

THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995

INTRODUCTION

Cable Television is the talk of the day. In each and every corner of the country people talk about it. Urbanites have the privilege to enjoy the cable television has spread its wings with the results that there has been a haphazard mushrooming of cable television networks all over the country due to availability of signals of foreign television networks via satellites. The programmes which are being projected on the satellite channels are predominantly western and are alien to our culture and way of life. On these cable television networks lot of undesirable programmes and advertisements are also being screened without any fear of being checked. To check this tendency it has been considered necessary to regulate the operation of cable television networks in the country so as to bring about uniformity in their operation.

On 29th September, 1994 an Ordinance titled the Cable Television Networks (Regulation) Ordinance, 1994 was promulgated by the President to provide for the regulation of the operation of cable television networks in the country. The Ordinance was re-promulgated by the President on 17th January, 1995.

To replace the said Ordinance a Bill was introduced in the Parliament which was passed by both of the houses.

STATEMENT OF OBJECTS AND REASONS

There has been haphazard mushrooming of cable television networks all over the country during the last few years as a result of the availability of signals of foreign television networks via satellites. This has been perceived as a "cultural invasion" in many quarters since the programmes available on these satellite channels are predominantly western and totally alien to our culture and way of life. Since there is no regulation of these cable television networks, lot of undesirable programmes and advertisements are becoming available to the viewers without any kind of censorship.

2. It is also felt that the subscribers of these cable television networks, the programmers and the cable operators themselves are not aware of their rights, responsibilities and obligations in respect of the quality of service, technical as well as content-wise, use of material protected by copyright, exhibition of uncertified films, protection of subscribers from anti-national broadcasts from sources inimical to our national interest, responsiveness to the genuine grievances of the subscribers and perceived willingness to operate within the

broad framework of the laws of the land.e.g. the Cinematograph Act, 1952, the Copyright Act, 1957, Indecent Representation of Women (Prohibition)Act, 1986.

3. It is, therefore, considered necessary to regulate the operation of cable television networks in the entire country so as to bring about uniformity in their operation. It will, thus, enable the optimal exploitation of this technology which has the potential of making available to the subscribers a vast pool of information and entertainment.

4. The Bill seeks to achieve the above objects.

ACT 7 OF 1995

The Bill titled Cable Television Networks (Regulation) Bill, 1995 was passed by both the Houses of Parliament and the same was assented by the President on 25th March, 1995. It came on the statute book as " THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 (7 OF 1995) deemed to have come into force on 29th September, 1994.

THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995

(7 OF 1995)

[25TH MARCH, 1995]

*Promulgated by the President in the Forty-fifth year of the Republic of India.
An Act to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto.
Be it enacted by Parliament in the Forty-sixth year of the Republic of India as follows :-*

CHAPTER 1

PRELIMINARY

1.Short title, extent and commencement.- (1) This Act may be called the Cable Television Networks (Regulation)

Act, 1995.

(2) It extends to the whole of India.

(3)It shall be deemed to have come into force on the 29th days of September, 1994.

2. Definitions. In this Act, unless the context otherwise requires,-

(a) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

(b) "cable service" means the transmission by cables of programmes including retransmission by cables of any broadcast television signals ;

(c) "cable television network" means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers ;

(d) "company" means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956);

(e) "person" means- an individual who is a citizen of India ;

(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India ;

(iii) a company in which not less than fifty-one per cent. of the paid-up share capital is held by the citizens of India ;

(f) " prescribed" means prescribed by rules made under this Act ;

(g) " programme" means any television broadcast and includes-

(1) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players ;

(ii) any audio or visual or audio-visual live performance or presentation, and the expression " programming service" shall be construed accordingly;

(h) "registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Act ;

(i) "subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

Comments

(i) "Cable Operator" means any person who-

(a) provides cable service through a cable television network, or

*(b) otherwise controls the management and operation of a cable television network, or
(c) is responsible for the management and operation of a cable television network.
(ii) "Cable service"-*

*(a) means the transmission by cables of programmes, and
(b) includes the re-transmission by cables of any broadcast television signals.
(iii) The Head Post Master of a Head Post Office has been notified as the Registering Authority,
vide S.O. 718 (E), dated 29.9.1994.
(iv) A person who receives the signals of cable television network and further transmits such
signals to any other person, cannot be called "subscriber".*

CHAPTER II

REGULATION OF CABLE TELEVISION NETWORK

3. Cable television network not to be operated except after registration.- No person shall operate a cable television network unless he is registered as a cable operator under this Act :
Provided that a person operating a cable television network, immediately before the commencement of his Act, may continue to do so for a period of ninety days from such commencement ; and if he has made an application for registration as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

COMMENTS

*A person must get himself registered as cable operator under this Act, for operating a cable television network.
However, a person operating a cable television network immediately before the commencement of the Act, may continue to
do so, -
(a) for a period of 90 days from such commencement ; and
(b) till -
(i) The is registered under section 4(3), or the registering authority refuses to grant registration under proviso to section 4(3) to him.*

4. REGISTRATION AS CABLE OPERATOR.-(1) Any person who is operating or is desirous of operating a cable television network may apply for registration as a cable operator to the registering authority.

