

CUTS Comments on Broadcasting Services (Regulation) Bill, 2023

Background

Consumer Unity & Trust Society (CUTS) expresses its gratitude to the Ministry of Information and Broadcasting for inviting comments and suggestions on the draft Broadcasting Services (Regulation) Bill, 2023.¹

About CUTS

CUTS² is an independent, nonpartisan, and non-profit policy think and action tank that has been working towards enhancing the regulatory environment through evidence-based policy and governance-related interventions across various sectors and boundaries. In its 40 years of operation, CUTS has come a long way from being a grassroots consumer centric organisation headquartered in Jaipur, having centres in Delhi³, and Kolkata⁴, to now opening overseas Resource Centres in Vietnam⁵, Kenya⁶, Zambia⁷, Ghana⁸, Switzerland⁹, and in the United States of America.¹⁰ CUTS has been actively representing consumers' interest before different state governments and central government ministries through various programme centres, namely: Centre for International Trade, Economics & Environment (CITEE)¹¹; Centre for Consumer Action, Research & Training (CART)¹²; Centre for Human Development (CHD)¹³ and Centre for Competition, Investment & Economic Regulation (CCIER).¹⁴

CUTS works on various issues to foster an inclusive digital economy¹⁵ which include telecom law, data protection¹⁶, data localisation¹⁷, children's data protection¹⁸ and encryption¹⁹ among others. CUTS also works with various ministries and government departments for advocacy

¹ [Soliciting suggestions/feedbacks/comments/inputs/views from general public/stakeholders on the draft Broadcasting Services \(Regulation\) Bill, 2023](#)

² [CUTS International – Consumer Unity & Trust Society \(cuts-international.org\)](#)

³ [CUTS Delhi Resource Centre](#)

⁴ [CUTS CRC](#)

⁵ [CUTS HRC](#)

⁶ [CUTS Nairobi](#)

⁷ [CUTS Lusaka](#)

⁸ [CUTS Accra](#)

⁹ [CUTS Geneva](#)

¹⁰ [CUTS WDC](#)

¹¹ [CUTS Citee](#)

¹² [CUTS Cart](#)

¹³ [CUTS CHD](#)

¹⁴ [CUTS CCIER](#)

¹⁵ [Inclusive Digital Economy - Ccier \(cuts-ccier.org\)](#)

¹⁶ [Cdpp - Ccier \(cuts-ccier.org\)](#)

¹⁷ [Understanding the Impact of Data Localization on Digital Trade - Ccier \(cuts-ccier.org\)](#)

¹⁸ [Highlighting Inclusive and Practical Mechanisms to Protect Children's Data - Ccier](#)

¹⁹ [Understanding Consumers' Perspective on Encryption - Ccier \(cuts-ccier.org\)](#)

efforts²⁰ on all issues, more recently on communications law, OTT services²¹, digital competition²², competitive neutrality²³, Caller Name Presentation²⁴, and Online Gaming²⁵. Based on such evidence-based studies, CUTS is pleased to submit its comments on the draft bill.

a. Need a thorough Assessment of the Effect of Regulation on Consumers and Small Businesses through Adoption of Regulatory Impact Assessment (RIA) Mechanisms

The draft bill aims to regulate the broadcasting sector, creating a consolidated framework for various broadcasting services. The provisions of the draft bill would have a far reaching impact on the broadcasting industry, as similar treatment of dissimilar broadcasting services may lead to over-regulation, the indirect effect of which will be felt by consumers. These include availability and choice of content consumption, quality of experience, costs, and grievance redressal. An ex-ante censorship of content takes away choice from consumers to determine content they desire to consume. This could influence their access to information, knowledge, and freedom of expression and privacy.

Further, the bill may also impact small enterprises, start-ups, and freelancers in the industry, thereby impacting competition, innovation, economic growth, employment and income generation opportunities. Thus, it is important to understand the effect of regulation on consumers and small businesses before the final bill is drafted. Any regulatory reform should benefit consumers and ensure ease of living for them.

