

**47**

**STANDING COMMITTEE ON  
INFORMATION TECHNOLOGY  
(2012-13)**

**FIFTEENTH LOK SABHA**

**MINISTRY OF INFORMATION AND BROADCASTING**

**ISSUES RELATED TO PAID NEWS**

**FORTY-SEVENTH REPORT**



**LOK SABHA SECRETARIAT  
NEW DELHI**

*May, 2013/Vaisakha, 1935 (Saka)*

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**ISSUES RELATED TO PAID NEWS**

***Presented to Lok Sabha on 6 May, 2013***

***Laid in Rajya Sabha on 7 May, 2013***



**LOK SABHA SECRETARIAT**

**NEW DELHI**

*May, 2013/ Vaisakha, 1935 (Saka)*

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**COMPOSITION OF STANDING COMMITTEE ON INFORMATION TECHNOLOGY**  
**(2010-2011)**

**Shri Rao Inderjit Singh - Chairman**

**Lok Sabha**

1. Shri Rajendra Agrawal
2. Shri Nikhil Kumar Choudhary
- \*\* 3. **VACANT**
4. Dr. Charles Dias
5. Shri Rajen Gohain
6. Smt. Darshana Vikram Jardosh
7. Shri Mithilesh Kumar
8. Shri Sadashivrao Dadoba Mandlik
9. Shri Inder Singh Namdhari
10. Shri Adhalrao Shivaji Patil
11. Shri Abdul Rahman
12. Shri Prem Das Rai
13. Shri Tufani Saroj
14. Shri Tathagata Satpathy
15. Smt. M. Vijaya Shanti
16. Dr. Bhola Singh
17. Shri Dhananjay Singh
18. Shri Sushil Kumar Singh
19. Shri C. Sivasami
20. Shri Dharmendra Yadav

**Rajya Sabha**

21. Shri M.P. Achuthan
- \* 22. Shri Mohammed Adeeb
23. Shri Salim Ansari
- \* 24. Shri Rajeev Chandrasekhar
- \* 25. Shri Rajkumar Dhoot
26. Shri Prabhat Jha
27. Prof. Alka Balram Kshatriya
28. Shri Ravi Shankar Prasad
29. Shri P. Rajeeve
30. Shri Jesudasu Seelam

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\* Nominated to the Committee w.e.f. 21<sup>st</sup> September, 2010.

\*\* Shri Milind Deora, ceased to be a member of the Committee consequent on his appointment as Minister of State for Communications and IT on 12.07.2011.

**COMPOSITION OF STANDING COMMITTEE ON INFORMATION TECHNOLOGY**  
**(2011-12)**

**Shri Rao Inderjit Singh - Chairman**

\*\*\*\*\*

**Lok Sabha**

2. Shri Rajendra Agrawal
3. Smt. Sarika D.S. Baghel
4. Shri Nikhil Kumar Choudhary
5. Shri H.D. Devegowda
6. Dr. Charles Dias
- \* 7. Shri A. Ganeshamurthi
8. Shri Rajen Gohain
9. Smt. Darshana Jardosh
10. Dr. Tarun Mandal
11. Shri P.R. Natarajan
12. Shri Tapas Paul
13. Shri Tathagata Satpathy
- #14. Smt. Supriya Sule
15. Smt. Seema Upadhyay
16. Vacant
17. Vacant
18. Vacant
19. Vacant
20. Vacant
21. Vacant

**Rajya Sabha**

- @ 22. Shri Joy Abraham
23. Shri M.P. Achuthan
24. Shri Mohammed Adeeb
25. Shri Salim Ansari
26. Shri Rajkumar Dhoot
- \*\*27. Dr. Bhushan Lal Jangde
28. Shri Prabhat Jha
29. Prof. Alka Balram Kshatriya
30. Shri Jesudasu Seelam
- @ 31. Shri Sachin Ramesh Tendulkar

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\* Nominated to the Committee w.e.f. 29<sup>th</sup> November, 2011.

\*\* Nominated to the Committee w.e.f. 4<sup>th</sup> May, 2012 vice Shri P. Rajeeve, M.P. Rajya Sabha

# Nominated to the Committee w.e.f. 17<sup>th</sup> May, 2012

@ Nominated to the Committee w.e.f. 11<sup>th</sup> July, 2012 vice Shri Rajeev Chandrasekhar and Shri Ravi Shankar Prasad, M.P. Rajya Sabha

**COMPOSITION OF THE STANDING COMMITTEE ON INFORMATION TECHNOLOGY**  
**(2012-13)**

**Shri Rao Inderjit Singh      -      Chairman**

**Lok Sabha**

2. Shri Abdul Rahman
3. Shri Rajendra Agrawal
4. Shri Raj Babbar
5. Shri Nikhil Kumar Choudhary
- \* 6. Shri Khagen Das
7. Shri A. Ganeshamurthi
8. Shri Rajen Gohain
9. Smt. Darshana Jardosh
10. Shri H. D. Kumaraswamy
11. Shri Baidya Nath Prasad Mahato
12. Shri Sadashivrao D. Mandlik
13. Dr. Thokchom Meinya
- \*\* 14. Dr. Prasanna Kumar Patasani
15. Shri Tapas Paul
16. Shri Radhe Mohan Singh (Ghazipur)
17. Smt. Seema Upadhyay
18. **Vacant**
19. **Vacant**
20. **Vacant**
21. **Vacant**

**Rajya Sabha**

22. Shri Joy Abraham
23. Shri Mohammed Adeeb
24. Shri Javed Akhtar
25. Shri Salim Ansari
26. Shri Bharatsinh Prabhatsinh Parmar
- # 27. Dr. Kanwar Deep Singh
28. Shri Sachin Ramesh Tendulkar
29. Dr. C.P. Thakur
- @ 30. **Vacant**
31. **Vacant**

**Secretariat**

- |    |                      |   |                     |
|----|----------------------|---|---------------------|
| 1. | Shri BrahmDutt       | - | Joint Secretary     |
| 2. | Shri N.C. Gupta      | - | Director            |
| 3. | Shri Ajay Kumar Garg | - | Additional Director |
| 4. | Mrs. Rinky Singh     | - | Executive Assistant |

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\* Nominated to the Committee w.e.f. 13.12.2012 vide Shri Ramsinh Rathwa, vide Lok Sabha Bulletin Part -II dated 13.12.2012.

\*\* Nominated to the Committee w.e.f. 09.01.2013 vide Lok Sabha Bulletin Part-II dated 09.01.2013.

# Nominated to the Committee w.e.f. 28.03. 2013 vide Rajya Sabha Bulletin Part-II dated 01.04.2013

@ Shri Rajkumar Dhoot, M.P. Rajya Sabha resigned on 11.02.2013 from Committee.

## **INTRODUCTION**

I, the Chairman, Standing Committee on Information Technology (2012-13), having been authorized by the Committee to present the Report on their behalf present the Forty-seventh Report on 'Issues related to Paid News' relating to the Ministry of Information and Broadcasting.

2. The Standing Committee on Information Technology (2010-11) selected this subject for detailed examination and Report to the Parliament. In view of the wide ramifications of the subject and considering the need for wider consultation, the examination of the subject could not be completed during the term of the Committee (2010-11). The Standing Committee on Information Technology (2011-12), therefore, reselected the subject to continue further, the examination. Since the examination remained inconclusive during the term of the Committee (2011-12), the present Committee again selected the subject to complete the unfinished task.

3. To elicit wide opinion on the subject, a Press Communiqué was issued through print and electronic media on 15<sup>th</sup> December, 2010 seeking views/suggestions from experts/stakeholders/organizations/public at large. The Committee also sought views of the Election Commission of India, former Chief Election Commissioners, self-regulatory bodies on media, Press Council of India, Prasar Bharati and the nodal Ministry i.e. the Ministry of Information and Broadcasting on the subject.

