



F. Jointly promoting MFIs by providing intellectual and financing support to the interested social workers .

The MFIs have revealed the potentiality to become effective , economic , and viable agents to reach the poor . It is also observed that these organizations help the banks to reduce transaction costs , and provide technology and manpower support with less operating costs .

CONCLUSIONS :

The experience of Grameen Bank in Bangladesh and other programmes like in india shows that micro credit is effective in helping the poor people to use their own efforts and creativity to meet their basic needs . The coming year will be very critical for us in setting the stage to achieve the target of poverty eradication . For this, we have to make adequate institutional, financial and policy preparations . It is expected that this would come into a reality in the near future .

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Right to Privacy and role of Press Council of India

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Introduction : Indian Broadcasting Company came into being in 1926¹. In 1930 it went into liquidation. The morale of the public who had been excited about broadcasting went down. On their appeal to the government it was taken over in 1931 and renamed it as the Indian Broadcasting Service. In 1936 it was developed into the All India Radio. The 'vividh bharati' came into being in 1957 providing light music programmes. With the advent of television, radio has taken a back seat. Now it is getting revived by FM radio.

Television: New Delhi hosted in 1956 the General Conference of the United Nations Educational, Scientific, and Cultural Organization (UNESCO). As a result, UNESCO decided to give a grant \$ 20,000/- to India to set up a "Pilot Project" to study television in India.² United States also gave help and on September 15th 1959, the then President Rajendra Prasad inaugurated the first experimental TV center in India. The spurt of TV stations all over India took place in the 70's under SITE (Satellite Instructional Television Experiment). Under SITE, India used the ATS-6 A a very sophisticated and powerful satellite to beam instructional programmes in four languages to 2400 villages.

Gradually, Doordarshan was delinked from All India Radio in April 1976 and was established as a separate department.

The Varghese Committee has recommended for a single National Broadcast Trust under which would function both Akashvani and Doordarshan. The result was the Prasar Bharathi (Broadcasting Corporation of India) Bill, which was introduced in the Loksabha in 1979. This became the Prasar Bharathi (Broadcasting Corporation of India Act 1990). But in May 1990 it lapsed. In March 2000, the Minister of State for Information & Broadcasting, Mr. Arun Jaitely, stated that the draft for the Bill was ready. He said that the Cable TV Networks (Regulation) Act 1995 will be repealed and merged with the proposed Broadcast Bill. Cable TV came to India in the early 90's. This happened when people wanted to watch the Iran-Iraq war over CNN & BBC, then the private network operators took over urban India without any sanction of law as there was no law at that time. Thus, in a moment of urgency, in 1995 The Cable Networks Act was enacted.³

Cinema: In 1896, a representative of the Lumiere brothers, for the first time showed films at the Watson Hotel in Mumbai. This was the beginning of

¹. VidishaBarua, Universal's Press and Media Law Manual, Universal Law Publishing Co. Pvt. Ltd.(2002)pp.26-34.

².Ibid.

³. VidishaBarua, Universal's Press and Media Law Manual, Universal Law Publishing Co. Pvt. Ltd.(2002) pp.26-30.



Indian Cinema. Very soon Harish Chandra Sawa Bhatvadekar in Bombay and Hiralal Sen in Calcutta got movie cameras and began making films. The first feature film was shown in 1913. It was 'Harishchandra' produced by Dhundiraj Govind, popularly known as Dada Shaeb Palke. He was the father of Indian cinema. ⁴ArdeshirIrani produced India's first sound film "Alam-Ara" in 1931. As cinema started growing in India the need to bring in regulations also became important. The Cinematograph Act of 1918 was passed for regulating examination and therefore regulation of cinemas was included in their licensing⁵. This Act remained in force till 1952. In 1952 a new act called the Cinematograph Act of 1952 came into force. It provided separate provisions relating to the sanctioning of films for exhibition under the Union list, certifying films for adults and non-adults and separate provisions relating to licensing and regulation of cinemas under the state list, to bring in rules for tax and other purposes. This Act was further amended in 1984.

The Press and the Press Council of India

The Press Council of India was constituted in 1965 under the Press Council Act 1965. This was made to preserve the freedom of the press and to maintain and improve the standards thereof. This Act was repealed with the promulgation of the publication of 'objectionable matter ordinance' of 1975. This then became the prevention of

⁴.Ibid.

⁵.Sanctioning of Cinematograph Films for exhibition comes in the 7th Schedule of the constitution – entry 60 the Union list and under entry 33 of the State list.

Publication of Objectionable Matter Act in 1976. Simultaneously was passed the Press Council (Repeal) Act 1976 and the Parliamentary Proceedings (Protection of Publication) Repeal Act 1976. The Prevention of Publication of Objectionable Matter Act was repealed in 1977 was passed. This was supported by 44th Amendment 1978, which inserted Article 361A into the constitution.