In this regard, it is therefore important to understand the impacts of any proposed bill, to achieve favourable outcomes. To realise this goal, conducting a Regulatory Impact Assessment (RIA) through mechanisms like Cost-Benefit Analysis (CBA) before bringing the draft regulation into effect, is necessary. RIA systematically identifies and assesses regulatory proposals' direct and indirect impacts using consistent analytical methods.

To this end, CUTS has developed an RIA toolkit²⁶ which involves a participatory approach via a public consultation to assess such impact, determine costs and benefits, and select the most appropriate regulatory proposal. It also helps put checks and balances on the government while exercising its exclusive privilege to do things necessary to protect consumers from the harms of online games. It is, therefore, recommended that the government engages with organisations experienced in conducting RIA, before finalising provisions of the new law. Conducting adequate stakeholder consultations would also be helpful in this regard.

²⁰ [Advocacy - Ccier](#)

²¹ [Understanding and Highlighting Consumers' Perspectives in the debate of regulation of Over the Top \(OTT\) Communication Services - ccier \(cuts-ccier.org\)](#)

²² [advocacy-joint-open-letter-by-stakeholders-to-the-mca-on-the-digital-competition-bill.pdf \(cuts-ccier.org\)](#)

²³ [Promoting Competitive Neutrality in Government Using Advocacy](#)

²⁴ [CUTS Comments on the TRAI Consultation Paper on Calling Party Name Presentation Facility](#)

²⁵ [CUTS Comments on the Draft Amendments to The Information Technology \(Intermediary Guidelines and Digital Media Ethics Code\) Rules, 2021 relating to Online Gaming](#)

²⁶ [REGULATORY IMPACT ASSESSMENT TOOLKIT](#)

b. Need for broadcasting policy before the bill:

The ongoing consultation on formulation of a National Broadcasting Policy by TRAI²⁷ is also aimed at formulating a long-term vision and policy roadmap for the broadcasting industry. Introducing a legislative regulatory framework before the formulation of the policy, may create policy uncertainty and unease of doing business. Considering the policy's extensive scope and well-defined objectives, it is recommended that a legislative framework should be crafted subsequent to the policy, not prior to it.

By allowing the policy to guide the legislative framework, potential ambiguities or gaps in regulation can be addressed based on the insights and recommendations emerging from the consultation process. This approach ensures policy certainty and facilitates a more sector friendly environment.

c. Need for Clarity on Definitions and Regulations

Some of the definitions and clauses given in the draft bill lack clarity and seem overly broad. These include definitions of 'Programme', 'any person', 'public interest', 'good taste or decency' and 'public and moral life'. Further, the lack of clarity and specificity in certain clauses and terms adds to ambiguity, creating challenges for individuals and entities to fully grasp the implications and consequences of the proposed regulations. Terms like 'good taste or decency', 'public and moral life', etc. seem open-ended and may be prone to subjective interpretation creating uncertainty for stakeholders. It may also lead to unintended consequences where some legitimate industry players will be over regulated. These consequences include new compliance requirements and potentially increasing operational costs, also impacting competition in the sector. This will further impact consumer viewing experience, limiting their choices and may have to bear the burden of increased costs.

To address these concerns, it is essential to have clear definitions and incorporate safeguards that protect against arbitrary rule-making. Clear guidelines and mechanisms for rulemaking can enhance transparency and ensure that stakeholders are adequately informed and have the opportunity to engage meaningfully in the rulemaking process.

d. Support Consumer Interest Groups and Raise Awareness in Consumers

As highlighted above, the draft bill provides for the regulation of broadcasting services which will have considerable effects on the consumers. In addition, it also provides for a three-step grievance redressal mechanism: self-regulation by the platform, a self-regulatory industry body, and a Broadcast Advisory Council having 11 members from government and civil society. There is a need for greater awareness generation among consumers, ensuring the inclusion of consumer advocates in the grievance redress process, and ensuring compliance with substantive and procedural rule of law while following this process. Focus also needs to be on access and ease of usage, awareness, and reducing information asymmetry. This can be ensured by provisions prescribing for effective resolution, prescribed time limits and escalation of