4. The Committee also took evidence of the experts, journalists, News Broadcasters Association, Prasar Bharati, former Chief Election Commissioner, former members of Press Council of India, President of Editors Guild of India, President of Indian Journalist Union, Centre for Media Studies, Akhil Bhartiya Grahak Panchayat, President of Haryana Commission of Journalist and the nodal Ministry i.e. the Ministry of Information and Broadcasting.

5. The Committee at their sitting held on 26<sup>th</sup> April, 2013 considered and adopted the Report. The Committee were immensely benefitted by the suggestions/contributions made by the Members of the Committee for which I express my sincere thanks to them.

6. The Committee wish to express their thanks to the representatives of the Ministry of Information and Broadcasting and Prasar Bharati who tendered their evidence before the Committee. The Committee also wish to express their sincere thanks to the organizations/individuals who furnished written information/views as well as those who appeared before the Committee and made available necessary information for consideration of the Committee, which was of great help to the Committee in arriving at conclusions.

7. The Committee also place on record their appreciation for of the invaluable assistance rendered by the officials of Lok Sabha Secretariat attached to the Committee.

8. For facility of reference and convenience the observations/recommendations of the Committee have been printed in bold in Part-II of the Report.

**New Delhi**  
**29 April, 2013**  
**09 Vaisakha, 1935 (Saka)**

**RAO INDERJIT SINGH**  
**Chairman,**  
**Standing Committee on**  
**Information Technology**

**REPORT  
PART – I**

**NARRATION ANALYSIS**

**CHAPTER I**

**Introductory**

Media, due to its inherent nature of reach and influence on masses, plays a vital role in a country's political, economic, social and cultural set up and is considered as an important vehicle of communication to carry information to the people. Rapid advancement in Communication and Information Technology has not only led to convergence of technology but also had paved way for media to permeate our lives through various communication modes viz. Newspaper, radio, Television, internet, mobile phone etc. According to the data furnished by the Ministry, as on 31.12.2012, there are around 93,985 registered publications, 850 permitted television channels out of which 413 are under News and Current Affairs category and 437 under non-news category and Doordarshan runs 37 channels. Besides, there are over 250 FM radio stations and numerous internet websites. Media, which is considered as the fourth pillar of democracy, not only acts as a repository of public trust but also plays a significant role in shaping the human mind. All forms of programmes/articles have their significance in doing so, particularly 'News' which aims at providing correct and timely information to the people.

1.2 'News', according to Press Council of India (PCI), is meant to be factual, neutral, fair and objective, whereas information and opinion from 'Advertisements' are paid for, by corporate entities, Governments, organisations or individuals. However, off late a dangerous trend of presenting the paid information as news content has spread at remarkable pace in some section of the Media. The Ministry of Information and Broadcasting, in this regard, has stated that there have been a number of media reports that sections of the electronic and print media have received monetary considerations for publishing or broadcasting in favour of particular individuals or organisations or corporate entities, what is essentially 'advertisement' disguised as 'news' and this has been commonly referred to as the 'Paid News Syndrome'.

1.3 The trend of presenting the advertising content, that is paid for, as 'News' is a serious and damaging fraud on the innocent audiences/readers/viewers/public. It not only undermines/threatens the democratic process but also affects financial/stock/real estate market, health, industry and is also a tax fraud. However, according to the News Broadcasters Association it is just a question of ethics.

1.4 Highlighting the nature and spread of the menace, PCI's Sub-Committee on 'Paid News' during 2009 General Election, in its Report, as submitted by the Ministry, *inter-alia* stated as under:-



"The entire operation is clandestine. This malpractice has become widespread and now cuts across newspapers and television channels, small and large, in different languages and located in various parts of the country. What is worse, these illegal operations have become "organized" and involve advertising agencies and public relations firms, besides journalists, managers and owners of media companies. Marketing executives use the services of journalists – willingly or otherwise – to gain access to political personalities. So-called "rate cards" or "packages" are distributed that often include "rates" for publication of "news" items that not merely praise particular candidates but also criticize their political opponents. Candidates who do not go along with such "extortionist" practices on the part of media organizations are denied coverage. Sections of the media in India have willy-nilly become participants and players in such practices that contribute to the growing use of money power in politics which undermines democratic processes and norms – while hypocritically pretending to occupy a high moral ground."

1.5 Even though there have been reported nexus between media professionals, corporate lobbyists, politicians etc., and the cases 'Paid News' in the media, most cited instances in the memoranda, submitted to the Committee, are 2009 General elections; Assembly elections of Maharashtra, Haryana, Andhra Pradesh, Punjab, Bihar; etc. The most recent being Assembly elections held in December, 2012. The PCI's fact finding team on Gujarat election (2012) revealed some of the very damaging findings on Paid News. The Report of Fact-Finding Team, submitted to the Committee, states that at least 444 suspected cases of paid news were reported in Gujarat and soon after conclusion of second Phase of polling on 17<sup>th</sup> December, 2012, 126 confirmed cases of paid news were identified, with 61 candidates in poll fray admitting to have paid for such news in electronic and print media. However, according to the District level Media Certification and Monitoring Committees (MCMCs), as submitted by the Ministry, 495 suspected cases of paid news were reported in Gujarat of which the 414 were confirmed cases.

1.6 'Paid News' is not just an election time phenomenon. Citing a non-election instance of 'Paid News', the President of Akhil Bhartiya Grahak Panchayat (ABGP), during evidence, submitted as under:-

"As regards business, you know everybody wants to get his product popularised. But if he gives that in an advertisement, people do not believe it. If it is presented as news/as an editorial/ as a talk, people start believing it. You must be knowing about the fame case of Munir Khan. There was an interview going on for so many weeks on the television Channel. He was selling his products. You must be knowing that a famous actress Tabussum was talking with him. So, he got so much popular that he gained. He said that he forfeited medicines. He popularised a potion and collected a huge amount of money. When I filed an RTI, by that time, there were 100 FIRs filed against him. He ran away with all the amount. So, this is what happens in the case of 'Paid News' when it is presented not as a news and advertisement as an editorial or a talk."

1.7 Elaborating further, on the issue, Rural Affair Editor, The Hindu, Shri P. Sainath submitted as under:-

"Non-election transactions include the suppression of major scams in sections of the media that have access to the facts. A practice that entrenches extortion, bribery and blackmail, or even media-corporate-political collusion. These sometimes burst out in the open - as in the CoalGate scam. But non-election Paid News also involves very large transactions that draw far less attention. ....xxx....the largest English newspaper in the country run full pages of 'news' in multiple editions. The same, identical full pages of 'news' and features also appeared as 'advertisements' at another time and date in the very same newspaper.

Non-election transactions are obviously more everyday and prolific. The launching and marketing of new products happens around the year. Paid News in the media often works these into 'packages.' Company X is set to launch a new car. From days in advance 'mood pieces' or 'colour pieces' on the vehicle begin to appear under the bylines of regular, bonafide journalists and photographers. Around the time of the launch, the car pops up, seemingly by coincidence, during the news bulletins of a channel or on the news pages of a major daily. This is at its most visible during the launch period of major Bollywood films (whose budgets include buying both media space and favourable reviews). In one case, the hero and heroine of a film then just hitting the theatres (Bunty aur Bubbly) appeared as anchors reading the news on a particular channel."

