CHAPTER 4

LICENSE AND CONTENT REGULATIONS
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CHAPTER 4

LICENSE AND CONTENT REGULATIONS

4.1.1 Introduction

Rachael Craufurd Smith said that “Courts of law when faced with questions of audio visual regulation, have found themselves catapulted into not merely an ideological struggle of far reaching implications but also technological revolution. In a very small sense the past offers little guidance, for the problems posed reveal only too clearly that the nationally enclosed and circumscribed world of broadcast communications has now been superseded”. License and content regulation in India is based on the regulations relating to other media like news papers, magazine or books. On many occasions the statute relating to the print media is silent or insufficient regarding the electronic media. This statutory vacuum is utilised by the private channels in order to telecast illegal materials. On the other hand the government channels are not given freedom as in case of BBC. This makes the official channels a mere appendage of the government. Both these aspects of electronic media affect the people.

4.1.2 Relevance of license and content regulations

The broadcast content including the programmes and advertisements are the core area which need regulation. The regulation over the print media cannot be applied as it is for the reason that it has a gross difference in technological perspective. The Supreme court has depicted the situation in the following words in the Cricket Broadcasting Case “what distinguishes the electronic media like television from print media or other media is that it has both audio and video appeal and has a more pervasive presence it has a greater impact on the mind of the viewers and is more

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355 Cable TV (Regulation) Act 1995. Section 2 (g) "Programme" means any television broadcast and includes-Exhibition of films, features, dramas, advertisement and serials through video cassette recorders or video cassette players; any audio or visual or audio-visual live performance or presentation, and the expression "programme service" shall be construed accordingly.

356 Advertising in India has expanded rapidly in the post-Independent era, keeping pace with the growth of various industries. Advertising expenditure as a percentage of Gross National Product is .25 per cent in India as compared to 2.9 per cent in USA. www.indiatelevision.com . Visited on 12-2-2010.
readily accessible to all including children at home. Unlike the print media, however there is a built in limitation on the electronic media, because the air waves are a public property and hence owned and controlled by the government or central national authority or they are not available on account of the scarcity cost and competition.”

4.1.3 License and Programme Code

Whenever the discussion on the relevance of creating a Code for broadcasting programmes emerges the first point coming for consideration will be the scope of a

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357 Secretary Ministry Of Information And Broad Casting Govt; Of India And Others (Appellants) V Cricket Association Of Bengal And Others (Respondents) with Cricket Association of Bengal and another (petitioners) V Union (petitioners) Union of India and another (respondents) AIR 1995 SC 1235.
regulation for protection of morals. Naturally the next related question will be what is morality? “Many people are increasingly concerned about the massive influence of television has, particularly on young. They argue that although television has some positive aspects – for example, it informs, educates, and reduces boredom and loneliness. According to Joe Jenkins it also has many negative aspects and that need to be studied.  

4.1.4 Morality and license

Morality refers to the concept of human ethics which pertains to matters of right and wrong or "evil". It has three contexts: (1) individual conscience; (2) systems of principles and judgments - sometimes called moral values - shared within a cultural, religious, secular or philosophical community; and (3) codes of behaviour or conduct morality. The actual definition of right behaviour varies according to belief system. Religious belief systems usually include the idea of divine will and divine judgment and usually correspond to a strict moral code of conduct. On the other hand a rational or secular moral code will be based on social experiences, collective will or simple reasoning about an anticipated problem. Since India being a country having diverse types of religions and majority of the population are followers of some kind of faith a uniform moral code on the basis of a particular faith is not practical Not only that the moral standards maintained by the diverse groups in each faith itself has different dimensions and standards towards each moral issue. A secular or rational approach also does have the problem of variation in dogmatic dimensions. A right wing moral principle may not be compatible with a left wing approach. Due to these reasons the major part of the moral regulatory aspect is remaining untouched and is brought under the post-facto regulations only. Since electronic media is having a wide ambience which sometimes extends beyond the national territorial boundary the moral code in this aspect should have some feasible anticipation in a universal perspective. The code must be capable of restraining an immoral programme which is being beamed from a place upon which this country do not have jurisdiction.

358 Joe Jenkins, Contemporary Moral Issues, Heinemann Educational books Ltd Oxford OX2 8EJ,(P.82)
4.2.1 Impact of foreign channels

Till the foreign channels came to India, Indian broadcasting media (under the Government monopoly) was morally perfect except some stray complaints about the dances in ‘chitrahar’ cinema dance programme or some very rarest of rare movies having some hints having a little body exposure.\textsuperscript{360} The only complaint against the media at that time was that there are no multiple voices available. But when the Star TV started to beam programmes to India without waiting for any license or permission there came the problem relating to the conflict of culture and morality.\textsuperscript{361} Programmes like ‘Baywatch’ ‘Bikini batch’ and some music programmes were alleged that they broke the moral fibber of the country and the beauty pageants uncensored English movies etc invited the ire of moral protectors.\textsuperscript{362} At the same time attracted large

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\textsuperscript{360} Recently the Ministry of Information and Broadcasting has passed a notification to the effect that all the music programmes also must have a film Censor Board certification to the effect that the programme is qualified for exhibiting to general audience.

\textsuperscript{361} A detailed depiction of the historical background is given by Nikhil Sinha. In his essay Doordarshan, Public service Broadcasting and Impact of Globalisation: a Short History (chapter 2) Broadcasting Reform in India edited by Monroe E. Price Oxford University Press 2000.

\textsuperscript{362} “There can be two views on the question whether such a show is desirable or not. Some may consider it to be indecent, others may not. Unless any law is violated, the Court ought not to interfere in such matters. These are not matters which can be judicially assessed and the pressure which the agitators bring to bear ought not to sway the Court into exercising jurisdiction.
audience. In fact this created a dilemma as well as a sense of introspection in the mind of thinking people in the country about the dimensions of moral regulations in the country.\textsuperscript{363}

In another dimension the country being constantly exposed the western culture gradually yielded to the new culture and has started to set new standards for morality. Amitab Bachan who stopped acting profession came back to the cinema field as a new avatar rather as a person freely dancing with semi naked girls in the company of his son and the scarcely dressed would be daughter in law. Saniya Mirza a girl from orthodox Muslim community became an honoured sports woman for winning the laurels and for having shown the ‘courage’ to appear in ‘sexy’ micro wears in tennis court which was panned by worldwide broadcasting eyes.