²⁷ [National Broadcasting Policy | Telecom Regulatory Authority of India](#)

grievances in case of non-resolution at any level. Further, the model of grievance redressal incorporated in the bill needs to be strengthened with exercises that raise awareness and the capacity of consumers to enforce their rights. For this purpose, groups that work in favour of consumer interest should be involved in the awareness and capacity building process, such as through creation of a consumer welfare fund, introducing incentives including grants, to consumer organisations.

e. Active adoption of Good Regulatory Practices

To foster effective regulation in any industry, legislation should embrace good regulatory practices. This includes incorporating sunset clauses, regulatory sandboxes, a proportionate and risk-based approach, clear enforcement mechanisms, and regular review processes. Sunset clauses introduce time limits, ensuring periodic reassessment of regulations, while regulatory sandboxes provide controlled environments for innovation. A proportionate and risk-based approach tailors regulations to entities' size and risk profiles, preventing undue burdens. Regular review processes allow for ongoing adjustments based on industry developments. Embracing these practices creates a regulatory environment that is dynamic, responsive, and conducive to innovation while maintaining transparency and fairness.

f. Compliance with cybersecurity practices and consistency with the Digital Personal Data Protection Act

Given that the bill mandates storing of subscriber data digitally, it is imperative to establish stringent measures that dictate standards for the secure storage of data and the implementation of robust cybersecurity measures. The development of a comprehensive cybersecurity law becomes crucial in this context to address the unique challenges posed by the digital landscape. Such an act should encompass guidelines for encryption protocols, regular security audits, and the implementation of advanced cybersecurity technologies to protect against data breaches and unauthorised access.

Further, the retention of subscriber data should align with the principles outlined in the Digital Personal Data Protection Act, ensuring compliance with privacy standards, data minimisation and safeguarding consumer rights. It is imperative that any measures taken to maintain subscriber data prioritise consumer protection, preventing any harm or misuse of personal information. Additionally, the financial responsibility associated with the maintenance of such data should not be transferred to consumers.

CUTS Clause-by-Clause comments:

Serial No	Particulars (clause, Sub-Section, Section)	Views/Comments/Suggestions/Remarks/Recommendations
1.	2(1)(f) and 2(1)(h)	<p>The bill defines broadcasting as “one-to-many transmission of audio, visual or audio-visual programmes using a broadcasting network, intended to be received or made available for viewing, by the general public or by subscribers of the broadcasting network”. Similarly, it defines broadcasting network operators as “any person who operates a broadcasting network, and has been granted registration or licence or permission or who has provided an intimation as required under this Act, to provide services using a broadcasting network”. The definition clearly and explicitly recognises different broadcasting services under one umbrella.</p> <p>Different broadcasting services, such as cable, OTT, and radio, cater to diverse consumer needs and operate differently. For example, OTT broadcasting services, offering on-demand content over the internet, provide viewers with flexibility in choosing their programs. In contrast, cable content consumption is controlled by service providers and is often seen as a family bonding activity, unlike OTT content, which can be more personal. This was also indicated during a CUTS survey of 10,000+ TV consumers, highlighting consumer awareness of the distinct roles fulfilled by different services.²⁸</p> <p>Treating all dissimilar services similarly may lead to over-regulation, increased compliance burdens, and costs, adversely impacting consumers through higher prices or lower content quality, reducing the ease of living for Indians. It is crucial to consider the unique characteristics of diverse broadcasting services when devising regulatory frameworks to ensure a balanced approach that fosters innovation and consumer satisfaction.</p> <p>The bill should have clear language that differentiates between cable, OTT, and radio, considering their unique</p>

²⁸ [Towards Effective Choice: A Nation-Wide Survey of Indian TV Consumers](#)