1.8 Revealing another dimension to the non-election transaction of 'Paid News', President, Editors Guild of India, submitted during evidence:-

"We have had meetings with the then Chairman of the SEBI which regulates all listed companies in the Stock Exchanges and SEBI wanted to discuss the issue with the Editors. Two or three meetings were held and I attended those meetings. We looked into the issues and SEBI started looking as to whether TV Anchors are influencing the Stock Market with their coverage. So there is a move by SEBI which is addressing the financial side of the problem which we are also endorsing. All significant companies are part of the Stock Market."

1.9 Enumerating the role of journalists/media/institutional response on paid news, Rural Affair Editor, The Hindu, in his memorandum, submitted as under:-

"The journalists and photographers merely do what they're told, sometimes willingly, often not. The "Paid News" scandal of 2009 burst out into the open in part because several journalists working within such media, disgusted at the debasement of their role, acted as whistle-blowers. There are however, also willing participants amongst some sections of journalists. Often these are very high-profile, high ranking ones who may not even have paused to consider the nature of the activity they're undertaking.

What is astonishing though, is the conspiracy of silence within the media (and their corporate backers) over the cancer of Paid News. Every other sector or institution (including Parliament) has debated the issue vigorously. In the media there is silence. Just a handful of publications ..xxx.. have ventured into that terrain at all. There are a large number of publications that have not carried a single word on Paid News, a large number of channels that won't touch the issue. In itself, that is a clear

indicator of how compromised the media has been, how widespread the cancer is.

It should be mentioned that there are journalists, usually senior ones at 'executive level' positions in their organisations, who have gone along with and are okay with the phenomenon. The Zee-Jindal scandal is not a stray or isolated example. There are some senior journalists -- who seem to me to be journalists no longer, but corporate executives -- who have played an active role in the spread of this practice. Some of these do so for personal gain. Some actually believe it is a simple matter of space-selling, necessary for survival and profit..xx..

It also means that when Parliament discusses any issue affecting the interests of the corporate media -- say a Broadcasting Bill - the public will be kept in the dark about the real nature of the debate. They will know only what these dominant media allow them to know."

1.10 Nevertheless, some of the stakeholders/experts who deposed before the Committee also stated that it is because some section of Media has raised concern, the issues associated with 'Paid News' is being discussed. Besides, the issue has come to the forefront primarily because these revelations, about media selling the news space, have raised a serious question mark on the credibility of Journalists and media.

1.11 Against this backdrop, the Committee took up the subject 'Issues related to Paid News' for detailed examination and report. Taking cognizance of the sensitivity of the matter and the demand of the subject for wider consultation, the Committee at preliminary stage, issued a press communiqué to elicit the views/suggestions from individuals/experts/stakeholder/organisations/public at large. Thereafter, the Committee heard the views of various experts, stakeholders, former PCI Member, News Broadcasters Association, former Chief Election Commissioner, Editors Guild of India, Journalists/ Union/Association, Centre for Media Studies, etc. The Committee also took evidence of the representatives of the Ministry of Information and Broadcasting to get clarifications on various points relating to the subject. As a result of such interactions/discussions, several loopholes/shortcomings related to Paid News have come to the notice of the Committee. Taking all those factors into account including the delay on the part of the Ministry of Information and Broadcasting to come out with a concrete action to deal with the menace, the Committee in their report have reviewed the genesis of 'Paid News', existing mechanism/guidelines/codes/norms/organisations/legislations in this regard and measures required to tackle the malpractice. These aspects are detailed in succeeding paragraphs.

## **(i) Genesis**

1.12 'Paid News' is not a recently discovered phenomenon. In fact the phenomenon is old, complex and deep rooted in the system and is spreading its cancerous roots rapidly. According to Rural Affair Editor, The Hindu, 'Paid News' is not about corruption of individual rogue journalists but it is a complex, highly-

structured trade involving the media, corporations and sometimes dominant sections of the media of the political class and there is not a single major state in the country without such instances. This menace surfaced prominently after 2009 General elections. However, according to Shri T.K. Krishnamurthy, former Chief Election Commissioner, even in the 2004 Parliament elections, Election Commission started noticing this malpractice.

1.13 Regarding genesis of 'Paid News', quoting the Memorandum of Andhra Pradesh Union of Working Journalists (APUWJ), Press Council of India in its Sub-Committee Report on 'Paid News' during General Election, 2009 has stated that the syndrome, during the general elections of 2004, small and local newspapers in towns and district headquarters in some parts of Andhra Pradesh and Gujarat started this practise in an organised way. These small newspapers owned and edited by the same person entered into agreements with the local leaders of prominent parties or candidates and started publishing propaganda material of these parties or candidates as news for a fee in the run up to the elections. The Union observed that during 2009, when the Fifteenth Lok Sabha General elections and the legislative elections to the state of Andhra Pradesh were held simultaneously, advertising copy appeared as 'paid news' along with a credit line of a staffer of a newspaper in order to mislead readers into believing that the article had in fact been written by a reporter of the newspaper.

1.14 Adding further on development of 'Paid News' phenomenon, Shri Y.C. Halan, former PCI member, during evidence, submitted as under:-

"It has developed over the years and it reached its peak in the last elections. The main reason for the paid news is that media is now being controlled by the owners. About 20 or 30 years back, the institutions of Editor and Publisher, that means the owner, were different. Owners were not the editors and editors were not the owners. This emerged out of the freedom movement. The forward-looking businessmen established newspapers and newspapers were either pro-Government or anti-Government.....xxxxx.....So, we have to understand the emergence of media in the Independent India. It continued the same way for a couple of decades and then started deteriorating. It started deteriorating when media became powerful. Everybody realised that media is the only source of reaching to the people and the credibility of media was very high. This is the background in which the candidates who were contesting the elections realised that influencing media by one way or the other would pay much more than paying to other sources like advertisements, publicity, etc.....xxxxx.....That is how the paid news phenomenon developed."

1.15 On the sudden upsurge of this phenomenon, as observed during 2009 General elections, the Secretary, Ministry of Information and Broadcasting, during evidence, submitted:-

"On the first issue about why this has suddenly become a phenomenon although we have been fighting elections ever since Independence. Sir, a

general trend that we find from the report of the Press Council of India to an extent, although may be not spelt out very clearly – is and in our interactions with various bodies is that compared to the past, the media has become increasingly corporatized. There is obviously a greater emphasis on the business aspect of the media perhaps vis-à-vis compared to the more public spirited ventures which it was considered to be in the past. This certainly seems to be an important aspect of why this phenomenon of paid news has become more pronounced of late...”

**(ii) Forms, facets and manifestations of Paid News**

1.16 According to Press Council of India (PCI), ‘Paid News’ has acquired different forms over last six decades from accepting gift on various occasions, foreign and domestic sponsored travels, besides benefits and payment of money. In addition, few stakeholders have cited examples of award ceremonies being sponsored by some media houses wherein industrialists/professionals/personalities, who are the sponsors/regular advertisers for their media houses, are awarded and this is a regular news phenomenon.

1.17 Highlighting other manifestation of this malpractice, former Chief Election Commissioner, Shri T. K. Krishnamurthy, in his Memorandum submitted to the Committee, stated as under:

“Paid News’ is only one aspect of the problem. We have heard a few cases where the Journalists blackmail the contesting candidates stating that if they are not properly rewarded monetarily or otherwise they would boycott publishing about them or deliberately spread news against them. Here there is no payment as such but it is vindictive action for non payment. It would be very difficult to prove the offence here unless and until there is evidence of the blackmail. This seems to be more prevalent in regional papers.”

1.18 Another facet of this phenomenon, as cited in the PCI’s Sub-Committee Report on Gujarat election, submitted to the Committee, is as under:-

“Interestingly Mr. Deepak Rajani of Aajkal daily, an evening paper of Rajkot, was in a denial mode about paid news and said his paper was carrying lot of items out of personal relationship, which is very significant in Gujarat social set up. He said his own brother was contesting from Rajkot and asked how he could expect money from his brother.”

