E-sports will not be considered as '*online games*' and would be outside the ambit of the regulation. Further, it should also be clarified that if a game permits in-app purchases, for e.g. to change a user's avatar, it will not be considered as an '*online game*' under the draft amendment.

Entry No. 34 and 62 of the State List give States the exclusive power to make laws relating to betting and gambling. States have either adopted the Public Gambling Act, 1867 or enacted legislations to prohibit any sort

of gambling, betting, or wagering on games of chance. Since most of these legislations were introduced before the emergence of the internet, they do not expressly contemplate online gambling. However, some States such as Tamil Nadu, Chhattisgarh, Andhra Pradesh, Sikkim and Telangana have enacted/amended their legislation to regulate online gaming. Notably, all these legislations are vastly different in nature. Chhattisgarh, for instance, has banned both online and offline gambling, whereas Tamil Nadu has only banned online gambling. On the other hand, Sikkim has restricted the offering and playing of online games to the physical premises of a gaming parlor.

Therefore, there is a disconnect in State-enacted regulation, which is a by-product of the fact that there is no objectively definable test or regulatory guideline or administrative forum to assess and determine if a game will be characterized as a game of skill or of chance. As a result, States such as Tamil Nadu consider rummy as a 'game of chance' and have sought to ban it, but the Hon'ble Supreme Court has ruled multiple times that rummy is a 'game of skill'.

The confusion in the legislation on online gaming and gambling, as set out herein above, impedes the growth of the online gaming market, which was valued at \$ 1.8 bn in 2021, and is expected to reach an estimated value of \$ 5 bn in 2025, at a CAGR of 30%.

NBDA stated that the draft amendment must clarify (a) whether rummy, poker, etc., are regarded as games of 'skill' or 'chance'; and (b) the status of online gambling throughout the country.

Definition of 'online gaming intermediary'

An 'online gaming intermediary' has been defined under Rule 2(qb) of the draft amendment to mean an *"intermediary that offers one or more than one online game"*. The definition of an online gaming intermediary is ambiguous.

It is evident that digital news media platforms which only publish news content and may host and/or advertise the link for some RMG platforms, would not fall within the purview of an 'online gaming intermediary' under the draft amendment as they merely redirect the users to the servers of the RMG platforms and do not offer any online game on their platform.

However, it is unclear whether platforms that host games/ a range of games, such as Google Play Store, Apple App Store would be considered as online gaming intermediaries and, therefore be required to conduct due diligence on each game offered/hosted on their platform. Further, it is also uncertain whether standalone gaming platforms that publish games on their website but do not host games on behalf of other users would fall within the definition of an 'online gaming intermediary'. Therefore, it should be clarified in the draft amendment that websites that host their own games on their platform do not fall within the definition of an online gaming intermediary.

Requirement for Due Diligence

Before an intermediary can host, publish or advertise an online game, Rule 3(1)(ma) requires intermediaries to *"ascertain from the online gaming intermediary"* and *"verify from the concerned SRB"* whether the online game has been registered with the SRB. The intermediary must also display the fact of such registration on its website/mobile-based application. Rule 3(1)(ma) further provides that *"the requirements under this clause"* shall be applicable upon the expiry of three months from the notification of the draft amendment. On a perusal of the above provision, NBDA submitted that the requirements imposed under Rule 3(1)(ma) are burdensome and onerous for the intermediary.

That onerous compliance requirement cannot be fastened on digital news media platforms which do not fall within the definition of an 'intermediary' or an 'online gaming intermediary' and merely host/advertise or provide link to the website/server of the RMG platform. Furthermore, only links of RMG platforms or online

gaming platforms, which do not violate any laws, including those relating to gambling or betting are hosted or advertised. Therefore, digital news media platforms cannot be subjected to stringent requirements to observe due diligence as intermediaries under the draft amendment. In any event, as stated herein above, since digital news media platforms are not intermediaries under the IT Act and the IT Rules 2021 and only host/advertise the link to RMG platforms, it should be the responsibility of an online gaming intermediary to furnish such certificate to digital news media platforms.

Requirement to observe additional due diligence

Rule 4A(c) mandates an online gaming intermediary to prominently publish on its website and mobile application (a) a random number generation certificate and (b) a no bot certificate from a "*reputed certifying body for each online game offered by it*". Notably, the draft amendment has not defined or indicated who this 'reputed certifying body' may be. In the absence of this clarity, it is difficult, if not impossible, for online gaming intermediaries to comply with this mandate.

Rule 4A(b)(iii) read with Rule 4A(d) of the draft amendment, further requires online gaming intermediary to identify the users who create an account with a gaming platform and verify her identity as per the KYC norms laid out by the Reserve Bank of India for the financial sector.

Under the draft amendment, the Government is treating all users of online gaming platforms on similar terms as those engaged in the banking sector. The risks in online gaming are not nearly as grave as those posed by money laundering and terror financing hence, KYC verification should not be required for users to play an online game.

Requiring KYC verification from all online users that too, through an executive notification is a privacy concern, especially since no rationale has been identified for such an onerous move. Such requirements remove the anonymity of an individual without any consideration and further centralize data creation and collation at a time when India does not have a data protection law, this goes against the principle of data minimization.

In view of the above, it is recommended that the requirement of KYC verification at the time of commencing a user account-based relationship should be removed. KYC verification, if required should only happen for those users who have won the online game.

In respect of digital news media platforms, it is submitted that since they are not intermediaries and only host the link to RMG platforms, they should not be required to comply with additional due diligence requirements under Rule 4A. The requirement to comply with KYC procedures and measures for protection of deposits and framework of SRBs, RNG/No-Bot certificate from a certifying body, identification of users, etc., should be the obligation of the online gaming intermediary only.

Rule 4A(g) under the Draft Amendment requires online gaming intermediaries to appoint a Chief Compliance Officer, who will be responsible for ensuring compliance with the IT Rules, 2021, and will be personally liable for any non-compliance.

In including such a provision, the draft amendment treats online gaming intermediaries at par with significant social media intermediaries even though the type of service they provide is vastly different. The excessive due diligence that exists in respect of significant social media intermediaries need not be imposed on online gaming intermediaries, as the problems of misinformation, hate speech etc., do not exist vis-à-vis the online gaming intermediaries. Furthermore, the enhanced liability imposed on the Chief Compliance Officer should be omitted as such a provision will create a '*chilling effect*' and make it difficult to find competent personnel to be appointed as Chief Compliance Officer. Further, Rule 4(h), which mandates the appointment of a nodal contact person, must also be dispensed with.

Under Rule 4A(1)(l), online gaming intermediaries are required to, within 24 hours of receiving an order, *“provide information under its control or possession, or assistance to the Government agency which is lawfully authorised for investigative or protective or cyber security activities for the purposes of verification of identity, or for the prevention, detection, investigation, or prosecution of offences under any law for the time being in force or for cyber security incidents.”*

This requirement is in stark contrast to the 72-hour timeline given to all other intermediaries. Not only is this distinction in the timeline for compliance unwarranted and unreasoned, but it is also excessive and onerous, and there is no parity between the two entities. Therefore, it was suggested that Rule 4A(1)(l) should be amended, and the timeline should be increased to 72 hours.

Registration of Self-Regulatory Bodies (SRBs)

Under Rule 4B, MeitY retains the discretion in accepting or rejecting the registration of the SRB. One of the conditions for rejection under Rule 4B(3)(d)(iv) is the failure to include a government nominee on Board. NBDA stated that the exercise of such powers undermines the self-regulatory light touch model adopted by the government and veers into the territory of regulation/co-regulation. Having a government-nominated individual will undermine the independent functioning of the SRB thus, it was suggested that the requirement in Rule 4B(3)(d)(iv) should be deleted.

The proviso of Rule 4B(3) allows the Ministry to consult any appropriate Government or any of its agencies before registering SRB. In the absence of any guidelines which can guide the application of this discretionary power, it was suggested that Rule 4B(3) should be deleted. Once an SRB is constituted, as long as it complies with the requirements under the draft amendment, it must be registered.

Notification of any other game as online game

Rule 6A of the draft amendment empowers the MeitY to classify ‘any’ game available on the internet, even if it does not involve making a deposit, as an ‘online game’, if the game (a) creates a risk of harm to the sovereignty and integrity of India or security of the State or friendly relations with foreign States or public order; or (b) it causes addiction or ‘other harm’ among children.

This is an extremely broad power that has been conferred on the government without any limiting principle, which the government can exercise at its discretion without consulting any other body. Further, the meaning of the phrase ‘addiction or other harm’ to children is extremely wide and has no fixed standards, which also raises concerns about excessive government regulation of the online gaming market. The government has failed to expand on what it means/understands by ‘harm among children’. It should therefore define and clarify these concepts to avoid inconsistent application and prevent misuse of the Rules. Hence, it was suggested that Rule 6A be deleted or modified to introduce a strict limiting principle to regulate the exercise of discretion.

Ministry of Information & Broadcasting [Mol&B]

C-Band Satellite Spectrum for Broadcast Services

NBDA vide letter dated 18.4.2023 drew the attention of Secretary Mol&B to certain news reports wherein it was indicated that the Department of Telecommunication (DoT) is considering allocating a major part of C-Band for 5G services, which at present is being used for broadcast services. The use of C-band (called Mid-Band in 5G terminology) has already been a matter of extensive debate amongst the stakeholders and consultation over the last five years.

Background Facts

The proposal to allot C-Band Spectrum to telecom service providers for enabling 5G services poses a gigantic threat to the very existence of the broadcast industry.

As the entire broadcast industry depends on C-Band for Uplinking and Downlinking broadcast signals. This resource is distributed amongst multiple stakeholders for making approximately 900 channels available in India to the subscribers through various Distribution Platform Operators (DPOs). The 6 GHz band (5925 to 6425 MHz) is used for Uplinking and the 4GHz band (3700-4200 MHz) is used for Downlinking. These bands are assigned by the International Telecommunication Union (ITU) and are internationally coordinated.

That originally, as per the National Frequency Allocation Plan, 2018, only spectrum in the band of 3300-3600MHz was assigned for telecom services while the band range of 3700-4200 MHz was being used by broadcasters and DPOs for enabling services to end consumers.

TRAI had in its recommendations in 2018, recommended auctioning C band spectrum between 3300-3600 MHz band for 5G services. Subsequently TRAI in its recommendations dated 11th April 2022 on 'Auction of Spectrum in Frequency Bands identified for IMT/5G' (Recommendations 2022), in Paragraph 6.4 recommended that:

a) As the IMT emissions in the 3300-3670 MHz may saturate the Low Noise Block (LNB) of the FSS earth station which traditionally operates in the 3400-4200 MHz, there is a need to make use of high-quality bandpass filters operating in 3700-4200 MHz range.

Therefore, DoT should ask the Ministry of Information and Broadcasting (MoI&B) to take appropriate action and sensitize the MSOs, DTH operators, and other users to ensure the use of high-quality bandpass filters operating in 3700-4200 MHz range to avoid interference from IMT stations.

b) In order to avoid unwanted out of band emissions of the IMT stations falling within the FSS operating band 3700-4200 MHz, DoT should prescribe for having a sharp Spectrum Mask for IMT transmitters with an out-of-band PFD limit."

The Recommendations 2022 cast specific responsibilities on the MoI&B and the DoT to take necessary steps to prevent interference with Satellite-Based C-Band Services, particularly in relation to Cable & Satellite broadcast channels. These recommendations were given even though the band being considered did not directly overlap with the C-Band of 3700-4200 MHz.

The issue raised by the broadcasters during the consultation process was the offering of the lower band of 3300-3670 MHz for 5G services which was considered detrimental to Satellite based C-Band, even though it contained a guard band before the regular C-Band of 3700-4200 MHz began. Subsequently, DoT increased the band to 3300-3670 MHz, pursuant to which the broadcasters objected to the addition of 70 MHz, thereby reducing the guard band from 100 MHz to 30 MHz.

On 26.10.2022, DoT notified the National Frequency Allocation Plan, 2022 (NFAP, 2022) where the C-band used for downlinking, i.e., 3700-4200 MHz, was allocated for dual use of Satellite and Mobile Services. While notifying the NFAP, 2022, DoT failed to take into consideration TRAI's recommendations, and the concerns and issues raised by the broadcasting industry.

Based on news reports, it is believed that DoT is presently considering the auction of bands 3700-4000 MHz (out of 3700-4200 MHz downlink band) and 5925-6225 MHz (out of 5925 to 6425 MHz uplink band) for 5G purposes.

NBDA submitted that the impact of the proposed action on both uplink and downlink Bands of C-band services are as follows:

Disruption of Broadcast Services

- i. That the proposed allocation of bands will significantly reduce the C-Band Spectrum available for broadcast services. The proposed approach signifies movement to an operational modality where satellite uplink as backhaul to distribution head ends will give way to terrestrial telecom circuits.
- ii. That broadcast services will be completely disrupted, if the aforementioned bands are allocated for 5G services as there will be interference due to the high-power transmissions by terrestrial 5G transmitters, directly within the C-Band which are used for broadcast services.
- iii. That satellite broadcasting services and mobile terrestrial services cannot exist together in the same geographical location.
- iv. That the Low Noise Blocks (LNB) will get overdriven by the In-Band signals in the C-Band which will be about 1000 times stronger than satellite signals.
- v. That all filters with pass band of 3700 to 4200 MHz will be rendered redundant thereby, overlooking the recommendations by the TRAI.
- vi. That the reception of signals by thousands of cable operators across India will get completely disrupted and the customers, primarily in rural areas will cease to receive cable services.
- vii. That initially DoT had assured the broadcasters that they had nothing to fear with the expansion of the band (3300-3670 MHz) as the interference in respect of the frequency relating to broadcast services would be taken care of through filters, however, it appears that DoT is taking away the whole distribution medium and therefore working against the spirit of doing business freely.

ITU Coordinated Satellites will be rendered redundant

- i. That over six international satellites and a similar number of ISRO owned C-band satellites will be rendered redundant all over India once the spectrum in the band they operate is allocated for 5G as the reception of frequencies/signals would no longer be possible and would be forced to shift operations to other countries in the footprint.
- ii. That these satellites, having a life of 15 years operate on an ITU coordinated spectrum of 5925-6425 MHz (uplink) and 3700-4200 MHz (downlink) which is guaranteed by the ITU for operation throughout the footprint which may span over 150 countries for satellites such as Asiasat-7 and Intelsat-20. Being signatories to the ITU, the countries where such signals are received have acceded to the use of these frequencies by the respective satellites. This process of satellite coordination is a collaborative process which has happened over multiple years and has guaranteed operations on a “no-interference” basis. Once the satellite is coordinated, there cannot be any country-based restrictions or “access rights” imposed.
- iii. That in India, the Wireless Planning & Coordination (WPC) Wing of the DoT, Ministry of Communications is the representative organ of the Government of India which is a signatory to the ITU and is responsible for coordination of these satellites. Therefore, if the proposal to take away a part of coordinated C-band is adopted, India would be acting in violation of its commitment to the ITU.

Change in the nature of the media industry to a monopolistic structure.

- i. That any potential move such as the one being proposed by DoT would divest India of its rich and diverse media network which was built assiduously since the days of satellite communications in the 1990s and would result in the setting up of duopoly operators, thereby rendering thousands of cable operators and their entire ecosystem worthless.
- ii. That the proposal under consideration by DoT would commercially benefit a certain section of telecom operators and result in monopolistic operations which are directly prejudicial to the entire satellite broadcasting industry in India.
- iii. That it appears that the counter argument of the potential beneficiaries on the present proposal seems to be that OTT and IPTV is gaining popularity and will replace the cable networks soon. While there

is no problem with the induction of new technologies including IPTV and OTT, however the creation of any potential monopolistic and restrictive environment due to induction of new technologies will impinge the free speech rights of the media.

- iv. That further, the rural populace in India is heavily dependent on linear TV of nearly 900 broadcast channels for their entertainment and education, which they receive at minimal cost despite inadequate infrastructure on the ground.
- v. That it is possible as appeasement to policy makers the telecom operators may offer to carry the linear TV channels via their ground fibre or 5G networks but such captivity of a free medium to the monopolistic networks of a few operators would be unprecedented and would directly impinge the media's right of freedom of speech and expression which would be ultra-vires Article 19(1)(a). In several cases, the Hon'ble Courts have held that allocation of a public resource must be done in a manner to be in public interest and to prevent creation of monopolies amongst private entities.
- vi. That the allocation of new spectrum in the band 3700-4000 MHz and in the 6 GHz uplink band will sound the final death knell of the diverse broadcast industry. The industry intends to oppose the proposal as floated by DoT, for which it needs the support of the MoI&B.

Freedom of Speech and Expression of the Media

When it comes to seeking permission under the Uplinking and Downlinking Guidelines, News and Current Affairs channels are a separate category from other genres, particularly as they disseminate news/information of public interest and are therefore protected under Article 19(1)(a) of the Constitution and prevents any restrictions being put on the same, except under the subject matters covered under Article 19(2). It is important to have multiple mediums to disseminate information and if the proposal for allocation of bands cited above is implemented, it will result in monopolies being created and therefore be a violation of the free speech rights of the media, as the medium of distribution and the content will be affected. Further, measures which directly impinge freedom of speech and expression guaranteed to the media under the Constitution cannot be done by way of executive policies including administrative decisions.

5G allocations in India and USA are not comparable

It appears that the demand for allocation of C-band spectrum for 5G is being made based on such allocation in USA. However, it is incorrect to draw a parallel between India and USA, as in USA, the Federal Communication Commission (FCC) evacuated C-Band, post deliberations and planning over many years and after paying over \$10 billion to the satellite operators to launch new satellites suitable for the curtailed C-band. Earth stations and the cable operators were also similarly compensated for retrofitting of filters and undertaking earth station modifications for new satellites. In fact, such satellites have already been launched by Intelsat and SES.

The Indian broadcast industry is very different from other countries in terms of size, geography and the number of channels. Restricting satellite broadcasting would result in multi-fold increase in satellite transponder capacity and would not be feasible considering the limited orbital positions available over India. The scarcity created as a result of reduced bandwidth will lead to higher costs for broadcast services.

The Cable and Satellite Network of India with thousands of head ends cannot be modified to work with the current satellites if the band itself is impinged with direct interference from 5G networks. All the filters of 3700-4200 MHz (numbering in thousands), which have already been installed based on TRAI Recommendations, would also be rendered worthless if the aforementioned bands are allocated for 5G Services.

5G Globally is using new bands beyond C-band (NR Bands and mm Wave bands)

NBDA stated that it is not opposed to new technologies and innovation. It is a well-known fact that C-band can serve the needs of 5G only for an interim period as the data capacity it presents will be overtaken in a

couple of years. The solution, as adopted in other countries lies in the use of higher bands which present higher bandwidths and higher capacities. These include the 28 GHz band, 37 GHz band and 49 GHz band. These bands have been used in many countries including USA, where the telecom companies had to move to these bands despite having subsumed a major part of the C-Band.

DoT has the option to offer mm band to telcos which has larger data carrying capacity which will result in both sectors continuing to offer best services to end users. India can take an early lead in the use of higher bands instead of damaging a vibrant and essential media industry which has been operating successfully through the years.

NBDA stated that certain sectoral interests have been more vocal in propagating their interests in respect of the modification of bands which are contrary to TRAI recommendations. As a stakeholder, it is of deep concern to the broadcasters that hasty measures are being taken by the authorities to auction and allocate frequency in the C-Band to telecom operators without an iota of concern towards the linear TV broadcasting industry which revolves around the use of C-Band Spectrum, whereas, the telecom service providers have multiple options at their disposal for enabling services including the “mmWave bands” also termed as the 5G-nr-Bands (n-258-26 GHz, n260- 39 GHz, n261-28 GHz) where very large bandwidths are available. It appears that no consideration has been given to the fact that allocation of frequencies in C-Band will also result in disruptions of satellite services for media and broadcast sector and have huge financial ramifications for the various stakeholders in the broadcast industry. In the light of the numerous concerns put forth, NBDA requested the Mol&B and the WPC Wing of the Ministry of Communications to view the matter judiciously and grant it an opportunity to put forth its reservations, concerns, and submissions. NBDA sought an urgent intervention in the matter and requested that no unilateral action be taken by DoT without holding a consultation with all stakeholders.

In this regard, NBDA had on 22.06.2023 also represented to Chairman DCC & Secretary (T), DoT, Ministry of Communications, reiterating its concerns and apprehensions regarding the proposal to shift the broadcasters from the current frequency band of 3700 to 4200 MHz to 4000 to 4200 MHz. NBDA had stated that the proposal, if implemented will sound the death knell for the broadcasting sector, as it will result in complete disruption of the broadcast services and have huge financial ramifications for the various stakeholders in the broadcasting industry including its members. It will result in only 200 MHz being available for broadcasting services i.e., a reduction of 60% capacity across all satellites because of which more than 40 transponders would have to move to higher frequencies, which will create serious and irreversible disruptions in the broadcasting industry. Further, it had stated that slicing of C-Band to create separate bands of 3700-4000 MHz and 4000-4200 MHz was not possible due to the extremely high level of emissions of 5G which are nearly a million times that of the satellite downlink signals in the adjacent sliced band of 4000-4200 MHz, which will make any reception impossible. NBDA had also brought to DoT's notice that C-band can serve the needs of 5G only for an interim period as the data capacity it presents will be overtaken in a couple of years. That the solution, as adopted in other countries lies in the use of higher bands which present higher bandwidths and higher capacities. These include the 28 GHz band, 37 GHz band and 49 GHz band. These bands have been used in many countries including USA, where the telecom companies have had to move to these bands despite having subsumed a major part of the C Band. NBDA had also requested for a meeting to explain its reservations and concerns in respect of the above issue. However, no response has been received from DoT and neither has NBDA been called for discussions.

Policy Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022

Mol&B on 9.11.2022, issued “Guidelines for Uplinking and Downlinking of Television Channels in India, 2022” thereby replacing the Policy Guidelines of 2011 for Uplinking and Downlinking of Television Channels from India. On a perusal of Guidelines 2022, NBDA had certain concerns, which it highlighted vide its representation dated 25.11.2022 as stated below:

Clause 35 - Obligations of Public Service Broadcasting

Clause 35, which imposes an obligation for public service broadcasting on the news channels, was not present in any of the previous Guidelines, including the Uplinking and Downlinking Guidelines of 2011.

This issue was also not raised in the Draft Policy Guidelines for Uplinking and Downlinking of Television Channels ("Draft Policy") dated 30.4.2020. Therefore the stakeholders had no opportunity to comment or give their suggestions on the same.

The obligation of public service broadcasting has been included in Guidelines 2022 because the guidelines state that "*airwaves/frequencies are public property and need to be used in the best interest of the society*".

It may be relevant to note that the rights exercised by the broadcasters through broadcasting are covered under freedom of speech and expression as contemplated in Article 19(1)(a) of the Constitution. In the instant case, the requirement/obligation to undertake public service broadcasting sought to be imposed by way of Guidelines 2022 not only travels well beyond the specific heads enumerated under Article 19(2) but are also not "reasonable restrictions" under Article 19(2). That "*public interest*" and "*best interest of society*" are not restrictions under Article 19(2) to the free speech rights under Article 19(1)(a). Further, Clause 35 also does not appear to be supported by any statutory provision.

Such onerous restriction on the broadcasters' fundamental right to speech and expression cannot be placed by way of an executive policy, which has not been tabled before the legislature. It is settled law that an Executive body cannot, without the authority of law, take action which violates fundamental rights.

That the Hon'ble Supreme Court in *Secretary, Ministry of Information and Broadcasting, Govt of India & Ors v. Cricket Association of Bengal & Ors (1995) 2 SCC 161*, had observed that airways are public property and would need to be regulated to prevent monopolies amongst broadcasting entities and in the interest of information being received by the viewers. However, the observations in the judgment in respect of airwaves being public property would apply only while distributing/allocating the airwaves or frequencies to the broadcasters to uplink and downlink their signals and the Executive cannot use the concept of airwaves being public property to regulate content or impose any restrictions on the content broadcast by the news channels. Therefore, the imposition of any restriction and/or curb on the content that a broadcaster telecast would violate the media's fundamental right to free speech.