\textbf{4.2.2 Indian condition for licensing and content regulations}

This metamorphosis has been affected through the coercive mechanism of the media. A journalistic statement about a person as ‘sexy’ was some kind of an indecent statement some years back. But currently it is taken as a credit by those who are imputed with the charge. The combinations of male and female actors, the dimensions of body contours of the stars etc are brought even to the knowledge of youngsters of tender age. Thereby the practice of commoditisation of human beings is being done through the media in a gradual way.

In short the moral breach in the media has created a classification of people in to two categories (i) those who own their body for themselves and (ii) those that are required to give their body to others. The pity is that the problem created by this classification is often ignored. Further the mirroring of this practice (for example sexual violence caused by persons motivated by the media other innocents. At secondary, tertiary and farther levels are more harmful than the wrongs caused by the real players in the media.

\textsuperscript{363} In the facts and circumstances of this case, we are of the opinion that the Court would have been well advised not to interfere in the matter and leave it to the authorities to sort it out.” Supreme Court of India in Union of India \textit{v} People's Union for Civil Liberties.
4.2.3 Journalism and moral controls over the media

The question in short is whether an ethical control is needed over the media? Obviously the answer is yes. The answer is positive in the dimensions of social contract theory, pure law theory, and positive law perspective, in moralist’s views, post modern perspective or under feminist approach. None of the legal theories want to see that one group of people is going to use the body of others for their own advantage. Next questions are that how it can be implemented? What must be the dimension of the moral control? Whether a comprehensive moral code for the media is possible? Etc.

4.2.4 Impact of Codes

Constitution of India lays down the basic framework applicable for the programmes and advertisements in the broadcasting media. Article 19(1) provides citizens of India with the fundamental right to freedom of speech and expression. Article 19(2) states that this right can then be restricted only by law or by the State for reasons of sovereignty and integrity of India, security of State, friendly relations with foreign State, public order, decency, morality, in relation to contempt of court, defamation, or incitement to an offence. The foundation of the media Codes in India are these provisions. At present the moral or ethical control over the media is implemented on the basis of provisions in the general law364 or by virtue of principles given in the special codes relating to broadcasting365. Departmental codes relating to programmes and advertisements also have great significance in this case. In other words there is no general Code applicable to the electronic media at large. Generally ethical codes over broadcasting can be classified into four categories. (1) Programme Code relating to private television366 (2) Advertisement code relating to the private television367 (3) Commercial Code relating to cable television368 (4) Professional service Code for

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365 The Programme and Advertisement Codes given the Cable Television Networks Rule 1994 are the only general Codes. It is universally applied on other categories of television broadcasting. For radio there is not even such Code
366 Rule 6 of The Cable Television Networks Rules, 1994
367 Rule 7 of The Cable Television Networks Rules, 1994
368 In fact specific Code to regulate commercial transaction does not exist. But matters like extend of FDI, minimum share to be owned by resident Indians, the commercial rights conveyed through the license etc are given in TRAI notifications
media journalists\textsuperscript{369} and (5) Technical Code professional including the engineers and technical staff from the director, producer, actor, singer, song writer, musician accountant to light boy. Of these the first two categories are given great significance the cable television networks regulation. The Doordarsan has separate Codes for advertisement and programme.\textsuperscript{370}

FIGURE 13

TYPES OF VICTIMS IN THE ELECTRONIC MEDIA

<table>
<thead>
<tr>
<th>Types of Victim</th>
<th>Violation of Modesty in Media</th>
<th>Other Crimes in Media</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Victim</td>
<td>The individual who has been utilized for creating pornograph</td>
<td>If a crime is perpetrated just for the sake of news value as in the case of political crimes then the victim (especially of assault defamation)</td>
<td>The victims grievances can be mitigated</td>
</tr>
<tr>
<td>Secondary Victim</td>
<td>The nearest members of their family. E.g. children of the above victim who may be denied a normal life</td>
<td>The nearest persons of the victim(family members, friends or close associates in a group)</td>
<td>The damage caused to the society will be irreparable. (By resetting or degenerating moral or cultural standard the number of related crimes will increase... the depiction of explicit sex will lead to increase in number in sex related crimes. E.g. Pornography may lead to rape, sex related violence etc. increase in programmes related murder or assault will lead to increase in replication of such crimes either through vengeance or through imitation.)</td>
</tr>
<tr>
<td>Tertiary Victim</td>
<td>The group of the people belonging to locality in which the prime victim is living, the family or the close associates of the victim who emerged in media in indecent manner.</td>
<td>The group of the people belonging to locality in which the prime victim is living, the family or the close associates of the victim who became victims of assault or defamation</td>
<td>Media may develop a fear, contempt or hatred on the basis of the programme. Sometime such programmes created to sensationalize or to attract a larger audience may even lead to group hatred.</td>
</tr>
<tr>
<td>Society in general</td>
<td>By constant dissemination of indecent materials in the media a larger group will keep in contact with such materials and if it remains unopposed the moral degeneration will be effected... Hence it becomes the most dangerously affected area in terms of vulnerability.</td>
<td>Media may develop a fear, contempt or hatred on the basis of the programme. Sometime such programmes created to sensationalize or to attract a larger audience may even lead to group hatred.</td>
<td>Media may develop a fear, contempt or hatred on the basis of the programme. Sometime such programmes created to sensationalize or to attract a larger audience may even lead to group hatred.</td>
</tr>
</tbody>
</table>

\textsuperscript{369} This is an area where there is no specific law at all. For the journalists in the print media there is a separate enactment.

For commercial ethics the general principles in the commercial law is applied. The professional Code is to be drafted in the case of electronic media journalists. The rules in technical code are prescribed exclusively by TRAI in consonance with ITU. In 'Thamas' case it was observed by the Supreme Court that 'it is true that the television, the range of which is vastly developed in our country in the past few years, now reaches out to the remotest corners of our country catering to the not so sophisticated. The morals of the literary or educated masses of people living in distant village are to be considered at the time of the evaluation of morals'. Hence the maintenance of the moral standard of the media is an essential, duty of the state.

4.3.1 Programme Codes

There is no uniform programme code applicable for all kinds of electronic media alike. The earlier programme codes over the broadcasting in India were Doordarshan Programme Code and All India Radio Programme Code. They were in fact Departmental Code or mere executive guidelines. But whenever a question relating to broadcasting standard was required to be identified these Codes acted as the guiding factors. They were not supported with legislation. The first Programme Code in the form legislation came along with the Cable Television Networks Rule 1994. The scope of application of the Programme Code is very much limited to programmes transmitted through Cable Television. Later it has been made applicable to CAS and DTH also. The private radio broadcasting does not have such a Code. Hence the AIR Code is considered applicable where ever needed.