(2) An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

(3) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied,

register the applicant as a cable operator and grant to him a certificate of such registration. Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to grant registration to him if it is satisfied that he does not fulfill the conditions specified in clause (e) of section 2.

COMMENTS

(i) An application for registration as a cable operator has to be made in Form-1 accompanied by a fees of Rupees Fifty Only (Indian Postal Order only) to the Head Post Master of a Head Post Office of the area within whose territorial jurisdiction the office of the cable operator is situated.

(ii) Registration shall be valid for 12 months and so renewable. The provisions of rule 3 of the Cable Television Networks rules, 1994 shall apply mutatis mutandis to an application for renewal of the registration.

(iii) The registering authority (Head Post Master) concerned.-

(a) shall register the applicant as a cable operator and grant to him a certificate of registration in Form 3; or

(b) may, for reasons to be recorded in writing and communicated in Form 4 to the applicant, refuse to grant registration to him.

Programme Code. -No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code :

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

COMMENTS

(i) No person shall have a right to transmit or re-transmit through a cable service any programme which is not in conformity with the Programme Code prescribed under the rule 7 of the Cable Television Networks rules, 1994.

(ii) Programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder, are, however, exempted from the operation of this section.

6. Advertisement Code.- No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code:

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

COMMENTS

(i) No person shall have a right to transmit or re-transmit through a cable service any advertisement which is not in conformity with the Advertising Code prescribed under the rule 7 of the Cable Television Networks rules, 1994.

(ii) Programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder, are, however, exempted from the operation of his section.

Maintenance of register.- Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes.

COMMENTS

It is mandatory for every cable operator to maintain a register in Form 5 prescribed under rule 8 of the Cable Television Networks rules, 1994.

Compulsory transmission of two Doordarshan channels.- (1) Every cable operator using a dish antenna or Television Receiver only shall, from the commencement of this Act, re-transmit at least two Doordarshan channels of his choice through the cable service.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.

COMMENTS

Every cable operator who uses a dish antenna or Television Receiver only, is bound to re-transmit at least two Doordarshan channels of his choice through the Cable service, without any deletion or alteration of any programme transmitted on such channels, from the commencement of this Act.

Use of standard equipment in cable television network -No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986 (63 of 1986), use any equipment in his cable television network unless such equipment conforms to the said Indian Standard.

COMMENTS

On and from the date of expiry of a period of 3 years from the date of establishment and publication of the Indian Standard by the BIS, every operator shall be under a statutory obligation to use any equipment in his cable television work, which must conform to the said Indian Standard.

Cable television network not to interfere with any telecommunication system.- Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems.

COMMENTS

A duty is cast on every cable operator to ensure that his cable television network does not interfere, in any way, with the functioning of the authorised telecommunication systems.

CHAPTER III

SEIZURE AND CONFISCATION OF CERTAIN EQUIPMENT

Power to seize equipment used for operating the cable television network.- (1) If any officer, not below the rank of a Group 'A' officer of the Central Government authorised in this behalf by the Government (hereinafter referred to as the authorised officer), has reason to believe that the provisions of section 3 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.

(2) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

COMMENTS

The authorised officer may, if he has reason to believe that-

*(i) the provisions of section 3 have been contravened by any cable operator, or
(ii) the provisions of section 3 are being contravened by any cable operator.
seize the equipment being used by such cable television network. He is not competent to retain the equipment seized for a period exceeding 10 days from the date of its seizure, without the approval of the District Judge, within the local limits of jurisdiction such seizure was made.*

Confiscation-The equipment seized under sub-section (1) of section 11 shall be liable to confiscation unless the cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.

COMMENTS

Where the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 (i.e. obtained a licence) within a period of 30 days from the date of seizure thereof, such seized equipment could not be confiscated.

Seizure or confiscation of equipment not to interfere with other punishment.- No seizure or confiscation of equipment referred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Act.

COMMENTS

Simultaneously with seizure or confiscation of equipment referred to in section 11 or section 12, any punishment to which the person affected thereby is liable under this Act may also be inflicted on him.

Giving of opportunity to the cable operator of seized equipment.- (1) No order adjudicating confiscation of the equipment referred to in section 12 shall be made unless the cable operator has been given notice in writing informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter :

Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment shall be returned after the expiry of that period to the cable operator from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, so far as may be, apply to every proceeding referred to in sub-section (1)

COMMENTS

(i) Before any order adjudicating confiscation of the equipment referred to in section 12 could be validly made, two conditions must be satisfied, namely:-

(1) a notice in writing informing him of the grounds on which it is proposed to confiscate such equipment ; and

(2) a reasonable opportunity of making a representation in writing against the confiscation, have been given to the cable operator.

