

# Media regulation that is quite over the top

**Bringing digital media under the I&B Ministry nips in the bud the promise of combative journalism**



The government's move bringing online news and current affairs portals along with "films and audiovisual programmes made available by online content providers" under the Ministry of Information and Broadcasting is as brazen as it is wily. Brazen, because this is an attack on the free press, targeted at a section that has been bold and forthright in speaking truth to power. Brazen, because this comes from a party, many of whose leaders' claim to fame is that they were in the vanguard of the JP movement and fought the attack on the press during the Emergency under Indira Gandhi. And now they themselves set out to make the media institutionally captive.

Wily, because, it is clubbing the only sector of the media which has pre-censorship, namely films (through the Central Board of Film Certification), with the news media which has so far, at least officially, not been subject to pre-censorship, although media practitioners know the grave post publication consequences of airing news or views critical or adversarial to the government of the day.



## **MAKING THE PRESS UNFREE**

It neatly hijacks matters before the Supreme Court of India relating to freedom of the press and freedom of expression to arm the executive with control over the free press, thereby essentially making it un-free.

The instant case is that relating to Sudarshan News, in which hate speech is being disingenuously sought to be passed off as freedom of the press. The government's initial response was to ask the Court to look at regulating digital media rather than the mainstream TV channels. So the case itself has become tricky — if a TV channel indulging in hate speech is to be brought to book, it must be at the cost of regulating the media. And regulation — other than self regulation — is nothing but censorship. In fact the excuse given by the government for this annexation of the digital media by the Ministry of Information and Broadcasting is that the self regulation proposals given by the sector (the mandate and representativeness of the organizations in this sector which made these proposals are questionable in the first place) were not satisfactory.

It, similarly, also hijacks another public interest litigation in the Supreme Court relating to content on “Over The Top” (OTT) platforms not being subject to regulation or official oversight to bring that sector too under the Ministry of Information and Broadcasting.

### **COURT AS ALIBI**

In other words, what we are seeing is these cases before the judiciary being made an excuse, and the august institution itself being made an unwitting alibi, to erode freedom of the press and freedom of expression, which are a fundamental right and a basic feature of the Constitution that no executive or legislature can tamper with or nullify.

It seeks to divide and rule the press by creating an artificial distinction between the new age digital media (the standalone news portals which are already struggling to stay afloat) — which is the media of the future, the media of the millennial generation — and the older print and TV news media.

The explanation that the print media have the oversight of the Press Council of India and the TV media of the News Broadcasters Association (NBA), and therefore the digital media needed a regulatory framework — no less than that of the Ministry of Information and Broadcasting — is both lame and laughable. Because, first of all, there is no comparison between the Press Council of India and the NBA as professional bodies on the one hand and the Ministry of Information and Broadcasting on the other. We know, for instance, how independent and free news on Doordarshan and All India Radio is even under the so-called autonomous corporation, Prasar Bharati.

### **FATE OF DIGITAL MEDIA**

The fate of the digital media under the control of the Ministry of Information and Broadcasting leaves little scope for hope, and dooms the sector for both the media practitioner and the media entrepreneur and for the startups that have been the new vibrant face of contemporary journalism. The move is tantamount to nipping in the bud a promise of combative journalism. It makes our democracy the poorer for it. This move must be seen for what it is — politically and morally decrepit — and must be legally challenged as unconstitutional and autocratic. One cannot resist wondering whether, at this rate, the government will next bring the social media under the Ministry of Information and Broadcasting. Where does one stop stopping free speech?

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