4.3.2 The Code under the Cable Television Networks Rules

Rule 6 of The Cable Television Networks Rules, 1994 is the Programme code. It prohibits the following types of programmes: Programme which offends against good taste or decency; contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths, criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the

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372 Rule 6 of The Cable Television Networks Rules, 1994
373 Ibid clause (1) of The Cable Television Networks Rules, 1994
374 Ibid clause (2)
country,\textsuperscript{375} denigrates women through the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent,\textsuperscript{376} or derogatory to women,\textsuperscript{377} or is likely to deprave, corrupt or injure the public morality or morals\textsuperscript{378}; contravenes the provisions of the Cinematograph Act, 1952,\textsuperscript{379} denigrates children; contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic,\textsuperscript{380} linguistic and regional groups contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes\textsuperscript{381}; is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote anti-national attitudes. Contains criticism of friendly countries\textsuperscript{382}; contains anything amounting to contempt of court. Contains aspersions against the integrity of the President and Judiciary; contains anything affecting the integrity of the Nation; or Encourages superstition or blind belief,\textsuperscript{383}

\textbf{4.3.3 Morality and the Code}

The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities\textsuperscript{384} Programmes meant for adults should normally be carried in the cable service after 11 p.m. and before 6 a.m.\textsuperscript{385} Care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence.\textsuperscript{386} Programmes unsuitable for children must not be carried in the cable service at times when the largest numbers of children are viewing.\textsuperscript{387} In the code the word moral itself is

\begin{itemize}
\item \textsuperscript{375} Ibid clause (3)
\item \textsuperscript{376} Ibid clause (4)
\item \textsuperscript{377} Ibid clause (5)
\item \textsuperscript{378} Ibid clause (6)
\item \textsuperscript{379} Ibid clause (7)
\item \textsuperscript{380} Ibid clause (8)
\item \textsuperscript{381} Ibid clause (9)
\item \textsuperscript{382} Ibid clause (10)
\item \textsuperscript{383} Ibid clause (11)
\item \textsuperscript{384} Ibid clause (12)
\item \textsuperscript{385} Ibid clause (13)
\item \textsuperscript{386} Ibid clause (14)
\item \textsuperscript{387} Ibid clause (15)
\end{itemize}
used in five different places. Similarly the words decency, indecent, good taste, obscenity injuring public morality or public morals programmes denigrating women, derogatory to women, superstition, violence, bad language, explicit violence, programmes unsuitable for children etc also are used in different clauses.\textsuperscript{388} But the meaning of the terms are not defined anywhere in the statute.\textsuperscript{389} Hence it can be presumed to be left to the cognitive sense of the law enforcing officer. The officer may be as in the case of cable Television Act or it may be a judicial officer, executive magistrate or a police officer. In each case the dimension of the interpretation of the said words may vary. The common factors in all the said usages are those programmes related sex and violence.\textsuperscript{390}

4.3.4 A categorical analysis of the objectionable acts

A categorical analysis of the objectionable acts is as follows: Programme which offends against good taste or decency; this category may intended to include all programmes which do have any kind sexy material, nudity, or lascivious depiction of women etc. Contains anything obscene,\textsuperscript{391} It may be inclusive still or moving pictures,

\textsuperscript{388} Section 7 of the Information Technology Act 2000 has described obscenity as ‘any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it’

\textsuperscript{389} Section 292 of the Indian Penal Code states that if the material is lascivious appeals to the prurient interest of a person, or has the tendency to deprave and corrupt all those who are likely to read, see or hear the material then, it is illegal and obscene under the Indian Penal Code,

\textsuperscript{390} The origin of the test to determine what is obscene is in the judgement of Queen v. Hicklin 1868 LR 3 QB 360 (English common law) and known as the Hicklin test. The decision was with regard to a pamphlet called The Confessions Unmasked, and described the iniquity of the confessional and especially the questions put to females in confession. Both in Latin and in English it gave many descriptions which were described in a report as “grossly obscene, as relating to impure and filthy acts, words or ideas”. The Hicklin test was minimally transformed to suit Indian purposes almost a hundred years later, in the case of Ranjit D. Udeshi v. State of Maharashtra 1965(1) SCR 65 SC. The gist of the test is that any material that has a tendency to deprave and corrupt those whose minds are open to such influences and those who are likely under the given circumstances, to be exposed to the material, then it shall be regarded as obscene. It has been severely criticised and abandoned in the United States of America and United Kingdom. However, it is the authoritative and final test in India to determine whether the material is obscene or not.

\textsuperscript{391} Since there is no test for obscenity the ratio relating to the topic came with relation to cases on print media is to be referred for guidance. The origin of this test to determine what is obscene is in the judgement of Queen v. Hicklin 1868 LR 3 QB 360 (English common law) and known as the Hicklin test. The decision was with regard to a pamphlet called The Confessions Unmasked, and described the iniquity of the confessional and especially the questions put to females in confession.
dialogues, songs, speeches gesture etc having obscene nature. It may not be a mere nudity, maligns public and moral life of the country.\textsuperscript{392} This category might have intended to prevent indecent or improper programmes which may likely to affect the moral fabric of the society. Example a speech intended to promote free sex may not be obscene but may come within this category. Denigrates women through the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women: The presentation of woman as a commodity, or merchandise through naked or semi naked pictures or utilising the indecent depiction of women to market a commodity etc will come within this category.\textsuperscript{393} Or is likely to deprave, corrupt or injure the public morality or morals; in this case the common standard of the society built upon values and virtues are threatened through improper messages in a programme thereby there is likelihood increasing sex related crimes like violation of modesty then this provision may become applicable.\textsuperscript{394}

\textsuperscript{392} In this book oath in Latin and in English it gave many descriptions which were described in a report as “grossly obscene, as relating to impure and filthy acts, words or ideas.

\textsuperscript{393} Section 5B of The Cinematograph Act says that the Principles for guidance in certifying films are — (1) A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of (the sovereignty and integrity of India) the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of court or is likely to incite the commission of any offence. (2) Subject to the provisions contained in sub-section (1), the Central Government may issue such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition.)

