



Proforma for views/comments/suggestions on the draft

“Broadcasting Regulation Service Bill, 2023”.

S. No.	Particulars (clause, Sub-section, Section)	Views/Comments/Suggestions/Remarks/Recommendations
1.	Clause (b) of Sub-section (1) of Section 14: “Maintenance of records of subscriber data” under Chapter II.	Questions arise on the government's authority to seek individual subscriber data without due process, legitimacy and authority. It shall be a gross violation of individual privacy.
2.	Section 17 under Part C of Chapter II.	Threat of the government cherry-picking the beneficiaries and other beneficiary criteria for enforcing relaxation norms selectively thereby undermining the bill's core objective of self-regulation and the principle of equality.
3.	Sub-section (3) of Section 23.	Concerns on Ministry of Information and Broadcasting (or) Union Government playing the role of judge, jury and executioner through its ‘authorized officer’. Need for a separate independent authority or panel appointed/headed by consensus legislators/officials as appointed by the Indian Parliament to penalize a broadcaster or broadcast networking operator in case of violation of law.
4.	Clause (f) of Sub-section (2) of Section 24 under Chapter IV.	Why is the applicability of provisions of content self-regulation and self-certification deferred by 180 days i.e. 6 months? If the purpose of this legislation is to make sure broadcasting is in the interest of society and collective well-being shouldn't its provisions be made applicable as early as possible considering the huge potential for a charged and polarized socio-political atmosphere especially given that Indian General Elections – 2024 are just about 4 months from now.
5.	Sub-section (2) of Section 25 under Chapter IV.	The whole appellate process shall have to much stronger particularly in case of news channels that spread misinformation/disinformation.
6.	Sub-section (1) of Section 26 under Chapter IV.	Sub-section (1) of Section 25 states that "Every Broadcaster and Broadcasting Network Operator should be a part of the Self-regulatory Organization of broadcasters (or) broadcasting network". However Sub-section (1) of Section 26 seeks a limit on the number of such members. How can unlimited be limited?



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		By letting all broadcasters as members, there is a scope for tilting the consensus of the self-regulatory body by vested interests.
7.	Sub-section (4) of Section 27 under Chapter IV.	There is a strong need to make tenure terms of BAC members fixed.
8.	Sub-section (5) of Section 27 under Chapter IV.	No voting rights are recommended for co-opted members since Central Govt. can use this provision as a backdoor to tamper with the credibility of the BAC and its members via voting process to unduly favour the government of the day's motives and agenda.
9.	Sub-section (2) of Section 30 of Chapter V.	"Lawful interception" and "continuous monitoring" are extremely vague concepts with a great potential to seriously violate individual privacy. "At its own cost" under the "supervision of Central Government or its agency or authorized officer" offends the free-market principle and sets a legal precedent for broadcasting companies to violate anti-trust laws by colluding to increase user charges.
10.	Sub-section (3) of Section 31 of Chapter V.	It is recommended to provide a digital metadata back-up to the broadcasting network before confiscation. When the equipment is confiscated, a metadata back-up shared with the corresponding broadcaster shall act as evidence in case of a formal inquiry, trial and/or appeal. State cannot deprive its subjects from accessing/acquiring the appropriate evidence.
11.	Sub-section (1) of Section 32 of Chapter V.	The first paragraph mentions about issuing notice of confiscation first before confiscating the equipment. While the next para states that "if no notice is given with-in 10 days after confiscation". These are mutually exclusive and make no logical sense. We either given notice before confiscating or confiscate without any such notice. No point in issuing a notice after confiscating and, worse, not issuing a notice after confiscating and, thus, returning the confiscated equipment. Another concern is regarding potential delays in providing notice and the subsequent return of seized equipment within the stipulated timeframe. The alignment with the Code of Civil Procedure, while providing legal consistency, introduces complexities that broadcasting operators may find challenging
12.	Sub-section (2) of Section 36 of Chapter V.	The Union Government's broader authority to deal with all sorts of violations or any undefined, improperly (or) not properly classified violations may lead to curtailment of freedom of expression. Ideally, the Union Govt. should order BAC to review the content that is under question and let the BAC decide. Alternatively, BAC should take suo-moto



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		cognizance based on complaints it receives regarding programme and advertisement code violations.
13.	Sub-section (1) of Section 40 under Chapter VI.	There is a strong need to remove entry barriers for emerging players to further the goals of transparency and self-regulation. Clear guidelines with extensive criteria proportionate to the size and capacity of different entities should be made.

These inputs were prepared along-with Adithya M, a public policy research intern at our organization.

Signature

(AKHIL CHIRRAVURI)

Chairman & Managing Director,

Chirravuri Research Foundation for Human and Global Reforms

H. No. 1-8-702/31, Padma Colony, Nallakunta, Hyderabad 500044.

9392035128.

crfhgr2023@gmail.com