The Press Council Act 1978 was enacted reestablishing the Press Council. The Press Council Act 1965 that was repealed got replaced by the above said Act. The object of this enactment (i) is to preserve the freedom of the Press (ii) to maintain and improve the standards of newspaper and news agencies in the country.⁶

Composition of the Press Council:

Press Council as contemplated in the Act is a 'body corporate'⁷. It consists of one chairman and 28 other members.⁸ The Chairman is nominated by a committee consisting of the Speakers of Rajya and Lok Sabha and a person elected by the members of the council.⁹ Of the other 28 members, 13 are working journalists of whom 6 are editors of newspapers and the remaining 7 are working journalists.¹⁰ Six of them are nominated from among persons who own or carry on the business of management of newspapers. ¹¹ One member is nominated from among persons who

⁶.The Press Council of India Act, 1978, s.13

⁷.Id. s. 4

⁸.Id.s.5(1)

⁹. Id.s.5(2)

¹⁰.Id.s.5(3).

¹¹.Ibid.



manage news agencies¹². Three are persons having special knowledge or practical experience in respect of education or science, law and literature and culture of which respectively one each is nominated by UGC, Bar Council of India and Sahitya Academy.¹³ Five are MPs of whom 3 are nominated by the Speaker from among the members of the Lok Sabha and 2 are nominated by the Chairman of the Rajya Sabha among its members.¹⁴ In practice, since the Council performs quasi-judicial functions, it was considered desirable to appoint a person with legal background as its chairman. Justice A.N. Grover was the first Chairman of the Council appointed in April 1979. The term of the Chairman is three years and he can be re-nominated for one more term.¹⁵

An analysis of the constitution of the Council which is heavily loaded with journalists shows that it is dominated by media professionals. Therefore, looking into its structure, it can be easily predicted that PCI cannot balance the interests of the public and the press. Having a law man as the chairman one cannot believe that it will decide cases in favour of public. The objective of the council is not reflected in the composition of the council.¹⁶ Apart from these, the members of parliament in the Council by their presence may give political overtones to the decisions of the council. Justice Madholkar, the first chairman of the Press Commission in his Tagore Law

Lectures¹⁷ rightly expressed doubts about the political influence of these MPs in the press Council.

Objects and Functions of the Council

The Act has laid down various responsibilities and duties of the Council. In order to maintain independence of press, as categorically stated in the Act¹⁸. In pursuance of this, the PCI has evolved a code of ethics to ensure the maintenance of high standards of public taste and to have a due sense of freedom and to encourage the growth of a sense of responsibility and public service.¹⁹

Powers of the Press Council

Section 14 gives the PCI power to warn, admonish and censure²⁰ the press.

¹⁷. Ibid.

¹⁸. The P.C.I. Act 1978, s. 13.

¹⁹. Press Council.nic.in/Norms 2010pdf, retrieved on June 11, 2010.

²⁰. The P.C.I. Act 1978, s.14:

Where on receipt of a complaint made to it or otherwise the Council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct, the council after giving the newspaper or news agency, the editor or journalist concerned an opportunity of being heard, hold an enquiry in such a manner as may be provided by the regulations made under this act and if satisfied that it is necessary so to do it may for reasons to be recorded in writing warn, admonish or censure the newspaper, news agency, the editor or the journalist or disapprove conduct of the editor or the journalist as

¹². Ibid.

¹³. Ibid.

¹⁴. Ibid.

¹⁵. Id.s.6

¹⁶Sita Bhatia, Freedom of Press, Nice Printing Press, New Delhi (1997), p.255.



These are the only weapons available with the PCI for enforcement purposes. Therefore, the PCI Act limits the PCI from taking stringent actions. It is supposed to be only a self-regulatory organ as the government always felt that freedom of press should be protected.

For performing its functions, under section 14, the Council has been given the same powers as vested in a Civil Court while trying a case under the CPC²¹. Along with this the PCI

the case may be: provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman there is no sufficient ground for holding an enquiry.

If the Council is of the opinion that it is necessary or expedient in the public interest so to do, it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars relating to any enquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

Nothing in subsection (1) shall be deemed to empower the council to hold an enquiry into any matter in respect of which any proceeding is pending in the Court of law.

The decision of the Council under subsection (1) or (2) as the case may be shall be final and shall not be questioned in any Court of Law.

²¹. Id. S.15 :

For the purpose of performing its functions or holding an enquiry under this Act, the Council shall have the same powers throughout India as are vested in a Civil Court while trying a suit under C.P.C 1908 in respect of the following

(Procedure for enquiry) Regulations, 1979 deal with the procedure for conducting enquiry. Any complaint under section 14(1) and section 13 or the complaint taken up by the PCI Chairman suo motu have to follow the procedures stated in the above rules.