1.19 When the Committee desired to know whether this instance fall under paid news, PCI in their written reply stated as under:-

“Since the newspaper itself had admitted carrying lot of news items out of personal relationship, this prima-facie falls under paid news.”

### **(iii) Distinction between 'News' and 'Advertisements'**

1.20 Advertisements disguised as 'News' or 'Advertorials' has blurred the boundary between the two. The Ministry of Information and Broadcasting, in their written reply, submitted to the Committee, informed that according to the Guidelines of the Press Council of India, 'News' should be clearly demarcated from 'Advertisements' by printing disclaimers and should be strictly enforced by all publications. As far as 'News' is concerned, it must always carry a credit line and should be set in a typeface that would distinguish it from advertisements.

1.21 Expressing their view in the same context, Prasar Bharati stated that 'News' should be clearly distinguishable from 'Advertorials' and the media house must clearly declare that a particular item is an advertorial. It should be in different letter font in print media. In case of electronic media, the word 'Advertorial' must remain superimposed during entire transmission of such advertorial.

1.22 According to Shri Paranjay Guha Thakurta, former PCI Member, in the recent years in India the distinction between 'News' and 'Advertisements' has been sought to be deliberately blurred, if not, obliterated altogether. When the advertisements are camouflaged as news or when news is shown/published by selling editorial space it becomes very difficult for the viewer/reader to distinguish between news and advertorials/advertisements. It becomes hard to distinguish whether a particular programme or review is a legitimate one or is it paid for. Even if paid content has been labelled as advertisements it is done in a very small font and that too with the abbreviation 'Advt.' in some corner. Adding further, during evidence he submitted as under:-

"There is no difference between an advertisement and paid news. The difference is that in the case of Paid News, it does not appear as if it is an advertisement. The type face and the font size are the same, and there is no disclaimer which could show these four letters 'advt.'. There is no mention anywhere that somebody has paid some money to publish this particular item in a newspaper or a publication. So, as the various guidelines of the Press Council of India over the years have shown, the reader should not be fooled. The reader should know what is an advertisement and what is not an advertisement. There should be a clear demarcation in the way in which this is printed and there should be a disclaimer."

1.23 The Chairman, Centre for Media Studies, Shri N. Bhaskara Rao, in this regard submitted during evidence:-

"..xx..Just putting some small letters in the corner or somewhere is not good enough..xx..Many times the television channels just put a small note in a corner. You cannot see it. There are eight points in the television screen. An ordinary viewer cannot keep track of that..xx..Television channels should designate certain hours..xx..Like Pakistan and South Africa did, you can designate certain hours, like 5.30 and 6 o'clock. For example, there are certain blind belief programmes are there.

Unfortunately, they have better discipline. They have fixed timings. They are all paid programmes. They follow a fixed timings. They should not bring it in-between the news or in-between the on-going programmes, which are popular. They should distinguish according to time identification.

- Second is there should be much bigger indication that it is paid by so and so. Paid by whom is also very important. If that is not there, then how will you identify whose interest is being reflected. Paid by whom is also as important as paid. So, that needs to be taken into consideration as far as television channels are concerned."

1.24 Suggesting ways to distinguish between advertorials and News report, The Editor, Medianama, Shri Nikhil Pahwa, in his memorandum stated as under:-

"In case of TV, a particular feature i.e. paid /sponsored, should at all times, display the text 'THIS SHOW IS AN ADVERTISEMENT' for the duration of the show, at the top center of the screen in a font size that is the same as the median font size of the News channel ticker. In addition, all advertorials should be treated as advertisement and the advertiser should be directly held responsible for claims made in these advertorials, just as with any advertisement."

1.25 In view of the above suggestions, the Committee desired to know from the Ministry about their view for distinguishing News and Advertisements for both print and electronic media. In reply, the Ministry stated as under:-

"In so far as the electronic media is concerned, Rule 7(10) under Advertisement Code of Cable Television Networks (Regulation) Rules, 1994 formulated under Cable Television Networks (Regulation) Act, 1995 states that, all advertisements should be clearly distinguishable from the programme and should not in any manner interfere with the programmes...

Also Rule 6(1)(d) under Programme code states that 'No programme should be carried in the cable service which contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths'.

These provisions help distinguish News and programmes from advertisements. However, for strengthening this further, it can be suggested that the channels clearly mark the advertisements/ sponsored programmes and advertorials as "advertisement" at a specified location on the screen with adequate contrast and in the language of the programme and/ or subtitle.

PCI, under section 13(2)(b) of the Act has formed 'Norms of Journalistic Conduct' which cover the principles and ethics regarding journalism. Norm 36 prescribes guidelines on the subject 'Advertisements' which states that advertisements must be clearly distinguishable from editorial matter carried in the newspaper. Newspapers while publishing advertisements should specify the amount received by them. The rationale behind this is that advertisements should be charged at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper."

1.26 Highlighting the excessive advertisements in programmes of the televisions, President, Akhil Bhartiya Grahak Panchayat (ABGP), during evidence, submitted as under:

"Time-slot provided to advertisements is much higher. In ten minutes programme, there are even five minutes advertisements. Even in news, advertisements are there. Advertisements should not be more than 10 per cent, that too with quality contents and providing complete awareness to the viewers.

1.27 On the issue of time allocated for advertisements and guidelines, the Committee while examination of Demands for Grants (2011-12) were informed that the code regarding advertisements is not being followed strictly. Wherein, the Secretary, Ministry of Information and Broadcasting, during evidence, submitted as under:-

"As per the Advertising code, if I am not mistaken and subject to correction, I think advertising is to be limited to 12 minutes per hours. But I would admit that this is not being followed."

**(iv) Need for defining Paid News**

1.28 The increasing trend of presenting advertisements in the garb of news has posed a need for having a comprehensive definition for 'Paid News' so that 'News' and 'Advertisements' can be clearly demarcated. Emphasizing on the need for qualifying 'Paid News' the Minister of Information and Broadcasting while replying to a question on 18<sup>th</sup> December, 2012 in Lok Sabha stated as under:-

"With regard to paid news, ....xxx..... It is something which troubles us as much as it troubles you. But we remain engaged with the Election Commission of India, with the Press Council of India to try and find a common ground which can then be transferred into a legal formulation which then can be successfully administered. It is because, the challenge as all of us understand in this is to find and determine that what constitutes or qualifies as paid news. Therefore, once we have answered that fundamental question and put a legal formulation onto it, I think the rest of the process will become easy."

1.29 According to the Report of PCI's Sub-Committee on 'Paid News', during 2009 General Election, Andhra Pradesh Union of Working Journalists (APUWJ) is the first union of journalists to raise its voice against paid news and is also the first body to have coined the phrase 'Paid News'.

1.30 Various stakeholders/experts/organisations, in their submissions to the Committee, highlighted the need for having a comprehensive definition for 'Paid News'. Some of the views/definitions are as under:-

<b>Sl. No.</b>	<b>Stakeholders/ Organisations/ Experts</b>	<b>Views/Definitions</b>
1.	Prasar Bharati	Any content, whether true, untrue or



		partially true, transmitted to the general public, either by publishing it in print media, or by broadcasting through electronic media, or through any other digital or non-digital medium, in exchange of pecuniary consideration received or to be received by the transmitting print or electronic media, from any person, organization or institution interested in any manner in such transmission, without clearly segregating it from paid advertisements, with intention to make the recipients believe that the content is a genuine news item.
2.	Press Council of India	Any news or analysis appearing in any media (print and Electronic) for a price in cash or kind as consideration.
3.	News Broadcasters Association (NBA)	'Paid News' may be defined to mean and include News, whether political News, business News, sports news, entertainment news or news relating to any other field, reported or omitted to be reported (whether by way of news bulletins. Current affairs programmes, special programmes or any other programmes by whatever name called), in consideration of, or as quid pro quo for, any financial or non-financial benefit or reward what so ever.
4.	Chairman, Centre for Media Studies, (Shri N. Bhaskara Rao)	It could be described as 'quid pro quo news' and may better be described the phenomenon as 'unfair' or 'camouflaged' news or advertisement.

