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AMENDMENT TO CABLE TV RULES AND PROPOSED AMENDMENT TO CINEMATOGGRAPH ACT: MIB SEEKS TO CREATE PARITY WITH IT RULES

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The Ministry of Information and Broadcasting (MIB) through a notification dated 17 June 2021 amended the Cable Television Network Rules, 1994 (Cable Rules 1994) by way of the Cable Television Networks (Amendment) Rules, 2021 (Amendment). The Amendment introduces a formal complaint redressal mechanism for redressal of viewers grievances relating to content broadcasted by cable television channels which are in contravention of the Programme Code or Advertising Code under the Cable Rules 1994. The Amendment replicates the three-tier grievance redressal mechanism set out in the recently introduced Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules 2021) for digital media, and contains levels of self-regulation, a self-regulatory body, and an oversight mechanism through an inter-departmental committee.

Further, the MIB on 18 June 2021 also sought public comments on the Cinematograph (Amendment) Bill, 2021 (Cinematograph Amendment Bill) which seeks to amend the Cinematograph Act, 1952 (Cinematograph Act) that governs theatricals.

Background

The Supreme Court in *Common Cause v Union India and Ors* (2017 SCC OnLine SC 617) acknowledged the existence of self-regulatory bodies such as the Broadcasting Contents Complaint Council (BCCC), the Advertising Standards Council of India (ASCI), the News Broadcasters Associations (NBA). Further, the court also took cognizance of the Inter-Ministerial Committee constituted by MIB through an order dated 25 April 2005, which looks into complaints in respect of the Programme / Advertising Codes under the Cable Rules 1994. However, in addition to this, the court suggested that the Central Government should frame rules which set out a formal mechanism of complaint redressal for violation of the Programme Code / Advertising Code under the Cable Rules 1994.

The proposed amendments to the Cinematograph Act come in light of the observations of the Expert Committee under the Chairmanship of Justice Mukul Mudgal (2013) (Mukul Mudgal Committee), the Committee of Experts under the Chairmanship of Shri Shyam Benegal (2016) (Shyam Benegal Committee), and the Standing Committee on Information Technology (2019-2020) (Standing Committee). While the Shyam Benegal Committee and the Mukul Mudgal Committee had recommended the need for recategorization of certification, the Standing Committee highlighted issues such as piracy and the need for provisions prohibiting unauthorized recordings.

Key Amendments to Cable Rules 1994

The Amendment has made the following changes / insertions to the Cable Rules 1994 -

1. Powers of the Government: The Amendment has inserted a provision under Rule 6 (*Programme Code*) and Rule 7 (*Advertising Code*) of the Cable Rules 1994 which allows the Central Government to prohibit the transmission or re-transmission by a cable operator of any channel / programme in violation thereof. The Central Government while exercising this power may choose to give the cable operator an opportunity to be heard.
2. Grievance Redressal Mechanism: The Amendment has introduced a three-tier grievance redressal mechanism for broadcasters as follows:
 - 2.1 Level I – Self regulation: Broadcasters are required to establish a complaint redressal mechanism and appoint a grievance officer to deal with such complaints. Details of the grievance redressal mechanism and grievance officer are to be published on website / interface of the broadcaster. This level allows any person aggrieved by the content of a programme on a channel not in conformity with the Programme Code / Advertising Code to file a complaint in writing to the broadcaster. The broadcaster should acknowledge the complaint within 24 hours of receipt and the grievance officer is required to resolve the complaint within 15 days from receipt. In case of a complaint in respect of violation of the Advertising Code, such complaints may also be addressed to the ASCI which is required to decide such complaints within 60 days from receipt.
 - 2.2 Level II – Self-regulating body of broadcasters: This level constitutes a self-regulatory body of broadcasters to be constituted by a minimum of 40 broadcasters and registered with the Central Government. The self-regulatory body should register itself within 30 days from the notification of the Amendment or the constitution of the self-regulatory body, whichever is earlier. The self-regulatory body may hear appeals from Level I of the grievance redressal mechanism if a decision is not communicated to the complainant within stipulated timelines or if the complainant is not satisfied with the decision at Level I. While disposing such appeals, the self-regulating body has powers to direct broadcasters to issue advisories, warnings, apologies, disclaimers or refer content to the Central Government under Level III of the grievance redressal mechanism if it deems that such content should be deleted / modified. The self-regulatory body is required to dispose off an appeal and communicate its decision to the complainant within 60 days from receipt of the appeal.
 - 2.3 Level III – Inter Departmental Committee (IDC): Oversight by the Central government through an IDC to be chaired by the Additional Secretary in the MIB and consisting of representatives from different ministries. The IDC is required to devise its own procedure for hearing grievances / complaints arising out of Level II / Level I of the grievance redressal mechanism or referred to the IDC by the Central Government. The IDC has the power to make recommendations to the Central Government to require broadcasters to issue advisories, warnings, apologies, disclaimers, delete / modify content, take programmes / channels off air for reasons recorded in writing.
3. Disclosure of Information: Broadcasters and self-regulating bodies are required to make disclosures pertaining to complaints received, manner of disposal, actions taken, replies sent, and order and directions received, and make such information available in the public domain. All broadcasters are required to preserve records of content telecasted by them for at least 90 days and make such records available to the Central Government or the self-regulatory body as may be requisitioned.

Proposed Amendments to Cinematograph Act

- 1. Age Ratings:** The Cinematograph Act provides for certification of theatrical films under the categories U (unrestricted exhibition), U/A (parental guidance), A (exhibition restricted only to adults) or S (exhibition restricted only to specific class of persons). The Cinematograph Amendment Bill has proposed age-based categories such as U/A 7+, U/A 13+, U/A 16+ for certification of films to further sub-divide the UA category.
- 2. Prohibition of Unauthorized Recordings:** The Cinematograph Amendment Bill also includes a provision on unauthorized recordings which restrict persons from making copies of films using audio-visual recording devices such as camcorders. A contravention of this provision is punishable with imprisonment for a term of at least 3 months and up to a maximum of 3 years or a fine of at least three lakh rupees extendable to 5% of the audited gross production cost of the film, or both.

Conclusion

While content transmitted through television broadcast was already regulated under the Cable TV Networks (Regulation) Act, 1995, and Cable Rules 1994, the Amendment strengthens the grievance redressal mechanisms available to viewers. The Amendment also seeks to give statutory status to existing broadcasting associations and bodies such as BCCC and NBA which could register with the Central Government to undertake redressal of complaints as self-regulatory bodies under Level II of the grievance redressal mechanism. The Amendment formalizes oversight by the Central Government through the existing Inter Ministerial Committee under Level III of the grievance redressal mechanism. It appears that the intent of the Amendment is to formalize procedural aspects for addressing grievances of viewers of content on television and create parity between television broadcasters and digital media platforms.

Further, the Cinematograph Amendment Bill also appears to create age ratings similar to those under the IT Rules 2021 applicable to publishers of online curated content. This seems to be an attempt by the MIB to create uniformity throughout different mediums of exhibition of content. The provision restricting unauthorised recordings of films under the Cinematograph Amendment Bill in addition to the remedies for infringement available under the Copyright Act, 1957 will provide teeth to combat piracy and protect the rights of filmmakers. This is also in line with practices prevalent in countries like the United States of America, South Korea, Philippines, and the United Kingdom, which have strict laws prohibiting unauthorised recordings of films.

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