		<p>characteristics, and justify the rationale for including services that the bill intends to cover. There is a need to avoid over regulation as several other laws such as Information Technology Act, 2000 and the rules and regulations issued thereunder already regulate parts of the digital economy and platforms providing various services. Flexibility in compliance measures, stakeholder consultations, and consumer education initiatives are crucial for adapting regulations to the varying operational models.</p> <p>It is also important to look at international practices being followed in the world. For example, Australia and Singapore regulate OTT services through classification, focusing on factors like age restrictions and service offerings. Singapore emphasises categorisation based on various criteria, while Australia adopts a harm-based perspective.²⁹ Both approaches aim to streamline content restrictions and achieve comprehensive regulation within a unified framework.</p>
2.	2(1)(y)	<p>The bill states that for OTT broadcasting services, compliance responsibility lies with the content provider, not the network operator or internet service provider.</p> <p>OTTs are content providers without network control. The OTT industry's growth has significantly benefited the Indian economy, and such differential treatment regulations may hinder innovation and limit the choices for consumers.</p> <p>The grounds for this differential treatment must be clarified. A uniform regulatory approach is crucial, requiring clear distinctions based on functional activities within the regulatory framework. If network operators and internet service providers are excluded from the scope of the bill, the same exclusion should apply to OTTs.</p>
3.	4 (5)	<p>This clause provides that “The Central Government may make provisions for the regulation of services other than broadcasting services that are intricately linked to broadcasting networks or broadcasting services”. It is to be noted that under the proposed framework many operators may be included that provide services that are linked to broadcasting such as internet services.</p>

²⁹ <https://www.imda.gov.sg/-/media/Imda/Files/Regulations-and-Licensing/Regulations/Codes-of-Practice/Codes-of-Practice-Media/OTT-VOD-Niche-Services-Content-Code-updated-29-April-2019.pdf>

		<p>In this context, this clause needs more clarity that only the broadcasting services are regulated under the bill. The inclusion of a provision enabling the regulation of services beyond broadcasting could create hindrances for providers in managing their additional services, adding an extra layer of compliance obligations and costs. Consequently, this additional burden, whether resulting in increased prices or a decline in content quality, would negatively impact consumers. Such consequences may reduce the overall ease of living for Indians, affecting the delivery of services and leading to potential issues such as delays, service interruptions, and higher costs.</p> <p>Moreover, the overwhelming compliance burden may disproportionately affect small enterprises, start-ups, and freelancers in the internet economy. This could hinder competition and restrict choices for consumers.</p> <p>This clause appears to be redundant concerning broadcasting services and might be considered for deletion. Ensuring regulatory clarity is essential to prevent any hindrance to broadcasters' other responsibilities and to avoid imposing unwarranted regulatory burdens.</p>
4.	4 (6)	<p>The clause requires broadcasters to have requirements of furnishing Security Deposits, Performance Bank Guarantee, and other such financial instruments, before grant of registration.</p> <p>This clause requires a thorough examination of the underlying logic and rationale and why such requirements are needed. Such financial obligations may impose a considerable burden on broadcasters, particularly smaller entities and new entrants, potentially limiting market entry and competition. Understanding the specific reasons behind these prerequisites is crucial for transparency in regulatory processes.</p> <p>Additionally, assessing the potential impact on consumers is paramount, as excessive financial burdens on broadcasters could result in higher costs for services or a reduction in content quality, ultimately affecting consumers.</p> <p>This clause appears to be overburdening and might be considered for deletion to ensure ease of doing business.</p>
5.	5 (1) (b)	<p>This clause requires every broadcaster and broadcasting Network Operator to transmit or re-transmit any broadcasting</p>

<p>Read with section 19</p>	<p>service in conformity with the Programme Code and Advertisement Code prescribed under section 19.</p> <p>The objective of such codes and committees seem to be that unsafe content does not reach consumers. However, with evolving tastes and preferences of the society, novel means to indicate viewers appreciation or dissatisfaction with the content, and enhanced competition in the sector wherein consumer feedback needs to be treated sacrosanct, role of the state in prescribing content codes needs to be critically analysed. Also, the merit and implications of taking away choice from consumers to determine content they desire to consume, and giving it to an unrelated committee, needs to be carefully examined.</p> <p>This could be done through interacting with consumers and understanding their perspectives around need, relevance, and implications of an external committee choosing the content for them, effectiveness of existing mechanisms to provide feedback and scope for improvement.</p> <p>Further, the application of rigorous codes to broadcasting services, especially internet based services which is a personal and private activity, may place a substantial financial and compliance burden on broadcasters. This, in turn, may adversely affect consumers in terms of their experience, choices, and the costs incurred. Implementing ex-ante content censorship could lead to widespread consumer dissatisfaction, worsen their content consumption experience, and negatively impact their overall ease of living.</p> <p>Further, the adherence to codes extending to any individual broadcasting news and current affairs programmes through digital mediums, raises concerns, as individuals sharing news on social media may be held liable if deemed non-compliant. Such a regulatory approach may compromise online free speech and the freedom of expression. Additionally, it poses a threat to consumers' right to access diverse viewpoints, as individuals broadcasting news may tailor content to align with government preferences and avoid non-compliance penalties.³⁰</p> <p>Further, the Programme Code, initially designed for traditional television content, has been critiqued for its broad and vague clauses, often leading to the censorship of content. An example is the removal of a documentary on the Sri</p>
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³⁰ [Broadcast Services Bill not looking like a wow: Our First Read #LetUsChill](#)

