



PRESS RELEASE

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New Delhi: May 27, 2021Letter dated 27.5.2021 addressed to Shri Prakash Javadekar, Hon'ble Minister for Information & Broadcasting by Mr. Rajat Sharma, President, News Broadcasters Association (NBA), regarding exemption and exclusion of traditional television news media and its extended presence on Digital News Platforms from Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021. The text of the letter sent is reproduced below.

**Annie Joseph
Secretary General**

"Subject: Exemption and Exclusion of Traditional Television News Media and its extended presence on Digital News Platforms from Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021

1. As you are aware, the News Broadcasters Association (NBA) is the apex body of broadcasters for the genre of news in the television broadcasting sector. The NBA represents several important and leading national and regional private television news and current affairs broadcasters who run news channels in Hindi, English and in regional languages.
2. The present letter attempts to apprise the Ministry of Information & Broadcasting [MoI&B] of NBA's concerns about the recent Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 [IT Rules 2021] and its applicability to the digital medium of the linear television channels of the members of NBA.
3. The Information Technology Act, 2000 [IT Act, 2000] had not contemplated the regulation of Digital News Media. Despite this, the IT Rules, 2021 seek to inter alia include traditional news media, i.e., electronic television news media having a digital news feed and presence on other digital media platforms, within its purview. This appears to be ultra vires the IT Act, 2000. In view of the above, the



principal concern of NBA is the inclusion of the traditional electronic/television's digital news media within the scope of the IT Rules, 2021, especially as enough safeguards exist to regulate the content of both mediums.

4. In any event, while NBA appreciates the need for regulations, the traditional news media need not be subjected to and/ or covered under the scope of the IT Rules 2021, since it is already sufficiently regulated by various Statutes, Laws, Guidelines and Codes, Regulations, and Judgements set out below:
 - i. The traditional news media is governed under the provisions of the Cable Television Networks Regulation Act, 1995 [Cable TV Act], Cable Television Networks Rules, 1994 [Cable TV Rules], Uplinking and Downlinking Guidelines 2011, which require the traditional news media to be compliant with the 'Programme Code and Advertising Code' under the Cable TV Act and the Cable TV Rules.
 - ii. The "Electronic Media Monitoring Centre" (EMMC) [which is a subordinate office under the MOI&B] monitors the content of electronic media/ television channels in respect of any violations of the Cable TV Act and the Cable TV Rules, more specifically the 'Programme Code and Advertising Code'.
 - iii. The content of the traditional electronic media is also governed by Codes, Guidelines and Orders/Directions of self-regulatory bodies like the News Broadcasting Standards Authority (NBSA) for the news genre, the Broadcasting Content Complaints Council (BCCC) for general entertainment channels and the Advertising Standards Council of India (ASCI) for advertisements.
 - iv. The traditional news media, which are owned by news broadcasters who also run their respective news channels, are also required to adhere to the Code of Ethics and Broadcasting Standards [Code of Ethics], the News Broadcasting Standards Regulations and the Guidelines issued by NBSA if they are members of NBA. NBSA is an Independent Self-Regulatory Mechanism which is headed by an eminent jurist, a Retired Judge of the Hon'ble Supreme Court, along with four independent members from the civil society, being persons with proven eminence in various fields of activity and four editors of the members of NBA. This is, in fact, akin to the Level II Self-Regulatory Mechanism prescribed under the IT Rules, 2021.



- v. NBSA's Guidelines cover a wide and exhaustive range of issues in respect of the content telecast by the members, which can be found on the website at '<http://www.nbanewdelhi.com/>'. NBSA also issues Advisories/Directions/Orders regularly to address various requirements necessitated on account of evolving circumstances and situations at various points of time relating to the content broadcast by the news broadcasters.
- vi. The Self-Regulatory framework, i.e., NBSA mentioned above, has been in existence since 2008 and has been a very effective complaint redressal mechanism in respect of the content broadcast by the members of NBA. There have been several instances when show cause notices have been issued to erring news channels allowing them and the complainants an opportunity of presenting their case, pursuant to which after hearing both the parties, NBSA has issued Order/s against the erring members who have violated their Guidelines etc. For transparency, the Orders/Directions passed by NBSA are available on the website at 'http://www.nbanewdelhi.com'.
- vii. It is also pertinent to note that in certain Orders passed by NBSA in respect of television channels which have violated the Code of Ethics and/or Guidelines, NBSA also directs the said channel/s to remove the content from the website, YouTube, or any other links, of the television channel/s.
- viii. The traditional news media is also regulated under various other applicable content laws/general statutes, which includes the Contempt of Courts Act, 1971, the Consumer Protection Act, 2019, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, the Emblems and Names (Prevention of Improper Use) Act, 1950, the Indian Penal Code, 1860 and many other statutes. It may also be noted that the traditional news media is constantly subjected to the abuse of the provisions of Defamation Laws, especially Sections 499 and 500 of the Indian Penal Code, on account of complainants filing frivolous and vexatious proceedings.
- ix. Apart from the above, the traditional television news media is subject to severe time consuming procedural compliance requirements and also have to undergo a cumbersome procedure to obtain various approvals at various levels from various Ministries and Wings of the Government. Since the members of NBA are already regulated content-wise by the aforementioned statutes and procedurally by the various requirements laid down by the Ministries, the news broadcaster's digital news medium