\textsuperscript{394} In 1934 in U.S. v One Book Entitled "Ulysses," a New York circuit court of appeals held that the criterion for obscenity was not the content of isolated obscene passages but rather "whether a publication taken as a whole has a libidinous effect." In 1957, in Roth v. U.S., the U.S. Supreme Court tendered a basic redefinition of obscenity: "whether, to the average person, applying contemporary community standards, the dominant theme of the material taken as whole appeals to prurient interest." In 1966, however, the Supreme Court, in a ruling on the book Fanny Hill, declared a work pornographic only if it was "utterly without redeeming social value." In Miller v. California (1973) the court abandoned the 1966 ruling and declared that it would be no defense for a work to have "some redeeming social value" and that the states might therefore prohibit the printing or sale of works "which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political or scientific value."
4.3.5 Censoring

It contravenes the provisions of the Cinematograph Act, 1952.\textsuperscript{395} The censorship systems under the Cinematograph Act 1952 do have pre programme regulation method. The Cinematograph Act allows the censorship of films and lays down the mechanism for such censorship. Films can be exhibited in India only after they have been certified by the Central Board of Film Certification (CBFC).\textsuperscript{396} The Cinematograph (Certification) Rules, 1983 lays down the rules and regulations for certification of films by the board. Board after examining the film or having the film examined can make, as per the Act, the following decisions regarding the film. Sanctioning the film for unrestricted public exhibition, sanctioning the film for public exhibition Electronic media using a film shall obtain permission from the government. The permission may exist in the form of censoring. The censoring may be (1) moral. (2) military (3) political (4) religious or (5) corporate. Pornography, especially child pornography, which is illegal and censored in most jurisdictions in the world, is coming under the category of moral censorship. A military censorship is basically used in the case of espionage and other similar matter. A political censorship is exercised by the state especially when the act of any person is against the political viewpoint of the ruling party. If the material published is affecting a particular religious order then religious censorship may come to the picture. A corporate censorship is the one in which the corporate members may intervene in the publication of a material.\textsuperscript{397}

\textsuperscript{395} Section 5B of the Cinematograph Act, 1952 lays down the principles for guidance in certifying films. (1) A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of (the sovereignty and integrity of India) the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of court or is likely to incite the commission of any offence. (2) Subject to the provisions contained in sub-section (1), the Central Government may issue such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition.”

\textsuperscript{396} There is no separate censoring in electronic media in India as in the case of film. If film is to be broadcasted a certificate from the censor board is to be obtained. In an era where the celluloid is not used to make films, it is ambiguous every TV material is to be considered as they come within the provisions of cinematograph.

\textsuperscript{397} A censoring may be pre-censoring or post-censoring. In the case of movies a pre-censoring is needed under the Central Board of Film Certification (CBFC) and The Cinematograph (Certification) Rules. But for a TV programme a pre-censoring is not needed. At present the post censoring may occur if a complaint is lodged by somebody against any of the TV programme.
The basic principles of cinema censorship in India are given in the Act as follows. “5A. Certification of films: Section 3((1) If, after examining a film or having it examined in the prescribed manner, the Board considers that— (a) the film is suitable for unrestricted public exhibition, or, as the case may be, for unrestricted public exhibition with an endorsement of the nature mentioned in the proviso to clause (i) of sub-section (1) of section 4, it shall grant to the person applying for a certificate in respect of the film a “U” certificate or, as the case may be, a “UA” certificate; or (b) the film is not suitable for unrestricted public exhibition, but is suitable for public exhibition restricted to adults or, as the case may be, is suitable for public exhibition restricted to members of any profession or any class of persons, it shall grant to the person applying for a certificate in respect of the film an “A” certificate or, as the case may be, an “S” certificate; and cause the film to be so marked in the prescribed manner: Provided that the applicant for the certificate, any distributor or exhibitor or any other person to whom the rights in the film have passed shall not be liable for punishment under any law relating to obscenity in respect of any matter contained in the film for which certificate has been granted under clause (a) or clause (b).) (2) A certificate granted or an order refusing to grant a certificate in respect of any film shall be published in the Gazette of India. (3) Subject to the other provisions contained in this Act, a certificate granted by the Board under this section shall be valid throughout India for a period of ten years.

<table>
<thead>
<tr>
<th>Certificate</th>
<th>Name</th>
<th>Definition/Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>U</td>
<td>Universal</td>
<td>Unrestricted Public Exhibition throughout India, suitable for all age groups. Films under this category should not upset children over 4. This rating is similar to the MPAA’s G and PG, the BBFC’s U and PG, and the OFLC’s G and PG ratings. Such films may contain: No drug innuendo, No nudity, Mild profanity or crude humour, Mild sexual content. Educational or family oriented themes, Mild violence.</td>
</tr>
<tr>
<td>UA</td>
<td>Parental Guidance</td>
<td>Unrestricted Public Exhibition but with parental guidance for children under the age of 12. Those aged less than 12 years are only admitted if accompanied by an adult. This rating is similar to the MPAA’s PG and PG.13, the BBFC’s PG and 12A and the OFLC’s PG and M ratings. Such films may contain, Moderate coarse language or suggestive dialogue. References and use of soft drugs and people wearing minimal clothing. Frontal or rear nudity is not permitted, Moderate sexual content. Mature themes. Moderate violence (including brief or implied sexual violence).</td>
</tr>
<tr>
<td>A</td>
<td>Adults Only</td>
<td>Restricted to adults (18 years or over) only. Parents consider the content in these films too strong for their younger children so this category is off-limits to minors. This rating is similar to the MPAA’s R, the BBFC’s 15 and the OFLC’s MA15+ ratings. Nobody younger than 18 may rent or buy an A Rated VHS, DVD, Blu-ray Disc, UMD or game, or watch a film in the cinema with this rating. Such films may contain: References and use of hard drugs. Explicit language or intensely suggestive dialogue. Partial nudity, full frontal or rear nudity is not permitted. Strong and crude sexual content Adult/disturbing themes. And Intense/brutal violence (including strong sexual violence).</td>
</tr>
<tr>
<td>S</td>
<td>Restricted to any special class of persons</td>
<td>This rating signifies that the film is meant for a specialised audience, such as doctors.</td>
</tr>
</tbody>
</table>
4.4.1 Children on television

The media is the prime attraction of children. At the same time children are the prime victims of the media. Unscrupulous broadcasters used to telecast various programmes which are not suitable for viewing by children of tender age. The programmes promoting violence, causing 'premature adulthood ' etc is to be avoided. The impact of such vicious programme upon a generation has become evident in the west. The Code prohibits the broadcasting of any programme not suitable for children during the prime time. They are (1) it is likely to encourage or incite violence: Constant telecasting of crime related will structure the behavioural pattern of human beings with a mutation to indulge in crime. Similarly if a programme intended to promote hatred or terrorism etc also are totally undesirable. (2) It encourages superstition or blind belief, superstition and blind belief often used to lead society in an unethical or immoral path. Such programmes will drive the nation in a retrogressive path. Hence such programmes also must be prohibited.