		<p>Lankan civil war, citing concerns about its potential impact on India's relations with friendly states.³¹</p> <p>There is a need to ensure that when establishing the codes, subjective terms such as 'good taste' or 'decency,' as seen in the IT Rules are avoided. Such terminology can result in ambiguous interpretations, making it challenging to apply consistent and clear standards.³² In this regard, it is important to note the recommendations of The Shyam Benegal Committee Report, that is eliminating excisions by the Central Board of Film Certification (CBFC) and transitioning it into solely a film certification body. The CBFC should refrain from acting as a moral compass, limiting its role to indicating audience suitability and providing statutory warnings for informed film viewing, respecting viewers' autonomy.³³</p> <p>Hence, it is crucial to eliminate ambiguous and vague language, implement distinct codes tailored for diverse broadcasting services meeting specific demands, exempt news and media from its scope to ensure the free flow of information, limit government influence and undertaking survey to understand consumer perspectives.</p>
6.	5 (1) (d) Read with section 35 and 36	<p>This clause requires every broadcaster and broadcasting Network Operator to comply with every order or direction issued under section 35 or 36 relating to any programme and advertisement transmitted.</p> <p>This proposed clause in broadcasting regulations, while aiming to safeguard public interest, raises concerns about its potential impact on creative expression and freedom of speech. It could especially create a chilling effect on entrepreneurs entering the sector, contradicting the government's commitment to minimal interference. Deviating from rule-of-law principles in procedures becomes punitive. Ultimately, consumers may face increased costs and risks. This has the potential to impact consumers, hindering a dynamic broadcasting environment that caters to diverse preferences while nurturing artistic and creative endeavours without compromising public interest principles.</p> <p>The MIB's expert committee recommendation for a more liberalised regime even for film certification and its caution</p>

³¹ [Will Big Brother be watching? - Hindustan Times](#)

³² [Broadcasting Bill: Cable TV like regulation to affect OTTs growth, say experts](#)

³³ https://mib.gov.in/sites/default/files/Shyam_Benegal_committee_Report_compressed_0.pdf

		<p>against the Central Board of Film Certification acting as a ‘moral compass’ on certification must be remembered and applied. The Union government must take inspiration from the recommendation given by the Expert Committee and steer away from dictating modifications and deletions.</p> <p>Leveraging expert committee recommendations, the ministry should adopt a balanced approach to compliance to preserve artistic freedom and foster a dynamic broadcasting environment. Continuous dialogue with the industry and regular regulatory reviews will further contribute to a fair and effective regulatory framework.</p>
7.	11 (1)	<p>This clause covers regulation of Broadcasters and Cable and Satellite Broadcasting Networks intending to operate as a broadcaster. Given the substantial presence of small and medium-sized broadcasters, start-ups, and freelancers in India, the scope of broadcasters defined by the bill, consolidating small operators under the same umbrella as larger players could have repercussions on their operations. Such a grouping might impede competition, stifle innovation, go against the idea of promise of minimal government and maximum governance and potentially lead to increased financial burdens for consumers.</p> <p>The regulations should account for the unique challenges faced by smaller broadcasters, acknowledging their role in promoting regional content and diversity. Creating a level playing field through fair competition safeguards the interests of smaller broadcasters and encourages innovation.</p>
8.	14 (1) (a)	<p>This clause requires broadcasting network operators and broadcasters to maintain accurate and updated records of subscriber data.</p> <p>This clause prompts a fundamental question of the underlying purpose and necessity of such extensive data storage. Understanding the rationale behind mandating the meticulous maintenance of subscriber data is vital to evaluate its significance in achieving regulatory goals and to ensure that it aligns with privacy standards. This scrutiny becomes particularly pertinent in the context of data protection and privacy concerns.</p> <p>Here it is to be noted that these entities may be covered under the Digital Personal Data Protection Act, considering</p>