1.31 On being asked for a comprehensive definition of Paid News, the Ministry of Information and Broadcasting endorsed the definition provided by PCI that 'Any news or analysis appearing in any media (print and Electronic) for a price in cash or kind as consideration'.

## **Chapter-II**

### **Complexities involved in the Issue of 'Paid News'**

1.32 The issue of 'Paid News', according to the Ministry of Information and Broadcasting, is complex as it may be a treaty between two private parties with mutual consent or could be a clandestine financial transaction which is difficult to establish.

1.33 On the issue of proving the menace, the Ministry of Information and Broadcasting submitted as under:-

".....xxxx.....Though there is a well established procedure to take action for such violations, the problem is to establish the violation itself per se. There are so many different ways which can be adopted towards obliging the channels financially that it is extremely difficult to establish a violation in this regard."

1.34 According to The President, Editors Guild of India, Shri T.N. Ninan, in the normal process, it cannot be identified, unless the person discloses it.

1.35 In this context, former Chief Election Commissioner, Shri T.K. Krishnamurthy, during evidence, submitted as under:-

"I agree that in 95 per cent of the cases we cannot prove, but I still I believe that we can prove at least 5 per cent in some cases. They will leave some trace. For example, the telephonic talk he had with that person. We can try to find out the telephonic message. It is possible to do it within a particular time limit. So, if it is proved, then that person should be disentitled from functioning as a journalist."

1.36 On this issue, another former Chief Election Commissioner, Shri N. Gopalaswami, in his memorandum submitted to the Committee, stated as under:-

"Some of the Election Observers also brought to the notice of the Commission that advertisements camouflaged as news have been noticed in the vernacular press. Though they carried the legend 'advt' at the end, it was in a such small font that, unless looked at carefully, it would not be noticed easily, and was thus intended to mislead the reader to treat the item as 'news'...xx...in the case of visual media, things are more complicated and so detection will be more difficult.

A channel may simply ignore a contesting candidate if he has not 'paid' and this is more difficult to pin down as a malpractice by the authorities namely, PCI or ECI.

Further, as the visual media coverage is transient in nature, malpractice indulged in by visual media may escape detection. The visual media can resort to campaigning for a candidate by putting the 'paid news' as a scrolling text which, being more transient becomes more difficult to pin down the visuals.....

Further complications could arise because the transactions could well be in cash leaving little by way of trail/evidence. ...xx.. But as detection is very difficult, unless the candidates leave trails, that provision may prove ineffective in curbing the menace. The candidates and the errant media could resort to more 'sophisticated' methods to throw the scent off any investigation by not repeating the mistakes made in the past ---the same text appearing in many newspapers; articles proclaiming the victory of one candidate in the front page and his rival in the last page; writing of the legend 'adv't' even in the smallest of fonts etc., and thus making it difficult to catch the wrong doings."

1.37 Commenting on the issue of 'circumstantial evidence' Prasar Bharati stated that the practice of paid news can be detected by an analysis of the coverage pattern. If any unusual coverage pattern is noticed, a regulating body should immediately institute an inquiry. Explaining it further, the CEO, Prasar Bharati, during evidence before the Committee, stated as under:-

"I can suggest remedy straight away. Only problem is capturing and proving..xx..This menace that has been pointed out has to be contained through some method. But it is very slippery. It is very difficult to catch unless there is some sting operation....xx..How do you prove that ten days ago something was broadcast."

1.38 He added:-

"...xx.. It can be kept for one month (television). Storage is not a problem now-a-days..xx..Now-a-days with cloud computing, you can send it to the satellite and store immense amount.

The question is, how do you retrieve it? You need a retrieval mechanism before you put in storages. This is where the difficulty arises. If 'X' channel puts into storage, when I want to retrieve, I can retrieve only the data. When I put in storage, storage has to be done through classification, cataloguing and then put it into storage.

That is where little difficulty comes in and we would submit that an independent investigation authority in which the Press as it exists, the electronic media as it exists can also have a hand. We have also been talking of self-regulation all through. All we are saying is, self-regulation cannot be left open ended, but has to be fructified within a time. So, we have built up this Advertising Code and we also have the Governing Principles. The question is, who executes it? That is where the catch lies. Is there any fear of the law? As it stands today, the differentiating line between an advertisement, paid news and who pays the amount, the accounts must be open to inspection. That is the first thing."

1.39 Views expressed by the PCI's Sub-Committee, in its Report on Paid News relating to 2009 General Elections, on the complexities involved in the menace, is as follows:-

"The problem is not in defining what 'Paid News' is but in trying to establish that money has changed hands, that a payment has been made by a candidate who has stood for elections or his political party or his representative or associate to a representative of a media company that

has published or broadcast the so-called "news" in favour of the concerned candidate. Since such payments are invariably made in a clandestine or illegal manner, in the form of hard cash and not by cheque, and since official records (in the form of receipts or bills/invoices) are deliberately not kept or recorded in the concerned media company's balance sheet or statements of account, the only way such transactions can be unearthed if search-and-seizure raids are conducted by the concerned law-enforcing authorities, including officials of the Income Tax Department or members of the police force...xx..Though the phenomenon of widespread practice of "paid news" has been verbally confirmed and vindicated by politicians and campaign managers of political parties, there is no recorded documentation that would firmly establish that there has been exchange of money between media houses/advertisement agents/journalists and politicians/political parties. The problem in establishing the practice of "paid news" is simply one of obtaining hard proof or conclusive evidence. With one notable exception (Shri Parcha Kodanda Rama Rao of the Loksatta Party in Andhra Pradesh), no complainant has been able to provide the Press Council of India with documents as proof of money having been paid to carry positive news. Even the 'rate cards' that had been formulated by media houses and had been passing around during elections were just typed sheets of paper which carried nothing on it to attribute it to a newspaper/television news channel that had put it together nor anything that could be attributed to a journalist/advertisement agent."

1.40 When the Committee asked PCI as to whether a methodology can be developed to prove paid news cases, they replied as under:-

"It is for the Ministry to consider. So far Press Council is concerned, similar reports by different newspapers would lead to circumstantial evidence. However, no straight jacket methodology is possible. Can be studied on case to case basis."

1.41 Responding to the same query, the Ministry endorsed the view of PCI. Asked further about their views for considering circumstantial evidence as a strong basis for taking action against the guilty, the Ministry submitted as under:-

"On receipt of complaints, the question of circumstantial evidence as the basis for action in respect of a particular instance would be looked into by the respective agency, i.e. PCI in respect of complaints of paid news in the print media and Inter-Ministerial Committee (IMC) in respect of content on Satellite TV channels."

1.42 On being enquired further as to what could be done to overcome the difficulties in handling 'Paid News' cases, the Ministry stated that a thorough discussion with all the stakeholders may suggest ways and means to overcome this problem.