Under the rules an enquiry committee is to be constituted by the Council under section 8(1) of the Act. Going through the bare provisions, it is clear that the Chairman does not have much of discretion. Even in the case of decisions, it is the majority's opinion that forms the judgment. And as the majority

matters, namely: Summoning and enforcing the attendance of persons and examining them on oath. Requiring the discovery and inspection of documents. Receiving evidence on affidavits. Requisitioning any public record or copies thereof from any Court or office. Issuing commissions for the examination of witness or documents and Any other matter which may be prescribed.

Nothing in Subsection (1) shall be deemed to be compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by the newspaper or received or reported by that news agency, editor or journalist. Every inquiry held by the Council shall be deemed to be a Judicial Proceeding within the meaning of Indian Penal Code, sections 193 and 228.

The Council may, if it considers it necessary, for the purpose of carrying out its objects or the performance of any of its functions under this Act, make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority, including government.



of the enquiry committee consists of members of media itself, the decision of the committee is bound to be dominated by them. This shifts the balance towards the press rather than forming any independent view. Therefore, it can be stated that PCI was never intended to control the press rather it is only a form of self regulatory system. Therefore, the PCI procedures are more of an advisory rather than a judicial proceeding, though the Act states under section 15(3) that every enquiry held by the Council shall be deemed to be a judicial proceeding.

Revealing the Source

The PCI Act clearly states in section 15(2) that no newspaper, news agency, editor or journalist shall be deemed to be compelled to disclose the source of any news. When we study this theory of protection of source of news, it would be useful to look into the US position. Referring to the dissenting judgment of Justice Douglas in *Branzburg* case²², it gives the picture that the judge was not convinced with the argument by the press, in favour of protection of confidential news sources.

The American Newspapers Guild²³ has adopted a Code of Ethics, which in Canon 5 states²⁴ that newspaper men shall refuse to reveal confidences or disclose sources of confidential

information in Court or before Judicial or investigating bodies.

Even in UK the House of Lords held in *British Steel Corporation*²⁵ that there is no absolute immunity for journalists from disclosing their sources of information and if the judge needs it for justice, journalists cannot claim immunity.

In India there are not many reported cases on this issue, The Law Commission of India in its 93rd report on *Protection of Mass Media* in respect of confidential information has recommended that an absolute immunity be given to reporters in respect of sources of information obtained by them in confidence.²⁶ However, it recommended an amendment to the Evidence Act where by the Court are to be vested with the discretion not to compel a reporter to make such disclosure.²⁷

In India, the PCI follows the procedure under the Civil Procedure Code 1908 and the Indian Evidence Act 1872, which gives no immunity to journalists, when it comes to evidence taking. They are treated on par with any other witness or accused. The Second Press Commission Report in 1982 rightly opined that there is no absolute

²². *Branzburg v. Hayes*, (1972) 408 U.S. 663. Dissenting Judgment of Justice Douglas 'The function of the Press is and to explore the harmful as well as the good influences at work'.

²³. Dr. Sebastian Paul, *Forbidden Zone - Essays on Journalism*, Pranatha Books, (2005), p.74.

²⁴. *Id.* At p.75.

²⁵. *British Steel Corporation v. Granada Television Ltd (1980)* as quoted in Sita Bhatia, *Freedom of Press*, Rowat Publications Jaipur and New Delhi, (1997), p.104.

²⁶. Law Commission of India 93rd Report on Disclosure of Sources of Information by Mass Media, September, 1983. www.lawcommissionofindia.nic.in, retrieved on 10/10/2011.

²⁷. *Ibid*



immunity for journalists from disclosing their sources of information. The reason given is that this provision could be used by the Press to keep secret its own confidential sources while at the same time trying to break the confidentiality of others. Presently in India the journalists are not normally asked to reveal their sources. While at the same time if circumstances demand the court can ask for it. As such there is no law prohibiting the Court from asking the press to divulge the sources. Public interest demands that truth should be revealed in some cases but at the same time it is also in public interest that individual privacy and confidence should be protected in the society.

Code of Ethics

Until recently PCI had not formulated any code of ethics for journalists. It is only in 2010 after its inception in 1978; PCI has come up with a code of ethics. Absence of code of ethics was justified by the former Chairman of the Council, Justice A.N. Sen in the 1986 Annual Report 2, in the following words:

"I feel that defining a code of conduct in clear terms may be impractical and in my view seeking to lay down the code of conduct which must necessarily be in broad and general terms may have the effect of interference with the freedom of press."²⁸

The Press Council while deciding a complaint filed by Government of Tamil Nadu against the Illustrated Weekly of