Further restrictions on rights relating to freedom of speech and expression are not platform agnostic, and as such, irrespective of whether (abundant) airwaves/frequencies are public property or not, the same cannot be a ground to interfere with the rights contemplated under Article 19(1)(a). Apart therefrom, the broadcasters pay an annual fee for using these airwaves/frequencies under the Uplinking and Downlinking Guidelines to various agencies like the WPC wing of the DoT and satellite service providers, which airwaves/frequencies are no longer scarce. The requirement imposed under Clause 35 is also violative of the broadcaster's right to "*carry an occupation, business and trade*" under Article 19(1)(g) of the Constitution.

It appears that Clause 35(1) of Guidelines 2022 is not worded in a manner where the obligation of public service broadcasting is mandatory. The Clause clearly states that entities having permission to uplink/downlink in India "may" undertake public service broadcasting for a "*minimum period of 30 minutes in a day on themes of national importance and of social relevance*". Similarly, Clause 35(2) also uses the expression "*may*". Only in Clause 35(3) a mandatory obligation is expressed to comply with general advisories to be issued from time to time.

Therefore, if the understanding is that no mandatory obligation is cast under Clauses 35(1) and 35(2), then the stakeholders will have no comments and suggestions in respect of the said Clauses. However, if Mol&B

were to consider the “obligation of public service broadcasting” as mandatory, in that event for the members of NBDA, Clause 35 would stifle the free speech rights of the media, which would be a violation of Article 19(1) (a) which is impermissible.

The obligation cast under Clause 35 of Guidelines 2022, if considered mandatory, is onerous, oppressive and violative of the free speech rights of the media, particularly since members of NBDA, being news and current affairs channels, in any event, telecast topics of public importance including education and spread of literacy; agriculture and rural development; health and family welfare; science and technology; welfare of women; welfare of the weaker sections of the society; protection of environment and of cultural heritage; and national integration and run various televised marathons, donation drives, special campaigns on various social issues from time-to-time e.g., ‘Mission Pani’, ‘Covid-19’ related campaigns including on vaccination, etc. therefore, no additional stipulations are necessary or warranted. It is superfluous for Mol&B to direct the news channels to broadcast 30 minutes of public service broadcasting. The very purpose of news and current affairs channels is to convey news and views of public interest and importance.

The areas identified in Clause 35 as “public interest” are generally covered in various news bulletins and programmes of all news channels. Apart from these areas which are in “public interest”, news channels also carry other news and stories of public interest pertaining to gender, right to privacy, right to livelihood, sports and a whole gamut of other issues, which is why it is called the fourth pillar of democracy.

If Clause 35 is considered mandatory, it will have a “chilling effect” on the freedom of the press, and its sole purpose would be to muzzle the media by attempting to get news channels to telecast government-driven content under the garb of “public interest” instead of issuing advertisements through the Bureau of Outreach and Communication. The government may issue the same content through Clause 35, which would adversely affect the revenue that media gets from DAVP.

In so far as news channels are concerned, it was reiterated that all news content is broadcast in the public interest and is of social relevance and national importance except paid content like advertisements. Therefore, news channels should be exempted from adhering to the requirements of Clause 35.

Requirement For 30 Minutes a Day

The requirement for public service broadcasting to be carried for a minimum of 30 minutes each day by private satellite channels is excessive and not proportionate to the objective sought to be achieved. It is also noteworthy that when a similar obligation to broadcast the Prime Minister’s address via “*Mann Ki Baat*” once a month was imposed on the radio industry, it was not challenged owing to the perceived reasonableness of the obligation being imposed. Hence, the radio broadcasters were airing the same as per available time slots. Therefore, it is suggested that the duration of 30 minutes each day should be changed to 30 minutes a week, consistent with recommendations issued by TRAI in 2008.

Further, there is no clarity as to whether the 30-minute programme of national importance needs to be aired in one go or through small capsules of 5 to 10 minutes during 24 hours, as no specific time band for airing the show has been prescribed under the Guidelines 2022. Therefore, it is suggested that if Mol&B requires the broadcasters to air 30-minute programmes on themes of national importance and social relevance, then the time of the content and the time band for airing such content on the channels should be left to the discretion of the news broadcasters.

Creation of Content

On a perusal of Guidelines 2022, it is unclear whether the content to be broadcast as part of the broadcasters’ public service broadcasting obligation would be provided by Mol&B or be produced by the broadcasters. Producing original content or fresh programming would add to the production cost and be a financial burden

on the broadcasters, who already have to bear additional costs for creating specialized content to achieve the accessible service (sign language, closed caption, subtitles) standards for the Persons with Disabilities in Television Programs also required to be aired on a daily basis under the Rights of Persons with Disabilities Act, 2016 including the Accessibility Standards for Television Programmes for the Hearing Impaired formulated by the MoI&B. In any case, the news telecast by the broadcasters is of importance to the public and complies with public service broadcasting obligation.

If the Clause is considered mandatory, then it is recommended that MoI&B should reimburse the amount spent by the broadcasters for the production of the content on the channel.

Existence of Public Service Broadcaster

The direction for the broadcast of such content appears arbitrary and unreasonable in view of the already existing designated public service broadcaster, i.e., Prasar Bharati. The social objectives sought to be achieved are being adequately taken care of and met by Prasar Bharati at present, whose *“primary duty is to organize and conduct public broadcasting services to inform, educate and entertain the public”* under Section 13 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990. In any event, the member news channels are telecasting news that is in the public interest, and the content telecast fulfils the requirement for public service broadcasting obligation.

It is relevant to highlight that Prasar Bharati is funded by the government to carry out its public service broadcasting function. However, no such funding or other incentives have been indicated for private broadcasters to undertake this activity. Even globally, governments provide tax breaks and/or public funding for private channels undertaking public service broadcasting services. Therefore, the requirement of public service broadcasting for 30 minutes of content on the channels, without any financial/tax incentives, would be an onerous and unnecessary requirement that would gravely impact the commercial and financial interests of private television broadcasters.

It is pertinent to highlight that the TRAI had in its *‘Recommendations on Issues relating to entry of certain entities into Broadcasting and Distribution activities’* dated November 12, 2008, also suggested setting up of a suitable scheme for reimbursement, either in full or in part, of the costs of production of such programmes. However, no such indication regarding reimbursement of costs is contained in Guidelines 2022.

If the content required to be broadcast under Clause 35 is provided by MoI&B and all channels are required to air the same content, it will lead to viewers losing interest and result in loss of revenues for the broadcasters. This would be detrimental for the news channels, which are already facing stiff competition from digital media.

The broadcasting industry is going through a difficult phase as the advertisement revenue of the broadcasters is under stress, while the subscription revenue growth has remained stagnant due to regulatory impasse.

To strike a balance, if the Government wants to place public service broadcasting obligations on the broadcasters, then it should also reimburse the cost and the losses borne by making a budgetary allocation towards this activity. If there is any specific content that MoI&B wants the news channels to broadcast, it could do so through mutual consent, subject to reimbursement being given to the news channel if the channel produces the content.

Loss of Revenue

Guidelines 2022 do not specify any payment against the airtime spent by the broadcasters on the 30-minute content to be aired on the channel, even though those were the recommendations issued by TRAI in 2008.

There are already huge outstanding dues amounting to crores of rupees owed by DAVP with respect to the DAVP advertisements aired on the news channels. Hence, it is recommended that broadcasters need to be paid

for the airtime spent on the carriage of such public service broadcasting programmes and the loss of revenue due to the carriage of such programmes. Imposing such an obligation will only add to the broadcasters' financial woes. In any event, all channels, without exception, carry content on national integration, social service and other areas of public policies on special days for several hours voluntarily, for e.g. on Independence Day and Republic Day. It was suggested that the obligation sought to be imposed under Clause 35 should not be a part of Guidelines 2022 and the content may be carried with the consent of the broadcasters.

Editorial Discretion

"Editor" is the person responsible for the selection of content of any news channel and the time for broadcast. The editor and the editorial team have complete liberty to select the content without any interference from any person or entity.

Clause 35 impinges on the independence of journalists and editors by directing the news channels to carry a particular content, which is the prerogative of the Editor of the news channel. The said Clause affects the independence and discretion of the editorial side of the television channels, and the Executive cannot encroach upon or interfere with the editorial freedom.

In respect of the public service broadcasting obligations, the news channels should be treated in the same manner as the newspapers/print media.

Clause 35 is antithetical to the laudable objectives enshrined in the Norms of Journalistic Conduct of the Press Council of India, particularly Clause 20 and the freedom of the speech and expression of the press enshrined in Article 19 (1)(a).

Power of Centre to Issue General Advisory

Guideline 2022 prescribe that "*Central Government may issue general advisory from time to time for telecast of content in national interest and the channel shall comply with the same.*" This means anything from a speech to readymade content may have to be broadcast on the directions of the Executive. Earlier, the radio industry had faced a similar situation which it had opposed by requesting MoI&B for payment for the content. Subsequent to which, it received random requests for broadcasting content relating to MoI&B minister's bytes announcing Cabinet decisions. It may be noted that the irony is that in spite of news not being allowed to be broadcast on FM radio, such requests were made.

In any event, advisories by their nature are advice or guidance and ought not to be equated with mandatory directions. Therefore, NBDA stated that the stipulation under Clause 35(3) requiring channels to comply with general advisories issued by MoI&B for the telecast of content in the national interest should also be deleted from the Guidelines.

NBDA suggested that MoI&B delete Clause 35 from Guidelines 2022 or, in the alternative, exempt the news channels from implementing the above Clause for the reasons stated above, particularly since news channels broadcast news which is in public interest.

Definition Clause – Exclusion of Independent Director

Guidelines 2022 mandate that the majority of the Board of Directors of an applicant company shall consist of resident Indians. However, the exclusion of Independent Directors from the definition of Director under Clause 2(c) may pose a problem for private and public companies, who are mandated under the Companies Act, 2013 and the SEBI Guidelines to have at least one-half or one-third of the total number of Directors on their Board as Independent Directors, depending on whether Chairperson is an Independent Director or not.

The appointment of foreign nationals as Independent Directors is expressly permitted under the Companies Act 2013. However, the application of Guidelines 2022 would render it impossible for public companies to appoint foreign nationals as executive or non-executive Directors. Therefore, the stipulation renders the express provisions of the Companies Act 2013 redundant by means of a policy decision, which is not maintainable in law. Guidelines 2022 should provide that Independent Directors would also be considered while determining the majority of the Board, and there should not be any requirement of prior approval for the appointment of Independent Directors.

Definition Clause – Regional Channels

Guidelines 2022 contemplates that channels which are broadcast in an Indian language other than English and Hindi are regional channels. This assessment in the Guidelines is misplaced, incorrect and discriminatory since it fails to recognize that there are many regional channels that are transmitted in Hindi that target audiences in Hindi-speaking states such as Uttar Pradesh, Madhya Pradesh, Uttarakhand, Delhi, etc. Further, such classification would also inter-alia adversely impact the registration of regional channels with various State Government bodies/authorities, where broadcasters may be required to give an undertaking in respect of a channel being regional or national.

Clauses 4(4), 7(4) and 11 (4)- Mol&B's Right to Refuse Grant of Permission

Under the above clauses, which deal with the grant of permission for teleport/teleport hub, Uplinking and Downlinking of television channels, Mol&B has been conferred with an explicit right to refuse the grant of permission after providing reasons in writing. However, the said clauses do not specify the reasons for which such a right can be exercised by Mol&B. The open-ended language adds ambiguity and uncertainty to the procedure for grant of permission, is not transparent and therefore is not desirable.

Clause 6 - Furnishing of Application for Uplinking of Television Channels

Clause 6(1)(b), which *inter-alia* contemplates the requirement for registration of trademark, should be dispensed with in view of the Trademarks Act 1999, which does not contemplate mandatory registration. Therefore, the requirement under Guidelines 2022 goes beyond the scope of the legislative intent under the Trademarks Act 1999 and should be deleted.

Clause 6(1)(d) should be read to exclude disclosures in respect of loan agreements with Banks and Financial Institutions. It may be noted that the term "such other agreements" is vague and ambiguous.

Clause 8 - Special Conditions for Uplinking a Satellite TV channel

The requirement of adhering to Clause 8(1)(c) was not there in the Uplinking Guidelines, 2011. Further, the terms "*Standards, guidelines/restrictions*" appearing in Clause 8(1)(c) are not only vague but give the Executive unbridled powers to control free speech rights of the media under Article 19(1)(a), which is impermissible in law.

Clause 8(2) gives arbitrary powers to Mol&B to inspect the physical facilities and documents of a satellite television channel and, therefore, should be deleted or in the alternative, the same should be exercised only after giving an advance written notice to the concerned TV channel in relation to the inspection and/or the documents required, as opposed to a sporadic inspection, as contemplated herein. It is stated that at least seven days advance written notice of the proposed inspection ought to be provided.

Clause 9 - Renewal of Permission

Guidelines stipulate that the renewal of permission shall be for a period of ten years and that at the time of seeking such renewal, conditions similar to those imposed at the time of seeking new permission should be fulfilled. This would imply that at the time of seeking renewal of the permission, all procedures for filing a new application would have to be followed, including the payment of a Performance Guarantee and Security

Deposit. The requirement imposed under Clause 9 would be cumbersome for the broadcasters, as complying with the entire process once again would result in duplication of work and would add to the financial burden of the broadcasters.

The intent of the new Guidelines should be to follow the Government's stated mission of Ease of Doing Business. The process mentioned above is not reducing compliances but increasing the same. Therefore, Mol&B should clarify whether broadcasters, at the time of seeking renewal of permission, would be required to follow the same/similar conditions for acquiring new permission to uplink their signals.

The stipulation that the channel should not be "*found guilty of violation of terms and conditions of permission, including the violation of Programme Code or Advertisement Code on five or more occasions during the period of permission*" contained in Guidelines 2022 is a significant departure from Clause 10.2 of the Uplinking Guidelines 2011.

While the Uplinking Guidelines of 2011 also contemplated Mol&B's right to reject the renewal of permission for violation of the Programme and Advertisement Codes under the Cable Television Networks (Regulation) Act, 1995 (CTN Act), however, Guidelines 2011 specifically provided for consultation by Mol&B with the self-regulatory mechanisms to arrive at a decision on whether or not the renewal should be rejected. An independent third-party mechanism for checks and balances must be established while exercising an important decision regarding the rejection of a request for renewal of permission.

The present Clause 9(2) is draconian and needs to be amended. It may be noted that on minor violations, the Executive can refuse to renew the license of the broadcasters. Unlike the Uplinking Guidelines, 2011, in the present Guidelines, the powers of the Executive are unfettered, unbridled and unchecked, and this Clause will impinge the free speech rights of the media, in view of the submissions made above. This point was also not put forth in the Draft Policy, which sought comments from the stakeholders and therefore, the stakeholders did not get an opportunity to comment on it.

Clause 11 - Grant of Permission for Downlinking of Channel

That the terms "*Standards, guidelines/restrictions*" are not only vague but give the Executive unbridled powers to control the free speech rights of the media under Article 19(1)(a).

Clause 12 - Renewal of Permission – Downlinking

Guidelines 2022 stipulate that the renewal of permission shall be for a period of 10 years and that at the time of seeking such renewal, conditions similar to those imposed at the time of seeking new permission should be fulfilled. This would imply that at the time of seeking renewal of the permission, all procedures for a new application would have to be followed including the payment of a security deposit. The process is not reducing compliances but increasing the same. Therefore, Mol&B should clarify whether broadcasters, at the time of seeking renewal of permission, would be required to follow the same/similar conditions for acquiring new permission to downlink their signals.

That the stipulation that the channel should not be "*found guilty of violation of terms and conditions of permission, including the violation of Programme Code or Advertisement Code on five or more occasions during the period of permission*" contained in Guidelines 2022 is a significant departure from Clause 9.2 of the Downlinking Guidelines 2011.

While the Downlinking Guidelines of 2011 also contemplated Mol&B's right to reject the renewal of permission for violation of the Programme and Advertisement Codes under the CTN Act, however, Guidelines 2011 specifically provided for consultation by Mol&B with the self-regulatory mechanisms to arrive at a decision on whether or not the renewal should be rejected. An independent third-party mechanism for checks and balances

must be established while exercising an important decision regarding the rejection of a request for renewal of permission.

The present Clause 9(2) is draconian and needs to be amended. It may be noted that on minor violations, the Executive can refuse to renew the license of the broadcasters. Unlike the Downlinking Guidelines 2011, *in* the present Guidelines 2022, the powers of the Executive are unfettered, unbridled and unchecked, and this Clause will impinge the free speech rights of the media.

This point was also not put forth in the Draft Policy, which sought comments from the stakeholders and therefore, the stakeholders did not get an opportunity to comment on it.

Clause 17 - Live Coverage of Events – Live Telecast of News and Current Affairs Channel

While Clause 17 of Guidelines 2022 permits news channels to uplink content using Electronic News Gathering (“ENG”) services, however the same must be registered with Mol&B on the Broadcast Seva Portal. The registration process is not visible on the Broadcast Seva Portal. That while DSNG refers to a satellite-based electronic technology or equipment that allows a TV channel to broadcast from remote locations outside TV studios, however, ENG does not envisage usage of satellite spectrum, and on the contrary, ENG uses cellular network/internet / leased line or any other medium/equipment (including bag pack) for transmission. Since the requirement for registering ENG services such as TVU, Live-U, and Mojo Kits using mobile cellular services is ambiguous, the same should be removed from Guidelines 2022 or in the alternative clarified by Mol&B.

Clause 20 - Name and Logo of a TV Channel

A change in the logo of a channel should not require prior permission of Mol&B, if the name of the channel has not been changed; a prior intimation should be sufficient. Permission should only be required in cases where there is a change in the name of a channel that has previously been approved by Mol&B.

Clause 21 - Change of Satellite/ Teleport

In order to promote Ease of Doing Business, any change to already permitted satellite and/or teleport should only require a prior intimation to Mol&B and Department of Space (DoS) and there should be no requirement to seek prior permission as the change will be to a satellite and/or teleport that has already been permitted which will ensure that there is no duplicity of work.

Clause 24 - Consequences of Violation of Programme and Advertisement Codes

That indiscriminate powers have been conferred on the Executive to penalize a ‘channel’ without first issuing a show cause notice, considering a written reply, or providing a personal hearing prior to arriving at a decision concerning a purported liability and violation of the Programme and Advertisement Codes under the CTN Act. Further, no criteria have been prescribed under Guidelines 2022 to determine the nature and gravity of the violation and/or if it is a first offence or a continuing offence, which is being considered under the CTN Act.

Guidelines 2022 are also silent on the criteria for determining whether one / more penal action should be imposed on the channel violating the Guidelines. In the absence of such criteria, it is left to the discretion of the Authorities/Executive to penalize a channel, based on its own assessment, without considering the nature and gravity of the purported offence or if the penalty would include one or more of the conditions in Clause 24 (1).

While Guidelines 2022 provides that action will be taken as per the CTN Act, however, there is no clarity if this would entail the channel being afforded an opportunity to know the allegation against it and respond in writing or at a personal hearing. There is no requirement for a reasoned written order, nor is there a timeline within which a decision is to be arrived at.

The penalty prescribed in Clause 24(1)(v) was not one of the penalties prescribed in the Draft Policy, which sought comments from the stakeholders, therefore, the stakeholders did not have the opportunity to comment on the same. Clause 24(1)(v) contains a drastic penalty and therefore needs consultation before finalization.

That the penalties which have been prescribed under Guidelines being, Clause 24(1)(iv), (v) and (vi) appear to be disproportionate and harsh, and the same needs to be reconsidered, as the Executive has been given unfettered powers in respect of the penalties. These penalties are in addition to Section 16 of CTN Act being a penal provision, which is also applicable to Companies under Section 17 of the CTN Act. The requirement for the Director/CEO of the entity to read out an apology on the channel is arbitrary, overreaching, and susceptible to being misused. It also shifts the onus of what could, at times, be an inadvertent violation on the part of an individual as opposed to the 'channel'. The object of the Guidelines is to regulate the channels. However, this penalty appears to be disproportionately harsh. This clause needs to be deleted. The Director/CEO is not responsible for the day-to-day broadcast of the content of the news channels. These penalties need to be reconsidered and amended accordingly.

That for minor violations of the Programme Code and the Advertisement Code under the CTN Act and Cable Television Networks Rules, 1994 (CTN Rules), news broadcasters should not be made to suffer a disproportionate penalty. It may be reiterated that Rule 6 (1) (a) to (m) of the Programme Code and Rule 7 of the Advertising Code contains several terms which can be interpreted in different ways and are liable to be interpreted subjectively. In view thereof, prescribing harsh penalties for violation of the Programme Code and the Advertisement Code would be inappropriate. Penalties under Guidelines suggest prohibition/cancellation of permission for various reasons, including obscene, anti-national attitudes, snobbish attitudes etc. However, these terms remain undefined and are subject to multiple interpretations.

That a re-look is necessitated in respect of the violations of the Programme Code and the Advertisement Code of the CTN Act / CTN Rules. It must be taken into consideration that the penal provisions would expose the Companies/Networks and its Directors to defamation/legal suits, which may result in protracted litigation and may stifle freedom of speech and expression.

In any event, Section 20 of the CTN Act gives the powers to the Central Government to prohibit the transmission of any programme which violates the Programme Code and/or the Advertisement Code and is in itself a very harsh penalty. Therefore, these provisions are excessive, uncalled for, and go beyond the scope and ambit of MoI&B as well as the scope of the CTN Act / Rules.

Clause 25 (2) and (3) - Consequences of Violation of Other Terms and Conditions

While Clause 25 does provide for a personal hearing along with a table containing the offences and consequent penalty, it confers wide and arbitrary powers on the authorities to, at their discretion, to impose a higher degree of penal action, including but not limited to multiple penalties.

Clause 26 - Powers of the Central Government

That penalizing provisions have already been incorporated in Guidelines 2022 in Clauses 24 and 25, yet an additional penalizing provision has been inserted, giving unfettered powers to MoI&B to penalize news channels. In the present Clause, there is no requirement for giving a personal hearing to the channels prior to taking any decision. This is against the well-known principle of natural justice.

Clause 26(4) of the Guidelines contemplates that MoI&B may, from time to time, issue "*general advisory*" for adherence to the programme and advertising codes "*and the various provisions of*" the CTN Act / Rules, and "*such other advisory in relation to the Guidelines*", and "*the channel shall comply with such advisory*". It is reiterated that advisories are by nature advice/guidance and cannot be equated with directions. Therefore, such requirements ought to be removed from Guidelines 2022.

It is also reiterated that the broadcasting industry is overregulated, and unfettered powers have been conferred on the Executive under certain clauses of Guidelines 2022, which have a huge potential of being misused in the name of public interest, national security etc.

Clause 27 - Change of Category of a Channel

While taking permissions, the broadcaster has already gone through the mandatory requirements stipulated by Mol&B. When only change in category is carried out, that too during the validity period of the permissions, complying with the entire process once again is a duplication of work. The process mentioned above is not reducing compliances but increasing the same.

Clause 28 - Appointment of a New Chief Executive Officer/Director

The permission contemplated herein should not be unreasonably withheld by Mol&B and that any rejection ought to be communicated in writing stating the reasons for the same within a stipulated timeline. Further, such "relevant details" which may be sought have not been defined in the Guidelines which makes it vague and ambiguous.

Clause 32 - Transfer of Permission of a Television Channel or Teleport

The permission contemplated herein should not be unreasonably withheld by Mol&B and that any rejection ought to be communicated in writing stating reasons for the same within a stipulated timeline.

Clause 36 - Applicability of the Guideline on Existing Permissions

The Guidelines stipulate that the terms thereof shall also be applicable to existing permission holders. Taken literally, this would lead to the conclusion that eligibility conditions such as net worth, foreign shareholding and other requirements would also apply to an entity that had received its permission under the 2005 Guidelines, whereunder no such requirements existed. As these entities had not been required to fulfil these requirements at the time of the grant of permission, the Guidelines cannot retrospectively make these conditions applicable by way of an executive policy, save and except when such entities apply for renewal under the Guidelines. Accordingly, Mol&B needs to issue a clarification in respect of the above.

Performance Bank Guarantees ("PBG") for DSNG/SNG

The Guidelines mandates the submission of PBG of INR 10 Lakhs per van and stipulates an operationalization timeline of six months for permission to use DSNG/SNG equipment, which is liable to be forfeited if the SNG/DSNG van is not operationalized within six months.