should be an exception when it comes to applying the provisions of IT Rules, 2021. Substantial content on the website is of linear content of the news channels, and therefore there is no requirement to have a new set of rules for non-linear content for the reasons stated above.

- x. It is reiterated that apparently, the intent was not to regulate the digital arm of the linear television channels, and it has only got regulated on account of the ambiguity in the legislation/IT Rules, 2021. However, the content that is made available on the linear television medium and which is made available, as is, on the digital media, is already regulated. It is reiterated that news channels should not be regulated twice for the same version/feed made available simultaneously on their On-Air and On-Line platforms. Therefore, there should be an exemption granted for simulcast feed made available on digital media of the news channels, which means live feed of the news channels is simultaneously made available on On-Air and On-line platforms.
5. In view of the above, the IT Rules 2021, if applied to the digital media of the linear television medium, would only result in duplication of the adjudicatory and redressal mechanism resulting in the creation of parallel adjudicatory bodies. The IT Rules, 2021 prescribe administrative regulations, which will make it virtually impossible for small or medium-sized traditional news media organizations to survive. Any additional mandates as contemplated under the IT Rules, 2021 would result in increasing the employee costs and compliance requirements of the traditional news media organizations along with duplication and creation of parallel processes. The media organizations would have to devote significant resources and time in resolving each complaint and in defending itself before multiple forums. Therefore, NBA suggests that the focus should primarily be on further strengthening the already existing mechanism of NBSA and giving statutory recognition to NBA's Code of Ethics under the Cable TV Rules.
 6. Furthermore, the IT Rules, 2021 has certain deficiencies, which are listed below as the said Rules ought not to:
 - i. use terms like 'half-truths', 'good taste', 'decency' which are words that are vague and ambiguous;
 - ii. enact excessive regulations for the digital medium in order that a level playing field be maintained with the traditional electronic news media; and



- iii. treat digital media as a 'Social Media Intermediary' or 'Significant Social Media Intermediary'.
7. The electronic news media is no different from print media and majority of content hosted on their digital platforms is nothing but a replica of content which is already a part of the broadcast and has also passed the litmus test of being compliant to the various applicable regulations. The digital news media owned and operated and directly run by traditional news media ought not to be brought under the ambit and purview of the IT Rules, 2021.
8. The IT Act, 2000 and the IT Rules 2021, and more specifically provisions inter alia such as the blocking of content in cases of emergency, will severely impact the freedom of speech and expression of the media. Since the news channels/broadcasters and their extended digital arms strictly adhere to the statutes and regulations applicable and are governed at multiple levels of redressal mechanism, if the IT Rules, 2021 are made applicable, it will not only lead to harassment of the news channels/broadcasters but will also suppress and violate their fundamental right of freedom of speech and expression and will also restrict news reporting in a fair manner.
9. NBA also states that in any event till such time as the pending matters challenging the IT Rules, 2021 in the various High Courts are adjudicated upon and decided, the IT Rules, 2021 should be kept in abeyance/suspension specifically with regard to the members of NBA already have an independent self-regulatory body, NBSA to adjudicate upon all complaints received by it.
10. In view of the above, NBA requests the exclusion of the digital news platforms that are owned and run by traditional news media from the purview of the provisions of the IT Rules, 2021. NBA requests that a specific and express exclusion should be carved out in the definitions of 'digital news media' and /or 'publishers of news and current affairs content' so as to exclude the applicability of the provisions of the IT Rules, 2021 to the digital news platforms that are owned and run by traditional news media. The need of the hour is to strengthen the already existing independent self-regulatory mechanism of NBSA and to give statutory recognition to the Code of Ethics instead of having two parallel mechanisms in place.

NBA would be grateful to schedule a meeting to discuss the above issue which is of utmost importance."