A penal action can be initiated against the accused who has contravened the provisions of the Act or the provisions of rule(s). Mens rea need not be proved. Conviction of the offender will get (a)(i) Imprisonment up to 2 years, or (ii) fine up to Rs.1,000/- or (iii) Imprisonment up to 2 years and fine up to Rs. 1,000/- for the first offence; (b) Imprisonment up to 5 years and fine of Rs.5,000/- for every subsequent offence. A first offence is non-cognizable and bailable whereas the subsequent offences are cognizable and non-bailable. 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.

399 For details of children on television visit http://dspace.iimk.ac.in Bandyopadhyay, S., Kindra, G., Sharp, L. (2001), "Is television advertising good for children?"
In India watching television neglecting a minor itself is an offense coming under the Indian Penal Code, the Prohibition of Indecent Representation of Women Act and the Programme Code under the Cable Television and doordarshan codes. Further there is a commission constituted under human rights laws to protect child rights.

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400 www.indiankanoon.com, last visited on 11-10-2012.
401 www.ncpcr.gov.in last visited on 11-10-2012
4.4.2 Women on television

Women in India are governed by the general laws applicable in the country. This is the basic perspective of women in advertising is that she is the primary consumer of the product or service advertised, mainly in the electronic media. The femme fatale, the super mom, the sex kitten, the nasty corporate climber image of women in Indian media is remaining unchanged. The portrayal of women in the electronic media can provide an appearance of media’s simultaneous sensitivity and bias on gender issues. The derogatory representation of women in the media is more a social, cultural and economic problem than purely a physical one. The subjection of woman to indecent representation is a global one. Moreover, the lack of formalized structure allows the media to selectively appropriate and represent gender issues contextually in conjunction with the dominant socio-political norms. Despite this, both shows and advertisements


continue to be loaded in favour of men or showing indecent representation of women in Indian media scenario.

4.4.3 Oppressed class on television

Oppressed class include the SC, ST, and OBC and physically disabled. Their sounds are not heard. Each has a separate commission. But representation in the media is very less. The economic reforms of globalisation, liberalization and privatization are resulting in the emergence of new opportunities at the media in ‘Social Justice and Empowerment’. Implementation of the reservation policy both in the educational institutions and services for SCs and in services for OBCs is not enough. For upholding the Civil Rights on the one instance and preventing and curbing the of the problems of social discrimination, exploitation, untouchability, and atrocities against these disadvantaged groups, on the other, the electronic media should take efforts with all the concerned for effective implementation of the Indian Penal Code,1860 and the other two Special Legislations viz. the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. To this effect, efforts are made to prepare state or district specific programmes of action ensuring preventive, investigative and rehabilitative measures in those districts or areas where the incidence of crime.404

4.5.1 Advertising laws

Advertising in India has expanded rapidly in the post independent era, keeping pace with the growth of various industries.405 Advertising expenditure as a percentage

404 http://planningcommission.nic.in. Last visited on 1-4-2011.
405 Sarda Plywood Industries Ltd. vs Commissioner Of Income-Tax 1999 238 ITR 354 Cal it was observed that “In Black's Law Dictionary, sixth edition, 1992, the word "advertise" has been stated, inter alia, to mean to give notice of, make known, publish or to call a matter to the public attention by, any means whatsoever. The word “advertisement” has been stated to mean a notice given in a manner designed to attract public attention. In L. B. Curzon Dictionary of Law, fourth edition 1993, "advertisement" has been stated to mean public announcement or notice. In Mozley and Whitley’s Law Dictionary, eleventh edition, 1993, the word "advertisement" was stated to include any notice, circular, label, wrapper, invoice or other document and any public announcement made orally or by any means of producing or transmitting light or sound. Similar meaning has been assigned in the dictionary of English Law, Earl Jowitt, (1959) edition. In the Concise Oxford Dictionary, seventh edition, 1982, the word "advertise" is stated to mean generally or publicly known ; (esp.) describe (goods) publicly with a view to increasing sales. The word "advertisement" is stated to mean public announcement (esp. in newspapers, on posters, by television, etc).In Wharton's Law Lexicon, the word "advertisement" has been held to mean a public notice or announcement of a thing.”
of Gross National Product is 0.25 per cent in India as compared to 2.9 per cent in USA.

- The Directorate of Advertising and Visual Publicity (DAVP), places advertisement on behalf of various Ministries and Departments of the Government of India is applicable to the electronic media also. A number of autonomous bodies and public sector enterprises channelise their advertising through DAVP. The Advertising Council of India adopted the Code of Advertising Practice with a purpose to control the content of advertisements and to ensure that they are not offensive to generally accepted standards of public decency. All India Radio Code for Commercial Advertising lays down standards of conduct for advertisers on Indian radio. The Code of Commercial Advertising on Doordarshan published in 1986, lays down standards of conduct for advertisers on Indian television. Advertising is an inevitable part of modern commercial transactions. It has a special significance in a capitalistic or quasi capitalistic society. Though advertisements have a great role in consumer education it used to trek in off tracks when wreck less greedy business ventures adduce aggressive marketing tactics. The advertising images may become an unfair cultural practice when they ignore the public moral responsibility. The post modernism has generated new ways to counter this evil of the industrialization through the consumer protection laws, competition laws and special codes regulating the advertisement. The words of Iain Ramsay are worth quoting in this context. ‘Advertising plays a central role of consumer capitalism in extending markets and creating images of social relations of consumption. Social movements such as feminism, minority rights advocacy, have viewed cultural images and representations in the media and commercial advertising as an important site for social change, appealing to the legal regulation of images as a method of social

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406 The emergence of television advertising from a non-entity in 1970’s to a dominant medium of advertising is a major development of this decade. The advertisements contributed to DD an income of Rs 610 crores in the year 1999-2000. The press continues to obtain most of the advertising share. In the year 1997, twenty-eight dailies derived more than 75% of their income through ads. Around 19 dailies devoted more than 60% space to advertisements.