That these requirements were not part of the earlier 2011 Guidelines and are not necessary under Guidelines 2022, as they add an additional economic burden on broadcasters. Further, the short time frame for operationalization of the equipment stipulated under the Guidelines does not take into consideration the time required by broadcasters to execute several arrangements, which can be given effect only after obtaining the approval of Mol&B. In view of the above, these requirements ought to be removed from Guidelines 2022.

Security Deposit

The stipulations relating to the security deposit in the Guidelines are unwarranted and would result in the blocking of funds therefore, the said stipulations ought to be removed. Since the Guidelines 2022 have provisions relating to PBG *inter-alia* for teleport and TV channels as well as stipulations relating to the payment of simple interest at the rate of one per cent per month in case of delay in payments the stipulations relating to Security Deposit ought to be withdrawn.

Letter to Joint Secretary, Broadcasting- I, Mol&B - regarding Clause 35- Obligations of Public Service Broadcasting

NBDA, in a subsequent representation dated 14.12.2022, submitted that Clause 35, which imposes an obligation for public service broadcasting on the news channels, was not present in any of the previous Guidelines, including the Uplinking and Downlinking Guidelines of 2011. This issue was also not raised in the Draft Policy dated 30.4.2020, therefore, the stakeholders had no opportunity to comment or give their suggestions.

The areas identified in Clause 35 as “public interest” are (i) education and spread of literacy; (ii) agriculture and rural development; (iii) health and family welfare; (iv) science and technology; (v) welfare of women; (vi) welfare of the weaker sections of the society; (vii) protection of environment and cultural heritage; and (viii) national integration. It may be noted that the categories identified as public interest are in any event telecast in various news bulletins and programmes by all news channels. Apart from the above categories, several other news and current affairs programmes pertaining to gender, right to privacy, right to livelihood, sports and a whole gamut of other issues are also telecast in public interest by the members of NBDA.

The dissemination of news and current affairs content to the public is not only an exercise of the freedom of speech and expression of the media under Article 19(1)(a) of the Constitution, but it also involves the viewers and/or the citizens right to receive information under Article 19(1)(a). The subjects of news and current affairs programmes are largely telecast in public interest and are of social relevance and national importance. It may be noted that under Guidelines 2022, it has been mentioned that *“the channels may, for the purpose, appropriately modulate their content to fulfil the obligation referred to in sub-para (1), except where it may not be feasible, such as in the case of sports channels, etc.”*

Since news and current affairs disseminate information which fulfils the requirements of public service broadcasting, it is presumed that news and current affairs channels are exempted from the applicability of Clause 35 under Guidelines 2022.

Advisory dated 30.1.2023 on Obligations of Public Service Broadcasting

On 30.1.2023, Mol&B issued an Advisory which relates to Clause 35 of Guidelines 2022 and its compliances.

Joint Secretary, Mol&B vide letter dated 14.2.2023, was informed that the members of NBDA are ‘news and current affairs channels’ which carry information in public interest, of social relevance and national importance including programmes under the eight heads given in Clause 35 of the Guidelines 2022. Members of NBDA are already producing and airing news programming content that is in consonance with Clause 35 of the Guidelines 2022; therefore, no separate and further compliance under the said Advisory can be mandated. In fact, news bulletins and panel discussions organised by the members of NBDA cover a wide range of issues spanning from health and family welfare to welfare of women and weaker sections of society.

In view of the discussions with the Mol&B and the submissions dated 14.12.2022, it is our understanding that the news genre, including the members of NBDA, are exempt from the applicability of Clause 35 of the Guidelines 2022 and consequently, the said Advisory also would not be applicable to members of NBDA.

Email dated 16.3.2023 addressed to Under Secretary, Mol&B on Public Service Broadcasting Obligation

Mol&B was informed that it had been brought to NBDA’s attention that some of its members had received an email requesting them to take cognizance of the Advisory relating to the Obligation of Public Service Broadcasting dated 30.1.2023, and to take necessary actions for compliance of reporting Public Service Broadcasting on the Broadcast Seva Portal on a regular basis.

NBDA reiterated that its members are 'news and current affairs channels' which carry information in public interest, of social relevance and of national interest including, programmes under the eight heads given in Clause 35. Furthermore, Members of NBDA are already producing and airing news programming content that is in consonance with Clause 35 of Guidelines 2022. Therefore, no separate and further compliance under the said Advisory is required. In view of the above, it was also reiterated that NBDA's understanding was that the news broadcasters were exempt from the applicability of this provision and the said Advisory.

It was also mentioned that in the Rajya Sabha Session held in December 2022, the Minister for MoI&B in response to a question raised by a MP of AITMC had stated that airing Public Service Broadcasting Programmes under Clause 35 of the Guidelines, 2022 was not mandatory and was completely voluntary. Therefore, again a clarification was sought as to whether the news and current affairs channels are covered under Clause 35 of the Guidelines 2022 and the Advisory, to which no response/clarification was received from the MoI&B.

Amendments/ Clarifications issued subsequent to the issuance of Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022

A. Clarification on the Definition of Director

MoI&B vide Office Memorandum dated 25.1.2023 stated that the Ministry had received representations from the broadcasters and their Associations regarding the difficulties being faced by them due to the interpretation of the definition of "Director" in the Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022 and its implication on the eligibility conditions for a company seeking/holding permission(s) under the Guidelines.

The MoI&B clarified that the matter has been examined in the Ministry in the light of the provisions of the Companies Act, 2013 and the Consolidated FDI Policy, 2020. In order to remove the genuine difficulties being faced by the broadcasters in this regard, it was clarified as under:

- i. The definition of "Director" under Para 2 (e) of the Guidelines may be read as under:
"Director" means a Director as defined in the sub-section (34) of the Section 2 of the Companies Act, 2013.
- ii. All key managerial personnel and editorial staff of the entity, referred in Para 6(g), are to be resident Indian(s). The majority condition as existing in Para 6(g) is only to be read in reference to Directors in the Board of Directors.
- iii. Further, Para 6(g) of the Guidelines shall be applicable only for the entities seeking/holding permission(s) for News TV Channels.

Notwithstanding anything said in para 2 above, it reiterated that the FDI Policy of Department for Promotion of Industry and Internal Trade, as amended from time to time, wherever applicable, shall apply.

B. Clarification regarding Policy Guidelines

MoI&B vide Office Memorandum dated 24.3.2023 issued a clarification regarding Clause 11(3)(f) of Guidelines, 2022. MoI&B reiterated that the permitted entities may only provide TV Channel Signal Decoders to the following:

- i. MSOs/ Cable Operators registered under the Cable Television Networks (Regulation) Act, 1995
- ii. DTH Operators registered under the DTH guidelines issued by Government of India.
- iii. Internet Protocol Television (IPTV) Service Provider duly permitted under their existing Telecom License or authorised by the Department of Telecommunications.

- iv. HITS Operator duly permitted under the Policy Guidelines for HITS operators issued by the Ministry of Information & Broadcasting

C. Applicability of FDI Policy of Government of India for OTT Platforms

Mol&B (Digital Media Division) vide communication dated 10.3.2023 has clarified to Publishers of Online Curated Content (OTT Platforms) that “TV News Channels granted permission under the Uplinking and Downlinking Guidelines, 2022 (and the earlier Guidelines of 2005 of and 2011) of the Mol&B and their entities operating the digital news content are already covered by FDI policy of the Central Government. Accordingly, when an OTT platform hosts the digital feed of a TV news channel (granted permission under the extant Guidelines), the stipulation of FDI limit of 26% with Government approval route would not apply to the OTT platform for the mere activity of hosting such feed. It was clarified that when an OTT platform is hosting digital feed of a TV news channel granted permission under the extant Uplinking & Downlinking Guidelines, only as a medium and makes it available to its subscribers/users, such an OTT platform is not covered under the 26% FDI rule.

D. Relaxation of Minimum Net Worth Requirement vide OM dated 29.3.2023

Mol&B on receipt of representations from broadcasters who were facing difficulties in meeting the minimum net worth requirement as per the revised Guidelines issued on 9.11.2022 has decided to provide certain relaxations to remove the genuine difficulties being faced by various entities in respect of the requirement of increasing the net worth in a short period of time.

DD Free Dish DTH Platform Online e-auction for MPEG-2 & MPEG-4 slots for the period from 1.4.2023 to 31.3.2024

President NBDA sent a letter on 27.3.2023 to CEO, Prasar Bharati, wherein it was submitted that the e-auction methodology dated 27.1.2023 for allotment of DD Free Dish platform to private TV channels and Notice dated 10.2.2023 for 67th Annual E-Auction contained several newly introduced conditions which were unfair, unreasonable, non-transparent and extremely prejudicial to the members of NBDA who are news broadcasters. NBDA requested Prasar Bharati to examine the concerns and issues raised in the letter as they relate to the entire news broadcasting industry as a genre. Prasar Bharati was requested to make suitable amendments/deletions to the methodology and the said Notice for greater fairness, transparency and to bring a level playing field amongst the news broadcasters, which would further the objective of “public interest” as enshrined in the Act.

Telecom Regulatory Authority of India [TRAI]

Regulating Converged Digital Technologies and Services – Enabling Convergence of Carriage of Broadcasting and Telecommunication services

NBDA, in its submissions dated 3.4.2023, on the above titled Consultation Paper dated 30.1.2023, placed on record that there should be no convergence of Broadcasting Services and Telecommunication Services in any manner whatsoever. The present regime of separate licenses and distinct administrative establishments under different Ministries for processing and taking decisions on licensing/permission issues is able to handle broadcasting services adequately in all its aspects and that it is not in favour of any legal, administrative, regulatory and licensing framework for the convergence of carriage of broadcasting services and telecommunication services in any manner whatsoever for the following reasons: -

Not only are the two services entirely different, but they also perform different functions. Therefore, since broadcasting services and telecommunication services are not similarly placed, it would not be correct to compare the two services, advocate for their convergence and/or to have a comprehensive/converged legal framework to deal with convergence of the two distinct services.

Convergence of technologies which has already happened to a great extent in the last decade has been effectively handled by MoI&B and TRAI, who have been able to address all legal, regulatory and policy requirements which emerged due to such technological changes.

Since the absence of a converged legal and regulatory regime has not resulted in the stunted growth of the sectors or hindered the growth of technology in the sectors or resulted in higher cost to the consumers, or caused any other difficulties to the other stakeholders, TRAI should address what problem it seeks to remedy by proposing a converged legal, licensing and administrative framework.

The broadcasting sector must be regulated by a separate regulator. The problem with establishing a converged regulator is (a) the risk of “false equivalence” being drawn between the sectors, and (b) the risk of regulation of certain sectors by people who are out of depth and lack specialised knowledge and understanding, which is a prerequisite to deal with sector-specific issues. Therefore, the question of comprehensive/converged framework in any aspect cannot arise.

Instead of introducing a regulation that *converges* regulators and regulations, the departments and agencies tasked with governing the areas that comprise telecom and broadcast sectors should be enabled to remove redundancies of filings, permissions and timelines for completion to give effect to EoDB.

If a converged legal regime for broadcasting and telecommunication is brought into force; it is apprehended that it may result in concentration of power in the hands of a few existing players and increased dependence of users on a few service providers, which may ultimately result in opaque pricing and restrictions on fundamental right of speech and expression due to information being disseminated by a few entities, thereby may create a monopoly by certain stakeholders.

One of the key goals for advocating a converged licensing framework is to achieve technology neutrality. This term is intended to convey the meaning that a licensee retains the ability to choose the technology and equipment he or she will use to provide the licensed service. The main objective of the unified licensing framework should be to promote EoDB and sustain competition. However, an integrated licensing framework for the regulation of carriage of broadcasting services may lead to creation of monopolies in the sector, ongoing economies of scale and scope, and the ability of some enterprises to abuse their control of key gateways.

Therefore, it must be kept in mind that no such conditions should be imposed which make the broadcasting/media & entertainment sector unviable or unsustainable or which amount to an unreasonable restriction on freedom of speech and expression.

In view of the above it is reiterated that the present regime of separate licenses/permission and distinct administrative establishments under different ministries for processing and taking decisions on licensing/permission issues can handle broadcasting services adequately.

No unified policy framework for spectrum management is required as the telecom services primarily use the terrestrial horizontal spectrum, whereas the broadcasting services use the vertical space spectrum. The services are not similar, and hence placing different services under a common policy will severely hamper and adversely impact the broadcasting services in the country. In fact, the present framework in respect of allocation of spectrum should be followed and the status quo should be maintained.

At present there are over 350 different broadcasting companies, 4 private DTH players, 1500 MSOs and about 60000 local cable operators and the sector is highly diversified, and the ownership is also highly fragmented, if broadcasting services are converged, few players over a period of time will gain dominance in the market and will indulge in anti-competitive practices. The consumer interest will be further compromised as now he will be forced to depend on such entities for more of his requirements. The pricing of consumers will further become opaque through complicated plans offered by telcos.

There is no requirement for convergence of carriage of broadcasting services and telecommunication services. Therefore, there is no requirement for a comprehensive/converged legal, licensing and/or administrative framework to deal with convergence of carriage of broadcasting services and telecommunication services.

Before undertaking the present consultation process, TRAI should wait for the draft Telecommunication Bill, Digital Personal Data Protection Bill, the Digital India Act and other sectoral legislations to be finalized. Therefore, the Consultation Paper appears to be premature and unwarranted at this point of time as the need of the hour is not the convergence of ministries/legislations but a harmonization of the same.

NBDA also raised the following issues:

Difference between Broadcasting Services and Telecommunication Services

'Broadcasting services' are a very different and distinct service/category compared to 'telecommunication services', as the latter is concerned with voice and data services while the former involves offering of programming services and content to the consumers.

At present, the *content* of broadcasting services is regulated by the MoI&B under the CTN Act & Rules, Guidelines 2022, and by the various guidelines/advisories issued by the self-regulatory bodies like NBDSA.

The aspect of *carriage* is regulated by the TRAI under TRAI Act. In view of the above, broadcasting services are already adequately regulated. Therefore, there can be no justification for combining the legal, licensing and the administrative framework of the two sectors merely because the broadcasting sector is using certain common services, such as internet bandwidth, for making the content available on mobile phones.

Merely because telecommunication, broadcasting and data service are at time delivered through common delivery platforms, the same cannot be interpreted as convergence of such services and/or a reason to advocate for a converged legal, administrative, licensing and regulatory regime for sectors which are substantially different. It is relevant to note that '*convergence*' is merely a technological construct, which has happened due to evolution of alternate technology. However, convergence of technology does not imply that the telecom and broadcasting sectors have to be merged or that the underlying functions they perform have to be merged. There is a substantial difference in the types of services offered by the broadcasting sector and the telecom sector, which does not call for any form of convergence of laws, regulations etc. Broadcast involves communication to public and the world at large whereas telecommunication is communication between two or more individuals. Therefore, the mere possibility of offering telecommunication using a broadcast infrastructure or vice versa cannot be a cause and/or reason to converge the regulating authorities and the legislations.

Furthermore, the bundling of telecommunication services with broadcasting services does not amount to convergence of services. Bundling of services like linear, voice and broadband is for the benefit of consumers, and cannot mean that these services have converged, as each service is a different service.

Difference in the Licensing of the Broadcast Sector and Telecom Sector

While licenses are granted under Section 4 of the Indian Telegraph Act, 1885 ("the Act") to teleports operators and to Direct to Home ("DTH") by the MoI&B, all other services pertaining to broadcasting require permissions/registrations.

The Consultation Paper itself has noted that the 'permission' to uplink and downlink television channels is governed by the Guidelines for Uplinking and Downlinking Television Channels in India issued by MoI&B. It is submitted that these Guidelines are neither a creation of any statute nor a license under Section 4 of the Act.

While Government has exclusive privilege in respect of telegraphs under the Act and has the power to grant licenses to teleports holders for consideration and subject to the terms of contract as may be deemed fit and

proper. However, it is unclear as to how 'broadcasting services' can be construed to be an "exercise of sovereign functions of the Government" and in that respect be brought within the ambit of licensing by the Executive.

Recently, with the help of a Unified License Permission, telecom operators have also started providing channels with the use of direct fibre commonly called as Fibre to The Home ("FTTH"). The channels, in this case, are streamed through the fibre. The MSOs and DTH downlink the permitted channels from the satellite using satellite spectrum and make them available to the last mile through dish antennas or last mile cable wires. It may result in small operators like LCOs and broadcasters having to compete with the might of the big telecom operators and be subject to onerous license conditions both from economic and compliance perspective.

The DTH sector is already suffering heavy losses as DTH operators are required to obtain a license under Section 4 of the Act which results in imposition of conditions like license fee and thereby creates a non-level playing field vis-à-vis their competitors namely the MSOs/LCOs and HITS, who are not subject to any such obligations as they are not required to obtain a license under Section 4 of the Act. TRAI's attempt should have been to completely segregate and separate the telecom and broadcasting sector.

Differences in Spectrum Allocation Between the Broadcasting Sector and Telecommunication Sector

In respect of spectrum management, the policy of "one size fits all" cannot be applied. There is a need to accord differential treatment to different types of entities considering that some entities make minimal or no use of spectrum for providing their services. In respect of satellite TV channels, there is no limitation in the bandwidth spectrum available for satellite TV channels which is available in abundance and will continue to increase as the number of satellites are increased from time-to-time. Further, in any event, satellite location and frequency are determined by the International Telecommunications Union ("ITU") and no satellite can be launched without the ITU's consent- all of which makes satellite frequency quite different. Auctioning of satellite bandwidth/broadcast spectrum should not even be a matter for consideration and status quo in respect of auctioning for telecommunication services and administrative allocation of satellite spectrum for broadcasting services should be maintained.

The Principle of Same Service-Same Rule is Not Applicable, Particularly to Internet-based or OTT Service Providers

It appears that TRAI is attempting to propose the principle of "*same service - same rule*" i.e., for voice, text, broadcast if in the form of WhatsApp, Facetime, or OTT content platforms like Netflix, Prime Video, etc., which provide services outside the regulatory regimes of licenses and permissions to also be subject to same rules/regulations as telecommunication and broadcasting services by assuming them to be aspects of convergence of services, which they are clearly not.

That legislation that compels online services to get government permission to launch will jeopardize both (a) the neutrality of the Internet; (b) the idea of Digital India; and (c) the government's aim to promote EoDB.

Difference Between Telecommunication and Internet-based or OTT Service Providers

Services provided by Telecommunication service providers ("TSPs") are vastly distinct from those provided by Internet based service providers. While TSPs own and operate telecom and communication infrastructure for providing voice and data services, internet-based services do not have any communication infrastructure of their own and are dependent on TSPs to make their services available to consumers viz internet through mobile data or broadband.

'Internet Based' and 'OTT communication' service providers are not at par with TSPs and should not be subject to the same regulation. Globally it is accepted that internet-based services should not be statutorily regulated, but the content thereof should be subject to self- regulation.

Difference Between Broadcasting Services and Internet-based or OTT Services

TRAI should understand and take into account the difference in the ecosystems that operate independently namely the broadcast ecosystem wherein person/entity is a creator/broadcaster and the other is the viewer on the other end, whereas in the internet ecosystem, the same person/entity can be the creator and viewer. In the absence of carriage fees on the internet and due to principle of “Net Neutrality”, technologies have been able to flourish and evolve over a period of time. Presently, the Internet based services enable access to all content and applications in a non-discriminatory manner regardless of its source and without favouring or blocking/selectively blocking particular products/websites. Therefore, any attempt to bring OTT services under regulations or licensing will have a disastrous impact on the entire creative and technology sector. In fact, such restrictions/licensing regimes may result in unreasonable restrictions on freedom of speech and expression granted to the media under the Constitution.

TRAI in 2020 took a policy decision to exercise forbearance on telecom tariffs and studies conducted by Competition Commission of India (“CCI”) have shown that forbearance allowed telcos to contest on quality of service, data speeds and bundled offerings. Today, OTTs compete on quality and diversity of content. Making OTTs subject to stringent regulations will only bring the growth story to a halt, reduce the number of players offering digital services and negatively impact service quality.

Regulation of Content Should Be Different From Carriage

TRAI has failed to take into account that news content is over-regulated with four-five layers of rules relating to content in each media segment. News media in India, across platforms and technologies, must be governed by the principles of self-regulation. Robust self-regulation mechanisms exists across the media sector relating to content. The need of the hour therefore, is to strengthen and give more power to the self-regulatory bodies rather than to formulate additional layers of regulations in the media sector. Regulation of content is vastly different from regulation of carriage and should not be the subject of the present consultation process.

Convergence May Result in Creation of Monopolies

TRAI must be cautious of vertical integration of some stakeholders who are omnipresent in all types of service provisioning, namely, telecom, broadcasting, and distribution, and should avoid formulating regulations or laws or framework, which would result in giving an undue advantage or which would lead to creation of monopolies or promote gatekeeping by the dominant players, in the event TRAI attempts to create a comprehensive legal and/or licensing framework, which convergence framework is not acceptable. In order to protect the free speech rights of the media, it is essential that such convergence does not come into force as it will lead to broadcasting services becoming the prerogative of few cash rich entities. What is especially problematic is the telecom sector’s ownership of all parts of the broadband and mobile value chain from content to carriage and the same owners’ similar and growing ownership in media content and carriage as well.

With the advent of OTT, telecom companies have been aggressive in pushing OTT content through their distribution chains, something which the broadcasting sector has not been able to do. The OTT players have been successful in controlling and influencing the entire media distribution chain, primarily due to (1) lower service costs as compared to cable and satellite services; (2) leveraging the distribution pipe provided by telecom players more effectively; (3) direct delivery of services to the consumers. On the other hand, broadcast companies incur high costs for distribution of their content through cable operators and DPOs. Further, it may be relevant to note that a few Indian telecom companies also own television broadcasting/content production companies, including news channels. Telcos have also acquired cable and satellite service providers and have thus entered the media distribution space in addition to their ownership of content telecast/published in different formats and platforms. Despite the telecom sector directly competing with media in terms of controlling the distribution of such content, unlike broadcasting, there are no restrictions or regulations imposed on telcos which own media content on multiple platforms like TV and Online. Hence, telcos are today one of the biggest

distributors of content, data and information in every form which has become a major activity and source of revenue. Their ownership of content for different platforms as well as all parts of the broadcast media value chain from content to carriage, raises hard questions on both dominance as well as possible abuse of dominance.

The linear broadcasting sector is facing the same and stiffer challenges from OTT players and does not have the liberty or the freedom under extant regulations to effectively deal with this challenge. Any horizontal integration restrictions would effectively deprive the broadcast sector from meeting the OTT challenge even as telcos have been given a free hand to deal with OTT competition apart from ensuring the demise of independent media distribution entities since telcos are allowed unrestricted ownership of any content and any distribution platforms, unlike the broadcast sector.

There is lack of parity in the regulations and laws specifically in the distribution segment. This is evident from the fact that telecom sector is not subject to regulations such as the Interconnect Regulations, Tariff Orders, etc. that broadcast media is currently subject to nor is there any mention of the convergence threat that telecom brings with it while even owning broadcast media.

For vertical integration not to be misused and serve as a detriment to the growth of the industry, certain pertinent and critical decisions need to be taken. The need of the hour is to ensure strict adherence to fair and reasonable restrictions and guidelines within the vertically integrated media value chain and to extend this to telcos while allowing free operation of media entities across horizontal media sectors. In the event, that a framework for convergence of legal, administrative, licensing and regulatory framework is imposed, the broadcast media sector, will be unfairly singled out to bear the brunt of unreasonable cross media restrictions arising out of purported control and dominance. Exclusionary market power concentrated with telecom companies that dominate the reach and distribution of content would be detrimental to the aim of plurality and diversity of content and outlets in the media market especially when the same distribution companies own the same content. That there are only a handful of players in the telecom sector and the public sector presence has been reduced to a great extent hence, this aspect is also a cause for concern.

