

## BEFORE THE NEWS BROADCASTING STANDARDS AUTHORITY

## NEW DELHI

Complaint No. 6 of 2011

In the matter of : M/s Independent News Service Pvt. Ltd.  
India TV Broadcast Centre  
B-30, Sector -85  
Noida 201 305

: Telecast of programme titled "Operation Gang Rape" on news channel  
*India TV* on 01<sup>st</sup> July 2011

**ORDER**

1. An e-mail complaint dated 1<sup>st</sup> July, 2011 was from received from one Ms. Sakina Mir of Jammu complaining about a programme titled "Operation Gang Rape" that was broadcast on 1<sup>st</sup> July, 2011 at 8 p.m. on the news channel *India TV* (hereinafter the "said Programme" and the "said Channel" respectively), which channel is owned by M/s Independent News Service Pvt. Ltd. (hereinafter the "Broadcaster"). The gist of the complaint was that in the said Programme, the said Channel had telecast excerpts of a Multimedia Message ("said MMS") in relation to an alleged gang rape committed upon a girl by a group of boys, which content, according to the Complainant, was completely inappropriate for family viewing. In gist, the Claimant's grievance was that such excerpts of the said MMS do not belong on a news channel.
2. Upon a preliminary consideration of the complaint, the Authority issued to the Broadcaster e-mail dated 4<sup>th</sup> July 2011, whereby the Broadcaster was requested to submit copies of the transcript and the Compact Disc ("CD") in relation to the said Broadcast. In response to said e-mail dated 4<sup>th</sup> July 2011, the said Channel sent Reply dated 7<sup>th</sup> July, 2011 setting-out the sequence of events in relation to the said Broadcast and the criminal act that was subject thereof alongwith the CD as required. Thereafter, at its meeting held on 27.7.2011 the Authority considered the complaint, the response given by the Broadcaster and also viewed the CD containing the said Programme and, on taking a prima facie view, decided to issue notice to the broadcaster. Accordingly Notice dated 11<sup>th</sup> August, 2011 was issued to the Broadcaster, in response to which the Broadcaster submitted its detailed Reply dated 22<sup>nd</sup> August, 2011.
3. In its response submitted by way of Reply dated 7<sup>th</sup> July 2011 and Reply 22<sup>nd</sup> August 2011, the Broadcaster stated, in substance, that the said Programme was broadcast with the aim and intent of assisting in the arrest of the alleged rapists, who had remained untraced until then; and that the alleged rapists had in fact been apprehended at the instance of a viewer, who had identified them upon viewing the said Programme on the said Channel. The Broadcaster further submitted that the said Programme had been broadcast

in order to help trace and apprehend the alleged rapists. It was further stated by the Broadcaster that the Mumbai Police had in fact appreciated the effort of the said Channel in helping to trace the culprits ; and the Women's Commission was so moved by the news report that it had sent a five-member team to Mumbai to ensure justice for the victim.

4. Responding to the Complainant's allegation that the MMS in question had been in circulation for a long time before its broadcast, the Broadcaster contended that it had been established by the Mumbai Police that the said MMS was shot on 10<sup>th</sup> May, 2011 and was therefore, not dated. Furthermore, the Broadcaster also contended that within hours of receiving the said MMS, it had provided a copy to the Mumbai Police and accordingly, the said Channel's reporters and viewers had helped the police in identifying and arresting the culprits since their pictures had been flashed on the said Channel.
5. Furthermore, the Broadcaster stated in its response, that several leading newspapers of Mumbai including The Times of India, Indian Express, Mirror, Daily News & Analysis and Dainik Bhaskar had also followed-up the story after the arrest of the culprits.
6. The Broadcaster denied in its second Reply dated 22<sup>nd</sup> August, 2011 that there was any intention on the part of the said Channel to interfere in the administration of justice ; and that the principal purpose and intention in airing the said Programme "live" was :

*“ ... to act in aid of the law, to help identify the perpetrators of as heinous an offence as gang-rape of a girl and to bring them to justice ”.*

The said Channel further clarified that they acted most responsibly, since inspite of having a 4 minute and 50 second long MMS clippings available with them, the said Channel had only broadcast 40 seconds of the clipping as part of the said Programme. The Broadcaster further clarified that as per its sources, the said MMS had been doing the rounds in Mumbai without anyone even reporting the matter to the police, "though the identity of the victim and wrongdoers were not made known to him" ; and that out of fear of the wrongdoers, even the victim was unwilling to report the matter to the police and was, in fact, being blackmailed for further sexual favours.