407 ASCI’s National Advertising Monitoring Service (NAMS) which started operating from May 2012 has significantly increased number of ads coming under scrutiny of the Consumer Complaints Council (CCC) during June 2012. Out of 38 advertisements against whom complaints were lodged the CCC upheld complaints against 25 of them, most of which were from the education, healthcare, FMCG &F&B sectors, advertisements of which are being tracked on TV and Newspapers nationally by NAMS. During the same period, the CCC did not uphold complaints against 13 advertisements while decision on one advertisement was kept pending.
change. Advertising images may represent, within this critique, unfair cultural practices.\textsuperscript{408}

4.5.2 Advertising Code in Cable Laws

Rule 7 of The Cable Television Networks Rules, 1994 prescribes the Advertising Code.\textsuperscript{409} (1) Advertising carried in the cable service shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers. (2) No advertisement shall be permitted which (i) Derides any race, caste, colour, creed and nationality (ii) It is against any provision of the Constitution of India (iii) Tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way (iv) Presents criminality as desirable (v) Exploits the national emblem, or any part of the Constitution or the person or personality of a national leader or a state dignitary (vi) In its depiction of women violates the Constitutional guarantees to all citizens. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasises passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The cable operator shall ensure that the portrayal of the female form, in the programmes carried in his cable service is tasteful and aesthetic, and is within the well established norms of good taste and decency (vii) Exploits social evils like dowry, child marriage (3) No advertisement shall be permitted the objects whereof are wholly or mainly of a religious or political nature; advertisements must not be directed towards any religious or political end (4) The goods or services advertised shall not suffer from any defect or deficiency as mentioned in the Consumer Protection Act. 1986. (5) No advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or supernatural property or quality, which is difficult of being proved. (6) The picture and the audible matter of the advertisement shall not be excessively ‘loud’ (7) No advertisement which endangers the safety of children or creates in them any interest in unhealthy practices or shows them begging or in an undignified or

\textsuperscript{408} Iain Ramsay, Advertising Culture and Law. Sweet and Maxwell (UK) 1996 ( P 2-3)
\textsuperscript{409} The Cable Television Networks Rules, 1994
indecent manner shall not be carried in the cable service. (8) The advertisement shall not be indecent, vulgar, suggestive, repulsive or offensive themes or treatment. (9) No advertisement which violates the standards of practice for advertising agencies as approved by the Advertising Agencies Association of India, Bombay, from time to time shall be carried in the cable service. (10) All advertisements should be clearly distinguishable from the programme and should not in any manner interfere with the programme viz., use of lower part of screen to carry captions, static or moving alongside the programme.

4.5.3 Advertising in Electronic Media

Advertising in electronic media can be classified into State media and private media. The state media is governed by the state rules. DAVP is the governing body of the state publicity. It relates to publicity by the state only. The Department of Audio Visual Publicity is dealing with every kind of departmental publicity. The advertisement relating to electronic media owned by the state like Doordarshan and Prasar Barathi is governed by the internal rules. The private electronic media is governed by the general rules as well as the ASCI (Advertising Standards Council of India) of rules or private rules relating to advertisements. A commercial advertisement on television (usually abbreviated to TV commercial, advert, ad, or ad film) is a span of television programming produced and paid for by an organization, which conveys a message, typically to market a product or service. The vast majority of television advertisements today consist of brief advertising spots, ranging in length from a few seconds to several minutes (as well as program .length infomercials). Advertisements of this sort have been used to promote a wide variety of goods, services and ideas since the dawn of television.

4.5.4 Private Organisations relating to the advertisements

The electronic media is shaping the nation in every aspect. It affects the opinion of the people in every aspects of life. Currently the private agencies like Indian

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410 http://www.davp.nic.in/av_ad_policy.pdf last visited on 10-9-2012
Broadcasters Federation (IBF) , News Broadcasters Association (NBA), Indian Media Group (IMG), Indian Society of Advertisers (ISA), The Advertising Standards Council of India (ASCI), Advertising Agencies Association of India (AAAI), Media Research Users Council (MRUC), Audit Bureau of Circulations (ABC), Press Trust of India (PTI), Confederation of Indian Industry (CII) The Associated Chambers of Commerce and Industry of India (ASSOCHAM), Federation of Indian Chambers of Commerce and Industry (FICCI), and United News of India (UNI) are playing a big role in the electronic media in India. In the absence of the Government regulatory body the workers in it are not getting protection as journalists and the people are not obtaining from the misuse of the electronic media.

4.5.5 Advertising Code of Doordarshan

General rules for conduct in advertising prescribed for Doordarshan are considered as the general parameter for every form of television broadcasting. Primarily the advertising shall be so designed as to conform to the laws of the country and shall not offend the morality, decency and the religious susceptibilities of the people. Further the Code specifically bars advertisements which (i) Derides any race, caste, colour, creed and nationality (ii) Is against any of the directive principles, or any other provision in the Constitution of India (iii) Tends to incite people to crime or glorifies violence or obscenity in any way (iv) Adversely affects friendly relations with foreign countries (v) Exploits the National emblem or any part of the constitution or the person or personality of a national leader or state dignitary (vi) Relates to or promotes cigarettes and tobacco products, liquor, wines and other intoxicants (vii) In its depiction of women violates the Constitutional guarantees given to all citizens such as equality of status, opportunity and dignity of the individual Women must not be portrayed in derogatory light and in a manner that emphasizes passive, submissive qualities and encourages them to play a subordinate and secondary role in family and in society. The portrayal of the female form shall be aesthetic and within the well established norms of good taste and decency.

As per the Code, presentation of advertisement as News is strictly prohibited. Similarly any religious or political ends also are not permissible. It shall not have any relation to any industrial dispute. Specific categories of services are prevented from
advertising in the media. They are (i) Money lending (ii) Chit funds (iii) Savings schemes and lotteries other than those conducted by the central and state government organizations nationalised or recognised banks and public sector undertakings (iv) Unlicensed employment services (v) Betting tips & guide books relating to horse racing or other games of chance. Advertisements which claims to the effect that the product advertised possess any miraculous or supernatural property or quality which is difficult of being proved, (e.g. cure for baldness, skin whitener) also are prohibited. If scientific or statistical excerpts from technical literature etc. used in any advertisement it must be done only with a proper sense of responsibility to the ordinary viewer. It shall not be used in a misleading manner. The advertisers or their agents must be ready to furnish evidence to substantiate any claims or illustrations since the Director General of DD has the right to demand the same. The Advertisements shall not contain disparaging or derogatory references to another product or service. The testimonials regarding any product or service referred in an advertisement must be genuine and used in a manner not to mislead viewers.