If a converged framework is brought into force, it will encourage complete vertically integrated ownership where the entire chain of content creation and delivery/distribution across multiple platforms will be controlled by the same entities using their own infrastructure and platforms. This aspect needs to be considered by TRAI as it poses a threat to a fair and level playing market for all constituents. There are no regulations at present to put a check on such vertical integration by telcos and it is vital that TRAI looks at this challenge that poses a serious threat to the media broadcasting segment. In fact, by not including or considering the impact of the telecom sector on media distribution, the TRAI is pre-supposing that media distribution will not be affected by the telecom companies if convergence happens which is an incorrect premise.

The Telecom players have the unique advantage of being: (i) the providers of mobile communications (ii) ISPs i.e., internet service providers, (iii) creators and owners of entertainment content (iv) distributors of the content via OTT/IPTV platforms and (v) advertising platforms.

If TSPs are provided unfettered rights to own and also distribute content, then this could become a huge issue. It is generally acknowledged that companies that own "pipelines" (distribution platforms) should not be allowed to own the content that is ploughed into these pipelines. Earlier experience in India itself in the Cable TV business has shown that this leads to abuse of power. This situation must be prevented on the digital platforms as well. The risk of domination is further enhanced by the fact that there are only three TSPs nationally (compared to hundreds and thousands of media providers in traditional media). Each one of the TSPs has more than 250 million subscribers and such user numbers are vastly higher than what most traditional media companies have.

From the aforesaid facts, it is clear that TSPs need to be restricted. “Vertical” integration in the telecom sector (same company owning pipelines and content) can create a monopolistic situation with abuse a distinct possibility. Hence, in order to ensure a level playing field for all players, there is a clear need to have water-tight restrictions on vertical integration. Companies which own the pipelines should not be allowed to own the content.

There is a need to prevent abuse emerging from vertical integration (same company owning pipelines and content). It is imperative that specific and strict measures to control vertical integration are put into place, in the absence of which vertically integrated groups/entities could dominate the market and render it uncompetitive, thus leaving the industry in bad health. The broadcasting entity should be restricted from owning content distribution platforms (DPO/LCOs) to ensure a level playing field for all.

It is the need of the hour to bring in transparency and non-discrimination between entities in a vertically integrated media segment, the absence of which will give rise to malpractices and discrimination by dominant entities vis-à-vis other constituents within the segment.

That the MoI&B and the TRAI, recognizing this issue, have already imposed certain restrictions on vertical integration. The DTH Guidelines restricts broadcasting companies and/or cable network companies to own more than 20% of the total equity of the DTH company and vice versa. Likewise, the HITS Guidelines restricts broadcasting companies and/or DTH companies from owning more than 20% of the total equity of the HITS company and vice versa. However, there are no such restrictions on telecom companies and in order to ensure level playing field, the new framework must ensure that the telecom companies are subjected to similar restrictions.

To ensure level playing field, new framework/law must ensure no telecom company can hold/own more than 20% in any media & entertainment business especially broadcasting and OTT companies whether content or carriage, and vice versa.

That in view of the above, convergence of any kind is not desirable as it may tend to create monopolies.

That new age tech companies like - Google including Google Search & YouTube and Facebook including Instagram & Whatsapp control majority of market revenue share through their monopolistic power & strong hold in supply chain. They use traditional media houses’ trustworthy content to distribute on their platforms without sharing adequate revenue with publishers.

Indirectly, they are controlling and directing traditional media houses to dictate and follow their rules for content distribution & revenue. The dominance and control exercised by Tech Companies like Facebook and Google (over 60%) is itself an indicator of the potential abuse which gets further corroborated and re-enforced because of their non transparent behaviour when it comes to revenue sharing of advertising revenue. There is already a CCI case pending on the said issue wherein Director General has been asked to investigate the unfair and monopolistic trade practices followed by Facebook and Google and alleged abuse of dominance practiced by them.

Internet and new digital mediums are posing stiff competition to print and television across the world. There is no denying the obvious advantage that internet companies have over other media forms.

In order to ensure a level playing field for all participants in a given media sector, it is imperative that specific and strict measures are put into place, in the absence of which vertically integrated groups/entities could dominate the market and render it uncompetitive, thus leaving the industry in bad health.

Decreasing Revenues of Traditional Media and Level Playing Field

Traditional media companies the world over are facing decreased revenues, as a result of several factors, majorly, pandemic induced economic hardships, competition from online/digital media players and user generated video programming providers. There is also increased competition from new media players, especially Big Tech large global companies that have become the “go-to” destination for news and entertainment, this has adversely impacted the economic value of this industry.

It must be noted that technological development has greatly impacted the way news and information is delivered to the consumer. The world is witnessing the growth of alternative platforms for consumption of news in the form of mediums like blogs, social media platforms like Twitter, YouTube, Instagram, Facebook and platforms like Google that also disseminate news and information. Online media has made it possible for consumers to read text, watch videos, listen to audio and interact on one single platform completely dispensing with traditional forms of viewing. While it is appreciated and understood that with evolution of technology, there can be a gradual churn and shift in the mode of consumption or distribution/carriage of content. However, the same should happen on account of market dynamics and not because of any unwarranted regulatory regimes, which creates a non-level playing field.

It is verily believed that since it is not the Government’s intention to converge the broadcasting regime with the telecommunication regime, TRAI should wait for the revised draft Telecommunication Bill before undertaking the present consultation.

Broadcasting services, digital publishers and OTT services are distinct from telecommunication services in respect of content and carriage. Hence, it is unacceptable to club these entities and their services with telecom services

The summary of the submissions are as follows:

- i. Considering the issues raised for consultation, as well as their magnitude and implication of possible outcome, at least six months should be granted for responses.
- ii. Consultation paper is misplaced since, it proceeds on the assumption that internet / OTT services are substitutable services of telcos.
- iii. There is symbiotic relationship between Internet / OTT services and as such, OTT is propelling growth and uptake of services of telcos.
- iv. Excessive regulations may stifle growth and competition. Further, both Internet / OTT services as well as services of telcos operate in different environments with different competition and consumer protection concerns. In any event, applicable laws and regulations are in place for both. ITU too observed that regulation for sake of regulations is not good if the Authorities want to encourage growth of telecom and OTT sectors, respectively.
- v. Telecom and broadcasting are different services and remain so. Mere convergence of devices, services or networks does not warrant drawing of conclusion that there is convergence of telecom and broadcasting services. All bundled services, even if offered by one service provider, are still separate services.
- vi. Consultation Paper does not highlight benefit of convergence. TRAI is already common regulator for telecom and ‘carriage’ in respect of the broadcasting sector. Telecom and broadcasting services are distinct services requiring separate licensing and regulatory requirements. Telecom sector should continue to be with DoT whereas, broadcasting sector (broadcasters, DTH, cable, HITS & IPTV) should continue with Mol&B.

- vii. Content regulation should be outside the scope of the Consultation Paper. DoT reference to TRAI was limited to convergence of carriage of broadcasting and telecom services. Consultation ought to be restricted to DoT's reference and such remarks overlook institutional learnings as well as learnings from self-regulatory bodies (e.g., NBDSA, BCCC, DMCR, DPCGC).
- viii. Internet / digital services are different from telecom services. OTT services are not substitutable services vis-à-vis telecom services. Former is totally dependent on the latter and not vice versa. Also, telcos act as gatekeepers since access to OTTs is only through telcos. Laws already exist in the form of IT Act and new laws are proposed in the form of Digital India Act. Further, in any event there are separate Ministries for each of the services/areas, and no meaningful purpose is sought to be achieved in a converged scenario.

TV18 does not subscribe to the view of imposing restrictions on 'vertical integration' as it is of the view that there should be complete forbearance. However, they are in agreement with the other submissions made in the response including that there should be no converged legal, licensing and/or administrative framework to deal with convergence of carriage of broadcasting services and telecommunication services.

Assignment of Spectrum for Space-based Communication Services

NBDA submitted that on a perusal of the Consultation Paper dated 6.4.2023, it appears that while the Paper relates to assignment of spectrum for space-based communication services however, it also involves issues which go far beyond the questions in respect of selection of bands for auction and auction modalities, which have been formulated for consultation. NBDA therefore submitted as follows:

A. Beneficiaries of the Auction Process Systems

While India is considering opening up its entire service strata to space-based service providers, it is necessary to lift the veil and assess who would be the potential gainers of such a decision. There are three types of systems which would get access to space spectrum in India once it is opened up: (i) GEO HTS systems; (ii) LEO system constellations; and (iii) MEO systems.

In all the above three domains, India, on its own, does not have any major space-based assets or any plans which would lead to such systems being developed in the next few years. The only exception to the above being one or two medium-capacity GEO-HTS satellites, which are operated by ISRO. Therefore, the major systems which would be the beneficiaries are all foreign-owned space service providers, which may partner with local players. With the new space policy being released and opening of space for the first time since the year 2000, it is possible that in future, systems with Indian ownership and/ or collaboration may emerge. Furthermore, the scenario on the LEO satellite front is very fluid, with new players emerging all the time. To deal with such situations, the Office of Communication (OFCOM) in the UK has proposed changes in the rules pertaining to the licensing of LEO satellites so that they can coexist without degrading other consumer services. These rules include a check to guard against any restriction of competition that could arise if the granting of the license prevents subsequent parties from entering the market. Therefore, India needs to delineate a similar scope and strategy development before it begins licensing spectrum to various contenders for purely revenue realizations.

B. Protection of Current Users (Legacy Users) of Satellite Spectrum

That the need to protect legacy users is elaborated in detail in the Consultation Paper. Therefore, all ITU assignments of satellite spectrum arrived at post-international coordination need to be protected while the new systems (including LEO) need to operate on a no-interference basis vis-à-vis the existing systems. The policy needs to reinforce the above, as otherwise, the incumbent users would be left to fend for themselves in the face of heavy interference generated by LEO systems.

While the LEO systems have uplinks in the 28 GHz band, however, the downlinks are in the Ku-band (10.7 to 12.7 GHz), which is currently used by DTH satellite systems in India. Mere allocation of Bands does not

alleviate the interference faced by the legacy systems like DTH or other licensed systems in the same band. In India, DTH systems form one of the major delivery systems for broadcast of linear channels, with an estimated 80 million consumers and over 800 channels. The DTH system serves millions of viewers in rural and urban households and constitutes one of the major sources of entertainment and information.

India has an opportunity to frame a GSO and Non-GSO policy which protects legacy systems serving tens of millions of consumers instead of opening up the spectrum to foreign operators, which may cause direct interference with India's licensed and established systems, resulting in undue benefit for foreign operators at the cost of Indian consumers.

C. Extension of GSO Systems to Plan Bands Not Permitted to Foreign Satellites in India

While Plan Bands are not permitted in India for foreign GSO systems, TRAI may relook at this provision. Such a concession to Foreign GSO Satellite systems, which is not permitted today, has long-term implications for the Indian Space Sector and future Indian GSO HTS systems, including those planned by ISRO. The reasoning should have been given after obtaining the opinion of the Department of Space (DoS) for such a move as the DoS is planning to use the above bands in its upcoming satellites, e.g., GSAT-22, which uses the FSS plan.

That the questions provided in the Consultation Paper put the stakeholders in a "straight jacket" in so far as they must respond to specific queries about the modalities of auction rather than the strategic issues of India's Strategic Plan for GEO HTS and LEO systems at present and in future. In fact, the strategy which should be followed should be similar to the one followed by OFCOM.

No responses have been sought on the issue of benefits to consumers by virtue of adopting such a strategy, the potential pricing and a possible open licensing architecture which does not foreclose potential Indian or foreign players.

D. Proposal to allocate C-Band

NBDA in its letter to Secretary, MoI&B had elaborated in detail its concerns in respect of the Government's intention to allocate a major part of the C-Band spectrum (which at present is being used for broadcast services), for rolling out 5G telecom services. The proposal, if implemented, would pose an existential threat to the broadcast industry, as it would not only significantly reduce the C-Band spectrum available for broadcast services, but it may also result in interference with the broadcast signals, which can severely hamper and impact the quality of service/transmission.

It is a well-known fact that the spectrum frequencies between 3.7 to 4.2 GHz are earmarked for providing broadcast services in line with international practices. The same has large coverage and is a cost-effective communication solution. All the satellites which are engaged in provisioning of broadcast and satellite services use this band of spectrum, which is also used for emergency and disaster recovery purposes.

India is one of the most saturated markets in the world, with more than 350 broadcasting companies with over 900 television channels serving every genre in all major languages of the country. Any move to make spectrum dearer will not only act as an entry barrier for the new companies but will also threaten the survivability of the existing stakeholders and will lead to the collapse of the Indian broadcasting industry.

It also needs to be appreciated that satellite signals, which are transmitted some thousands of kilometers away, are weak and would be overpowered and inundated by the terrestrial transmitters. Therefore, satellite internet should not be introduced or glorified as "India being the first one to auction satellite spectrum" at the cost of hundreds of Indian users losing their broadcast service. In fact, international experiences in U.S., E.U. and U.A.E. have already established and proven that interference with present status quo in the C-Band creates disruptions. The disruptions caused were even evidenced during the trial runs for 5G services. Further, as an industry, broadcasters have always opposed the dual use of frequencies.

Even TRAI had in its recommendations dated 11.4.2022 on “Auction of Spectrum in Frequency Bands identified for IMT/5G” acknowledged the risk of interference in the event there was auction of 3300-3670 MHz bands by observing that “*IMT emissions in the 3300-3670 MHz may saturate Low Noise Block (LNB) of the FSS earth station.*” Keeping in mind such risks, it had, through its recommendation inter alia, emphasized the need for the usage of high-quality band-pass filters.

It is alarming that despite the apprehensions expressed by the broadcasters and TRAI, the Department of Telecommunication (DoT) has notified the National Frequency Allocation Plan 2022 (NFAP 2022), which reduced the Guard Band from 30 MHz to 10 MHz. In the event the consultation and recommendation to auction designated broadcast spectrum is accepted, the broadcast industry would be exposed to catastrophic consequences. The reduction in the guard band under NFAP 2022 would result in hampering the quality of service in the broadcasting sector. In fact, it is understood that the usage of spectrum is also impacted by climate conditions.

Therefore, it is suggested that all possibilities of interference/overlap must first be eliminated and the climatic conditions for effective use of spectrum in India must be studied and examined before proceeding with this exercise.

It must also be appreciated that substantial amounts of investments have been made over satellites and for the provision of broadcast and cable services, all of which may be completely wasted as it may result in satellite capacity getting lost as 5G interference in C-Band will impact thousands of head ends.

In the case of the U.S.A., the allocation of C-Band for 5G services was a result of detailed deliberations. The regulators had persuaded the satellite and broadcast operators to vacate the C-Band spectrum in return for huge compensation.

That the nature in which questions have been posed/formulated in the Consultation Paper, the entire process appears to be a fait accompli and looks to give a clear-cut walkover for 5G services without even examining the impact that it would cause upon both the broadcast/satellite services as well as the 5G services.

Therefore, the most important aspect to be examined before coming up with a consultation on the subject is to determine the existential threat to the broadcasters who are wholly dependent on the C-Band spectrum for Uplinking and Downlinking of signals.

E. Proposal for Auction of Satellite Spectrum

That another aspect of concern is the proposal for auction of spectrum. In this regard, it may be noted that the question whether satellite spectrum can be auctioned at all is a matter of debate, especially since vertical frequencies of C-Band is a shared spectrum which is coordinated by ITU and of which there is no scarcity.

The very fact that satellite spectrum has no boundary limits and has an international character raises a fundamental constitutional question as to whether the same can be construed to be an exercise of sovereign powers conferred under Section 4 of the Indian Telegraph Act 1885.

Therefore, before undertaking the present consultation process, the terms of usage between the Government of India and ITU should be included and disclosed to examine whether the satellite spectrum can be auctioned at all or not. Further, a study should be conducted about the possibility of using alternate bands as against consulting on a band which is already in use and is catering to a specific set of services.

The Consultation Paper has advocated the auction route for spectrum allocation in spite of the mandate under Schedule 1 of the draft Indian Telecommunication Bill, 2022. Therefore, spectrum for broadcast services should

continue to be assigned administratively, as the very basic nature of broadcasting does not allow for the auction model to be followed, particularly in respect of teleport services and their corresponding distribution. Even globally, spectrum for satellite communication services in bands such as C-band, Ku-band and Ka-band is assigned administratively except for a few exceptions, in which orbital slots along with spectrum have been auctioned.

Therefore, the status quo in respect of allocating spectrum for broadcast services should be maintained, as auctioning the same will have a detrimental impact on the broadcast industry. Thus, satellite spectrum should continue to be administratively allocated to the existing stakeholders.

There is also a fundamental flaw in the understanding of the difference between satellite and mobile spectrum, which appears to be premised on a predetermined and preconceived notion. As stated above, satellite spectrum is a shared resource and is governed by ITU frequency coordination and different management rules. The revenue potential of the two sectors is also different.

There are also other reasons why the auction methodology should not be followed while allocating satellite spectrum. The most important reason being the reduction in the usage and efficiency of satellite spectrum and complete destruction of value. While terrestrial spectrum is identifiable as frequency chunks which are unique and different from others and, therefore can be auctioned with clear right allocations in favour of successful bidders, the same is not true for satellite spectrum.

Since satellite spectrum is in the nature of a shared resource, therefore there is an absence of break-up or fragmentation of the same. The wider objective is more important, which is to reach the remote parts and for providing emergency services. There cannot be any exclusivity granted or claimed for satellite spectrum and the most important aspect is the inability of the same to be divided into chunks or into some pre-determined units. If the auction methodology is followed for the satellite spectrum, it would result in gross inefficiency and would create an opportunity for the influential and rich entities to act as gatekeepers against the economically weaker stakeholders/start-ups and eliminate any competitive choice with the consumers. A perfect balance needs to be attained to ensure that both the objectives (of introducing satellite-based internet and safeguarding the existing service providers like broadcasters, DTH & cable operators) are parallelly fulfilled without compromising or creating an existential crisis for any ongoing service/venture.

If the spectrum were to reduce/ become scarce, only entities with deep pockets would corner available satellite capacity and leave negligible satellite capacity for smaller entities/niche broadcasters. As a result of this uncalled-for consolidation, India will lose the multitude of voices and opinions expressed through several media entities which sustain a democracy.

Another important aspect which needs to be appreciated is the cost of providing broadband service to enable internet access in underserved areas/populations. It must be kept in mind that in order to make internet/broadband affordable for all persons, the cost of provision of the service must also be factored in. The interested telecom operators who desire to venture into this space have already made huge investments for deployment of satellites. In the event an auction takes place, the telecom operators would have no option but to pass on the burden of expenses to the end consumers since telecom operators will have to purchase the satellite spectrum for a huge price. This would make the provision of internet services to end consumers unaffordable as the rates would be very high. The higher the operational costs, the higher the price and lower the penetration.

Linear broadcasters have a very small fraction (<5%) of the total spectrum that 5G spectrum possesses. 5G systems have multiple bands over which they can operate, which extend from 700 MHz band to mmWave bands. In so far as C-Band is concerned, allocation of nearly 50% of the band (3300-3670 MHz) has already been made. It is therefore evident that while impinging on the balance of the C-Band, and specifically 3700-

4000 MHz will completely disrupt all C&S broadcast business, it will still not serve the needs of 5G, as higher bandwidths are available only in the mmWave and higher bands, extensively used now in many countries and therefore the present exercise is a matter of serious concern and dismay, as it proposes to auction spectrum without having carried out any study of the outcome and impact such auction will have upon the existing ecosystems. Therefore, the broadcast sector must be guaranteed full protection against any such disruption which is being proposed through this consultation exercise.

That the fact that prices of streaming data are at the lowest in India at present, satellite television is available at low-price points or at zero and that DD FreeDish is also available to a large number of Indian households is an advantage, which advantage will be potentially lost if broadcasting/satellite channels fall into the hands of a few corporate entities.

That India's digital revolution has been powered by the extremely low rates of internet data and streaming. It is undeniable that the large variety of content available on satellite television and the availability of television channels across genres and languages have played an important role in spreading relevant information of the Central Government and States. The ability of the Government to reach Indians in every corner of the country will be severely impaired if the number and variety of broadcasters at present cease to exist.

Apart from that, access to underserved populations will be affected as the cost of satellite services will rise and therefore auctioning satellite spectrum will create further problems instead of solving the existing issues. Auctioning of satellite spectrum may also result in hoarding of spectrum.

That it is an accepted fact that competition between various stakeholders in several industries provides consumers with better services at lower prices. Therefore, competition amongst the various industries should not be restricted by policies such as auctioning of satellite spectrum.

That the proposal is anti-competition in nature which can have a detrimental impact on an already established industry, which is a shining example of a home-grown industry that has a global reach, and it not only disseminates information and entertainment of the Indian diaspora across the globe, but also helps in spreading Indian culture, values, and the growing economic and social stature of the country amongst the world community.

F. Need for Study Before Reaching a Conclusion

It is therefore important that before responding to the questions, which are essentially centred around quantum, frequency bands for gateway links & user links, there must be an exhaustive study conducted on the various aspects highlighted hereinabove as to whether there should be any practical limit on the number of NGSO satellite systems in LEO & MEO, exclusive assignment, provisions for new entrant, assignment on shared basis, etc. Even otherwise, international practices in U.S.A, Mexico and Brazil are also evidence of the fact that the auctioning methodology has not succeeded, and the countries have shifted to administrative allocation.

In the present Consultation Paper, TRAI has not referred to any data or conducted any study/ impact assessment that allocation of C-Band Spectrum for 5G services will cause to the broadcast industry, nor has it done any research or study to assess the disruption which will be caused as a result of such allocation.

That the present consultation process has not discussed any consequences that would occur to the existing ecosystem of the cable and broadcast sector. Any proposal/consultation to auction the satellite spectrum, which is traditionally used to provide broadcast services and even utilised by the public broadcaster, Prasar Bharti, for dissemination of important news & current affairs events and public welfare messages, must be preceded by carrying out a comprehensive exercise of the pros and cons of the same.

The study must also factor in the international precedents, availability of spectrum, and the ability of any proposed new services to co-exist with the existing broadcast permission holders. Further, a technical study

must also be carried out in respect of possible interference in signal/frequencies if allocation in C-Band is made for 5G telecom services. Once the above exercise is complete, then TRAI will be in a position to circulate a consultation paper with all the above findings to the public and the stakeholders. Norms and practices followed by ITU, as also the NFAP, should be studied before undertaking any consultation process.

Therefore, TRAI should defer the present consultation process to first undertake such studies, and any consultation on the subject must occur only if the same is determined to be feasible and if it guarantees continuity, stability and a sustainable environment for the existing stakeholders/permission holders. TRAI being an expert body is best placed to do the same.

Accordingly, NBDA limited itself to matters of Policy rather than specifics of Auctions and responded to the specific queries raised in the Consultation Paper.

NBDA submitted that the present consultation process needs to be deferred in order to first undertake study and research, including technical studies on the subject as detailed in the Consultation Paper, to determine whether it is feasible and if it guarantees continuity, stability and a sustainable environment for the existing stakeholders/permission holders.

NBDA believes that as the FCC Docket, which is of critical importance in the licensing of space-based systems, is of a very recent release, i.e., of 20th April 2023 and is subsequent to the release of the Consultation Paper, therefore TRAI needs to analyse the new global impact that such a decision creates with possible bearing on the Indian systems and issue a fresh Consultation Paper. The Indian decision makers, particularly when they seem to be making decisions on letting in foreign GSO and Non-GSO systems, whether in collaboration with Indian stakeholders or otherwise cannot ignore the impact of such a critical new development which the Indian markets will bear as a result of permitting the operation of multiple systems.

India should constitute a Space Body which would look at these strategic issues which have a long-term bearing on the nation. A proper Space Body is required to evaluate the strategy and processes as pure civil servants focused on auction cannot decide these issues as the experience of other countries, well advanced in LEO systems, has shown. Even a body such as IN-SPACE is inadequate for this purpose as it is primarily a regulatory body and not a strategic think tank on future systems. In this regard, it may be noted on 20th April, 2023, the FCC via Docket 23-29 has recognized the complexity of the necessity of licensing a continued wave of new systems which are vying for license, while tens of thousands of LEO satellites have already been licensed by the FCC in previous 5 years. Consequently, the FCC has found it necessary to form the Space Bureau which will look into the waves of new licensees and how the systems can interoperate.

India is in a difficult situation as it has very few orbital filings and it needs to oversee the overseas systems making inroads into India (with or without a local partner) with future interests of the country and not compromise future systems and efficient strategic initiatives for the country.