## **CHAPTER-III**

### **Causes of 'Paid News'**

1.43 During the course of examination of the subject, the Committee were informed by Prasar Bharati that 'Paid News' is a logical culmination of the crass commercialism in the media, which has now reached the level of blackmail and extortion. According to Rural Affair Editor, the Hindu 'Paid News' is a natural outcome of the convergence of the editorial, advertising, public relations (PR) and lobbying industries (the last officially non-existent in India). This 'industry' has become so organised that large PR firms, professional designers and advertising agencies handles contracts worth many crore rupees – not just to position advertisements but to create 'news'. Propaganda put out as 'news' was customised by these image-creation agencies to appear as 'exclusive' news articles in the publications these appeared in. The Committee also came across possible causes that have led to the rise of 'Paid News' and important one of these have been dealt in the succeeding paragraphs.

#### **(i) Editorial Section v/s Management/Owners of Media Houses**

1.44 Almost all the submissions before the Committee emphasised on the decline of independence of the journalists. The reason cited for this decline is the imposition of contract system of employment on journalists. According to Rural Affair Editor, the Hindu, this is in vogue across most of the media spectrum with a few honourable exceptions and loss of independence of Journalists/reporters have been reduced them to marketing agents, advertising copy writers, stenographers, etc.

1.45 PCI's Sub-Committee Report on Paid News relating to 2009 General Elections revealed the following:-

"...xx..Proliferation of the "paid news" phenomenon can be related directly to the diminution of the role and the status of editors in media organizations and the erosion of the freedom enjoyed by journalists under the Working Journalists Act. As more and more senior journalists chose to work with their employers under fixed term contracts, they opted out of the protection that was accorded to them under the provisions of the Act. Until the 1970s and the 1980s, many editors would not brook any "interference" from the management of the company they would be employed by – the number of such editors started dwindling as more and more senior journalists started acceding to every whim of their managers and employers instead of their editors. With managers playing a more influential role in the selection and presentation of news, it was not surprising that the importance of the news started getting determined by the revenues that would be generated for the media company."

1.46 In this regard, Shri Y.C. Halan, a former PCI Member, during evidence before the Committee, submitted as under:-

"Then..xx..the credibility of the editorial was greater than the advertisement. Therefore, it was realised by the parties that if anything is written in their favour as an editorial item, it would have more credibility and people would believe that. As the institution of editor collapsed, hardly there would be any professional editor in any newspaper in the country. Unfortunately the owners are also editors. Therefore, those who control the newspapers, those who own the newspapers also control the news. Therefore, the agreement between the election candidates and the owners of the newspapers became easier. That is how the paid news phenomenon developed"

1.47 On this issue, Rural Affair Editor, the Hindu in his memorandum to the Committee, submitted as under:-

"One point made repeatedly - and completely kept out of the media was this: the rise of Paid News was also made possible by the decline of the independence of the journalist. That decline had strong origins in the destruction of journalists unions on the 1980s and 1990s, and in the imposition of the contract system of employment on journalists now in vogue across most of the media spectrum with a few honourable exceptions. This is a most valid and relevant point. In earlier times, a victimised journalist could fall back on the support and energy of his / her peers and fight it out with the help of his / her union. Legal recourse under the Working Journalists Act was also more common and effective. The active smashing of the unions by managements - who then imposed a one-year or 11-month contract system of employment amputated the independence of the journalist."

1.48 Elaborating the circumstances leading to paid news, the Prasar Bharati in written reply, submitted as under:-

"From the last decade of the 20<sup>th</sup> century, changes in norms became palpable. Media was begun to be seen more as any other business than a mission. It became more committed to its balance sheet and profit and loss accounts than its social and political responsibilities towards the country. In this process, the owners of newspapers drastically curbed the functional and professional freedom of journalists. During earlier times, editors used to be stalwarts. They were gradually reduced as pygmies, who were required to dance at the tune of their employers if they wanted to keep their jobs. Many owners started doubling as editors-in-chief themselves. While payment and facilities of journalists improved, they soon lost their professional pride and begun behaving like any other employee with responsibility towards their bosses rather than masses. During earlier times, field reporters and editorial staff were required to keep their hands off the marketing side and there was clear dividing line between the two. Gradually, this dividing line vanished and journalists soon begun to be indistinguishable from marketing and sales people."

1.49 When the Ministry was asked about their views on the need for segregating the Management and Editorial Section of a Media House, they replied as under:

"Para 37(A) of the PCI's 'Norms of Journalistic Conduct' relating to 'Management-Editor Relationship' makes a well recognized distinction between the editor and the journalists on the one hand and the manager, the executive or the administrator on the other. It has also been laid that in discharge of the editorial functions the editor is supreme and superior even to the owner. The editor, under no circumstances can be asked by the proprietor to serve his private interests."

1.50 Further, taking note of submissions of the stakeholders to implement the recommendations of Wage Board/Press Commission etc., the Committee asked the Ministry to provide details of the recommendations of the Commissions/Committees that has been set up to evaluate and improve the working condition of Media personnel and also about the implementation of its recommendations. Responding to this, the Ministry in their written reply, submitted as under:-

"The Ministry of Information and Broadcasting has not set up any Commission/Committee to evaluate and improve the working condition of media personnel. However, PCI has instituted a study on contractual appointment. The report recommends that all the employees of a newspaper establishment covered within the definition of Working Journalists Act should be given the protection of the provisions of the Act."

1.51 Analyzing the PCI report titled 'A study working Journalists Act vis-à-vis appointment of Journalists on contract', as submitted to the Committee, following facts associated with the contractual system of working were revealed:-

"All the employees of a newspaper establishment covered within the definition of Working Journalists Act, should be given the protection of the Provision of the Act...xx..the harsh reality remains that there is absolutely no protection available to those journalists under the Act who have been appointed under the contractual system, which is a matter of a concern being voiced time and again by several quarters.

The contractual employment is gradually creating a separate category of journalists, a category which does not enjoy benefits under the Act.

Though the journalists under contractual employment often accept hefty pay packets and also get substantial wage increases, their freedom increasingly comes under a cloud of uncertainty as soon as the date for the contract renewal approaches. It is often seen that no sooner than the contractual term nears completion the journalist comes under pressure to show "results" and the remaining period till the renewal of contract is often laced with uncertainty and fear of an "abrupt transfer" without giving any option or choice of freedom.

Several instances were cited before the Sub-Committee which portrayed exploitation of journalists under the contractual system of employment as they were either given a paltry sum every month or

shunted out or transferred without citing any reasons of exigencies of the organisation.”

1.52 PCI, in its another Sub-Committee Report, ‘Election Coverage Monitoring Committee on Paid News related to Gujarat Election, 2012’, as submitted to the Committee, stated as under:-

“Some of the Editors and Journalists admitted that Paid News contract deals are signed at the top level and all they get are time to time ‘instructions’ to carry a particular news item or photographs. However, they claimed that the phenomenon of paid news in Gujarat Election has come down significantly as compared to previous elections in the State. They cited two reasons; one the reluctance of the national level political parties to indulge in paid news and the strict vigil of the Election Commission.”

1.53 According to PCI, there should be a clear distinction between the management and editorial staff in media companies and that the independence of the editor should be maintained and safeguarded.

#### **(ii) Working conditions and the issue of wage of Media Personnel**

1.54 Various experts/stakeholders also emphasised that the trend of having newspapers without the editors and owners becoming the Editors, as the other probable cause of ‘Paid News’. On this issue, a former PCI member, Shri Y.P. Halan stated that media owners themselves take the money and the whole system of ‘Paid News’ have become institutionalised. When asked about the course of action to tackle this, he stated during evidence:-

“That is a difficult question....xxx....the media institution has become such a big phenomenon that journalists who are really interested in rightful and responsible reporting, they find it difficult to do that. There are situations in which the journalist is pressed to withdraw the story and there are cases in which the journalist has either succumbed or he has resigned or left the organisation. That may be the main reason why many journalists are leaving away. I mean, they are going into the corporate sector as PR persons and others. This was not the phenomena earlier. There are two types of journalists. Those who are not influenced by the ideals and principles of journalism, they are happy, and those who want to be really journalists, they are unhappy. That is the situation.”