The advertisements shall comply with the AIR and television broadcast code also the code prescribes that no programme shall contain (i) Criticism of friendly countries; (ii) Attack on religions or communities; (iii) Anything obscene or defamatory (iv) Incitement to violence or anything against maintenance of law and order (v) Anything amounting to contempt of court; (vi) Aspersions against the integrity of the President and the Judiciary (vii) Anything affecting the integrity of the Nation; and (viii) criticism by the name of any person.

Information given to consumers in relation to the price quality & weight of products shall be accurate. This provisions relates to The Essential Commodities Act, The Weights Measures Act, The Consumer Protection Act etc. No advertise must use any persons vice image etc without such persons permission The pretension of any personality without their permission or imitation or simulation of appearance or voice of a personality in connection with the advertisements for commercial products without a permission from such the personality is not permissible to be broadcasted.

413 The Essential Commodities Act 1995
414 The Weights Measures Act 1976
415 The Consumer Protection Act 1976
Advertisements for a product or a service shall not be accepted if it suggests that if children do not buy it they shall be lacking in their duty or loyalty to any person. The advertisement shall be prohibited if it is suggesting that the children shall be condemned, ridiculed if they do not buy the product in the advertisement. The advertisements shall also not create in the children an interest to do something which can prove to be dangerous to the children. No advertisement shall try to take advantage of the superstition or ignorance of the public. Advertisements should be truthful, avoid distorting facts and misleading the public by means of implications and omissions.  

4.5.6 Electronic media and advertisement relating to medicines

Testimonials of any kind from experts etc. other than Government recognised standardisation agencies shall not be permitted. Advertisements containing passing off, piracy and infringement of any other person’s industrial property right must be avoided. Imitations likely to mislead the viewers also shall be avoided. Advertisements shall not be obscene, vulgar and offensive in their theme or treatment. This also applies to such advertisements which advertise objectionable books or photographs. For advertising for medicines the general principles have laid down the following guidelines: (i) No advertisement shall contain a claim to cure any ailment or symptoms of ill health (ii) There should be no exaggerated claims regarding the composition, character, action and suitability of the purpose for which it is recommended (iii) Appeals to fear shall not be made (iv) Advertisements for the diagnosis or treatment by correspondence are strictly prohibited (v) When words such as college, clinic, institute, and laboratory are used in advertisements, such references can be made only when the said establishment does actually exist (vi) Advertisements for products specifically offered to women shall not be advertised as products that are effective in inducing miscarriage (vii) Advertisements relating to claims about curing of sexual weakness, premature ageing, loss of virility, sexual excesses etc. shall not be accepted (viii) No advertisements

416  http://www.boxofficeindia.co.in/ Last visited on 1-5-2012.
417  Section 292 of the Indian Penal Code states that if the material is lascivious appeals to the prurient interest of a person, or has the tendency to deprave and corrupt all those who are likely to read, see or hear the material then, it is illegal and obscene under the Indian Penal Code, Indian Penal Code does not specifically mention any medium, and penalises anybody who sells, lets to hire, distributes or circulates in any manner whatsoever, material which is obscene. What medium is used for circulation, whether it is a newspaper, magazine, drawings on a pack of playing cards, or the Internet, is not of importance. Under the Information Technology Act, there is specific mention of publishing, transmitting or causing to be published in electronic form
should offer any medical product that is for the purposes of slimming, weight reduction or figure control (ix) No advertisement shall contain any offer to diagnose or treat complaints or conditions by hypnosis.

4.5.7 The Prasarbarathi Corporation and advertisements

The Prasarbarathi Corporation consists of two wings namely All India Radio and Doordarshan. Commercials were introduced by the AIR (on 1967) and on Doordarshan (on 1976). Both AIR and Doordarshan have served as an effective instrument for advertisers to publicise their goods and services. As a public service broadcasting organization, AIR and Doordarshan has responsibility to ensure that the advertisements either in terms of contents, tone or treatment, do not mislead the listeners and viewers as well as the consumers or are not repugnant to good taste. The earning of commercial revenue is not the sole criteria of the Prasarbarathi. Thus the code has stricter provisions and the main features of the code are as follows: (a) Tobacco products including 'Pan Masala' and liquors are not permitted. (b) The goods and services advertised should be in consonance with the laws of the country enacted to protect the rights of the consumers. (c) The commercial media should never project a derogatory image of women and should not endanger the safety of children. Freedom of speech and expression is the basic right relating to the mass media and at the same time it is considered as other most significant defence against the control through a Code.  

In Brij Bhushan's case Patanjali Sastri, J. speaking for the majority judgment again said that "every free man has undoubted right to lay what sentiments he pleases before the public; to forbid this, is to destroy the freedom of the press". The court observed that there can be little doubt that the imposition of pre-.censorship on a journal is a restriction on the liberty of the press which is an essential part of the right to freedom of speech and expression declared by Art.19 of the Constitution. Every free man has an undoubted right to say what sentiments he pleases before the public; to forbid this, is to destroy the freedom of the press."  

Bhagwati, J. in the Express Newspapers case speaking for the Court said that the freedom of speech and expression includes freedom of propagation of ideas which

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418 The details are given in the www.ddindia.gov.in. Last visited on 10 -2-2013.
419 Brij Bhushan and another v The State of Delhi 1950 Supp SCR 245.
freedom is ensured by the freedom of circulation and that the liberty of the press is an essential part of the right to freedom of speech and expression and that the liberty of the press consists in allowing no previous restraint upon publication.\textsuperscript{420} It is indisputable that by freedom of the press is meant the right of all citizens to speak publish and express their views. The freedom of the press embodies the right of the people to read. The freedom of the press is not antithetical to the right of the people to speak and express. What is termed as "policy" can become justiciable when it exhibits itself in the shape of even purported "law".