The response for the preservation of the existing users in the C-band, Ku and Ka bands is very explicit and follows the ITU guidelines for the use of coordinated satellite slots and the right of such users to be provided an environment of no-interference from any new system. In this regard, the FCC Docket also establishes the principle of obligatory sharing of information amongst new systems and older systems and mandates operation on a no-interference basis.

Satellite spectrum for the broadcasters should be administratively allocated as vertical frequencies of C-Band is a shared spectrum which is coordinated by ITU and of which there is no scarcity. Therefore status quo should be maintained, as auctioning the same will have a detrimental impact on the broadcast industry.

Any recommendation that is finally made by TRAI must take into account the existential threat to the broadcasters/legacy users who are wholly dependent on the C-Band spectrum for Uplinking and Downlinking of signals.

Department of Telecommunications, Ministry of Communications

Applicability of Waiver of NOCC Charges for Space Segment for Satellite/ TV Broadcasters

As reported in the previous year's report, NBDA had represented to the Director (Satellite), Department of Telecommunications (DoT), Ministry of Communications, to consider waiving off the NOCC charges for the use of space segment on foreign satellites as well as Indian satellites for the broadcasters as had been granted to telecom operators.

It is pleasing to report that the representation yielded positive results. DoT vide Order dated 26.10.2022 decided to remove the NOCC charges for using space segments for all the other service providers also, including TV/ broadcasting operators. With this modification henceforth NOCC charges shall not be payable by any of the users of the space segment and therefore DoT letter No 59-146(2) /2003 -SAT dated 29.10.2003 ceases to have any effect henceforth.

Department of Consumer Affairs

Misleading Ads & Surrogate Advertising

The Department of Consumer Affairs (DoCA) vide letter dated 31.8.2022 conveyed concerns regarding brand extension and surrogate advertisements of liquor and tobacco products that are being telecast on TV channels and drew the attention of NBDA to Guidelines for Prevention of Misleading Advertisement and Endorsement for Misleading Advertisement issued by the Central Consumer Protection Authority (CCPA) on 9.6.2022. It highlighted the applicability of the CCPA Guidelines to the manufacturer, service provider or trader whose goods, products or services are the subject matter of the advertisement and the advertising agency or endorser providing advertising services.

NBDA vide its response dated 15.9.2022 to Secretary, DoCA put on record that apart from the CCPA Guidelines, there is also the CTN Act/Rules and the Advertising Standards Council of India (ASCI) Guidelines, which govern the aforementioned subject matter including the ASCI Guidelines dated 18.3.2021 which deal with brand extensions, apart from mandating CBFC certification. Further, the CTN Rules also identify ASCI as the entity responsible for governing advertisement-related compliance, responding to grievances and being accountable for self-regulation of the advertisement industry. A comparison of relevant provisions of the CTN Rules, and ASCI Guidelines juxtaposed with CCPA Guidelines was provided. It was submitted that Section 10 of the CCPA Guidelines states that the Guidelines cannot be in derogation of the legislations mentioned above, and therefore the legislations have to be read so as to complement each other.

That the ownership and control of advertisements (in particular, the content thereof) vests completely with the advertisers, the law rightly casts the onus primarily on the advertiser inter-alia for (a) classifying the advertisement under brand extension; (b) creative works in the advertisement and the final audio-visual (AV); (c) ensuring the registration of product with appropriate authority; (d) complying with qualification guidelines prescribed under Rule 7(viii) of the CTN Rules and (e) the onus of reviewing and clearing the application for certificate with the CBFC. Accordingly, it is the advertiser who is in correspondence with the CBFC for seeking certification of advertisements and not the broadcasters. Ultimately it is the responsibility of the advertisers and advertising agencies to ensure that broadcasters air only advertisements that are compliant with all applicable legislations on their respective channels. The advertisers have an obligation to forward only genuine brand extension advertisements duly certified by CBFC for broadcast on channels. Non-compliance, in such a case, should be

solely attributable to the concerned advertiser and/or advertising agency. The broadcaster's endeavour is always to be compliant with all legislations, including legislations/guidelines relating to advertisements.

Draft National Policy for Persons with Disabilities (Divyangjan) 2021

The Draft National Policy for Persons with Disabilities 2021 sought to replace the 2006 National Policy for Persons with Disabilities to bring it in line with the United Nations Convention on the Rights of Person with Disabilities ("UNCRPD"), the Rights of Persons with Disabilities Act, 2016 ("RPWD Act") and other international and national legislative developments. Under the Draft Policy, various areas for intervention, including prevention, early identification, education, health, skill, development & environment, social security, and accessibility, have been identified for the empowerment of persons with disabilities.

NBDA in its submissions dated 31.8.2022 submitted that the recommendations under the Draft Policy must be evaluated in light of applicable laws, i.e., RPWD Act and the Rights of Persons with Disabilities Rules, 2017 ("RPWD Rules") notified by the Central Government on 15.7.2017 under Section 100(1) and (2) of the RPWD Act.

NBDA submitted its comments/suggestions in relation to Chapter 9 of the Draft Policy which dealt with accessibility and in particular the Accessible India Campaign which sought to promote accessibility in websites, public documents and media content on TV, which pertain to or impact the news broadcasters. NBDA submitted that certain measures have been suggested under the Draft Policy without deliberating and identifying the issues that arise therefrom are as follows:

Measure No. 1

All websites, both government and private will meet the Govt. of India Guidelines as amended from time to time. At the time of granting security clearance for hosting any new website MeitY will develop a system of checking compliance with the accessibility standards.

NBDA submitted that the first requirement under Measure No.1 has already been implemented vide Rule 15 of the RPD Rules. The second requirement imposed under Measure 1, which subjects private establishments to security clearance and compliance audits, will have detrimental effects on the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. Even otherwise, security considerations/clearance have no bearing on accessibility, which is also evident from the definition of "cyber security" provided under the Information Technology Act, 2000. The ambit of Rule 15 does not extend to security clearances and compliance audits. Therefore, the requirement for MeitY to develop a system to check compliance with accessibility standards at time of granting security clearance to host new websites under Measure No. 1, insofar as it applies to private establishments, is completely unfounded. There is no basis in law or otherwise to suggest that new websites of private establishments should be subject to a security check at the time of granting clearance for hosting any new website.

Measure No. 2

"All TV content, films, documentaries and videos will have sign language interpretation or close captioning facilities for persons with hearing impairment and audio descriptions for persons with visual impairment."

A. Suitability of Content

Measure No.2 of the Draft Policy paints all TV content, films, documentaries and videos with the same brush without considering the difficulties in implementing such measures in respect of news content, particularly news which is broadcast 'live'.

News content is time sensitive and must be available in multiple languages. NBDA submitted that most news broadcasts are either 'live' or 'deferred live' (deferred by some minutes) or 'breaking news' reports. Therefore, broadcasters do not have sufficient time to add sign language interpretation/ close captioning and audio descriptions to the news content.

News broadcasts also include live panel discussions and debate programmes, which involve real-time discussions amongst various panellists and/or the audience (such as election discussions or talk shows), which cannot be adequately conveyed through sign language interpretation/ closed captioning and audio descriptions.

Even for regular news broadcasts, where there is a general script and it is telecast live from the newsroom sets, anchors can veer from the teleprompter script depending on new developments. In such case, if the program is already subtitled and the anchor deviates in any manner, it will cause confusion in the audience's mind since the text on the screen may differ from the audio.

News programming today involves multiple speakers (including phone calls/audios from reporters and general viewers, video streams from on-location correspondents), videos, and pictures, which cannot be conveyed and interpreted correctly by sign language experts. Further, news programmes are speech-intensive and do not leave enough room to accommodate audio description or closed captioning.

That the very nature of news broadcasts requires relaying large amounts of information. The news screen is text-intensive because of scrolls, headlines, etc., running on the screen, which does not leave enough space to accommodate closed captions or sign language interpretation.

B. Feasibility

India doesn't have adequate capacity to produce or utilize content with closed captioning/ sign language interpretation and audio descriptions. In the absence of data, it remains questionable whether sufficient ancillary service providers exist to support all broadcasters' production requirements (900 approx).

That if the requirement under Measure No.2, for all TV content to have closed captioning/ sign language interpretation and audio description were to be implemented, regional news and current affairs broadcasters would suffer huge financial losses, as they would have to incur substantial costs to implement the said measure for the regional audience to see their programme.

C. Production issues

Converting archived content would also require significant investment. The availability of content rights to include closed captioning for archived content may also pose a challenge. News broadcasters also frequently use third-party content for news coverage, which includes foreign-produced content for international coverage and it may not always be possible or feasible to convert such third-party content to contain closed captioning/ sign language interpretation and audio descriptions.

D. Contribution and Transmission Issues

That making technological changes in the play-out/ up-linking of channels to support the broadcast of news content which is compliant with Measure No.2 would also require substantial investment and would result in an increase in operational costs. Members would also need to ascertain whether additional bandwidth would be required to carry compliant content without deteriorating the quality of the content telecast on the channel.

Consumers can make use of closed captions only if the end distribution networks can carry closed captioning, which can be decoded by setup boxes. Presently, it is not mandatory for setup boxes to have closed captioning control options. In this regard, TRAI '*Recommendations on Making ICT accessible for Persons with Disabilities*'

of 2018 (“TRAI Recommendations”) acknowledged the gap in the technology and suggested that setup boxes should have the feature of “*close captioning control and display options*”. NBDA submitted that until a significant number of setup boxes incorporate this feature, content which is compliant with Measure No.2 would remain ineffectual.

E. Deviation from Accessibility Standards

By failing to exclude ‘live’ and ‘deferred live’ news content from the Draft Policy, the measures recommended significantly deviate from the ‘Accessibility standards for television programmes for hearing impaired’ issued by MoI&B vide Office Memorandum No.9/10/2012- BP&L (VoI-II) dated 11.9.2019.

Like the Draft Policy, the Accessibility Standards also require service providers, including broadcasters, “*to deliver subtitles/close captioning/ sign language across specified television*”. However, unlike the Draft Policy, the Accessibility Standards do not cast a blanket burden with respect to all television content. In Paragraph 6.2 of the Accessibility Standards, ‘live’ news content has been exempted from complying with the Access Service due to its nature.

Recognizing the cost-intensive nature of these measures, the Accessibility Standards, as a concession, also excluded “*TV Channels achieving an average audience share of all households over a 12 month period of less than 1 %*” from implementing the Accessibility Standards. However, under the Draft Policy, no such exemptions have been provided in respect of Measure No. 2.

Given the technical difficulties and costs involved, ‘live’ and ‘deferred live’ news content should be exempted from the implementation of Measure No. 2 in line with the Accessibility Standards. Even otherwise, the implementation of measures suggested under Measure No.2 can only be gradual and up to a practical feasible threshold.

Measure No. 3

“M/o Information and Broadcasting will issue guidelines to all broadcasters to confirm to the accessibility standards while broadcasting their programmes.”

The MoI&B had vide Office Memorandum dated 11.9.2019 issued Accessibility Standards pertaining to persons with hearing disability, which deals with subtitles, sign language and closed captioning, which are in the process of getting notified under the RPWD Act through the DEPWD.

That no accessibility standards have been formulated with respect to persons with visual disability, and the modalities regarding audio description have yet to be determined. NBDA suggested that Accessibility Standards for persons with visual disability should be according to Industry Guidelines.

In addition to the above comments/suggestions, NBDA suggested as under:-

The implementation of measures under the Draft Policy would involve additional labour and technical equipment requirements, which would add to the production costs of the Members. Therefore, the policy should provide financial support/incentives to private broadcasters to make their programs accessible.

That the policy should emphasize the role of the public broadcaster Prasar Bharti. Since Prasar Bharti, enjoys the monetary support of the public exchequer, it should be the foremost broadcaster to make TV accessible to persons with disability and provide content support to the private broadcasters as is being done at present.

Instead of directing all channels/websites to provide programmes catering to the needs of the persons with disability, the Government may launch dedicated channels for such persons. Private entities can be incentivized to function in this space by providing them special packages.

As a socially responsible association, its members will provide support within the permissible limits. However, since the broadcasting industry revenues are already on a decline, the Government should not impose any Policy measures on the industry, the implementation of which will sound a death knell for the industry.

Comments dated 18.7.2023 on Accessibility Standards for Television Programmes

DD (Policy Cell), vide email dated 6.6.2023 sought comments from the members of the Core Group on issues raised by Mol&B in its letters dated 23.3.2023 and 11.7.2022, which include the applicability of Accessibility Standards for Persons with Visual Impairment, on repeat telecast of live news, sporting events and other live content and in respect of regional content and news.

NBDA stated that implementing accessibility standards for persons with visual impairment would require broadcasters to completely repurpose content in audio format, which in turn would increase the financial, commercial and administrative burden on the part of the news broadcasters. It may also not be technically feasible to implement accessibility standards for persons with visual impairment as news reporting is generally quick, and there are no natural pauses, which give the news broadcasters sufficient time to play the audio description of visual elements. Consumers today have a wide range of options to access information in the form of audio news, podcasts etc. Therefore, the purpose of accessibility is served in some form, and any such additional stipulation may not be warranted or have the intended effect. NBDA stated that the requirement for making content accessible to persons with visual impairment should be voluntary and not imposed on the news broadcasters.

As far as the implementation of Accessibility Standards to repeat telecast of live news, sporting events, and other live content is concerned, NBDA stated that news broadcasters should be exempted from the application of this standard due to the high volume of content and the associated technical challenges. In this regard, NBDA stated that there is little value in repetitive news or programmes and that it may not be possible for the news broadcasters to keep all news programmes in an accessible ready format for repeat telecast as it will completely burden the system. In any event, for repeat broadcasts of important news/content received from Doordarshan for which assistance on accessibility standards is provided by Doordarshan, news broadcasters may use the captions provided and shall comply with the accessibility standards as far as feasible. Therefore, at this stage, it is not imperative to apply accessibility standards to repeat telecasts.

NBDA stated that it would be difficult for regional news and current affairs channels to implement the Accessibility Policy and Standards, particularly regarding sign language, as they would have to incur substantial costs for limited viewers, making it difficult to sustain such channels. Furthermore, regional channels would be unable to engage/hire experts or sign language interpreters to translate regional news content without changing its editorial meaning. They would also be required to create a fresh script for the bulletin and read the script at a reasonable speed, for which two persons would be required, i.e., one newsreader and one sign language interpreter, which would interfere with the normal programming.

In view of the foregoing, NBDA stated that members of NBDA in compliance with the Accessibility Standards for Persons with Disabilities in TV Programmes issued by Mol&B, have been carrying news bulletins on all days of the week with subtitles in the language of the channel/s at a time convenient to each broadcaster and/or have also used Doordarshan feed. Therefore, at this juncture, the news broadcasters would not be in a position to comply with any further obligations in the implementation of the Accessibility Standards for Persons with Disabilities in TV Programmes.

Draft Regulatory Guidelines for Child Participation in The Entertainment Industry or Any Commercial Entertainment Activity

NBDA in its submissions dated 29.9.2022, had stated that the said draft regulatory guidelines were issued to protect and safeguard children's rights keeping in mind the best interest of children. NBDA suggested that the

Draft Guidelines should be amended to clarify that news media, including all news content whether broadcast on television or any other platform, is not within the scope of the Draft Guidelines, thereby excluding 'news and current affairs media' from the purview of the same.

In view of significant modifications in the legislative framework and in the media and entertainment industry since the issuance of the 2011 Guidelines to Regulate Child Participation in TV Serials, Reality Shows and Advertisements, the Draft Guidelines sought to broaden the applicability and scope of guidelines by bringing platforms other than TV under its ambit.

The 2011 Guidelines were not applicable to all types of programmes broadcast on television, under the Guideline, an exception was carved out for news-based television programmes. In contrast, the Draft Guidelines sought to extend their application to all types of media content, including "news media".

Since news content is very different from the content broadcast on entertainment channels, it has reservations regarding the inclusion of news and current affairs media under the Draft Guidelines. From a bare reading of the said provision, it is clear that news and current affairs media, including live news reporting, does not fall within the ambit of 'entertainment industry', as news and current affairs media does not involve the utilization of services of a minor and/or there are no elements of performance.

The issues concerning welfare of children arise primarily from their participation in an entertainment show or reality TV, which is completely different from when a child may be involved in a broadcast on a news channel. The nature of news broadcasts is fundamentally different from other types of television programmes, which involve elements of commercial employment of children. News and current affairs media neither employ children nor offer any financial incentive to the children or their parents/guardians for their inclusion in news programme(s). News channels, particularly during live broadcasts only report events as they transpire.

Unlike other media content, news content is fundamentally time-sensitive and often unscripted, especially in cases of breaking news and live telecasts. For instance, accidents or disaster reporting, which constitute a substantial part of news, are broadcast live (or deferred live) and are wholly unscripted.

Even the MoI&B has implicitly acknowledged the unique nature of news programmes by categorizing television channels into two binary categories of "news and current affairs" and "non-news and current affairs" for the purpose of granting permission for Uplinking and Downlinking of television channels.

That attempting to include news and current affairs media under the scope of the Draft Guidelines seeks to paint all types of media content with the same brush, without considering the special difficulties that implementing these measures with respect to news content, especially live news, will present. This is also borne out from the fact that the Draft Guidelines lay down the same prescriptions for all types of media content irrespective of their nature.

Most prescriptions, under the Draft Guidelines, seem to have been formulated from the point of view of staged media content involving child artists, which is not the case with news content as stated above.

Sufficient safeguards exist in law to adequately protect and safeguard children's rights and interests, including under the Constitution, the Indian Penal Code, 1860, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 read with Child Labour (Prohibition and Regulation) Rules, 1988, Juvenile Justice (Care and Protection of Children) Act, 2015, Protection of Children from Sexual Offences, 2012, the Cable Television Networks (Regulation) Act, 1995 read with Cable Television Network Rules, 1994.

NBDA was part of the Committee formed pursuant to the Orders of the Hon'ble Delhi High Court for framing "*Guidelines for media reporting on children*". In view of the same, news broadcasters, including the Members of NBDA, are also bound by the aforementioned Guidelines laid down by the Hon'ble Delhi High Court in WP (C) No. 787 of 2012 being "*AK Asthana v. Union of India & Anr.*". Therefore, it was suggested that there is no

requirement to create an additional parallel framework to protect the interest of children as sufficient legislation and guidelines already exist in so far as the news and current affairs media is concerned.

NBDA suggested that the Draft Guidelines should be amended to clarify that news media, including all news content, whether broadcast on television or any other platform is not within the scope of the Draft Guidelines, thereby excluding 'news and current affairs media' from the purview of the Draft Guidelines.

NCPCR subsequently issued the Guidelines for child and adolescent participation in the entertainment industry or any commercial entertainment activity on 25.3.2023. The Guidelines cover television programmes including but not limited to: i. Reality Shows; ii. TV Serials; iii. News and Informative Media; iv. Movies; v. OTT platforms; vi. Content on Social Media Platforms.

The Guidelines have defined the following:

"Digital Media" means digitized content that can be transmitted over the internet or computer networks or cyberspace and includes content received, stored, transmitted, edited or processed by- (i) an intermediary; or (ii) a publisher of news and current affairs content or a publisher of online curated content;

"News and Current Affairs Content" includes newly received or noteworthy content, including analysis, especially about recent events primarily of sociopolitical, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

It has also laid down the guidelines for news and media, which are applicable to news and media production companies reporting/broadcasting daily news, current affairs and content of similar nature. These guidelines will be applicable to news and media production companies in addition to Chapter-2 of these Guidelines which relates to *General Safeguards*.

The Guidelines for **"Children in News and Media"** are as follows:

- a. Media and Production Houses shall ensure that child victims of rape, other sexual offences, trafficking, drug/substance abuse, elopement, organized crimes, and children used in armed conflicts, children in conflict with law and child witnesses etc. are automatically guaranteed anonymity for life.
- b. Media shall not sensationalize issues or stories, especially those relating to children, and should be conscious of the harmful consequences of disclosing/highlighting information in a sensational form and the harm it may cause to children.
- c. While conducting an interview of a child, the media production houses shall ensure the following: -
 - i. That the interview is in the best interest of the child.
 - ii. That the interview does not aggravate the child's situation further.
 - iii. That the manner and content of the interview shall not affect/interfere with the child's right to privacy.
 - iv. That if the interview is in the child's best interest, the same shall be done under supervision and consent of the child's parent(s) or legal guardian, or in the alternative, the competent authorities for the child.
 - v. Frequent interviewing of a child must be avoided.
 - vi. The child and/or his parents/ legal guardian or any person having control over him shall not be coerced or enticed in any manner including financial or other inducement to secure consent for the interview.

- d. Content/broadcast shown by the News and Media production companies must be in conformity with the prescribed programme code.

Representation in Technical Committees of Bureau of Indian Standards (BIS)

Scientist D/Joint Director, Member Secretary (Media and Entertainment Services Sectional Committee-SSD 13), Services Sector Department (SSD) Bureau of Indian Standards (BIS) vide email dated 24.11.2022 requested for NBDA to co-opt members of NBDA in the Television and OTT Services Sub Committee (SSD 13:6) and under SSD 13 and for participation in the Subcommittee for Standardization in the area of Television Ratings (SSD 13:10).

Member Secretary, Media and Entertainment Services Sectional Committee-SSD 13, Services Sector Department-I (SSD-I), BIS, was informed on 1.3.2023 of the representatives of member broadcasters who would be representing NBDA in the Subcommittee for Standardization in the area of Television Ratings (SSD 13:10) and Television and OTT Services Sub Committee (SSD 13:6), which are as follows :

Subcommittee for Standardization in the area of Television Ratings (SSD 13:10)

1. Mr. Vivek Malhotra, TV Today Network Ltd,
2. Mr. Puneet Sah, Times Network
3. Mr. Shekhar Bansal, ABP News
4. Mr. Amit Sinha, India TV

Television and OTT Services Sub Committee (SSD 13:6)

1. Mr. Piyush Chaudhary, Zee Media
2. Mr. Raj Warier, ABP News
3. Mr. Ankit Singh, Network18
4. Ms. Aditi Gupta, TV Today

NBDA representatives have been coopted to the above-mentioned Committees.

Subcommittee on Standardization in the Area of Television Ratings (SSD 13:10)

It is understood that BIS would seek opinion of Mol&B on formulation of an Indian Standard on 'Television Ratings', considering the existing guidelines issued by Mol&B for accreditation and assistance would also be taken from the existing documented processes being followed by BARC for measurement of television audience. On taking up the matter Mol&B has informed BIS *"that there may not be any requirement of formulating an Indian standard on Television Ratings to standardize the process of ratings of broadcasting channels based on Television Audience Measurement, as the same are already covered in the existing Policy Guidelines issued by the Ministry of Information and Broadcasting. It is further informed that Mol&B is in the process of filing an affidavit with these views in the court case filed by Veterans Forum for Transparency in Public Life versus Union of India & Ors. before Hon'ble High Court of Delhi."*

Corporate Matters

Office Bearers of NBDA 2022-2023

In terms of Article 26 of the Articles of Association, the following Directors were elected Office Bearers of the Association for the year 2022-2023:

President – Mr. Avinash Pandey (ABP Network Pvt. Ltd.)

Vice President – Mr. M.V Shreyams Kumar (Mathrubhumi Printing & Publishing Co. Ltd.)

Honorary Treasurer – Ms. Anuradha Prasad Shukla (News24 Broadcast India Ltd.)

Membership

In the year 2022-2023 the following entities have become Associate Members of NBDA:

1. Asnani Builders & Developers Ltd.
2. Editorji Technologies Pvt. Ltd.

The details of Members/Associate Members of the Association are annexed as **Annexure-1**.

News Broadcasting & Digital Standards Authority (NBDSA)

During the year under report, the Board appointed Dr. Mohan Kumar, IFS Retired, former Indian Ambassador to France as an Independent Member of NBDSA in place of Ms. Stuti Kacker, whose term had ended in June 2022 for a period of three years commencing from 21.9.2022 .

Board upon receiving consent has extended the term of Dr Nasim Zaidi, and Mr. Navtej Singh Sarna, Independent Members of NBDSA for a further period of three years from 14.10.2022 and 9.1.2023 respectively.

