

News Broadcasting Standards Authority
Order No. 48 (2018)

Order of NBSA on complaints against telecast of programme titled “Fateh Ka Fatwa” aired on Zee News on 7.1.2017, 14.1.2017, 21.1.2017, 28.1.2017

MoI&B had forwarded eight complaints and the EMMC Report with CD in regard to broadcast of the programme under the title “*Fateh ka Fatwa*” on 7.1.2017, 14.1.2017, 21.1.2017, 28.1.2017 and 4.2.2017 on Zee News. The complaint was that the programme related to Islam and hurt the religious sentiments of Muslim community. As the Ministry had mentioned that the said programmes were also the subject matter of W.P. (C) No. 1556/2017 pending before the Delhi High Court, NBSA informed MoI&B that it will not be able to entertain a sub judice matter.

2) Subsequently, the Under Secretary, MoI&B, vide letter dated 20.10.2017 forwarded a copy of the following Order dated 22.9.2017 of the Delhi High Court, in W.P. (C) 1556/2017 Hifzur Rehman Khan vs UOI:

1. In the counter affidavit filed in this writ petition, the respondents have disclosed that the complaints, similar to the grievance made in this writ petition, against broadcasting of the show titled “Fateh Ka Fatwa” by the Zee News Channel were made in the News Broadcasters Association. It has been further disclosed that the telecast of the programme which was complained of in this writ petition was lastly telecast on the 7th of May 2017 and the same is not been telecast thereafter.

2. In view of the above, nothing survives for adjudication in the present writ petition which is accordingly disposed of.

3) In view of the said Order, NBSA at its meeting held on 14.11.2017 decided to consider the complaints earlier received through MoI&B. On such consideration, NBSA decided to write to the complainants to provide specific dates, time and the details of the objectionable allegations/statements made in the programme “Fateh ka Fatwa” which violated the NBSA guidelines. NBSA also decided to forward the EMMC report and CD with regard to the alleged broadcasts on 7.1.2017, 14.1.2017, 21.1.2017, 28.1.2017 and 4.2.2017 received from the MoI&B to the broadcaster (Zee News) and to send a letter to MoI&B to preserve the CD’s of the programme “Fatah ka Fatwa” which were the subject matter of the complaints, till a decision was taken.

4) Only one of the complainants, namely Mr. Md. Aziz, responded by reply dated 7.12.2017. NBSA at its meeting held on 20.1.2018 considered the complaints and the further response dated 7.12.2017 received from one of the complainants to

NBSA's request for particulars as also the response of the broadcaster to the complaints and to the EMMC report.

5) The complainant stated that such objectionable programmes anchored by Mr. Tarek Fatah, a foreign (Canadian) national, interfered with the religious sentiments of the Muslims; that the followers of every religion consisted of educated sections and un-educated sections; that though some of the practices by the un-educated sections may not be proper, highlighting such practices in TV programmes would create anger and disquiet among those sections; and that therefore broadcast of such programmes should be strictly regulated.

6) The broadcaster submitted that the show was off air after 6.5.2017; that as the complainants nowhere gave details of the objectionable portions which allegedly offended their religious sentiments, it is not possible for it to meet or rebut the vague allegations; that the programme focussed on various issues relating to Muslim community, like radicalisation of Muslim youth, rights of Muslim women, Islamic banking and finance, child marriage, etc. It was stated that the panellists who participated in the aired episodes included distinguished Muslim scholars, politicians, advocates and representatives of Muslim bodies. It was also stated that during the programme, discussions took place on variety of issues and all panellists were afforded fair opportunity to present their views. It was submitted that any attempt to curb or control such programmes would violate the freedom of speech and expression of the broadcaster. It was further submitted that Mr. Fatah was a distinguished Canadian Muslim known for his liberal and secular views and in view of his credentials, he was allowed to host the show.

7) The broadcaster also stated that the complaints have to be dismissed in view of the specific and categorical disclaimer run by it at the beginning of the programme mentioning that the object of the programme was to bring social awareness and that the views, comments, statements expressed in the programme were exclusively of the host, guests, speakers and participants, and the channel does not take any responsibility in regard to the statements made during the programme nor does it verify any of the facts presented in the programme.