According to Article 13(3) (a) of the Constitution, "law" includes "any Ordinance, order, byelaw, rule, regulation, notification, custom or usage having in the territory of India the force of law". So long as policy remains in the realm of even rules framed for the guidance of executive and administrative authorities is may bind those authorities as declarations of what they are expected to do under it. But, it cannot bind citizens unless the impugned policy is shown to have acquired the force of 'law'. John Stuart Mill, in his easy on "Liberty", pointed out the need for allowing even erroneous opinions to be expressed on the ground that the correct ones become more firmly established by what may be called the 'dialectical' process of a struggle with wrong ones which exposes errors.\textsuperscript{421}

Milton, in his "Areopagitica" said: "Though all the winds of doctrine were let loose to play upon the earth, so Truth is in the field, we do injuriously by licensing and prohibiting misdoubting her strength. Let her and Falsehood grapple; whoever knew Truth put to the worse, in a free and open encounter. Who knows not that Truth is strong, next to the Almighty; she needs no policies, no stratagems, no licensing to make her victorious; those are the shifts and defences that error makes against her power.\textsuperscript{422}

Voltaire expressed a democrat's faith when he told an adversary in argument: "I do not agree with a word you say, but I will defend to the death your right to say it"\textsuperscript{423}. Permissible restrictions on any fundamental right, even where duly enacted law

\textsuperscript{420} Indian Express Newspapers (P) v Union Of India And Others Etc. AIR 1995 SC 965, Bench: K Singh, P Sawant, N Singh


\textsuperscript{423} http://www.quotationspage.com/forum/viewtopic.php?p=8103 last visited on 1-1-2011
imposes them, must not be excessive, or, in other words, they must not go beyond what is necessary to achieve the objects of the law under which they are sought to be imposed. The power to impose restrictions on fundamental rights is essentially a power to "regulate" the exercise of these rights. In fact, "regulation" and not extinction of that which is to be regulated is, generally speaking, the extent to which permissible restrictions may go in order to satisfy the test of reasonableness.\textsuperscript{424}

Justice Mathew said that ‘it is a total mis conception to say that speech cannot be regulated or that every regulation of speech would be an abridgment of the freedom of speech. In other words, regulation of speech is not inconsistent with the concept of the freedom of speech unless the regulation amounts to abridgment of that freedom. No freedom, however absolute, can be free from regulation. ’Entertainment includes comedy programmes, cinema, musical programmes. On many occasions it is not possible to distinguish from other serious programmes like talk show, interview, drama etc. Sometimes\textsuperscript{425} the demarcation between the legitimacy and decency are so thin. A cultural censorship may become impossible. Even the state may fumble in the ambiguous nature of the control measures.

While dealing with the beauty pageant 1996 case the Supreme Court observed that; “There can be two views on the question whether such a show is desirable or not. Some may consider it to be indecent, others may not. Unless any law is violated, the Court ought not to interfere in such matters.\textsuperscript{426} In such cases if the authorities are asked to identify they may say that it is the court, which can find out the demarcating line.

\textsuperscript{424} The term "regulate" has come up for interpretation on several occasions before American Courts which have held that the word "regulate" means "to adjust by rule, method, or established mode; to direct by rule or restrictions; to subject to governing principles of laws." Article 19(1) (a) is not a guardian of unlimited talkativeness

\textsuperscript{425} As pointed out by Blackstone in his Commentaries, "the liberty of the press consists in laying no previous restraint upon publications, and not in freedom from censure for criminal matter when published.

\textsuperscript{426} Amitabh Bachan Corporation Ltd v Mahila Jagaran Manch and others 1997 (1) SCC 91 These are not matters which can be judicially assessed and the pressure which the agitators bring to bear ought not to sway the Court into exercising jurisdiction. In the facts and circumstances of this case, we are of the opinion that the Court would have been well advised not to interfere in the matter and leave it to the authorities to sort it out.”
Soap programmes are the main category of the entertainment in the recent days. The serials and mega serials are the concern the regular viewers mind. The programmes are often prolonged for years and is enlarged without any sense. The main charges levelled against such serials are that (1) They do not have a thinking space (2) They alienate the viewers from the realities of life (3) Programmes are often aesthetically low in standard (4) It is intended merely to kill the time (5) It manipulates the mind to view life in an undesirable dimension. But soap programmes are continuing and it is not possible to impose any restriction against such programmes always easily distinguished from relatively serious programs of information and education; popular music, in which the frontier with jazz and serious music is anything but rigid; and variety, or a series of unrelated acts, nearly always linked by a popular presenter or established performer. From the early days of radio there was a tendency to make use of a variety format, and, as this approach represented an extension of old music hall traditions, many programs in this vein achieved success. Variety type program emerged the "gang show," in which a cast of performers remaining the same from week to week would make use of a series of humorous situations or catchphrases, gradually building up a familiar background against which the incongruities of the script could exploit humour to the full. A further development was the "situation comedy," in which a number of characters, such as the members of a family, remain in the same situation week after week but experience comic adventures. Though these laughter programs lost popularity on radio as television gained popular acceptance, they have become the mainstays of television. A contemporary phenomenon has been the comedy program involving substantial amounts of political and social satire. The situation comedy has also been influenced by this trend.

The many types of comedy entertainment programs that are produced around the world all have one common characteristic: not only have the performers needed the stimulus of a studio audience, but also the listeners and viewers are stimulated by the laughter and applause of the audience. This has led to some abuses, such as the superimposition of laughter and applause on pre-recorded programs, a practice that is

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Soap programmes mean a serial drama, on television or radio, that features multiple related story lines dealing with the lives of multiple characters. It is generally a melodrama. Hum Log with 154 episodes was the first soap opera in India.
frowned upon but still practiced. It has also meant that large studios are required to accommodate the performers, frequently including more than one music combination, but also the audience. In television there must be room for settings that have become increasingly ambitious and for dancers and choruses. Broadcasting organizations have generally been able to build studios of appropriate size, though radiobroadcasters in the early days preferred to purchase or rent small theatres. In their form and structure, children's entertainment shows resemble those for adults. Animated cartoons, however, represent an exception to this rule. The Calcutta High Court has in its judgement in People's Union for Civil Liberties v Union of India 428 observed that the Central Government should take appropriate steps to give shape to the objectives and ideals of the Prasarbarathi Act as early as possible. Government is at liberty to pass fresh legislation if it deems fit.

4.6.1. Conclusion

For granting a license to the electronic media the regulation of the content is needed. The present day legal system does not have a regulation over many of the contents. When there is a loophole, the private media will utilise it. The public media may found not accountable. For example a drug worth thirty rupees may be sold for three thousand rupees. The agrieved, whether it is a member of the audience, party to the electronic media or the state may be permitted to approach a common forum which one is accessible to all and affordable to members of the general public. The license laws as well as the programme code shall have tooth and nail. Otherwise the loser may be the state as well as the citizens.