Mr. Sukesh Ranjan, Editor, News 24, has been appointed by the Board as Editor Member for the remaining term i.e. upto 28.9.2023 in place of Mr. Sandeep Chaudhary.

Press Releases

10.10.2022: Competition Commission of India (CCI) found merit in the complaint filed by NBDA against Google for abusing its dominant position in violation of the Competition Act, 2002. Accordingly, CCI in its order dated 6.10.2022, clubbed the matter with the ongoing investigations in similar complaints filed by other affected bodies i.e. INS & DNPA and also directed the Director General to investigate the present matter and submit a consolidated investigation report in all matters.

23.1.2023: MeitY on 17.1.2023 issued revised Draft Amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules, 2021") seeking to amend Rule 3(1)(b)(v) to state "*or is identified as fake or false by the fact check unit at the Press Information Bureau of the Ministry of Information and Broadcasting or other agency authorised by the Central Government for fact checking or, in respect of any business of the Central Government, by its department in which such business is transacted under the rules of business made under clause (3) of article 77 of the Constitution.*" NBDA noted with concern that the proposed amendment stifles the freedom of speech and expression of the media under Article 19(1)(a). NBDA requested MeitY to withdraw the aforesaid amendment in view of the apprehensions expressed.

14.2.2023: NBDA expressed its deep anguish over the Income Tax 'surveys' conducted at the offices of BBC, a member of NBDA. NBDA urged the Government to ensure that any investigation undertaken by it, must be in strict adherence with the principles of natural justice and the prevalent law.

6.3.2023: NBDA strongly condemned the attack by Student Federation of India (SFI) activists into the office of Malayalam news channel Asianet in Kochi and the subsequent police *search* of its office in Kozhikode, Kerala, a Member of NBDA. NBDA urged the Chief Minister of Kerala to take immediate action against the individuals and officials who attacked and/or searched the broadcasters office premises, clearly sending a message that no individuals or officials are beyond the purview of the law.

7.3.2023: Letter dated 6.3.2023 to Hon'ble Chief Minister of Kerala by President NBDA requesting him to take immediate action against the individuals and officials who attacked and/or searched the premises of the office of Malayalam news channel Asianet in Kochi and Kozhikode, Kerala, a Member of NBDA was released to the media.

11.4.2023: On 6.4.2023, MeitY issued the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023, thereby amending Rule 3(1)(b)(v) to state “*or, in respect of any business of the Central Government, is identified as fake or false or misleading by such fact check unit of the Central Government as the Ministry may, by notification published in the Official Gazette, specify.*”

NBDA stated that the amendment would result in suppression of any legitimate criticism or analysis of the Government, its policies and its actions. This will have a ‘*chilling effect*’ on the freedom of speech and expression granted to the media under Article 19(1)(a). It is of serious concern that by virtue of the Amendment, MeitY has given itself the power to designate a Fact Check Unit which would act as an ‘adjudicator of truth’ and will have unbridled and unfettered right to determine what is ‘fake’, ‘false’ or ‘misleading’. NBDA requested MeitY to withdraw the aforesaid amendment.

Activation of new email IDs of NBDA and NBDSA

Pursuant to change of name of News Broadcasters Association to News Broadcasters & Digital Association and News Broadcasting Standards Authority to News Broadcasting & Digital Standards Authority, email IDs of NBDA and NBDSA have changed to be as follows:

NBDA: nbda@nbdanewdelhi.com

NBDSA: authority@nbdanewdelhi.com

Legal Matters

Supreme Court of India

S. No	Title	Details
1.	People’s Union for Civil Liberties and Anr. Vs The State of Maharashtra and Ors.: Criminal Appeal No. 1255 of 1999	The Appeal arises from an Order passed by the Bombay High Court in W.P.(Crl.) No. 1146/ 1997 in relation to alleged fake encounter killings. On the question of media briefing by the police, the Court heard the submissions made by the amicus curiae, NBA, NHRC & Dr Surat Singh. The matter has not come up for hearing after 29.3.2017.
2.	Dr. Surat Singh Vs Union of India and Ors.: W.P. (C) No. 316 of 2008	A writ petition had been filed under Article 32 of the Constitution for ensuring effective enforcement of fundamental rights of citizens (in this case Dr. Rajesh Talwar) in relation to police handling and media coverage of the Aarushi murder case. NBA has filed an intervention in the matter. The matter is to be heard with Criminal Appeal No. 1255 of 1999. The matter has not come up for hearing after 29.3.2017.
3.	Act Now for Harmony and Democracy (ANHAD) and Anr. Vs Union of India and Ors. T.C. (C) No. 27 of 2011	The case arises from a Writ Petition filed before the Delhi High Court seeking a judicial inquiry into the encounter killings at Batla House, New Delhi and for laying down guidelines for the police and the media regarding the publication of information obtained/claimed to be obtained during investigation. NBA has intervened in the case. The matter is to be heard with Criminal Appeal No. 1255 of 1999. The matter has not come up for hearing after 29.3.2017.
4.	M/s News Broadcasters Association and Anr. Vs Telecom Regulatory Authority of India and Ors.: Civil Appeal No. 1525 of 2013.	A civil appeal had been filed against Judgment dated 19.10.2012 passed by TDSAT in Appeal No. 5(C) of 2012 titled “Indus Ind Media Communication Ltd. vs. TRAI and Anr.” The matter came up for hearing on 26.4.2023, on which date NBA withdrew its appeal.

S. No	Title	Details
	Indus Ind Media and Communications Limited and Anr. Vs Telecom Regulatory Authority of India and Ors. (TRAI): Civil Appeal No. D3009 of 2013.	
5.	Nivedita Jha Vs State of Bihar & Ors: SLP(C) No.24978 of 2018	An SLP was filed praying inter-alia that an ad interim ex-parte order be passed staying the operation of the interim order passed by the Patna High Court, which imposed a blanket ban on the print and electronic media reporting on the Muzaffarpur, Bihar shelter homes. Meanwhile, since the electronic media had reported on the "Rewari Rape case" and identified the victim, the Hon'ble Court, by Order dated 20.9.2018, issued notice to NBSA, IBF, PCI and Editors Guild to assist the Court in respect of the mechanism for enforcement and implementation of the statutory provisions and guidelines. The matter was disposed of vide Order dated 10.07.2023.
6.	Jamait-Ulama-I Hind & Anr.Vs Union of India & Anr: W.P. (C) No. 787 of 2020.	The Petitioners have filed a PIL seeking directions to prevent the communalization of the Nizamuddin Markaz issue by certain sections of the print, electronic media and social media. Vide order dated 27.05.2020, NBDA was impleaded in the above matter to represent electronic media. The Writ Petition was amended to include a challenge to the Cable Television Networks (Amendment) Rules 2021. The matters are to be heard with W.P.(C) No. 956 of 2020 and other petitions relating to Hate Speech and SLP (Civil) No. 13661 of 2021 being Union of India Vs News Broadcasters Association. The matter last came up for hearing on 27.7.2022.
7.	Firoz Iqbal Khan Vs Union Of India (NBA) W.P.(C) No. 956 of 2020	A PIL was filed seeking the issuance of directions to the Central Government and Ministry of Information and Broadcasting to issue necessary guidelines/instructions to restrain the media, both print and electronic, as well as social media networks from broadcasting or reporting any news relating to religion which creates any communal disharmony. The matter last came up for hearing on 13.1.2023.
8.	Union of India & Anr. Vs NBA & Ors. SLP (Civil) No. 11566 of 2021	Union of India (UOI) has filed an SLP impugning the Interim Order dated 9.7.2021 passed by the Hon'ble Kerala High Court in News Broadcasters Association Vs. Ministry of Electronics & Information Technology W.P. (C) No. 13675/2021. Vide Order dated 9.5.2022, the Hon'ble Supreme Court directed a stay of further proceedings pending before the various High Court involving a challenge to IT Rules, 2021 or Cable TV Amendment Rules, 2021. However, the Interim Order dated 9.7.2021 granted by the Hon'ble Kerala High Court continues. The matter last came up for hearing on 27.7.2022.
9.	Union of India & Anr. Vs Sayanti Sengupta & Ors. TP (C) No. 1248-1252 of 2021	UOI has filed a Transfer Petition seeking transfer inter alia, of News Broadcasters Association and Ors Vs. UOI and Ors. W.P. (C) No. 13675/2021. NBA has filed a caveat in the matter. The matter last came up for hearing on 27.7.2022.

S. No	Title	Details
10.	Union of India Vs News Broadcasters Association SLP (Civil) No. 13661 of 2021	Union of India has filed an SLP against the Order of the Kerala High Court dated 16.07.2021 in the matter of "News Broadcasters Association & Ors Vs Union of India Through Ministry of Information and Broadcasting" [WP(C) 14239 of 2021]. Vide Order dated 9.5.2022, the Hon'ble Supreme Court directed a stay of further proceedings pending before the various High Court involving a challenge to IT Rules, 2021 or Cable TV Amendment Rules, 2021. However, the Interim Order dated 16.7.2021 granted by the Hon'ble Kerala High Court continues. The matter last came up for hearing on 27.7.2022.
11.	National Alliance of Journalists & Ors. Vs Union of India & Ors. W.P. (C)No. 928 of 2020	The writ petition relates to retrenchment of employees in the print media and digital media organizations. NBA has been made a Respondent in the matter. The matter last came up on 28.8.2020.
12.	Reepak Kansal Vs Union of India W.P. (C) No. 762 of 2020	A writ petition was filed praying inter alia that the Hon'ble Court issue an appropriate writ, order or direction directing the Central Government to constitute an independent authority to be known as the Broadcast Regulatory Authority of India for the purpose of regulating and facilitating the development of broadcasting services in India. Both NBA and NBSA were made Respondents in the matter. The Hon'ble Court on 8.8.2023 declined to entertain the petition under Article 32 of the Constitution of India, which was accordingly rejected.
13.	Nilesh Navlakha & Anr. Vs Union of India & Ors. W.P. (C) No. 1316 of 2020	A writ petition was filed inter alia, praying that the Hon'ble Court issue an appropriate writ, order or direction for setting up an Independent High-Powered Committee to scrutinize and review the entire legal framework related to the Media Business regulation, to recommend appropriate guidelines to be laid down by the Hon'ble Court and for creation of a Media Tribunal, to adjudicate upon the complaints against the Media/Broadcasting Channels/Networks. Both NBA and NBSA were made Respondents in the matter. The Hon'ble Court vide Order dated 8.8.2023 rejected the Writ Petition.
14.	NBA Vs Union of India & Ors. SLP (C) No.017959 of 2023	A Special Leave Petition was filed against the Judgment dated 18-01-2021 in PIL (ST) No.92252 of 2020 and Criminal PIL (ST) No.1774 of 2020, challenging inter alia certain observations made by the Hon'ble Bombay Court on self-regulation. The matter came up for hearing on 7.8.2023. After hearing arguments on behalf of NBDA on the observations made by the Hon'ble Bombay High Court, the Hon'ble Supreme Court issued notice in the SLP. The matter is now posted for 18.09.2023.
15.	Hema Rajaraman Vs Union of India WP(C) No. 509 of 2023	A writ petition has been filed inter alia praying that the Hon'ble Court issue an appropriate writ, order or direction directing NBDSA and all news & media entities and agencies to desist from reporting on the criminal proceedings involving Criminal Case No. 2081/2023 registered before Patiala House Court, New Delhi and arising from FIR No. 06/2023 dated 04.01.2023. NBDA has been made Respondent No. 9 in the matter. The matter has not yet come up for hearing.

Matters Pending in High Courts

A. Allahabad High Court – Lucknow Bench

S. No	Title	Details
1.	Dr. Nutan Thakur Vs Union of India WRIC No. 9976 of 2013 (M/B)	Aggrieved by the impugned order dated 16.10.2013, passed by the NBSA, Dr. Nutan Thakur filed the said writ petition. The matter has not come up for hearing.

B. Bombay High Court

S. No	Title	Details
1.	Lahu Chandu Chavan Vs State of Maharashtra & Ors. W.P. (CRL.) No. 1119 of 2021	After hearing the submissions of the Petitioner on 4.3.2021, the Bombay High Court directed media organizations to scrupulously follow the guidelines issued in Nilesh Navlakha Vs. Union of India (2021 SCC Online Bom 56) and further to refrain from publishing or giving any unnecessary publicity to the incident of the death of the daughter X of the Petitioner and her alleged illicit relationship with Y. The matter has not come up for hearing thereafter.
2.	News Broadcasters & Digital Association and 2 Ors. Vs Union of India & Ors. IA(L) No. 17704 of 2023	NBDA has filed an Intervention Application in the matter of Editors Guild of India vs Union of India WP (L) 14955 of 2023 challenging Rule 3(II) (A) and (C) of the Information Technology (Intermediary Guidelines and Digital Ethics Code) Amendment Rules, 2023. The matters have now been posted for 31.8.2023 and 1.9.2023.

C. Calcutta High Court

S. No	Title	Details
1.	Sri. Charles Nandi Vs Union of India & Ors. WPA No. 5705 (W) of 2020 with CAN 3633 of 2020.	The petition has been filed by an employee praying for the Respondent authorities to frame a scheme for providing financial assistance to all media personnel in the State of West Bengal facing financial crisis during the pandemic. State Govt. of West Bengal, INS, NBA, Bennett Coleman, ABP, Aajkaal and Trade Union Organizations of the print media have been made Respondents in the matter.

D. Delhi High Court

S. No	Title	Details
1.	M/s. News Broadcasters Association and Ors. Vs Telecom Regulatory Authority of India W.P.(C) No. 7989 of 2013 NBA & Ors. Vs Union of India W.P. (C) No. 4307 of 2021	A writ petition has been filed by NBA and its other members for quashing and setting aside the Standards of Quality of Service (Duration of Advertisements in Television Channels) (Amendment) Regulations, 2013 issued by the Telecom Regulatory Authority of India vide Notification dated 22.3.2013 Subsequently, another Writ Petition was filed by NBA challenging Rule 7(11) of the Cable Television Network Rules, 1994 on the ground that it violates Article 19(1)(a) read with Article 19(2) of the Constitution. The Interim Orders granted in favour of the Petitioners in the year 2013 in W.P. 7989/2013 continue. The matter is now listed on 31.08.2023.

S. No	Title	Details
2.	Sadhan Haldar Vs The State of NCT of Delhi and Ors: W.P.(CRL)No. 1560 of 2017	On 22.1.2019 a detailed order was passed by the Hon'ble Court issuing directions to various agencies involved in the recovery and restoration of missing children in Delhi. Though NBA is not a party to the writ, NBA has entered its appearance and no directions have been passed in respect of NBA.
3.	Yashdeep Chahal Vs Union of India & Ors. W.P. (C) 12787 of 2019	A PIL was filed seeking, inter alia directions that the Respondents take appropriate action against media houses and reported individuals for violating the Indian Penal Code and the law as laid down by the Hon'ble Supreme Court by publishing the name, residential address and pictures of the victim in the Hyderabad rape case. The judgment in the matter was pronounced on 24.1.2023.
4.	Disha Ravi Vs NCT of Delhi & Ors. W.P. (C) 2297 of 2021	A writ petition has been filed seeking inter alia the issuance of a writ of mandamus and/or writ of like nature directing NBDSA (Respondent No. 3) to take appropriate action against Respondent No. 4-6 (News18, Times Now and India Today) and other member private news broadcasting channels under its Guidelines for reporting on Disha Ravi in a manner that is violative of fair trial rights and right to privacy. The matter is now listed for 4.09.2023.
5.	Danish Hashim Vs Union of India & Ors. W.P. (C) 4451 of 2021	A writ petition was filed seeking inter alia for directions to be issued to Union of India to draft, formulate & implement rules, regulations/ guidelines through a competent law to impose reasonable restrictions on circulation and publication of news items pertaining to private disputes/ matrimonial matters which are sub-judice. NBDA was impleaded as a party in the matter. On 2.08.2023, the Writ Petition was disposed of as withdrawn.
6.	Ms. CK Vs Commissioner of Police & Ors. W.P.(C) 6415 of 2021	The writ petition was preferred by a woman who had converted to Islam out of her own free will and without any inducement or coercion. Ever since then, she had been receiving threats from Respondents and Respondents Nos. 6 to 8 had been publishing malicious articles about her along with her photographs and her home address, causing irreparable damage to her reputation and endangering her family and her. NBDSA was Respondent No.8 in the matter. The petition was disposed of by the Hon'ble Court vide Order dated 1.5.2023.
7.	Arjun Jain Vs NBDSA & Ors. W.P. (C) 11484 of 2021	A writ petition was filed seeking inter alia the issuance of a writ of mandamus and/or writ of like nature directing NBDSA to create rules/a code and consequently an emergency efficacious grievance redressal system for reportage of criminal investigations and trials. The petition was dismissed as withdrawn vide Order dated 22.12.2022.
8.	Firoz Alam Vs State of Bihar & Ors. W.P.(C) No.12763 of 2022	The Writ Petition related to the media trial of the Petitioner, who is currently facing a probe from the Economic Offence Unit of Bihar Police regarding allegations of corruption and disproportionate assets. NBA was Respondent No.7 in the matter. The Hon'ble Court vide order dt.10.10.2022, dismissed the writ petition.
9.	Shehla Rashid Shora Vs NBDA & Ors. W.P. (C) No. 13361 of 2022	The Writ Petition arises from the Order No. 129(2022) dt.31.03.2022 passed by the NBDSA (Respondent No.2) in respect of a complaint filed by the Petitioner against Zee News (Respondent No.3). In the Writ, the Petitioner has prayed inter alia, for the issuance of an appropriate writ, order or direction directing the Respondent No.2 to suitably modify its Order and pass directions to the Respondent No.

S. No	Title	Details
		3-4 to air, an apology to the Petitioner at 11 p.m. on any non-holiday weekday on the same Zee news channel, uttered slowly and clearly by the same news anchor (Respondent No.4) in Hindi. The matter has been posted for 5.12.2023.
10.	Vijay Nair Vs Central Bureau of Investigation & Anr. W.P. (C) No. 15617 of 2022	The petitioner, an accused in the Delhi Liquor Excise Policy Scam has filed a Writ Petition inter alia seeking the issuance of a writ of mandamus thereby directing the Respondents to ensure that no leakages of court proceedings are made so as to prejudice the fundamental right of the Petitioner to have a free and fair trial. NBDSA along with India Today, Times Now and Zee News have been made Respondents in the matter. The matter has been posted to 11.10.2023.
11.	CRL MA (No). 5041 of 2023 in Asif Iqbal Tanha (Through Pairokar) v State of NCT of Delhi & Ors. WP (CRL.) 1292 of 2020	A writ petition was filed before the Hon'ble Delhi High Court by Asif Iqbal Tanha, an accused in the Delhi riots against publication and broadcast by various news outlets, of highly sensitive / confidential information in connection with ongoing criminal investigations into inter alia Case FIR No. 59/2020. The Petitioner inter alia, prayed for the Hon'ble Court to (i) Direct Respondent Nos.3, 4, 5 & 6 and various other media agencies to take down the sensitive/confidential information leaked to them by the officials of Respondent No.2; (ii) Direct an inquiry into misconduct of official or officials of Respondent No.2 responsible for leaking information to Respondent Nos.3-6 and other such media agencies; and (iii) Issue guidelines on media reporting of ongoing criminal investigations. In view of the prayers made in the petition and the averments contained therein, an intervention application was filed on behalf of NBDA in the matter. The matter has now been posted for 11.09.2023.
12.	Azmat Ali Khan Vs Union of India WP (C)No 6332 of 2023	In the Writ Petition, the Petitioner has inter alia, prayed that the Hon'ble Court issue a Writ of Mandamus or any other appropriate Writ/Order/ Direction to the Respondents to take action as per law to take down/restrain the publication of articles/videos, circulation of fake news and internal details of the FIR 295/2023 dt. 19.04.2023 registered under Sections 323, 376, 506 and 509 of the Indian Penal Code pending the investigation. NBDSA is Respondent No.3 in the matter. The matter is now posted for 29.08.2023.

E. Karnataka High Court

S. No	Title	Details
1.	Peoples Movement Against Sexual Assault (PMASA) Vs Department Of Women and Child Department, State of Karnataka & Ors. W.P. No.6301 of 2017	A writ petition has been filed which seeks for the Hon'ble Court to issue a Writ of Mandamus inter alia to Respondent No. 11, NBSA, (i) to strictly enforce the laws and self-regulatory norms formulated to preserve the confidentiality of the identity of the victims of sexual assault; (ii) to strictly enforce the laws and self-regulatory norms formulated for sensitive and non-sensational reportage of incidents of sexual assault; (iii) to formulate effective and accessible grievance redressal mechanisms against objectionable or offensive content in local languages. The matter last came up for hearing on 8.7.2022.

F. Kerala High Court

S. No	Title	Details
1.	K. Biju Vs Union of India and Others. W.P.(C) No. 21336 of 2013	A Writ Petition has been filed of India seeking that the Hon'ble Court issue a Writ of Mandamus, directing Respondent Nos 1 and 2 i.e. Union of India and the State of Kerala respectively to take effective steps to prevent violation of the Programme Code of the Cable Television Networks Act, 1995 and Cable Television Networks Rules, 1994 by private news channels and to frame stringent statutory provisions for effectively preventing violation of the above Codes.
2.	News Broadcasters Association and Ors. Vs Union of India & Ors. W.P. (C) No. 13675 of 2021	<p>A Writ Petition has been filed by NBA challenging the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 [IT Rules, 2021] on the grounds that the IT Rules,2021 give the Government Authorities excessive powers to unreasonably and impermissibly restrict the freedom of speech and expression of the Media and are therefore ultra vires Article 19(1)(a), apart from being violative of Article 14 and Article 19(1)(g) of the Constitution.</p> <p>On 9.07.2021, the Hon'ble Court passed an Interim Order in favour of NBA and its members directing the Respondents to refrain from taking any coercive action against the Members of NBA for not implementing/ complying with "Part III Code of Ethics and Procedure and Safeguards in Relation to Digital Media of the IT Rules 2021" pending disposal of the writ petition.</p>
3.	News Broadcasters Association and Ors. Vs Ministry of Information and Broadcasting W.P. (C) No. 14239 of 2021	<p>A Writ Petition was filed by NBA challenging the Cable Television Networks (Regulation) Act, 1995, [Cable TV Act], the Cable Television Networks Rules, 1994 [Cable TV Rules] and the Cable Television Networks (Amendment) Rules, 2021 [Amendment Rules, 2021] on the grounds that the Cable TV Act, Cable TV Rules and the Amendment Rules, 2021 are violative of the fundamental rights guaranteed under Part III of the Constitution of India including Article 14, Article 19(1)(a) and 19(1)(g).</p> <p>After hearing the Petitioners, the Hon'ble High Court passed an Interim Order on 16.7.2021 directing the Ministry of Information and Broadcasting to refrain from taking coercive action against the NBA and its members for not complying with the Cable Television Networks (Amendment) Rules, 2021 pending disposal of the writ petition.</p>
4.	News Broadcasters & Digital Association and Ors. Vs Union of India WP (C) 27623 of 2023	<p>A writ petition has been filed challenging Clause 35, 4(4), 7(4), 11(4), 8(1)(c), 11(3)(e), 11(3)(i), 10(1)(vii), 9(2), 12(2), 24, 25, 26 and 36 of the Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022 and the Advisory dated 30.1.2023 as being ultra vires Article 19(1)(a), 19(1)(g) and 14 of the Constitution.</p> <p>The Hon'ble Court has directed Union of India to file its counter affidavit by 8.09.2023, NBDA to file its rejoinder, if any by 14.09.2023 and has listed the matter for final disposal on 15.09.2023. The Hon'ble Court has also orally directed Union of India not to take any coercive steps/actions for any violations by the Members of NBDA till the next date of hearing i.e., 15.09.2023.</p>

G. Madhya Pradesh High Court

Indore Bench

S. No	Title	Details
1.	Nyaaayi Through its Founder & Editor & Anr. Vs Arnab Goswami & Ors W.P. (P.I.L.) 14379 of 2020	The case has been filed for taking action against Republic TV for violating the Cable Television Networks (Regulation) Act, 1995 and Cable Television Networks Rules, 1994. An amendment application was moved by the Petitioner, as a result of which NBA and NBSA have been made Respondents in the matter.