		<p>that they will have to maintain a considerable amount of subscriber data. As highlighted above, retaining subscriber data should adhere to the Digital Personal Data Protection Act, aligning with privacy standards and consumer rights.</p> <p>Furthermore, transparency in data practices is also crucial. Consumers should be informed about the purpose, duration, and security measures in place for data retention. This transparency fosters trust and empowers consumers to make informed decisions about their engagement with broadcasting services.</p>
9.	14 (1) (b)	<p>The clause requires broadcasting network operators and broadcasters to provide subscriber data to the Central Government or the State Governments or the TRAI or their authorised representatives.</p> <p>Any transfer of data to government authorities must strictly adhere to the provisions laid out by Digital Personal Data protection, security standards, stand the test of legitimacy, necessity, and proportionality and must withstand judicial scrutiny. The process should be governed by clear legal frameworks, ensuring that data disclosures are made within the bounds of established regulations. This approach prevents arbitrary or unwarranted access to subscriber data, safeguarding individual privacy rights and upholding the rule of law.</p> <p>Furthermore, transparency in the data transfer process is essential. Consumers should be informed about the circumstances under which their data may be shared with government authorities, and the disclosure should only occur when legally mandated. This transparency not only reinforces trust but also allows individuals to be aware of and assert their rights in the event of data transfer.</p>
10.	14 (2)	<p>The clause provides for oversight of the subscriber data by the central government. This is a clear violation of the right to privacy of the consumers.</p> <p>Government oversight in matters related to subscriber data should strictly adhere to legal frameworks, and a tripartite test of legitimacy, necessity, and proportionality ensuring that any intervention is in accordance with established laws and regulations. Oversight mechanisms should be transparent, accountable, and subject to judicial scrutiny to prevent</p>

		<p>arbitrary use of authority.</p> <p>Specific instances, such as cyber breaches or theft of information, may necessitate government intervention for investigation and mitigation purposes. However, even in these cases, oversight should be conducted within the parameters set by law to uphold individual rights and prevent overreach.</p> <p>Establishing clear protocols for government involvement in response to specific incidents ensures a targeted and lawful approach. This not only safeguards against potential abuses of power but also allows for a more effective and focused response to security challenges within the broadcasting sector.</p>
11.	20	<p>The section provides for News and Current Affairs Programmes to be in adherence to the Programme Code and Advertisement code.</p> <p>The definitional clause within the Bill presents a broad scope for "news and current affairs," encompassing various entities such as journalists, individual podcasters, and bloggers. However, unlike large corporations that can navigate regulatory complexities, individual content creators may find it challenging to ensure compliance.</p> <p>The discretion vested in the State to prescribe the Programme Code adds another layer of concern. Independent journalists and freelancers, especially those relying on digital platforms, may face significant implications. The extension of regulations to individuals sharing news through blogs or platforms may have concerns as it introduces liability for these individuals to have additional compliances, limiting free speech and expression.</p> <p>The clause, hence, poses a potential threat to online free speech, creating a landscape where individuals may hesitate to express their views freely. The prospect of penalties may lead broadcasters to tailor content in a way that avoids regulatory repercussions. This shift could limit access to diverse viewpoints, undermining the essence of an open and democratic digital space. Striking a balance between regulation and the preservation of free speech is crucial to mitigate these concerns and ensure a vibrant and diverse online discourse.</p>