7. Since the factual matrix of the said complaint and response were adequately discernable from the documents placed before the Authority, it was not considered necessary to give a personal hearing to the parties.
8. In light of the complaint and the response received thereto, the said Programme was considered by the Authority again at its meeting held on 26.8.2011 and upon a thorough consideration, the Authority is of the following opinion :
  - 8.1 Since, on the statement of the Broadcaster itself, it appears that the subject matter of the said Broadcast - namely the incident of gang rape – is subject matter of investigation by the Police and / or prosecution before the competent Court, the Authority will not comment upon any aspect of the material broadcast (as regards its authenticity etc.) which will may be adduced as evidence in the prosecution;

- 8.2 The scope and ambit of the Authority's function is only to assess whether the said Broadcast was, or was not, in conformity with the NBA Code of Ethics & Broadcasting Standards and other Specific Guidelines issued by the NBSA from time-to-time ;
- 8.3 Upon viewing the said Programme, the Authority concluded that the audio-visual depiction of the episode in the said Broadcast was evidently in violation of Guideline 4.2 of the Specific Guidelines Covering Reportage dated 10.2.2009 (section relating to Good Taste & Decency ; Sex & Nudity), inasmuch as the said Broadcast contained indecent, if not obscene and obnoxious, footage that was part of the said MMS. The audio-visual content of the said MMS was repulsive since it showed the act of gang-rape in a manner that was sufficiently explicit and therefore grossly offensive ; and it was wholly inappropriate for such footage to be broadcast on a national news channel that was open to viewing by families ;
- 8.4 Furthermore, the Authority noted that in broadcasting excerpts of the said MMS as part of the said Programme, without masking or blurring the faces of the perpetrators of the crime, the said Channel had in fact prematurely exposed the identities of the accused persons in a manner that would enable the accused persons to challenge their identification by witnesses during a Test Identification Parade or TIP to be conducted as part of the investigation/prosecution of the offence; and such premature exposure would give the accused persons valid ground for impugning the results of a TIP. In this manner, the said Channel had - even if inadvertently - in fact interfered in the administration of justice and acted in a manner prejudicial to a fair trial, which is a breach of Guideline 4 of the Specific Guidelines for Reporting Court Proceedings dated 15.9.2011 and Guideline 3.3 of Specific Guidelines Covering Reportage dated 10.2.2009 (section relating to Law & Order ; Crime & Violence) ;
- 8.5 While the Authority has no reason to believe that the said Channel was not acting in good faith, inasmuch as the producers/reporters of the said Programme may have intended to aid in the arrest and prosecution of the offenders, their action was misplaced and inappropriate, inasmuch as premature exposing of the identifies of the offenders is likely to have done more harm than good, and may in fact work to the benefit of the offenders. The Authority is of the opinion that the right course of the action that ought to have been followed, was first to have provided the footage to the concerned Police and not to have broadcast the said footage without masking the face of the perpetrators. The Broadcaster ought to have telecast information relating to this ghastly criminal act as "news" simpliciter.

9. In this view of the matter, the Authority holds that the Broadcaster has violated Guideline 4 of the Specific Guidelines for Reporting Court Proceedings dated 15.9.2010 Guideline 3.3 of the Specific Guidelines Covering Reportage dated 10.2.2009 (Law & Order ; Crime & Violence) and Guideline 4.2 of the Specific Guidelines Covering Reportage dated 15.9.2010 (Good Taste & Decency ; Sex & Nudity).
10. Accordingly the Authority issues to the Broadcaster an “admonition” for the aforesaid violations.
11. The Authority further directs the NBA:
  - a) to send a copy of this Order to the Broadcaster within 7 days of issuance for noting and future compliance.
  - b) to also send a copy of this Order to the Complainant Ms. Sakina Mir for her information.
  - c) to host a summary of these proceedings on the NBA website and to include such summary in the NBA’s Annual Report

Sd/-  
Justice J S Verma (Retd.)  
Chairperson

Place : New Delhi  
Dated : 29 August, 2011