Jabalpur Bench

S. No	Title	Details
1.	Jalam Singh Patel Vs Union of India W.P. No. 3610 of 2022	The Petitioner in the Writ Petition prayed that the Hon'ble Court grant a restraint order and direct the Respondents not to publish, print or telecast any material mentioning the name of the Petitioner regarding the private affairs of the son of the Petitioner and that the answering Respondents neither print nor publish any newspaper nor telecast any programme on a channel. NBA and NBSA were Respondents 2 and 3 in the matter. The Hon'ble Court dismissed the writ petition as withdrawn.

H. Madras High Court

Madurai Bench

S. No	Title	Details
1.	WMP (MD) No. 2365 of 2020 titled News Broadcasters Association In Mohammed Razvi Vs Telecom Regulatory Authority of India (TRAI) & Ors. W.P. (MD) NO. 4357 of 2019	The Madurai Bench of the Madras High Court issued notices to the TRAI and the Secretary of the Ministry of Communication and on a plea seeking a ban on advertisements by private channels violating the TRAI's advertisement rules. NBA has moved an application before the Madurai Bench of the Madras High Court seeking Impleadment/intervention in the matter to bring to the Court's notice the fact that a matter with similar questions of law is pending before the Delhi High Court. The matter has not come up for hearing.
2.	J.Kirubha Priyadarshini Vs Union of India & Ors. Writ Petition (MD) No. 21429 of 2021	In the writ petition, the Petitioner inter alia prayed, that the Hon'ble Court direct the Respondents to scrupulously execute the provisions of the POCSO Act, 2012 the Juvenile Justice Act, 2015, The Press Council Act, 1978, India Penal Code, 1860 and the Information Technology Act, 2000 apart from adhering to the directions of the Hon'ble Supreme Court.

I. Punjab and Haryana High Court

S. No	Title	Details
1.	Manish Goel Vs. Securities & Exchange Board of India & Ors. CWP PIL No. 1 of 2023	A PIL was filed seeking inter alia, the issuance of a writ of mandamus/certiorari, or any other appropriate writ (i) to the Respondents with a direction for compliance to the provisions of SEBI Research Analyst Regulations, 2014; (ii) to the Respondents No. 2 to 4 that they should allow only SEBI Registered Research Analyst on their platforms/channels

		for providing opinion/tips on listed stocks and (iii) impose exemplary cost on Respondents No 2 to 4 for not complying with SEBI Research Analyst Regulations, 2014 and on Respondent No.1 for not enforcing Regulations, 2014 on TV Channels and social media intermediaries and on analysts giving stock tips/opinion on TV Channels and social media intermediaries. The matter is now listed for 7.12.2023.
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Matter Pending in the District Court – Saket Court (South East)

S. No	Title	Details
1.	Popular Front of India Vs Times Global Broadcasting Co. Ltd. & Ors. CS SCJ 17 of 2022	In the suit the only averments and prayer made in respect of Defendant No.3, NBDA was that it should take action against Defendants for the impugned broadcasts telecast by them. On 19.12.2022, the Court dismissed the suit on the grounds of non-appearance and non-prosecution by the Plaintiff.

Matter Pending in the Competition Commission of India

S. No	Title	Details
1.	News Broadcasters & Digital Association Vs. Alphabet Inc. & Ors.	NBDA had in September 2022, filed an Information with the Competition Commission of India under Section 19 of the Competition Act, 2002 alleging that Google and its subsidiary/affiliate companies have abused their dominant position under Section 4 of the Competition Act, 2002. CCI vide its order dated 6.10.2022, clubbed the matter with the ongoing investigations in similar complaints filed by DNPA and INS. CCI also directed the Director General to investigate the present matter and submit a consolidated investigation report in all matters.

Applications for registration of Trade Marks

S. No	Title	Details
1.	Registration of NBDA and NBDSA with Trade Marks Authority	Trade Mark Applications have been filed with the Trade Marks Authority on 9.2.2023 seeking registration of NBDA Logo in Classes 35, 41 and 45. The Applications have been marked for examination.

News Broadcasting & Digital Standards Authority

The actions taken by News Broadcasting & Digital Standards Authority during the year under report have been shown separately in the Annual report.

**By Order of the Board of Directors of
News Broadcasters & Digital Association**

Avinash Pandey

Avinash Pandey
President

[DIN No.: 02828532]

Place: New Delhi
Date: August 4, 2023

Members of News Broadcasters & Digital Association

Members

S. No.	Name of the Member	Channel(s)
1.	ABP Network Pvt. Ltd.	ABP News, ABP Majha, ABP Ananda, ABP Asmita, ABP Ganga, ABP Sanjha
2.	Asianet News Network Pvt. Ltd.	Asianet News, Asianet Suvarna News
3.	BBC Global News India Pvt. Ltd.	BBC World
4.	Bennett, Coleman & Co. Ltd.	Times Now, ET Now, Mirror Now, Times Now World, Times Now Navbharat HD, ET Now Swadesh, Times Now Navbharat
5.	Eenadu Television Pvt. Ltd.	ETV-Andhrapradesh, ETV-Telangana
6.	Gujarat News Broadcasters Pvt. Ltd.	VTV News
7.	Independent News Services Pvt. Ltd.	India TV
8.	Mathrubhumi Printing & Publishing Co. Ltd.	Mathrubhumi News
9.	MMTV Ltd.	Manorama News Central
10.	New Delhi Television Ltd.	NDTV24x7, NDTV India
11.	New Generation Media Corporation Pvt. Ltd.	Puthiya Thalaimurai
12.	New24 Broadcast India Ltd.	News 24, News 24 Madhya Pradesh-Chhattisgarh
13.	SUN TV Network Ltd.	Sun News
14.	TV Today Network Ltd.	Aajtak, India Today, Good News Today, Aajtak HD
15.	TV18 Broadcast Ltd.	CNN NEWS18, News18 India, CNBC Bazaar, CNBC TV18, CNBC Awaaz, News18 Assam/North East, News18 Tamil Nadu, News18 Kerala, News18 Uttar Pradesh/Uttarakhand, News18 Rajasthan, News18 Madhya Pradesh/Chhattisgarh, News18 Bihar/Jharkhand, News18 Urdu, News18 Bangla, News18 Kannada, News 18 Punjab/Haryana/Himachal Pradesh, News18 Gujarati, News18 Odia
16.	Writemen Media Pvt. Ltd.	Public TV

S. No.	Name of the Member	Channel(s)
17.	Zee Media Corporation Ltd.	Zee News, Zee Business, Zee 24 Taas, Zee Hindustan, Zee Delhi NCR Haryana, Zee Madhya Pradesh Chattisgarh, Zee Punjab Haryana Himachal, Zee Rajasthan, WION, Zee Salaam, Zee 24 Kalak, Zee Uttar Pradesh Uttarakhand, Zee Bihar Jharkhand, Zee Kannada News, Zee Telugu News

Associate Members

A. Broadcaster

18.	Asnani Builders & Developers Ltd.	Anaadi TV
19.	IBN Lokmat News Pvt. Ltd.	News18 Lokmat
20.	Indira Television Ltd.	Sakshi
21.	Malayalam Communications Ltd.	Kairali News
22.	Total Telefilms Pvt. Ltd.	Total TV, Total Haryana

B. Digital

23.	Asianet News Media & Entertainment Pvt. Ltd.	Asianet News	www.asianetnews.com
		Asianet Suvarna News	https://kannada.asianetnews.com/
		Asianet News Tamil	https://tamil.asianetnews.com/
		Asianet News Telugu	https://telugu.asianetnews.com/
		Asianet News Bangla	https://bangla.asianetnews.com/
		Asianet News Hindi	https://hindi.asianetnews.com/
		Asianet News English	https://newsable.asianetnews.com
		Asianet News English [my nation]	https://www.mynation.com/
		Asianet News Hindi [my nation]	https://hindi.mynation.com/news
24.	Editorji Technologies Pvt. Ltd.	Editorji	English https://www.editorji.com/ Hindi https://www.editorji.com/hindi Bengali https://www.editorji.com/bengali
		Zee News Hindi	https://zeenews.india.com/hindi
		Zee News MPCG	https://zeenews.india.com/hindi/india/madhya-pradesh-chhattisgarh

	Zee News UPUK	https://zeenews.india.com/hindi/india/uputtarakhand
	Zee News Hindustan	https://zeenews.india.com/hindi/zee-hindustan
	Zee News Salaam	https://zeenews.india.com/hindi/zeesalaam
	Zee News Bihar	https://zeenews.india.com/hindi/india/bihar-jharkhand
	Zee News Rajasthan	https://zeenews.india.com/hindi/india/rajasthan
	Zee News Odisha	https://zeenews.india.com/hindi/zeeodisha
	Zee News PHH	https://zeenews.india.com/hindi/zeephh
	Zee News English	https://zeenews.india.com
	Zee News Marathi	https://zeenews.india.com/marathi
	Zee News Bengali	https://zeenews.india.com/bengali
	Zee News Gujarati	https://zeenews.india.com/gujarati
	Zee News Kannada	https://zeenews.india.com/kannada
	Zee News Tamil	https://zeenews.india.com/tamil
	Zee News Malayalam	https://zeenews.india.com/malayalam
	Zee News Telugu	https://zeenews.india.com/telugu
	ZEE Biz	https://www.zeebiz.com
	Zee Biz/Hindi	https://www.zeebiz.com/hindi
	Zee Biz/English	https://www.zeebiz.com
	Wion News	https://www.wionews.com
	India.com	https://www.india.com
	India.com/Hindi	https://www.india.com/hindi-news
	India.com/English	https://www.india.com
	India.com/Marathi	https://www.india.com/marathi
	BollywoodLife.com	https://www.bollywoodlife.com

		BollywoodLife.com/Hindi	https://www.bollywoodlife.com/hi
		BollywoodLife.com/English	https://www.bollywoodlife.com
		BGR	https://www.bgr.in
		BGR /Hindi	https://www.bgr.in/hi
		BGR /English	https://www.bgr.in
		TheHealthSite.com	https://www.thehealthsite.com
		TheHealthSite.com/Hindi	https://www.thehealthsite.com/hindi
		TheHealthSite.com/English	https://www.thehealthsite.com
		CricketCountry.com	https://www.cricketcountry.com
		CricketCountry.com/Hindi	https://www.cricketcountry.com/hi
26.	NDTV Convergence Ltd.		www.ndtv.com www.ndtv.in
27.	Quintillion Business Media Ltd.	Bloomberg Quint	BQ Prime www.bqprime.com https://hindi.bqprime.com/
28.	TV18 Broadcast Ltd.		https://www.cnbctv18.com

News Broadcasting & Digital Standards Authority

During the year under report, NBDSA met under the Chairmanship of Justice A.K. Sikri, former Judge of the Supreme Court of India. NBDSA had seven meetings during the year under report. NBDSA, in these meetings, considered, reviewed and decided 135 complaints (106th– 114th meetings), which included complaints directly received by the broadcasters and settled at the first level and complaints received at the second level, i.e., NBDSA. NBDSA also considered the complaints received from the Election Commission of India (ECI). All complaints received by NBDSA were assessed and dispensed in accordance with the News Broadcasting Standards Regulations for violation of the Code of Ethics and Broadcasting Standards and Guidelines.

Given below are the edited text of the Decisions / Orders passed by NBDSA

The full text of the decisions is available on the website of NBDA and can be viewed on <http://www.nbdanewdelhi.com/decisions>

S. No	Channel	Details of Complaint	Decision
1.	Various	The complaint was regarding the media's distorted reporting of the Gyanvapi case.	In the absence of details pertaining to the broadcast/s i.e., the date, time and name of the channel(s) which are required to be provided under the News Broadcasting & Digital Standards Regulation, NBDSA decided to close the complaint
2.	News18 Lokmat	The complaint was in respect of three news reports aired on the occurrence of an alleged "miraculous" ice globe inside a shiv-pind in Nashik's Trimbakeshwar Temple. In the broadcasts, unscientific and superstitious claims were made by a temple priest who claimed that he had to "request" the ice globe to get out of the idol, and only then it came out and that similar "miracles" had occurred in the past, namely during the Indo-China war. Such claims were not only entertained by the channel but during the broadcasts leading questions such as "This is being linked to Assam floods, is there really	NBDSA observed that in the impugned news reports, the broadcaster had merely reported on the alleged formation of ice on the Shivling and had not made any claims regarding its veracity or broadcast the same as a matter of fact. However, the broadcaster had failed to issue a rider/disclaimer/warning to the viewers in the impugned broadcast as stipulated under the Code of Ethics & Broadcasting Standards. In view of the above, NBDSA cautioned the broadcaster and observed that in future the broadcaster would be well advised to bear in mind and abide by Clause 9 of the Code of Ethics and the Specific Guidelines Covering Reportage while airing any news reports or programmes on events or topic of such nature.

S. No	Channel	Details of Complaint	Decision
		<p><i>some relation of this to that?”, “were you able to remove the ice ball easily, or were you able to remove it only after requesting it?” and “Have such things happened in the past, have you heard about such ice being formed in the pind from your elders?” were asked by the interviewer, thereby promoting superstition. Further, the broadcaster failed to air a disclaimer in the impugned broadcasts warning the viewers.</i></p>	
3.	Zee 24 Taas	<p>The complaint was in respect of the two news reports aired on 1.7.2022. In the first programme titled “Trimbakeshwar Jyotirling त्र्यंबकेश्वर महादेवाच्या पिंडीवर बर्फ, चमत्कार झाल्याचा भाविकांचा दावा” superstitious beliefs were promoted by the reporter who stated that since the past 2-4 years, such miracles were being seen around this pind, including the formation of water bubbles and ant-hill sand around the pind. In the second programme titled “आश्चर्य! त्र्यंबकेश्वरमध्ये शिवपिंडीवर बर्फाचा गोळा, व्हिडीओ प्रचंड व्हायरल, an interview of the temple priest who made superstitious claims about the “miraculous” occurrence of an ice ball in the pind inside the temple was broadcast. The complainant stated that the broadcaster aired these news reports without a disclaimer.</p>	<p>NBDSA observed that in the impugned news reports, the broadcaster had merely reported on the alleged formation of ice on the Shivling and had not made any claims regarding its veracity or broadcast the same as a matter of fact. However, the broadcaster had failed to issue a rider/disclaimer/warning to the viewers in the impugned broadcast as stipulated under the Code of Ethics & Broadcasting Standards (“Code of Ethics”). In view of the above, NBDSA cautioned the broadcaster and observed that in future the broadcaster would be well advised to bear in mind and abide by Clause 9 of the Code of Ethics and the Specific Guidelines Covering Reportage while airing any news reports or programmes on events or topic of such nature.</p>
4.	ABP Majha	<p>The complaint concerned a news report aired by the channel on 4.7.2022 about a 25-year-old man who died in a small village in Nagpur due to a possible overdose of stamina-increasing pills. The complainant stated that while reporting the news, the broadcaster had violated Section 6 of the Code of Ethics & Broadcasting Standards by disclosing the name of the deceased.</p>	<p>NBDSA observed that there was merit in the broadcaster’s submission that since the identity of the deceased individual along with his age and residential address were released to the public by the Nagpur police authorities vide press release dated 4.7.2022. and in view of the fact that the identity of the deceased individual was already available in the public domain and the impugned broadcast was aired in public interest, there was no violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No	Channel	Details of Complaint	Decision
5.	Times Now	<p>The complaint was filed regarding a programme aired on 20.9.2022, wherein utterly false and malicious statements were attributed to the complainant to harm his reputation and defame him.</p> <p>In the programme, tweets posted by the complainant on the violence in Leicester, United Kingdom, were used by the broadcaster to allege that he had given a "<i>clean chit to Islamists</i>," like Pakistan he was also trying to blame India and that he had attempted justify the attacks in Leicester by saying that "<i>Hindutva extremists do this here to Indian Muslims so Muslims abroad, when they get the opportunity, will do this to Hindus.</i>"</p>	<p>NBDSA noted that through the Legal Notice, the complainant had inter alia, sought the payment of damages for the alleged defamation and for the alleged extreme harm and injury caused to his reputation as a result of the actions of Respondent No. 1 the anchor of the impugned broadcast, failing which, he had stated that he shall initiate legal proceedings against the broadcaster and its anchor before the appropriate judicial authorities. Therefore, NBDSA decided that keeping in mind the fact that the complainant has sought damages from the broadcaster and its anchor through the Legal Notice, it appears that the complainant is intending to initiate legal proceedings against the broadcaster and therefore, NBDSA does not deem it proper or appropriate to consider the complaint under the News Broadcasting & Digital Standards Regulations, as the issues raised before it may be raised before a court of law.</p>
6.	News18 India	<p>The Election Commission of India forwarded to NBDSA a complaint received by it which sought to tame and curb the tendency to spread communal disharmony on news channels, especially during the election period.</p>	<p>NBDSA observed that there was merit in the complaint and that it too had observed an increasing use of divisive, derogatory, hurtful language and rhetoric in news programmes. NBDSA was of the view that use of such language and rhetoric in news programmes, not only violates the Code of Ethics & Broadcasting Standards but also undermines the principle of secularism and equality which is the bedrock of the Indian Constitution. In view of the repetitive nature of such violations, NBDSA decided to issue an Advisory bringing to the attention of the Members, the Code of Ethics & Broadcasting Standards, relevant NBDA/ NBDSA Guidelines, judicial pronouncements and legislations which deal with Hate Speech, which the Members must bear in mind before broadcasting and/or publishing any news.</p> <p>Accordingly, NBDSA decided to issue the following Guidelines and Advisory for compliance by Members.:</p> <ol style="list-style-type: none"> 1. Specific Guidelines for Anchors conducting Programmes including Debates dated 28.10.2022. 2. Advisory regarding "Hate Speech," dated 11.11.2022 3. Guidelines for Prevention of Hate Speech dated 30.1.2023 <p>Members were informed that NBDSA would be closely monitoring the compliance of the above Guidelines & Advisory.</p>

S. No	Channel	Details of Complaint	Decision
7.	Zee News UP/UK	Under Secretary, Election Commission of India forwarded a detailed report of confirmed cases of paid news aired on 29.1.2022 and 7.2.2022 relating to the General Election to the State Legislative Assembly of Uttar Pradesh 2022 to NBDSA.	On examination of the report of ECI, NBDSA found that the findings of the Media Certification and Monitoring Committee were given without giving the broadcaster an opportunity to be heard, nor was the broadcaster given an opportunity to give any response. Therefore, NBDSA decided to consider independently whether there were any violations of its Guidelines relating to election broadcasts and paid news. In the absence of any direct evidence of any payment of consideration to the broadcaster and the specific denials by the broadcaster that the telecasts were not for consideration, NBDSA was of the view that it was not possible to hold that there was any violation of its Norms and Guidelines on Paid News.
8.	Times Now	The complaint dated 1.10.2022 was regarding several programmes aired on 29.9.2022 between 8 PM and 11 PM regarding certain unpleasant events in London (and elsewhere) during the Navratri festival. While the complainant condemned the said events as being deplorable and should not be allowed to recur. However, he stated that the Indian media, widely seen in the UK, was only making this difficult. By airing the impugned programme, the broadcaster had violated the Guidelines pertaining to Racial and Religious Harmony.	On a perusal of the broadcast, it observed that several versions of the incident were given during the telecasts. Therefore, NBDSA found no violation of the Code of Ethics & Broadcasting Standards and the Specific Guidelines covering Reportage pertaining to Racial and Religious Harmony.
9.	ABP News	A complaint was filed with the broadcaster beyond the period prescribed under Regulation 8.1.6 and was barred by limitation. Given the delay, the complainant was informed by the Authority that it has no jurisdiction to condone the delay in filing the complaint at the first level of grievance redressal. On receipt of the above, the complainant stated that the Regulations do not clarify whether the term "days" refers to working days or includes non-working days.	NBDSA decided to reiterate to the complainant that under the Regulations, no power has been conferred on the Authority to condone the delay at the first level of redressal. In so far as calculation of seven days is concerned, going by the plain language of the provision, NBDSA is of the opinion that it has to be seven continuous days from the date of the broadcast and not seven 'working' days, as no such stipulation of 'working days' has been mentioned in the provision. In view of the above, NBDSA has no alternative but to dismiss the complaint as being barred by limitation under Regulation 8.1.6.

S. No	Channel	Details of Complaint	Decision
		Therefore, in the absence of a clear definition for the word "days" in the Regulations and in view of the nature of the violations committed by the channel, the complainant urged NBDSA to accept the complaint as it was filed within 7 (working) days.	
10.	Times Now	<p>A complaint was filed regarding four broadcasts aired on 27.10.2022 and a broadcast aired on 28.10.2022 regarding the Wire. In the broadcasts, the opinions, beliefs or desires of one side, i.e., the one held by the BJP that the dissidents were politically motivated and their actions sought to undermine the integrity of India and malign the country, was promoted. By airing the impugned broadcasts, the broadcaster had violated Fundamental Principle No.4 and the Principles 1 and 2 of Self-Regulation relating to Impartiality and Objectivity and Ensuring Neutrality.</p> <p>However, since there was a delay on the part of the complainant in escalating the complaint to NBDSA, the complainant filed an application seeking condonation of delay under Regulation 8.2 of the News Broadcasting & Digital Standards Regulations.</p>	NBDSA noted that since the complainant had failed to satisfactorily explain the delay of 15 days in escalating the complaint before the Authority under Regulation 8.2 and show that he had acted diligently and/or that the delay in filing the complaint had been caused for reasons not of the complainant's making and/or for other sufficient cause, NBDSA rejected the application seeking condonation of delay and decided to dismiss the complaint.
11.	Times Now	The complainant alleged that in the impugned broadcast, controversial public issues such as due process, fake news, the intent to publish fake news, the maligning of India and the evasion of probes and Nationalism were addressed. In the broadcasts, there was selective reporting on the issue of intent and hypocrisy or selective outrage of a specific interest group. Adherence to due process was only reported to promote the view that there is no false prosecution.	NBDSA observed that the impugned broadcasts were related to an alleged fake news story published by the Wire. In the broadcasts, panel discussions were conducted and an opportunity was given to all the panelists to express their views on the subject of the broadcast. In view of the above, NBDSA found no violation of the Code of Ethics & Broadcasting and/or Guidelines in the broadcast.

S. No	Channel	Details of Complaint	Decision
		To dismiss the opinion that the Wire was being prosecuted, as alleged by the vague and ominous ' <i>malign India ecosystem</i> ', the broadcaster provided extensive context for the same by demonstrating patterns of selective outrage and hypocrisies of the ' <i>ecosystem</i> ' while ignoring the context that account for the allegations of unfair prosecution, as stated herein above.	
12.	Kairali News	The complaint related to a news report aired on 8.03.2023 regarding judgment dated 08.03.2023 pronounced by the Hon'ble High Court of Kerala in a case filed by Asianet news channel seeking police protection. It was alleged that the news channel had aired a distorted version of the news.	NBDSA held that the complaint was time-barred as it was filed beyond the period of limitation. NBDSA, therefore, could not entertain the same on merits and decided to dismiss the complaint.

Orders Passed by NBDSA

The full text of the Orders are available on the website of NBDA at <http://www.nbdanewdelhi.com/decisions/orders>.

S. No.	Channel	Details of Complaint	Order
1.	News18 India	The complaint was in respect of a debate programme aired on 6.4.2022. In the programme, Muslim students were referred to as " <i>Hijabi Gang</i> " and " <i>Hijabwali Gazwa Gang</i> ," and the false allegation that they had resorted to rioting was aired. The anchor claimed that Zawahiri and terrorist organizations were behind the entire Hijab row and that there were many " <i>Hijabi</i> " representatives of Zawahiri, and " <i>the Zawahiri gang</i> " in India. During the programme, Muslim panellists were harangued by the anchor.	Order No. 151 dt. 21.10.2022 NBDSA found violation of Code of Ethics & Broadcasting Standards in the impugned broadcast.