India²⁹, alleged that an article written by Cho Ramaswamy making various allegations of corruption against Chief Minister – M.G. Ramachandran and his government was defamatory. In this case the PCI made certain observations on the defense pleas taken by the press against impugned publications. The press pleaded that it was done in good faith. At the same time it does not protect untrue statements of facts even if it is of public interest. In *Blade*³⁰ case in regard to government servants of Goa, PCI held that it won't constitute libel if the Press comes with evidence and in good faith. It held that constant publication of certain indecent or defamatory writings with the object of extracting money by blackmail by the editor will result in censure.³¹

The Second Press Commission suggested in its report in 1982³² that Section 13(1) (c) of the PCI Act 1978 should be amended by adding after the words "the maintenance of high standards of public taste" the words including "*respect for privacy*". In the case regarding the murder of two nuns belonging to the Snehasadan in Mumbai³³, while reporting the murders

²⁸ . Foreword by the Chairman, 1986 Annual Report 2.

²⁹ . The Illustrated Weekly of India Government of Tamilnadu, 1984 Annual Press Council Report, p.96

³⁰. Government of Goa v. *Blade*, 1969 Annual Press Council Report, p.12.(Exception to section 499 IPC).

³¹ . *Case of Bharti Leader*, Jan. 1983 P.C.I Review, p.55; Case of YgMandal, 1973 Annual Report, p.84

³² .*Second Press Commission Report* (1982) Vol.1, Chapter6, PP 67-77, para 41-44.

³³ . *Sister Cyrilla, Superior, Franciscans of St Mary of the Angels, Snehasadan. Bombay v. Indian Express, Times of*



the Indian Express, Times of India, The Free Press Journal and Samna had stated that on the basis of postmortem and police reports both had regular sexual intercourse and one of them had sexually transmitted disease. The council found that these impugned reports were manifestly injurious not only to the reputation, personal dignity and privacy of the murdered nuns but also had a tendency to affect the reputation of Snehasadan, an institution for the care of destitute children. The Council was disturbed by the media 's irresponsibility and warned the papers for reporting unauthenticated news as these papers had given their own opinion on facts stated in the postmortem report which did not find mention in the postmortem examination report.

Norms of Journalist Conduct of PCI³⁴

Press Council of India has now in 2010 come up with its norms of Journalistic conduct. The Code of Ethics elaborates upon right to privacy and privacy of public figures.³⁵ It talks about taking caution against defamatory writings. The press is not allowed to intrude into the privacy unless outweighed by genuine overriding public interest not being a prurient or morbid curiosity. Special caution is essential in reports likely to stigmatize women. Matters concerning a person's home, family, religion, health, sexuality, personal life and private affairs are covered by the concept of privacy except

where any of these impinges upon the public or public interest. Caution is required to be taken against revealing the identity of victims while reporting crime involving rape, abduction or kidnapping of females or sexual assault on children and raising questions touching their chastity, privacy, names and publication of photographs of the victims. It is the duty of Press that when it concerns privacy of public figures that it should be confirmed that it is of public interests through fair means, verified and then reported.

The families of public figures are generally not journalistic subjects. There are certain restrictions regarding recording of interviews and phone conversations.³⁶ In cases of criticizing judicial acts, except in camera or if the Court directs otherwise, the Court proceedings are open to the Press. Caution is to be taken to ensure that the publication in any form does not obstruct, impede or prejudice seriously the administration of justice or the personal character of the accused standing trial.³⁷

Newspapers shall not publish or comment on evidence collected as a result of investigative journalism, when after the accused is arrested and charged the Court becomes seized of the case.³⁸ Under the rules, obscenity and vulgarity is to be eschewed even if it serves any social or public purpose in relation to art, painting, medicine or reform of sex because the press is not the appropriate place for it³⁹. The Indian reader is mature and to copy the west by promoting the so

India, Free Press Journal and Samna, (1991-92) Annual Report, p.92

³⁴ . Press Council.nic.in/Norms 2010 pdf, retrieved on 11th June 2010.

³⁵ . P.C.I norms 6 and 7.

³⁶ .P.C.I norms 8.

³⁷ . P.C.I, norms 12 and 41.

³⁸ . P.C.I norms 26 and 41.

³⁹ .P.C.I. norm 17.



called popular permissiveness may defeat the very aim of the press, to create awareness rather than to boost circulation.