8) NBSA was of the view that in the absence of the complaints specifying the objectionable/offending portions, the channel will not be in a position to respond to the complaint, nor can NBSA deal with them. However, NBSA was more concerned about the disclaimers aired by the broadcaster prior to the broadcast which were as follows:

“यह कार्यक्रम पूरी तरह से मनोरंजन के मकसद से तैयार किया गया है। कार्यक्रम में व्यक्त धारणा, विचार, टिप्पणी, मत और बयान पूरी तरह से इसके मेजबान और इसमें शामिल मेहमानों, वक्ताओं व भागीदारों के हैं।

इनका मकसद किसी व्यक्ति, लिंग, धर्म, नस्ल, समाज और संगठन आदि की भावना को ठेस पहुंचाना नहीं है। यह चैनल इस कार्यक्रम में शामिल किसी बयान या तथ्य की पुष्टि नहीं करता और न ही उससे सहमति जताता है।” इसके अलावा कार्यक्रम में ‘फतह का फतवा की दस बड़ी बातें’ टिकर पर चलाई गई, जोकि इस्लाम विरोधी नहीं थी।

“इस कार्यक्रम का मकसद सामाजिक जागरूकता लाना है। कार्यक्रम में व्यक्ति धारणा, विचार, टिप्पणी, मत और बयान पूरी तरह से इसके मेजबान और इसमें शामिल मेहमानों, वक्ताओं व भागीदारों के हैं। इनका मकसद किसी व्यक्ति, लिंग, धर्म, नस्ल, समाज और संगठन आदि की भावना को ठेस पहुंचाना नहीं है। यह चैनल इस कार्यक्रम में शामिल किसी बयान या तथ्य की पुष्टि नहीं करता और न ही उससे सहमति जताता है।”

9) NBSA was of the *prima facie* view that neither the disclaimer by the channel, nor the fact the show was hosted by a person not connected with the channel would absolve the broadcaster, in the event of violation of the Broadcasting Standards. NBSA was also of the *prima facie* view that broadcaster should take the overall responsibility for all content aired on the channel. Therefore, NBSA decided to call upon the broadcaster to be present at a hearing to explain why it should not be held responsible for all the content aired on its channel.

10) The broadcaster appeared for a hearing on 15.2.2018. The following persons appeared on behalf of Zee Media Corporation Ltd. (Zee News):

1. Ms. Ritwika Nanda Advocate
2. Ms. Petal Chandoke, Advocate
3. Mr. Gulshan Sachdev, AVP – Legal (Essel Group).

Deliberations at the hearing:

11) It was submitted on behalf of the broadcaster that the programme anchored by Mr. Tarek Fatah, a Pakistani and a Canadian citizen, was aired from 7.1.2017 to 6.5.2017 to put forward issues for discussion on terrorism, hijab & Islam, triple talaq etc. that are not openly debated; and that the channel relied on his expertise for a balanced presentation and the object was not to offend or criticize Islam or the Muslim community. It was fairly conceded that the disclaimer aired prior to the broadcasts would not absolve the broadcaster if any objectionable content was aired during the programme. NBSA decided to close the complaints with an observation that the broadcaster should exercise care and caution in regard to such broadcasts.

12) NBSA decided that an Advisory be issued to all Editors of NBA that broadcasters would be responsible for violations of Broadcasting Standards and Guidelines in regard to the content of any programme aired on the channel; that neither any “disclaimers” before any programme nor the fact that offending statements/views were expressed by independent anchors, invited guests or other participants, would relieve them from the liability/responsibility for violation of the Standards/Guidelines.

13) NBSA further directs the NBA:

- a) To send a copy of this Order to the MoI&B, complainant who responded to the NBSA letter and the broadcaster.
- b) To circulate this order to all Members, Editors & Legal Heads of NBA.
- c) To host this order on its website and to include it in its next Annual Report.
- d) To release the Order to media.

Sd/-
Justice R.V. Raveendran (Retd)
Chairperson

Place: New Delhi

Date: 23 March, 2018