S. No.	Channel	Details of Complaint	Order
		<p>The question whether Zawahiri was right or wrong was raised more than ten times in the programme. Furthermore, during the broadcast, it was repeated that Zawahiri and Indian Muslims follow the same book and same ideology. Rhetorical questions were raised to imply that Muslim people were safe in India and that it was India which was in danger from the Muslim community. In view of the above, the complainant stated that by airing the impugned programme, the broadcaster had violated the Specific Guidelines covering Reportage and the Code of Ethics & Broadcasting Standards.</p>	
2.	News18 India	<p>The complaint was in respect of a news debate aired on 20.4.2022. In the impugned programme, the alleged illegal anti-encroachment drive in Delhi was glorified by claiming "<i>Desh nahi jhukne denge, Bulldozer nahi rukne denge</i>"; "<i>India with Bulldozer</i>" and "<i>Desh mange Bulldozer Raaj</i>". The anchor called the affected people "<i>rioters</i>"; "<i>jihadi</i>"; and "<i>Rohingya</i>" and raised the question "<i>Inn dangaiyon ke, jihadiyon ke, in rohingyaon ke, kitne vaqeel?</i>". In the programme, baseless statements were made, and a one-sided debate was conducted. Further, extremely problematic personal opinions were expressed by the anchor.</p> <p>When one of the panellists remarked that "<i>if Hindu takes out a procession with swords, then they are 'dangai' and if someone is throwing stones, they are 'dangai' too</i>", the anchor responded by repeatedly saying, "<i>Hindu is not rioter</i>".</p>	<p>Order No. 152 dt. 21.10.2022</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		Furthermore, during the programme the following tickers “JCB = Jihad Control Board,” “# India With Bulldozer,” “Desh mange Bulldozer Raaj,” “Desh nahi jhukne denge, Bulldozer 2 nahi rukne denge,” “Patthar jihad par chadhai, pareshan dangai,” “Bulldozer wali karwai desh de raha hai badhai,” “Paththar jihadiyon ke kitne vaqeel?” and “Paththar jihadiyon ko kanuni cover fire kyon?” were also aired.	
3.	News18 India	<p>The complaint was in respect of a show titled, “जहाँगीरपुरी वाला बदला, महादेव पर हमला” aired on 22.4.2022. In the impugned broadcast, falsehood was promoted by the anchor, who stated that the demolition of a temple in Rajasthan’s Alwar was an act of revenge in response to the demolition drive carried out in Delhi’s Jahangirpuri.</p> <p>The narrative created and promoted by the broadcaster was false, as several news agencies had reported that the temple in Alwar was demolished before the drive in Jahangirpuri. The complainant stated that despite the error being extensively highlighted by the public, the broadcaster, in blatant disregard for the Code of Ethics & Broadcasting Standards, failed to take corrective measures and/or air any clarification or apology.</p>	<p>Order No. 153 dt. 21.10.2022</p> <p>NBDSA noted that the subject matter of the complaint pending before it was on the same issue as the FIR Nos. 147/2022, 200/2022 and 372/2022 registered in Rajasthan and the matters pending before the Jodhpur and Jaipur benches of the Hon’ble Rajasthan High Court.</p> <p>In view of the above, NBDSA noted that under Regulations 7.2 read with Regulation 8.4.3 of the News Broadcasting Standards Regulations, it is not permissible or appropriate to take up matters in respect of which any proceeding is pending in a Court of law or other Tribunal or Statutory Authority. Therefore, NBDSA decided to defer the decision in the complaint until the matter is decided by the Court.</p>
4.	News18 India	<p>The complaint was regarding a debate show, <i>Desh Nahin Juhkne Denge ‘Ghazwa-e-Hind’</i>, aired on 5.8.2022. In the impugned show, concerns about demographic changes and the rising Muslim population in Uttarakhand, Rajasthan and West Bengal were raised by the broadcaster in an attempt to demonize a particular minority community by portraying them</p>	<p>Order No. 154 dt. 27.2.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		<p>as intruders and the growth in their population as a national security concern.</p> <p>The anchor fostered a divisive narrative by focusing on the minority population while insisting that it was not a Hindu-Muslim issue but a matter of national security.</p> <p>Various objectionable questions such as <i>“Border pa kyun badhi muslim abaadi?”</i>; <i>“Kya ye Bharat me ghuspait ka nya model he?”</i>; <i>“Kya ghuspatiyon ko surakshit rasta dene ke liye jansankhya badlav?”</i>; <i>“Kya Muslim corridor banane ke liye jansankhya me badlav?”</i>; <i>“Kya Border par jansankhya badlav ke piche Pakistan aur China?”</i>; <i>“Border pa kyun tezi se badhai ja rhi he Muslim abaadi?”</i> and <i>“Border par tezi se badhte Masjid-Madarson ko kiski funding?”</i> were raised in the show. The programme lasted close to 55 minutes and featured numerous misleading and offensive taglines.</p>	
5.	News18 India	<p>The impugned new report about Muslim men being physically assaulted by Bajrang Dal members at Garba event violated various provisions of the Code of Ethics and Broadcasting Standards and the Specific Guidelines Covering Reportage relating to Racial and Religious Harmony.</p> <p>During the impugned broadcast, the tickers such as <i>“कागज नहीं दिखाएँगे गरबा में आएँगे”</i> <i>“गरबा में लव जिहाद”</i>, <i>“मेरे गरबे में तुम्हारा क्या काम है”</i> and <i>“मान ना मान गरबा में सलमान”</i>, aired were aired which were also repeated by the anchor. Further, while reporting the impugned news the anchor failed to condemn the violence meted out by Bajrang Dal goons.</p>	<p>Order No. 155 dt. 27.2.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
6.	News18 India	<p>The complaint was filed against a programme titled "<i>Desh Nahin Jhukne Denge with Aman Chopra Live Praveen Nettaru Murder Accused Zakir Arrested</i>" for violating the Code of Ethics & Broadcasting Standards.</p> <p>The complainant stated that between 19- 28th July, in a span of nine days, three communally motivated murders had taken place in Dakshin Kannada. Out of these three murders, the primetime broadcasts focused only on Praveen Nettaru's death by primarily debating theories which supported the claim that the murders were due to the rise of the "<i>sar tan se juda gang</i>".</p> <p>The failure to report developments that could offer greater context to the trends of communal polarization that had been increasing in the country, particularly the coastal Karnataka region over the past few years, violated the principles of objectivity and neutrality in reporting. Further, the complainant alleged that the coverage was framed primarily to discuss the role of Muslim extremism as opposed to religious polarization, even though two of the victims were Muslims.</p>	<p>Order No. 156 dt. 27.2.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>
7.	News18 India	<p>Two complaints were filed in respect of a show aired on 4.10.2022. In the impugned programme, the channel celebrated police violence by calling it "<i>police ki dandiya</i>". The channel not only failed to condemn the violence sufficiently, but it also repeatedly aired visuals glorifying the violence. Further, by connecting stone pelting with <i>jihad</i> and making negative generalized statements about young Muslim men, including accusing them of</p>	<p>Order No. 157 dt. 27.2.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		<p>engaging in crimes or suspicious behaviour at Garba events, the channel tarnished the image of the Muslim community.</p> <p>In view of the above, the complainants stated that the impugned show violated the Code of Ethics & Broadcasting Standards and Guidelines.</p>	
8.	Times Now	<p>The complaint was filed in respect of a programme titled <i>"PFI's Protest Against Raids in Pune"</i> aired on 23.9.2022.</p> <p>देशभर में पॉप्युलर फ्रॉन ऑफ इंडिया के १०० से ज्यादा पदाधिकारियों पर नेशनल इन्वेस्टीगेशन एजन्सी (NIA) द्वारा रेड दाली गयी और इन सब को NIA ने अपने ताबे में लिया जिस पर देश भर में NIA के इस कार्रवाई के विरोध में PFI द्वारा आंदोलन हुए थे. लोग रास्ते पर उतरे थे. इस विषय को लेकर Times Now ने पुणे में कलेक्टर ऑफिस के सामने हुए आंदोलन को ब्रेकिंग न्यूज में <i>"News Break Here First"</i> के नाम आंदोलन करता "पाकिस्तान जिंदाबाद" के नारे लगा रहे है ऐसा झूठा दावा किया और अफवा को फैलाया है. जब की आंदोलक पॉप्युलर फ्रंट जिंदाबाद के नारे लगा रहे थे.</p> <p>The complainant stated that it was the broadcaster who had first shared the impugned news story as breaking news on Twitter and on social media platform which subsequently became the subject of headlines for other news channels and newspapers across the country.</p> <p>The false claim and fake news broadcast by Times Now had defamed the minorities throughout the country and violated the Code of Ethics & Broadcasting Standards.</p>	<p>Order No. 158 dt. 27.2.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>
9.	Zee News	<p>The complaint was filed against a show titled <i>"Taal Thok Ke: Kya Jansankhya Badhotari ke liye ek dharma ko zimmedar thehrana jayaz hai?"</i> aired on 12.7.2022. The complainant stated that NBDSA had on 13.6.2022</p>	<p>Order No. 159 dt. 27.2.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		<p>passed an Order cautioning the broadcaster to be careful while airing programs on UP-Population Control Bill.</p> <p>However, in complete disregard to the said Order and the Code of Ethics & Broadcasting Standards, the broadcaster ran an identical debate on the same issue on 12.7.2022.</p> <p>In the impugned programme, statements made by the same Samajwadi Party MP were again used to vilify the entire Muslim community. Further, similar visuals of large Muslim crowds were shown, and statistics about the Hindu-Muslim population were selectively chosen to project the Muslim community as being responsible for the population explosion and all other associated social issues, even though there has been a significant decline in the population growth and the fertility rate of the Muslim community over the past decades.</p>	
10.	News18 India	<p>Two complaints were filed in respect of the show titled "<i>Desh Nahi Jhukne Denge</i> हिंदुओं के खिलाफ UP में महागठबंधन?"; which was aired on 18.1.2022.</p> <p>The impugned show had themes of communal divide, which was not masked in any manner, with not just the participants but also the anchor of the show actively participating in the communal diatribe. The show was flagged off with a communally polarizing question "<i>Hinduon ke khilaf Uttar Pradesh me Mahagathbandhan tayyar ho raha hai, aur jab 80 vs. 20 ki baat ki thi Yogi Adityanath ne toh wo sahi thi?</i>". While the spokesperson for BJP, at the beginning of the show, tried to explain what the Chief Minister meant by "<i>80 vs. 20</i>" however, the debate was eventually</p>	<p>Order No. 160 dt. 27.2.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		steered towards a communal angle. Further, taglines such as “Haath kay saath Zehrila Molano,” “Zehril Mohlana Congress ka dulara” and “15% Muslim 85% Hinduo par bhaari” were repeatedly aired during the show. The impugned programme was provocative, offensive and could cause communal hatred.	
11.	Times Now	<p>The complaint was filed regarding three debate shows aired on the channel on 25.6.2022, 27.6.2022 and 28.6.2022, which discussed the arrest of Ms. Teesta Setalvad.</p> <p>The complainant stated that the tone, tenor and choice of words spoken, as well as displayed on the screen during the impugned shows, suggested that the intention of the programmes was to project Ms. Setalvad, a highly respected journalist and human rights defender, as someone unworthy of trust or compassion. The impugned shows further sought to question Ms. Setalvad’s patriotism & credibility. They presented information about her in a manner that not only demeaned and vilified her but also cast aspersions upon her humanitarian work.</p> <p>The impugned broadcasts appeared one-sided, partisan and violated the basic principles of journalism and those laid down by the Code of Ethics & Broadcasting Standards.</p>	<p>Order No. 161 dt. 17.3.2023</p> <p>NBDSA noted that the broadcaster had during the impugned broadcasts sought the views of several persons and the allegations made in respect of Ms. Teesta Setalvad. The broadcaster had also discussed the judgment of the Hon’ble Supreme Court in <i>Zakia Ahsan Jafri Vs. State of Gujarat and Another</i>, 2022 SCC Online SC 773 in detail including the findings of the SIT in relation to Ms. Setalvad. Therefore, in these aspects the broadcaster had not violated the Code of Ethics & Broadcasting Standards and the Guidelines issued by NBDSA.</p> <p>However, NBDSA finds that using tickers in the impugned broadcasts such as “Modi Baiter Arrested ; Lutyens ‘Fix Modi’ Plot Nailed?” was neither necessary nor contextual, and not in good taste as well.</p> <p>NBDSA does not appreciate the manner in which some of the tickers were aired during the impugned programmes and advises the broadcaster not to telecast tickers in this manner in future.</p>
12.	Zee News	<p>The complainant stated that in the impugned programme, the anchor falsely claimed that it was common knowledge that Naxalites were hiding in the farmers’ protest.</p> <p>Further, at 51:45 minutes, the anchor stated that during the investigation of the Bhima</p>	<p>Order No. 162 dt. 26.7.2023</p> <p>NBDSA observed that by airing the letter, the broadcaster had not violated the Code of Ethics & Broadcasting Standards and/or Guidelines, as the same was aired only in the context of the major lapse in the security of the Prime Minister and was reported not only by the broadcaster but also by several other media houses.</p>

S. No.	Channel	Details of Complaint	Order
		<p>Koregaon violence, India's Security Agencies had found a letter which mentioned a plan to murder the Prime Minister in a similar method by blocking the road. However, the anchor conveniently failed to report that the credibility of these letters was not established in Court, that none of the accused was convicted and most importantly, that Arsenal Consulting, a private digital forensics firm, had claimed that several letters were illegally planted using malware in the laptops of the activists, lawyers and social workers who were accused of planning to murder the Prime Minister.</p> <p>The complainant stated that since the investigation into the matter was still ongoing and the matter is currently sub judice, the anchor's unethical practice of sharing one-sided claims violated the Code of Ethics and Broadcasting Standards.</p>	<p>However, in respect of the statements made by the anchor claiming that <i>"it was common knowledge that Naxalites were hiding in the farmers protest,"</i> NBDSA held that the broadcaster should have restrained itself from making such sweeping comments, particularly as such comments do not have any relation to the subject of the impugned broadcast. NBDSA advised the broadcaster to be careful while airing/making such comments.</p>
13.	Times Now Navbharat	<p>The complaint was filed in respect of a programme titled <i>"Madrasa Jihad पर बड़ा खुलासा, मजहबी तालीम का 491 तंत्र"</i>, aired on 11.11.2022.</p> <p>The impugned show was based on a survey carried out by the Uttar Pradesh Government on Madrassas in certain districts of the State, wherein it was reportedly found that in Bahraich city, which is close to the Nepal border, out of 792 Madrassas 491 were running <i>"without license"</i>. A debate was conducted on the said issue, and during the programme, it was declared that something called <i>"madrassa jihad"</i> was taking place in Bahraich. During the programme, tickers such as <i>"UP me Madarsa Jihad par bada khulasa"; "Jaha Owaisi gaye waha awaidh madarse ugg aaye?"; "Bahraich ka M Factor";</i></p>	<p>Order No. 163 dt. 26.7.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		<p>"Bharat-Nepal Sarhad ... Kisne banaya 'gadh'"; were repeatedly aired which suggested that the channel intended to spread stigma, even hatred, against the Muslim community. The anchors of the impugned programme were instigating, made insinuating statements and questioned why Muslims give charity to Madrassas.</p> <p>The impugned programme created an anti-Muslim narrative to fuel the existing, perpetuated animosity against a minority Indian community that had been widely prevalent, conspicuously due to reportage such as the impugned programme.</p>	
14.	Times Now Navbharat	<p>The complaint was in respect of a news programme titled "News Ki Pathshala: Muslim Vote के वलए मनमोहन का khel'! Waqf Board Land Scam" aired on 16.09.2022. "न्यूज चैनल के पाठशाला में" वक्फ जमीन विशय को लेकर सांप्रदायिक हेडलाइंस से एक धर्म विशेष मुस्लिम समाज का नाम लेकर उसके के विरोध में "नफरत फैलाने का प्रयोग" किया है. रिपोर्टिंग एक तरफा कि गयी है, वक्फ बोर्ड और मुसलमानो को पुरे कहानी का खलनायक और अपराधी बनाया गया है. टाइम्स नाउ नवभारत देश में अषांति फैलाने वाली, सामजिक तथा धार्मिक भवनाओ को चोट पहुंचने वाली, समाजो में द्वेष निर्माण करने वाली, कट्टर और देश को हिंसा के तरफ लेजाने वाले भाशा का प्रयोग किया है और लगातार करता आया है. टाइम्स नाउ नवभारत ने न्यूज माध्यम का गलत इस्तेमाल करके देश में हिन्दू मुस्लिम तनाव बनाकर देश में हिन्दू मुस्लिम हिंसा करवाने की साजिष कर रहा है.</p>	<p>Order No. 164 dt. 26.7.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>
15.	Times Now Navbharat	<p>The complaint was in respect of a programme titled "France में 33 साल पहले Hijab पर जो हुआ क्या वहीं इतिहास India में दोहराया जा रहा है?" aired on 21.10.2022.</p> <p>फ्रांस में हुआ हिजाब विवाद भारत में हुए हिजाब विवाद से किस कदर हूबहुब मिलता है. हिजाब जैसे मुद्दे दुनिया के लिए कोई नई बात नहीं है, यह कहकर दर्षकों को बरगलाया है. मुस्लिम छात्रों द्वारा की गयी हिजाब की मांग कितनी व्यर्थ, बेकार,</p>	<p>Order No. 165 dt. 26.7.2023</p> <p>NBDSA found no violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		<p>दुर्मिल, पिछड़ी और अजीबो गरीब है यह दर्षकों को बताने की कोषिष की है. ईरान का हवाले देकर हिजाब का समर्थन करने वाले मुसलमानों को कट्टरपंथी कहा है. ३३ साल पुरानी फ्रांस के घटना का उपयोग करके मुसलमानों के प्रति दर्षकों में गुस्से को उत्तेजित किया है. जो फ्रांस में हुआ वो भारत में होगा ? फ्रांस के संसद में हिजाब को लेकर एक कानून पास हुआ जिस में सरकारी स्कूलों में धर्म से जुड़े चिन्ह पहनने पर बाकायदा कानून लाकर रोक लगा दी गयी.</p> <p>हिजाब ये आज सुप्रीम कोर्ट में विवाद का मुद्दा है और न्याय के लिए प्रलंबित भी है इस बात की जानकारी होते हुए भी जान – बूझकर Times Now Navbharat ने फ्रांस में हुए हिजाब विवाद से तुलना करते हुए मिडिया ट्रायल चलाया है. यह कोर्ट का अवमान है. फ्रांस के हवाले से उलटसुलट तर्क निकलकर देश के सर्वोच्च न्याय व्यवस्था को चौलेंज किया है, सर्वोच्च न्याय व्यवस्था का अवमान किया है. सर्वोच्च न्यायलय के काम में दखल अंदाजी की ह</p> <p>पूरी खबरों में Times Now Navbharat ने मुस्लिम समाज की आलोचना कर इस समाज को मुजरिम के कठघरे में खड़ा किया है Times Now Navbharat ने अल्पसंख्यकों प्रति देश में नफरत फैलाकर समाजो को बांट कर देश के एकता अखंडता और उसके सेक्युलर ढांचे को नुकसन पहुंचाया है..</p>	
16.	Times Now Navbharat	<p>The complaint was in respect of a news programme titled “भारत के किन राज्यों में घट रही है हिंदू आबादी और उसका देश पर क्या होगा असर?” aired on 6.10.2022.</p> <p>भारत में मुसलमानो के बढ़ते हुए आबादी की डेमोग्राफी दिखाकर और कोसोवो, तिमोर, दक्षिण सूडान और यूगोस्लाविका इन देशों का उद्धरण देकर, भारतीय अल्पसंख्यक मुसलमानो प्रति एक झूठ नैरेटिव निर्माण कर के भारत के टुकड़े टुकड़े होने का संदेश दिया है.</p> <p>भारत में रहने वाले हिन्दुओ के लिए मुसलमानो की बढ़ती आबादी को चिंता का विशय बना कर देश में कई राज्यों में रहने वाले हिंदुओं की आबादी मुसलमानो के तुलना में किस तरह कम हो रही है यह एक नेगेटिव सन्देश दिया है. एक ततकथित डेमोग्रफिक रिपोर्ट बनाकर हर राज्य की जन-संख्या का अध्ययन करवाकर भविश्य</p>	<p>Order No. 166 dt. 26.7.2023</p> <p>NBDSA found violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		<p>में देश के अलग अलग राज्यों से हिन्दुओं की संख्या घाट जायेगी और मुसलमानों की बढ़ जायेगी ये चेतावनी दर्शकों को दी है.</p> <p>अमेरिका की Pew Research के रिपोर्ट, जिसे भारत में कोई भी संविधानिक आधार नहीं है ऐसे गैर सरकारी रिपोर्ट या गैर-आधिकारिक रिपोर्ट से जन-संख्या का अध्ययन करवाकर दर्शकों को अल्पसंख्यकों प्रति भड़काया है</p> <p>Times Now Nav Bharat ने न्यूज ब्रॉडकास्टर्स एंड डिजिटल एसोसिएशन के निति संहिता और प्रसारण मानकों का उलंघन किया है. खंड एक श्मौलिक या बुनियादी सिद्धांत १,४,५ का उलंघन किया है तथा खंड २ आत्मनियंत्रण का सिद्धांत १, २ का उलंघन किया है</p>	
17.	Times Now and Times Now Navbharat	<p>Complaints were filed in respect of thirty broadcasts which were aired between 28.06.2022 and 5.09.2022.</p> <p>In the impugned broadcasts, the following issues Nupur Sharma's statement made on Times Now; the lynching of Hindus for supporting Nupur Sharma; the Hon'ble Supreme Court's comment on Nupur Sharma, Open letter against the Hon'ble Supreme Court's comment; the founder of Altnews, Zubair's arrest and bail hearing; Research paper about the rise of Hinduphobia; Mohua Moitra and Leena Manimekmalai's alleged 'anti-Hindu' statements; and alleged safronized school syllabus change of the Karnataka Government was inter alia debated.</p> <p>In the broadcasts, the opinions and beliefs of an Interest Group were promoted, and that of the opposition was hindered. On the occasions that accountability was sought from the BJP or the Right Wing groups, the framing of the debate avoided generalizations and only held BJP or the specific fringe group accountable. Further, the</p>	<p>Order No. 167 dt. 26.7.2023</p> <p>NBDSA found no violation of the Code of Ethics & Broadcasting Standards in the impugned broadcast.</p>

S. No.	Channel	Details of Complaint	Order
		broadcaster overwhelmingly reported only those incidents that demonstrate the weaponization of the Muslim faith to commit such acts, while expressly whitewashing or not reporting trends and patterns that bear out increasing majoritarian violence over the past few years and the state impunity being granted to those who commit such act	
18.	India Today, Times Now and Zee News	The Hon'ble Delhi High Court had vide its Order dated 21.11.2022 in the matter of Vijay Nair v. Central Bureau of Investigation & Ors. W.P. (C) No. 15617 of 2022 directed NBDSA, Respondent No.4 in the matter to " <i>duly examine the broadcasts which have been questioned in the instant writ petition and place a report in these proceedings as to whether they would be compliant with the Code of Ethics & Broadcasting Standards as well as the News Broadcasting and Digital Standards Regulations.</i> "	Report dated 31.01.2023 was submitted to the Court, which stated that NBDSA does not find any violation of the Code of Ethics & Broadcasting Standards and Guidelines on Media Trial dated 6.11.2020 and 20.2.2021 in the impugned broadcasts.

Attendance Slip

News Broadcasters & Digital Association
Regd. Off: FF-42, Omaxe Square,
Commercial Center, Jasola,
New Delhi-110025

Name and Address of the Member Entity: _____

Name of the Authorised Representative of Member Entity: _____

I hereby record my presence at the 16th Annual General Meeting of the News Broadcasters & Digital Association held on Monday, the 18th September, 2023, at 12.00 noon at Multipurpose Hall, Kamaladevi Complex, India International Centre, 40, Max Mueller Marg, New Delhi – 110 003

Signature of Member/ Authorised Representative

(To be signed at the time of handling over this slip)

(Please fill Attendance Slip and hand it over at the entrance of the Meeting)

Chairperson & Members

News Broadcasting & Digital Standards Authority



Justice A. K. Sikri
[Former Judge of Supreme Court of India]
Chairperson

Independent Members



Nasim Zaidi



Navtej Sarna



Mohan Kumar

Editor Members



Vishal Pant



Suman De



Rajnish Ahuja



Sukesh Ranjan



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