The rules also state the basic elements of investigative journalism: it states that it has to be the work of the reporter and that public importance should be served through it and the reporter should prove that an attempt has been made to hide the truth from the people which the reporter has brought to public notice.⁴⁰

The reporter in such cases must not act as a prosecutor; the principle that a person is innocent unless the offence is proved should not be forgotten.⁴¹

On the basis of a writ petition no CMP 52/2008 filed by the National Network of Positive People in the juvenile court Thiruvananthapuram; the Court came heavily on the media for visually screening of two children, Bency and Benson, who were children of HIV parents. As a result the PCI framed rules prohibiting reporting of HIV/ Aids connected children.⁴²

Review by PCI

The workload of the present PCI has increased considerably. To analyze the effectiveness, the survey of the Annual Reports from 2005 to 2009 is undertaken. The Council has two enquiry committees, and these proceedings are open to the public. The parties are allowed to be represented by lawyers, and government also makes its own

representations. To highlight a few cases discussed in the above reports, one such case was of "Gudiya"⁴³, a perfect example of channel interrogation. Here 'Gudiya' was the name of a muslim woman who became a widow within a month of her marriage and got married to another person. But her first husband had actually not died but was behind bars in Pakistan, of which she was unaware. He later returned from the Pakistani jail. But by then she was already pregnant through her second husband. At that juncture the media took over this matter. It organized a 'live panchayat' on the channel, where the families concerned and some clerics were brought together. The program was titled "Kiski Gudiya?" with the sub title "yeh Kaissa Bandhan?". It was a live telecast and the panchayat was conducted under the Shariat law. The object of the channel was clear when the anchor announced "*isi majilis mein faisla hoga*" (*this case will be settled here itself*). In this case what mattered to the channel was not Gudiya's life but viewer ship rating⁴⁴. But this matter is outside the purview of PCI as it has not been given control over channels and cables. The government had evolved the Cable Television Networks (Regulation) Act in 1995 to give the government power to initiate action against cable television operators and broadcasting channels. Now the government is coming up with another system of setting up district level surveillance committees under the Cable Television Networks (Regulation) Act. It will consist of District Police Superintendent, Principal of a Women's College and the District Public Relation

⁴⁰.P.C.I norm 26.

⁴¹. Ibid.

⁴².C.M.P. 52/2008.

⁴³.The Tribune, Chandigarh date 4th

January 2006.(Report of P.C.I. 2005-06).

⁴⁴. Ibid.



Officer, headed by District Magistrate. If the committee detects a violation, the District Magistrate can under Section 20 of the above Act confiscate the equipment or initiate action under India Penal Code⁴⁵. Other than this Act, there is no other legislation to regulate these sorts of offences by the electronic media. Government is considering bringing a law to regulate the content on television⁴⁶, but nothing concrete has yet come out.

Adjudication by PCI

PCI has been given the power to adjudicate on complaints received by it. It can in this process censure, warn or admonish the paper concerned.⁴⁷ Defamation cases constituted 32 complaints in 2004-05 of which the Press was found guilty in 10 cases.⁴⁸ The complaints against the press have been on the rise, and in the year 2007-08 this has risen up to 60%⁴⁹. Of these complaints, 70% constituted defamation cases⁵⁰ and in 28 cases, the press was found guilty. The Report stated that certain sections of the Press have been imitating western culture by publishing vulgar photographs, which boast of no public interest. In such cases, the Council took *suo motu* action in 5 cases of obscenity, of which 2 were upheld.⁵¹ The

number of complaints has further risen in 2008-09, with defamation cases itself amounting to 73⁵². As already stated, the ambit of the power of PCI is limited to warning and censure. These tools of punishment are very ineffective to regulate the behavior of the Press. The PCI has stated, that the Press should, work within its limits and remember its responsibility under the rule of law that it should not behave like a prosecutor and should be guided by the paramount principle that a person is innocent till proved guilty by the Court of Law.⁵³

Mechanisms to Control Press & Electronic Media

The PCI does not contain any strong provision to ensure compliance to the ethics and guidelines formulated by it. The reason being, the Parliament expected that the code of ethics framed by the PCI will be followed in letter and spirit by the media. The danger of free media is still enhanced with the broadcasting through electronic media. There is no regulatory mechanism to supervise its working, except the one under the Cable Television Networks (Regulation) Act of 1995. The ministry of Information and Broadcasting was keen to bring a Broadcast Services Regulation Bill⁵⁴, but the Editor's Guild of India stated in September 2007, that it did not

⁴⁵. The Indian Express, New Delhi, dated 29th October 2005. (Report of P.C.I. 2005-06)

⁴⁶. The Hindustan Times, New Delhi, dated 29th November 2005. (Report of P.C.I 2005-06).

⁴⁷. See the Press Council of India, Act 1978, section 14.

⁴⁸. Report of the P.C.I 2004-05, p.73.

⁴⁹. Report of the P.C.I 3007-08, p.89.

⁵⁰, Id. At .p.90.

⁵¹. Ibid.

⁵². Annual Report of P.C.I 2008-09, p.53.

⁵³. In Smt. Hemambika R. Priya, official spokesperson, Central Board of Excise & Customs, Ministry of Finance, Government of India, New Delhi v. The Editor, the Pioneer, New Delhi, Complaint No 44, PCI Review, October 2007, (Annual Report of PCI 2007-08, p.173).