12.	24 (2) (a)	<p>The clause requires broadcasters or broadcasting network operators to constitute a Content Evaluation Committee (CEC) to self-certify every piece of content.</p> <p>This provision for the self-certification of all content is likely to create substantial obstacles for broadcasters in terms of the ease of conducting business. The Information Technology Rules of 2021 appropriately acknowledge the necessity for a minimally intrusive regulatory approach towards online content platforms. Therefore, the additional set of compliance measures introduced by the draft Bill is deemed unnecessary and impractical.</p>
13.	24 (2) (b)	<p>This clause says that the central government may prescribe the number of members in Content Evaluation Committee (CEC), quorum required, and such other details to facilitate the formation of CEC and its smooth functioning.</p> <p>The government's imposition of criteria for constituting the CEC, especially around the ambiguity of '<i>such other details</i>' regarding formation of CEC, raises concerns about its independence, potentially leading to undue compliance burdens for broadcasters and adversely affecting the consumer experience. This proposal of prescribing members of CEC by central government raises concerns as it may not only impact the creative freedom of broadcasters and OTT platforms, stifling artistic expression, but also poses cost challenges and may be unfeasible given the volume of content created. Additionally, this may place extra burden on small broadcasters as they may not be able to match up to big broadcasters who have subject matter experts in various fields.³⁴</p> <p>The government should refrain from imposing unnecessary modifications and deletions that may stifle artistic expression.</p>
14.	24 (2) (c)	<p>The clause requires broadcasters or broadcasting network operators to publicise names, credentials and other details of members of CEC on its website.</p> <p>While the intention behind mandatory disclosures for individuals in the CEC is to foster responsibility in content</p>

³⁴ [Govt content review proposal worries broadcasters, OTT companies](#)

		<p>management across various media, there's a valid concern about exposing them to personal risks, particularly given the nature of the content they approve, indirectly affecting the content evaluation process and, subsequently, consumer experiences. This concern gains added significance in the context of the recently introduced Digital Personal Data Protection Act.</p> <p>Mandatory disclosures could potentially compromise the privacy and safety of CEC members, subjecting them to undue scrutiny or even personal threats. Striking a balance between accountability and individual safety is paramount.³⁵</p> <p>To alleviate concerns, we propose a balanced approach, including limited personal information disclosure, legal safeguards and an informed consent mechanism. Adding a helpline for consumers to reach out to can also ensure privacy of CEC members.</p>
15.	24 (2) (d)	<p>The clause requires broadcasters or broadcasting network operators to broadcast only those programmes which are duly certified by the CEC.</p> <p>The stipulation to broadcast only CEC-certified programmes raises concerns about its potential impact on both online free speech and the freedom of expression. Such regulations may pose a risk to consumers' right to access diverse viewpoints, as content creators might tailor their material to align with government preferences and avoid penalties associated with non-compliance.</p> <p>This regulatory approach may limit the variety of perspectives available to the audience, as individuals producing content may be inclined to conform to perceived government preferences to ensure certification. This could lead to a reduction in the richness and diversity of content available to viewers.</p> <p>Balancing the need for regulatory oversight with the preservation of free expression is crucial. It is important for regulations to be crafted in a way that safeguards against undue influence on content creation, allowing for a dynamic</p>

³⁵ [Self-regulation provisions in draft broadcasting Bill draw diverse views - The Hindu](#)

		and varied media landscape that respects the principles of free speech and expression. It should also recognise the consumers' rights to choose content that they want to consume.
16.	26 (1)	<p>The clause mentions the formation of a self-regulatory organisation of broadcasters or broadcasting network operators, being a body constituted by broadcasters, broadcasting network operators.</p> <p>It is recommended that the composition of the self-regulatory organisation (SRO) should be independent and reflective of various stakeholders, such as consumers and legal experts. This approach is essential to guarantee the functional independence of SROs. A diverse representation of stakeholders ensures that the body is not unduly influenced by any single interest group, fostering a balanced and unbiased regulatory environment.</p> <p>To that extent, we also recommend that consumer representatives be included in all such bodies which are framed under the law.</p>
17.	26 (2)	<p>The clause requires a self-regulatory organisation to register itself with the Central Government.</p> <p>It is recommended that the process of registering Self-Regulatory Organisations (SROs) should be transparent. The decision of the government to either approve or decline registration should be accompanied by clearly articulated reasons, recorded in writing. Furthermore, these reasons should be made publicly available.</p> <p>Transparency in the registration process ensures accountability and builds trust among stakeholders. Making the decision-making rationale public enables the industry and the public to understand the basis on which registrations are granted or denied, fostering a sense of fairness and openness.</p>
18.	26 (3)	This clause mandates functions to be performed by the Self-Regulatory Organization (SRO) which includes addressing grievances not been addressed by the broadcaster or broadcasting network operators, hear appeals filed by complainants against the decision of the broadcaster or broadcasting network operators and issue guidance or