(ii) such notices should also specify-

(a) a reasonable time within which "representation" is to be made; and
(b) if the cable operator desires of being heard in the matter.
(iii) Proviso to sub-section (1) mandates that the equipment seized will have to be returned to the cable operator from whose possession it was seized where a notice stipulated in sub-section (1) has not been given within 10 days from the date of the seizure thereof.
The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, so far as may be, apply to every proceeding referred to in sub-section (1), i.e. in relation to adjudicating confiscation.

Appeal.- (1) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such court.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.

(3) No further appeal shall lie against the order of the court made under sub-section(2).

COMMENTS

(i) Any decision of the court adjudicating a confiscation of the equipment is appealable. An appeal lies to the court to which an appeal lies from the decision of such court. Only a person who is aggrieved by the decision of the adjudicating court has right to prefer an appeal. The period of limitation for filing an appeal is 30 days (not 1 month).

(ii) The appellate court-

(a) is bound to give the appellant an opportunity of being heard: and

(b) has powers to confirm, modify or revise the decision appealed against, or to send back the case for a fresh decision or adjudication.

(iii) No appeal shall lie against the order of the appellate court.

CHAPTER IV

OFFENCES AND PENALTIES

Punishment for contravention of provisions of this Act.- Whoever contravenes any of the provisions of this Act shall be punishable,-

(a) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both :

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

COMMENTS

Ingredient of Offence

The accused has contravened the provisions of sec(s) of this Act or the accused has contravened the provisions of rule(s)

made under sec 22 of this Act.

Element of Mens rea

Mens rea need not be proved.

Infliction of Punishments

Conviction of the offender shall entail-

(a) (i) imprisonment upto 2 years, or

(ii) fine upto Rs.1,000/- or

(iii) imprisonment upto 2 years and fine upto Rs. 1,000/-

for the first offence;

(b) imprisonment upto 5 years and fine of Rs.5,000/- for every subsequent offence.

Classification of Offences

An offence punishable under clause (a) is non-cognizable and bailable whereas an offence punishable under clause (b) is cognizable and non-bailable.

17. Offences by companies.- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director,

manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- for the purposes of this section-

(a) " company" means any body corporate and includes a firm or other association of individuals: and

(b) " director" in relation to a firm, means a partner in the firm.

Comments

(i) Individual i.e. proprietor of an unincorporate body or unregistered firm or person, director, manager, secretary or other officer, or partner referred to in sub-section (1) sub-section (2) or Explanation (b) above, i.e. without arraigning the company, can be prosecuted for any offence under the provisions of this section.

(ii) Cognizance of offences.- No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by such officer, not below the rank of a Group 'A' officer of the Central Government, as the State Government may, by notification in the Official Gazette, specify in this behalf.

COMMENTS

The State Government has to specify, by notification in the Official Gazette, an officer, not below the rank of a Group 'A' officer of the Central Government, to make complaints for prosecuting offenders. This section expressly lay down a condition that a court will have jurisdiction to take cognizance of any offence punishable under the Act only upon a complaint in writing to be made by the officer specified in this behalf. Thus, even a complaint in writing made by the Government shall not be competent.

CHAPTER V

MISCELLANEOUS

Power to prohibit transmission of certain programmes in public interest.- where an officer, not below the rank of a Group 'A' officer of the Central Government authorised nby the State Government in this behalf, thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or retransmitting or retransmitting any particular programme if it is likely to promote, on grounds of religion, race, language, caste

or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquillity.

COMMENTS

An officer of the Central Government authorised by the State Government in this behalf, may, by order, prohibit any cable operator from transmitting or re-transmitting any particular programme which is likely to promote disharmony, feelings of enmity, hatred or ill-will etc, and to disturb the public tranquillity, in the public interest.

Power to prohibit operation of cable television network in public interest. Where the Central Government thinks it necessary or expedient so to do in public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

COMMENTS

In the public interest, the Central Government may, by notification in the Official Gazette, prohibit the operation of any cable television network in such areas as may specified in this behalf therein.

Application of other laws not barred.- The provisions of this Act shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940 (23 of 1940), the Pharmacy Act, 1948 (8 of 1948), the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950), the Drugs (Control) Act, 1950 (26 of 1950), the Cinematograph Act, 1952 (37 of 1952) the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (21 of 1954), the Prevention of Food Adulteration Act, 1954 (37 of 1954), the Prize Competitions Act, 1955 (42 of 1955), the Copyright Act, 1957 (14 of 1957), the Trade and Merchandise Marks Act, 1958 (43 of 1958), the Indecent Representation of Women (Prohibition) Act, 1986 (60 of 1986) and the Consumer Protection Act, 1986 (68 of 1986).

COMMENTS

*The provisions of the Act are in addition to 12 Acts specified in this section.
Power to make rules.-(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.*

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the form of application and the fee payable under sub-section (2) of section 4:*
- (b) the programme code under section 5:*

(c) the advertisement code under section 6:

(d) the form of register to be maintained by a cable operator under section 7:

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is session, for a total period of thirty days which may be comprised in one session or in two or more

successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not

be made, the rule shall thereafter have effect only in such modified form or be no effect, as the case may be : so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and Savings. (1) The cable Television Networks (Regulation) Ordinance, 1995 (3 of 1995) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.