⁵⁴. *Annual Report of the P.C.I. 2007-08*. p.29



accept the proposed bill, the reason being that this would give immense power to government over news and current affair channels.⁵⁵ As a result the Bill did not become an Act. The Bill was to be introduced during the monsoon session of Parliament in 2007. It was withheld following protest by media who accused the government of trying to curb its freedom of expression⁵⁶. Later the Ministry issued guidelines to build up a local mechanism that would enforce the programme code of the Cable Television Networks (Regulation) Act⁵⁷. Just like Film certification⁵⁸ the programmes will have to be certified as Universal (U), which can be shown anytime, universally Adult (U.A), that can be telecast only between 8 PM and 4 PM and Adult (A) to be shown only between 11PM to 4 AM.

The PCI has stated that to honor the views of the readers, the newspapers should appoint a Readers' Editor.⁵⁹ In the present scenario, Readers' Editors are term end also as Ombudsman. Following the practice in the Guardian, The Hindu has a Readers' Editor. It is operational since March 2006. Ian Meyes, Readers' Editor of the Guardian said in his January 2006 Lecture that it made the paper more responsive to their complaints⁶⁰. Recently, the newspaper

gave some figures from March 06 to September 06 regarding public response. In the first two months the responses exceeded one thousand per month. E-mails formed the main channel of communication.⁶¹ The system of having a Content Auditor in broadcasting and Readers' Editor in written press is limited to its object. The object is to pacify the complainants by rectifying the errors and straightening the relationship. But in cases of grave errors, these should not be the course of action. Pacifying grave mistakes on the part of journalist and press, especially if it is done purposefully is a wrong practice. These matters are not compensated even by the Ombudsman of the Paper, i.e. the Readers' Editor or by the PCI (The Chief Ombudsman for all papers). The bruises made and the agony caused is left untreated by one and all. This continuous act of defiance by the media is bound to cause deterioration of faith in the Press and can cause negative emotions to boil up. Any bruise left untreated will cause further harm if left unattended for long.

Actions Taken by the Ministry of Information & Broadcasting

The Ministry has been active in taking action against visual media, for violating the Cable Networks (Regulation) Act. It banned FTV for two months for showing "Midnight Hot". This program showed scantily clad models walk the ramp; similarly the AXN was also proscribed for showing

⁵⁵. Ibid.

⁵⁶. *The Asian Age, New Delhi dated 20th September 2007 (Report of P.C.I. 2007-08).*

⁵⁷. *The Tribune, Chandigarh dated 4 January 2006 (Annual Report of P.C.I 2005-06).*

⁵⁸. Annual Report of the P.C.I 2007-08 p.31.

⁵⁹. Ibid.

⁶⁰. B.P. Sanjay, "Growing on the Reader", The Hoot, Nov.21, 2006

(www.Thehoot.org) retrieved on.27.4.2010.

⁶¹. Ibid.



'bikini destination'⁶². The Ministry has also issued two show cause notice to the TV channels "Live India", as it showed the fake sting operation conducted on a mathematic teacher named Uma Khuranna. These notice were issued following submission of the Delhi Police status report, which stated "Uma Khuranna has not been found to be involved in any organized prostitution racket of school girls as shown in the sting operation and it also stated that, that part of the sting operation which showed her in the wrong was stage managed". Later the Government on 20th September 2007 banned Live India News Channel from airing programmes for one month for its alleged fake sting operations⁶³. This was the first news channel to be banned⁶⁴. Later in the Aarushi Talwar case the Ministry is considering issuing show cause notice to some Television Channels for reported character assignation of Aarushi and her parents. Many organizations have triggered the ministry to take a move in this matter as a result, the Government directed star TV to withhold telecast of an episode of TV serial 'Kahanni Ghar Ghar ki' in which Aarushi murder case was proposed to be dramatized.⁶⁵

Court on Media Control

From the Apex Court down to its hierarchy, there has been continuous

⁶². The Tribune, Chandigarh dated 4 January 2006. (Annual Report of P.C.I 2005-06).

⁶³.Id. at.p.34.

⁶⁴.The Stateman, (New Delhi), dated 21st September 2007.