1.55 Submissions of some of the experts/stakeholders/organisations, with regard to working conditions of media personnel, are as under:-

<b>Sl. No.</b>	<b>experts/ stakeholders/ organisations</b>	<b>Views/Suggestion</b>
1.	President, Indian Journalists Union and a former Member of PCI	Management is 100 per cent responsible for paid news and the main culprit is always the owner and there is pressure from the owner who are running the media. Journalists have to work on diktats of his people, who



	(Shri S.N. Sinha)	are going to pay, then he is not going to be fully free, this will become a very dangerous trend....xxx.... if the journalist says no to the owners that they are out of the job.
2.	Editor of Rajasthan Prawakta (Shri Rajesh Kumar Sharma)	Party affliction and corporate affiliation of the Editors and correspondents is one of the reason for this phenomenon. So segregate Newspapers and Publications from the industries.
3.	News Editor, Doordarshan Samachar (Shri Sanjay Kumar)	Paid News which is prevalent in journalism is due to the monopoly of owners and there should be check on ownership of media houses.
4.	Rural Affair Editor, The Hindu	We need serious legislation to curb the growth of media monopolies and the concentration of media power in the hands of very few. The Indian scene is bursting with wannabe Rupert Murdochs and Conrad Blacks. If we cannot stop the spread of these monopolies, we have no chance of fighting the cancer. Indeed, Paid News will be just one milestone on the journey to a lot worse. Perhaps we need a new Press Commission -- not one that acts as a stooge of government -- that studies and publicly debates what the dangers to a free and fair media in this country are. That should include looking at the 'contract system' of employment. Into the union-busting practices of media managements - those unions also have a role in upholding press freedom.

1.56 Highlighting another factor, that has led to this menace that is the wage scenario in media industry for journalists, President, Indian Journalists Union, during evidence submitted as under:-

"A lot of people think that good salaries are being paid if you are hired on contract. Yes, people have been paid good salaries but if you go outside Delhi or even in Delhi itself, in big newspapers Reporters and sub-Editors are working at a salary which is less than even the minimum wages fixed in this country. Forget about the salaries prescribed by the Wage Board, they are working at salaries less than even the minimum wages prescribed by the Government for graduates. What I feel is that all the time you have to strengthen the Working Journalists Act because until you make the journalists free from these pressures this type of paid news will come."

1.57 In this regard, the President, Haryana Union of Journalists and National Secretary of National Union of Journalists, Haryana, during evidence, submitted that most of the media organisations are not implementing the recommendation of the Wage Board and around 80 per cent of the Journalists are getting wage between 8-10 thousand. Because of this they are facing lots of problem and management takes benefit of this situation. According to him, most of the journalists/reporters are working on contract basis and are given commission on

bringing advertisements and in the process they have started working as market representatives. Some newspapers just give their I-Card and ask them to get business.

1.58 One of the stakeholder, in his memorandum to the Committee also submitted that only qualified and well paid professionals should be allowed and stringers should not be used by media houses.

1.59 On the same issue, another stakeholder in his written memorandum submitted as under:-

"The trend of having an army of stringers, especially in vernacular papers, is a disquieting trend. They are ill paid, though the proprietors are making fortunes. They are expected to earn themselves through collecting advertisements giving them some commission. In order to survive some of them take to blackmailing and lobbying. Only those can manage to retain independence who have other means of earning their livelihood. The journalist bodies should pay proper attention to this phenomenon and evolve some mechanism to fight this menace."

1.60 In the same context, Press council of India, in its Sub-committee Report on 'Paid News' relating to 2009 General Election, suggested the following:-

"Media organisations should refrain from the practice of engaging stringers and correspondents who double up as agents collecting advertisements for their organisations and receiving a commission on the revenue that accrues from advertisements instead of receiving stipends or retainers, if not, regular salaries. If working conditions and conditions of job security for journalists are improved and the autonomy of the editorial staff upheld in media companies, this would to an extent curb the phenomenon of 'paid news'.

1.61 Commenting on the above observation of PCI's Sub Committee on 'Paid News' relating to 2009 General Election, CEO, Prasar Bharati during evidence submitted as under:-

"In this Press Council Report, there is a very interesting paragraph...xx..It says that media organisation should refrain from the practice of engaging stringers and correspondents who double up as his agents...xx..This sort of thing is openly going under our noses. Especially, if you go into a small town, you will find that they are coming to you frequently and then the relationship becomes commercial. If you do not do that, then, trouble starts. This is happening and this is controllable as a breach of condition of that agency. Temporary suspension of licence, I feel, is enough to put people back into order and stopping advertisement or some other form. The Cable Regulation is something like that you can keep manipulating saying: 'I will stop you for seven days'.

### **(iii) Private Treaties**

1.62 Elaborating on the complexities involved in 'Paid News', the Secretary, Ministry of Information and Broadcasting stated during evidence that another form

of this syndrome which has been brought to the notice of the Press Council by the Securities and Exchange, Board of India (SEBI), is in the form of 'Private Treaties' between Media companies and corporate entities. According to the Ministry, 'Private Treaty' is an agreement between the media company and another non-media company in which the latter transfers certain shares of the company to the former *in-lieu* of Advertisements, space and favourable coverage.

1.63 According to Prasara Bharati, 'Private Treaties' are another form of paid news and they militate against the rights of people to be informed accurately and truthfully. Likewise, 'Cross Media Holdings' promote monopolies in media and come in the way of free flow of information. Forwarding their suggestion on curbing the trend of private treaties, Prasara Bharati, *inter-alia* submitted as under:-

"Private treaties must be brought to public knowledge by concerned media houses till they are in practice. Ideally, they should be either banned or be subjected to control by a regulating body. Cross Media Holdings should also be subject to strict control and regulation."

1.64 News Broadcasters Association, a self regulatory organisation for News and current affair channels, in their written submission to the Committee, stated as under:

"Every news broadcasting organisation and every person-in-charge of a news broadcasting organisation (including members of the Board of Directors, persons holding positions of monitoring and control over the editorial, publication and/or management functions of a news broadcasting organisation, including without limitation executive directors, chief executive officers, editors and producers of the news broadcasting organization) must be mandated to disclose to the public on the website/s of the news broadcasting organisation any shareholding, investment, other equity participation or financial interests or conflict of interest of any nature whatsoever (including specifically any "private treatise"), in or with, any entity (including a person whether natural or legal, company, partnership firm, sole proprietorship concern, society, trust, political party, association of persons and any other organisation of like nature). Disclosure should also be mandatory of such shareholding, investment, other equity participation or financial interests or conflict of interest of any nature whatsoever (including specifically any private treatise) of immediate relatives in respect of any broadcasting entity."

1.65 The Rural Affairs Editor, The Hindu, elaborating his views on 'Private Treaties' stated as follows:

"The 'Private Treaty' was a device created ....xxxxx to legitimise and regularise its boosting of corporate marketing as news. What is the Private Treaty?

Say a medium-scale retailer gets into a Private Treaty with (some newspaper). He does that because he wants to enter the big league of retailers. The Treaty means (the said newspaper) acquires 7-10 % of the shares of that company against guaranteed advertising and no

negative coverage. It becomes difficult for the journalists of a newspaper when it has 240 private treaties. It also raises the question of when the newspaper is a part owner of 240 companies, whether that remains a newspaper or does it become an equity firm? Note that the Private Treaty is no concealed secret – they're very proud of it."