		<p>advisories to its members for ensuring compliance with the programme Code and the Advertising Code.</p> <p>The grievance redressal arm should ideally comprise individuals with diverse expertise, including legal and judicial professionals, as well as representatives from consumer groups, ensuring a broad spectrum of perspectives.</p>
19.	27 (1)	<p>The section mandates formation of a Broadcast Advisory Council consisting of independent persons and members from Ministry of Information and Broadcasting, Ministry of Women and Child Development, Ministry of Home Affairs, Ministry of External Affairs, and Ministry of Social Justice and Empowerment as ex-officio members.</p> <p>The formation of a BAC, involving members from various government ministries, raises concerns about increased state interference in content regulation, especially when it may be an interested party, and raises doubts about conflict of interest and impartiality. Further, decisions of the Central Government may limit content choices for consumers and degrade the overall viewing experience. The complex multi-tier structure, where the BAC makes recommendations rather than final decisions, may leave consumers disheartened.</p> <p>To address these concerns, it is recommended to establish clear mechanisms that safeguard the autonomy of the Broadcast Advisory Council. This may include transparent appointment processes, fixed tenures to mitigate political influence, and measures to ensure that the council operates independently of external pressures. It is essential to assess consumers' experiences with existing grievance redress mechanisms and gather expectations for improvement before finalising a structure that has the potential to enhance consumer satisfaction. Further, striking a balance between regulatory oversight and autonomy is essential to maintain the integrity and effectiveness of content regulation in a democratic and diverse media landscape.³⁶</p>
20.	30	<p>The clause provides for the power of the central government or its authorised agency/officer to the right to inspect broadcasting networks and services.</p>

³⁶ <https://www.hindustantimes.com/opinion/will-big-brother-be-watching-101701177660973.html>

		<p>The exercise of such powers may deter entrepreneurs from entering the sector, undermining the government's commitment to minimal governance. Inspection and equipment seizure based on '<i>mere belief</i>', contradicts the government's ease of doing business principles, potentially harming consumers due to increasing costs and risks. Further, departing from rule-of-law principles turns this process into a punishment.</p> <p>Balancing regulatory oversight with safeguards against undue government influence is crucial. Rule of law principles such as providing prior notice, offering an opportunity to respond, obtaining approval from the relevant senior authority, issuing a speaking order, is crucial. Further, any such order must pass the tripartite test of legitimacy, necessity, and proportionality. This helps ensure transparency, incorporate checks, and defines the scope of powers, mitigating concerns and addressing the financial implications on consumers, preserving a fair balance between regulation and business viability in the digital media realm.</p>
21.	31	<p>This clause provides for seizure and confiscation of the equipment of broadcasting networks or broadcasting services, in addition to penalty, in case of contravention of the provisions of the act.</p> <p>Again, the provision for the seizure and confiscation of equipment raises legitimate concerns about the potential impact on freedom of expression, media diversity, and innovation. It could discourage entrepreneurs from entering the sector, goes against the ease-of-doing-business principles. This, in turn, will be harmful to consumers' interests due to increasing costs and risks and limiting their choices.</p> <p>There is a need for careful consideration and well-defined limits to prevent misuse. It is crucial to incorporate robust checks and balances, transparent procedures, and mechanisms for accountability in the legislation. These may involve giving advance notice, providing an opportunity to respond, obtaining approval from the relevant senior authority, issuing a speaking order, and ensuring adherence to the due process of law. These measures will help prevent undue interference and misuse of powers, safeguarding the rights and interests of individuals and entities in various domains beyond television.</p>

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