⁶⁵.The Hindustan Times,(New Delhi). Dated 13th July 2008 (Annual Report of P.C.I 2007-08).

pressure on media regulation. Gone are the days when media was free in expressing its views and therefore had to struggle to get to the people. Today media is very powerful and is entangled in a series of interest. It could be in the nature of politics, advertisement, lobbying, and competition, commercialization, paid news or duplicating and copying the foreign media. Today the Press can no more argue that it is free and independent and public interest oriented. Today more than the news it is the motive behind the news and its estimated outcome, which prompts it to be published in the newspapers or broadcasted through the channels. The Courts have also therefore developed a stand to regulate media which was unheard of a few decades back. In 2008, a Magistrate Court in Egmore sentenced the Editor and the Publisher of 'Dinamaler' to undergo three months simple imprisonment in a defamation case.⁶⁶ This case was filed by a retired Headmaster of a Government School.⁶⁷, the allegation being that "Dinamaler" published on 16th March 2001 that he had helped students to engage in copying in the Public examination. This resulted in his suspension and later this news item was found to be wrong, malicious and baseless.⁶⁸

A lower Court in Lucknow has awarded jail term to three journalists and two publisher printer for publishing a defamatory article and interview.⁶⁹. The reason being that the leading newspaper (Pioneer) in October 1994 in its Delhi

⁶⁶. The Hindu, (New Delhi), dated 28 March 2008.

⁶⁷. Ibid.

⁶⁸.Id. at p. 42.

⁶⁹.Annual report of P.C.I 2007-08, p.41.



Edition had published a defamatory interview quoting Mr. Anant Kumar Singh, the then District Magistrate of Muzzafarnagar, as saying "any man will rape a woman in a secluded spot", He denied having made that statement and demanded an apology from the newspaper which it refused.⁷⁰

In the case of former Samajwadi party General Secretary, Mr. Amar Singh, the Supreme Court declined to vacate its interim order, banning the media from publishing contents of controversial private conversation, Amar Singh and his friends⁷¹ had made, In another case, the Honorable Juvenile Court of⁷², Thiruvananthapuram, objected to publication of an incident relating to two children with HIV/Aids. As a result PCI updated its guidelines on October 13th -14th, 2008 on HIV/Aids. Even in the case of Aarushi Talwar, the Supreme Court directed the media to show restraint.⁷³

The PIL was seeking to protect the reputation of Aarushi' family and requested to direct the Director General of Police of all states to ensure that no information is leaked to the media regarding a criminal case pending investigation.⁷⁴

In 2008, due to the delay in framing a Broadcasting Act, the Supreme

Court upheld a Delhi High Court order maintain that Telecom Regulatory Authority of India cans regulate the Broadcast Services till a Broadcasting Act come into being.⁷⁵

Paid News

Paid news is an issue which has been affecting General Elections. This became prominent in India during the last general elections. Expressing deep concern on this in the RajyaSabha, the Minister for Information & Broadcasting, Ambika Soni said that the PCI and the Election Commission would submit a report on this, which would be tabled in the House. It is interesting to note that the Leader of the Opposition, in the RajyaSabha, Arun Jaitley described the PCI as a toothless wonder and wondered whether it could find solution to this problem⁷⁶. Though the PCI did come with its announcement of bringing a white paper on paid news very soon⁷⁷, it is yet to be seen, how it can be solved as this involves a number of issues such as commercial validity of newspaper, monitoring processes, corporatization of media houses etc. If these issues are not dealt with properly, it would lead to a negation of parliamentary democracy. The reason being that there were reports that some media houses received money for publishing or broadcasting news in favor of particular individuals during elections.⁷⁸. This affects the readers

⁷⁰ . Ibid.

⁷¹ . The Hindu (New Delhi), dated 3rd April 2007, (From the Annual Report of P.C.I.2007-08, p.41).

⁷².C.M.P. 52/ 2008.

⁷³ . The Hindustan Times, (New Delhi), dated 13th July 2008 (Annual Report of P.C.I 2007-08).

⁷⁴ . Ibid.

⁷⁵ .The India Express, (New Delhi), dated 4th January 2008 (Annual Report of P.C.I 2007-08).

⁷⁶ . The New Indian Express, (Cochin) 6th March 2010,p.10.

⁷⁷ .The New Indian Express, (Cochin) 2nd April 2010,p.7.

⁷⁸.Ibid.



thinking as the reader or the viewer has the right to harvest, unadulterated news, which is being denied to him. He is not even being informed that the news is motivated by 'monetary considerations' said Arun Jaitley⁷⁹. CPM leader, Sitaram Yechaury suggested that the government should stop advertisements to these newspapers.⁸⁰ These are only suggestions put forward by parliamentarians. These methods for stopping advertisements or asking the PCI to act upon this are not going to gain ground. Effective mechanism by amending the People's Representation Act and bringing in an enactment for the press and visual media to regulate these practices should be considered seriously. A comprehensive enactment balancing the rights of media and rights of private individuals should be considered and debated.

Foreign Direct Investment and Media

May 2003 saw the Indian Government liberalize the policy on Foreign Direct Investment⁸¹ in media. In print media, FDI up to 26% is allowed in publishing Newspapers and periodicals dealing in news and current affairs.. Permission has been granted only to Indian Companies with the largest Indian shareholder holding at least 51% of the paid up capital . It is conditional that at least 3/4th of the Directors on the Board of

⁷⁹.Ibid.

⁸⁰ . Ibid.

