

# MediaWatch-India

*Campaigning for decency and accountability in the media*

(Regd. 884/2008)

<https://sites.google.com/site/mediawatchindia123/>

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16-4-2023

To

Shri Sanjeev Kumar Sharma,  
Advisor (Broadband and Policy Analysis),  
Telecom Regulatory Authority of India.

Sir,

***Sub: Counter-comments for the responses received for the consultation on "Regulating Converged Digital Technologies and Services" - reg.***

On behalf of 'MediaWatch-India', below are the counter-comments for the responses received for the consultation on *"Regulating Converged Digital Technologies and Services"*.

Our counter-comments are mainly about the aspect of content regulation.

Many respondents, especially, Industry associations, in their comments, stated that content regulation is not part of the terms of reference set by the DoT for the current consultation on convergence by TRAI. Further, some respondents concurred with the view that the content regulation can be 'taken care' by the Ministry of Information and Broadcasting (as proposed by MIB in their letter to TRAI).

MediaWatch-India in its [comments](#), stated inter alia, as follows reg. content regulation:

*"Content regulation not being in the terms of reference itself indicates that the entire exercise of convergent regulation is piece-meal and no proper homework was done at the highest levels of the Government..."*

*MWI feels that content regulation shall be part of the convergent regulation framework. [For regulating content, an independent council with representatives from different sections of the society shall be set up. This will be part of the converged regulator for administrative convenience but autonomous in all aspects]...*

*The brief comments of MIB on such an important aspect of content regulation are casual and made with complete lack of vision.*

*MIB stated that "Regulation of content requires separate skill sets of creative and artistic persons than that of technocrats or economists who can factor the impact of content on sensibilities, morals, and the value system of the society" and proceeded to conclude the "content policy and regulation should also continue with the MIB."*

*MIB is correct that content regulation should factor in sensibilities and values but one wonders how a Govt. ministry will have "these separate skills of artistic and creative persons" and how MIB can ensure taking care of "sensibilities, morals, and the value system". The view of MIB is self-contradictory and only reflects the Government's intention to retain control on media content. The letter is signed by an under secretary and doesn't even quote at which level the view was taken/approved. Whether content regulation should continue to be done by ministry or an independent regulatory authority should be decided by the government at the highest level.*

*India is perhaps the only democracy where a minister or secretary finally decides whether a content on television or OTT is objectionable or not and that too based on recommendations of a committee of bureaucrats (inter ministerial committee). It is high time this colonial sort of scheme shall change and government shows the maturity to maintain armslength distance from the sensitive aspect of 'regulating' content and entrust the same to an independent council with representatives from different sections of the society.*

***While MWI appreciates the limited mandate of TRAI to comment on content policy and regulation, it will in wider public interest if TRAI can escalate the matter to NITI Ayog/PMO/Cabinet Secretariat for a policy decision, especially because the Indian case of not having independent body for content is a serious anomaly and against the democratic ethos."***

While TRAI is governing techno-economic aspects of broadcast/telecom regulation, India still doesn't have an independent regulator to govern the content.

For the question "***Are there any countries where the government ministry regulates broadcast content***", ChatGPT answered as follows (rather this is one of the generated answers for that question):

*“Yes, there are several countries where the government ministry regulates broadcast content. This approach is commonly known as "government censorship," and it involves the government having the power to control and restrict the content that is broadcasted on radio, television, and other media outlets.*

*Some examples of countries where the government regulates broadcast content include:*

- 1. **China:** The Chinese government has strict regulations in place for all media, including broadcast media. The government controls what can be broadcasted, and all media outlets must be licensed and operated by state-controlled entities.*
- 2. **North Korea:** The North Korean government strictly controls all media outlets, including broadcast media. The government maintains a monopoly on radio and television broadcasts, and all content is tightly controlled to ensure that it aligns with the state's ideology.*
- 3. **Iran:** The Iranian government has strict regulations in place for all media, including broadcast media. The government controls what can be broadcasted, and all media outlets must be licensed and operated by state-controlled entities.*
- 4. **Cuba:** The Cuban government strictly controls all media outlets, including broadcast media. The government maintains a monopoly on radio and television broadcasts, and all content is tightly controlled to ensure that it aligns with the state's ideology.*

*It is worth noting that government censorship of broadcast content is generally seen as a violation of freedom of expression and the press, and is widely condemned by human rights organizations and advocates. **In many democratic countries, regulation of broadcast content is instead carried out by independent regulatory bodies, rather than government ministries. (Emphasis added)***

*While the case of India is not listed in the above answer, our country figures among nations which does not have an independent institution to regulate broadcast content. (This however, is not to compare India to those countries in terms of media freedom or Government's attitude to media but only to highlight that statutory/independent regulators for broadcast media are still not there only in a handful of countries which are not well known for their democratic credentials and that a free and vibrant democracy like India can't continue with status quo.)*

From global institutions like UNESCO to World Bank and domestic apex bodies like Supreme Court to several Parliamentary Standing Committees, the recommendation since the last many decades has been to set up a statutory body for broadcast media (including and especially content regulation).

UNESCO had brought out a detailed document namely [\*“Independent regulation of broadcasting: a review of international policies and experiences”\*](#), wherein it has elaborated the best practices and guidance in setting up independent regulators. Needless to add that the same principles equally apply to regulation of convergent media also (especially the content regulation aspect).

Despite all the above, it is quite unfortunate that both the Government and some of the Industry associations are still talking in casual terms that ‘content regulation can continue with MIB’. Though there is mention in the consultation paper about converged regulators in major countries, it is curious that TRAI also did not elaborate on good global practices in content regulation and the Indian anomaly of not having a statutory regulator for broadcast/converged content.

One may have justified concern that if a statutory regulatory body is indeed established, its functioning and decision making may be influenced by the government. While this may be true, this very fear or suspicion cannot be a perpetual excuse for not having a regulator at all. The status quo may be convenient for broadcasters and service providers because there is no dedicated institution to look into their violations. It is convenient for the government because control of content and the content providers will be in their hands. The ultimate losers are the citizen-consumers who are rendered voiceless and not having proper grievance redressal. It’s everybody’s knowledge that MIB has neither the will nor resources nor moral authority to decide upon the plethora of content violations, let alone imposition of penalties. This regulatory vacuum has resulted in a situation where one has to put up with the violations or move higher Courts which is a costly affair and a rare eventuality.

Detailed analysis/write-ups justifying above stand of MWI are available at below links:

[http://asu.thehoot.org/story\\_popup/penalty-an-advisory-6671](http://asu.thehoot.org/story_popup/penalty-an-advisory-6671)

<http://asu.thehoot.org/media-watch/media-practice/enough-bad-faith-and-weasel-words-7667>

To conclude, it is MWI’s humble and fervent plea to Government, TRAI and all the esteemed Industry Associations and other stakeholders that the current point in the history of open and convergent media may be taken as an opportunity and content regulation may be made an independent process by a statutory council (with representation from all sections of society and with security of tenure) and its decisions appealable to High courts/Supreme Court. It is high time the government of the day maintains armslength distance from the

sensitive aspect of 'regulating' content, except perhaps in rare scenarios like national security or specified exigencies.

*Yours sincerely,*

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