⁸¹.Manual on Foreign Direct Investment in India, Policy and Procedures, May 2003, Secretariat of Industrial Assistance, Department of Industrial Policy (Annexure IV).<http://depp.nic.in/manual/manual0403> PDF retrieved 10th May 2010.

Directors of the applicant Indian Company and all key executives and editorial staff should be resident Indians⁸².

Similarly in the field of Broadcasting, 100% FDI is allowed subject to government approval. This has given rise to fear and repercussions from the political parties. Leading editors and opinion makers who feel that this would undermine the media's right to freedom of expression as enshrined in the Constitution and will be detrimental for the Indian Media⁸³.

Recently, the papers reported about 3G Spectrum auction fetching the Government Rs. 68,000 crores.⁸⁴ This opened a new level of level of technology and competitors like Vodafone, Idea, and Reliance have got their slot in their business. These companies expect to make money through technology which makes cable, news channel all available on Mobile phones. Telecommunications being already allowed 100% foreign equity after Fema 2000, the Indian soil is open for foreign exploitation. This makes Indians prone to foreign invasion in terms of technology and thinking process.

All this coupled with international Media Magnate, Rupert Murdoch having entered India through Star Television is now planning to take over Asainet Channel. Rupert Murdoch's

⁸² .The Indian Express, New Delhi, dated 10th June2008.(Annual Report of the P.C.I 2008-09, p.20).

⁸³ . The Times of India, New Delhi, dated 27th June 2008, (Annual Report of the P.C.I.2008-09 p.21).

⁸⁴ . The New Indian Express,.21st May 2010, p.1.



the News Corporation is trying to influence Indian news. His Wall Street Journal is the first foreign paper to get the official nod of the Indian Government⁸⁵. Today after seven years, a large number of 154 facsimile editions of foreign journals on health alone are published from the country out of the total 375, since doors were opened for such publication in 2003 according to government data⁸⁶.

It is true that after the liberalization policy of the government, we have to open our gateways to other nations, under WTO. This does not mean that we should expose our people to foreign media with their own ideas without giving due protection and safeguards against unwanted thinking to our people. The concept of Paparazzi is not the trend in India neither do we encourage the tabloid news much. With exposure to foreign concepts of news gathering and journalism, the serious aspect of disbursement of news, which is the culture of news media in India, may deteriorate. To prevent such ill effects, the Indian Government should come up with a legislation to balance the individual rights of privacy with media freedom. When one side of the society 'media freedom' becomes stronger then it starts dictating terms, then it is the right time for the government to uplift the weaker part i.e. 'personal privacy' to

⁸⁵ .On 18/9/2008 the Government of India allowed Indian Editions of Foreign Magazines with news and current affairs content with 26% FDI. The Wall Street Journal being the first foreign paper to get the nod. (Annual Report of the P.C.I 2008-09,p.21).

⁸⁶ . The New Indian Express. (Cochin) dated 21st June 2010,p.9.

a higher pedestal so as to balance social Interest with individual interest. This balancing of interests is the main role of the government of any democratic nation.

The BBC poll result released on 9th December 2007, as reported in the Report of PCI 2007-08 regarding public faith in the press show the following⁸⁷:

- a) Around 61% Indian believe that news is reported honestly in the country.
- b) Around 72% Indian think Press and Media is free in Indian as compared to only 56% in UK.
- c) 56% feel all over the world that free press is needed for free society, which in USA in 70% and in UK 67% While in India it is only 41% while 48% feel social harmony is more important for a free society.
- d) Indians top the table in rating Government Controlled news organizations for good performance.

The survey shows that Indian public has faith in the press. If this faith has to continue going strong, the Press has a corollary duty towards the public to give it the right and proper information. Today, the Americans and the British do not rely completely on the paper and visual media. They track down the news item to find the truth. In UK, BBC has always kept its high standards and so have the CNN, to a great extent, in USA. Indian print media and visual media have yet to reach these high standards. They

⁸⁷ . The survey, which polled 11344 people across 14 countries, was conducted in India, Brazil, EGYPT, Germany, Great Britain, Kenya, Mexico, Nigeria, Russia, Singapore, South Africa, UAE, US and Venezuela by the International Polling Firms Globescan and synovate.



find it hard to get news and lack the system of news reporting from all over the world. They should either have their reporters stationed in those places or have tie up with International Reporting Agencies. The lack of these systems, keep the Indian media, revolving around its own spicy domestic news. This does not help generate knowledge and important information to the public, but only acts as a gossip generating agency.

Public confidence is the foundation of the Press. If that confidence is lost, then it is only a piece of paper which carries the views of the editor, after the reading of which, it is simply thrown in the garbage box. It is therefore the confidence and faith of the people that has to be retained in the Indian media, without which democracy is difficult to be visualized in its pure sense.