1.66 He added:-

"There is Paid News in the 'supplements.' Here's how it works. The front pages of supplements ....xxxxxx..... carry a small line under the masthead: 'Advertorial, Entertainment, Promotional Feature.'...xxxx.....the same pages carrying this disclosure in the city 'supplements' then inevitably feature in their main newspaper in outlying editions ...xxx...without any such disclaimer or 'disclosure.' In the non-metro editions the paid news content is used directly, dispensing with even the fig leaf of a disclaimer. (Even in the metros, the practice is hardly known or understood by readers.)"

1.67 He further added:

"When any action is sought to be taken against this or other racketeering, they drop the 'we are just a business' argument. Instead, it becomes "an attack on press freedom." That usually scares off any governmental department wishing to take action"

1.68 According to the PCI's Sub-Committee Report on Paid News related to General Election, 2009, submitted to the Committee, in the quest for profit certain media organizations have sacrificed good journalistic practices and ethical norms. Individual transgression which was, until recently, considered more of an aberration than a norm has become institutionalised over the years. Further, outlining the genesis of 'Medianet' and 'Private Treaties' phenomena, it has been stated as under:-

"In the 1980s....xxxx.....the rules of the Indian media game began to change. Besides initiating cut-throat cover-price competition, marketing was used creatively to make Bennett, Coleman Company Limited (BCCL) one of the most profitable media conglomerates in the country.....xxxx.....xxx.....xxxxx.....xxxxxxx.....xxxxx..

The media phenomenon that has caused considerable outrage of late has been BCCL's 2003 decision to start a "paid content" service called Medianet, which, for a price, openly offers to send journalists to cover product launches or personality-related events.

...XX..      ...XX..      ..XX..      ...XX...      ..XX..

Besides Medianet, BCCL devised another 'innovative' marketing and PR strategy.....xxxx.....The 'Private Treaties' scheme pioneered in the Indian media by BCCL involves giving advertising space to private corporate entities/advertisers in exchange for equity investment – the company officially denies that it also provides favourable editorial coverage to its "private treaty" clients and/or blacks out adverse comment against its clients."

1.69 PCI also submitted a Report, on the issue of 'Private Treaties' by the Media Companies, to the Committee wherein following facts are delineated:

"In July, 1999 the Securities and Exchange Board of India mandated under the Securities and Exchange Board of India Act, 1992 to protect the interest of investors expressed its concern that many media groups are entering into agreements, called "Private Treaties' with companies which are listed or coming out with a public offer for stake in the company and in return providing media coverage through advertisements, news reports, editorials etc. It noted that such private treaties help to promote and build 'brand' of the company through print or electronic media, which the media group owns in exchange of shares of such company. It apprehended that such agreements not only give rise to conflict of interest but result in dilution of the independence of press vis-à-vis the nature and contents of the news/editorials reporting, to such companies. That such treaties may lead to commercialization of news reports as it would be based on the subscription and advertising agreement entered into between the Media group and the company.

..XX..            ..XX..            ..XX..            ..XX..            ..XX..            ..XX..

SEBI has said that if a newspaper or a magazine or media organization has a Private Treaty with a company, which is listed or is about to list its share, then the concerned publication should announce the details of the Private Treaty along with any news/editorial/free advertorial of the Company. These announcements should be immediately recognizable by the readers, and should be prominently positioned and with the same headline and body type as the news/editorial/free advertorial. Such disclosure would enable the reader to distinguish between regular news and advertisements vis-a-vis news and advertisements generated as quid pro quo through a private Treaty. SEBI has also said this disclosure of Private Treaty connection should not be a one time publication, but should be published every time news and advertisement generated for a company with which the Media Company has private Treaty, is published.

The Council accepted the recommendation of the Sub-Committee that the Press Council of India should give wide publicity to these guidelines. A circular should be issued to all newspaper, news agencies and magazine. Reputed media website like The Hoot should be requested to prominently display these guidelines on their website. The guidelines should be publicized through international media website dealing with freedom of the press, and rights of readers. SEBI may be requested to make announcement in websites and publications which serve the investors.

The Council also accepted the recommendation of the Sub-Committee that the SEBI may be requested it to examine whether it is proper for Companies to offer free share to various stakeholders, including media groups, in return for various unpaid services.

The Council further accepted the recommendation of the Sub-Committee that the SEBI may be requested by the Council to furnish a six monthly report on the declarations made by Listed Companies

under Clause 53 and 54 of the Equity Listing Agreement about the Private Treaties entered with media companies.”

1.70 In this context, the PCI referred to the existing guidelines for financial journalists that had been framed in 1996 and also endorsed the views expressed by the SEBI. Besides, PCI stated that the relevant guidelines should be made applicable and mandatory not only to financial journalists but to owners of media companies as well. This would be in the interest of transparency and fairness and would reduce the incidence of biased news about companies being published that is inimical to the interests of investors.

#### **(iv) Cross Media Holdings/Ownership**

1.71 On the other precursor of ‘Paid News’ i.e. Cross Media Holdings, the Ministry in their written reply submitted as under:-

“The Ministry is seized of the issue of monopolistic practices in the various segments of broadcasting sector and accordingly a reference to the Telecom Regulatory Authority of India (TRAI) was made on 16.5.2012 to examine the entire gamut of media ownership issues. The Ministry has requested TRAI to provide recommendations on specific issues of vertical integration within the various segments in the Broadcasting Sector as in the present scenario, more and more broadcasting companies owning television channels are venturing into various distribution platforms, namely cable TV distribution, DTH, and IPTV etc. and similarly many companies owning distribution platforms are also entering into television broadcasting. TRAI has also been asked to look into the issue of horizontal integration wherein companies have controls/ownerships across print, TV and Radio. TRAI recommendations are awaited.”

1.72 From the TRAI’s consultation paper, available on its website, the Committee *inter-alia* note as under:

“In the year 2008, the Ministry of Information & Broadcasting (MIB) had sent a reference dated 22<sup>nd</sup> May 2008, seeking the recommendations of the Telecom Regulatory Authority of India (TRAI) for bringing out a policy for the restriction in ownership of companies seeking licenses/ permissions/ registrations under various policy guidelines. Further, in response to a query from TRAI, the MIB, vide its letter dated 26th August 2008, clarified that to examine the issue in its entirety and looking at the increasing trend of print media entering into broadcasting sector, TRAI should also include print media while examining the need for any cross media restrictions vis-à-vis broadcast media.

After following an exhaustive consultation process, TRAI, on 25th February 2009, gave its recommendations to the Government covering the issues of horizontal integration, vertical integration, limit on the number of licenses held by a single entity, concentration of control/ ownership across media and control/ ownership across telecom and media companies. TRAI had recommended that the necessary

safeguards should be put in place to ensure that plurality and diversity are maintained across the three media segments (Print, Television and Radio). MIB should carry out an analysis based on detailed market study to determine such safeguards. On the issue of vertical integration in the broadcasting sector, TRAI had recommended that the broadcaster should not have 'control' in distribution and vice versa. TRAI further recommended that after working out the required safeguards for horizontal and vertical integration, the mergers and acquisition (M&A) guidelines for the sector may also be put in place to prevent media concentration and creation of significant market power.

TRAI also recommended that no restriction should be imposed on cross control/ownership across telecom and media sectors at this point of time; however, this issue could be reviewed after two years.

In 2009, MIB sponsored a study through Administrative Staff College of India (ASCI). The study dealt with the nature and extent of cross media ownership, existing regulatory framework, relevant markets and international experience. ASCI submitted its study report including its recommendations to MIB, in July 2009<sup>1</sup>. The ASCI report recommended that cross media ownership rules for broadcasting, print and new media must be put in place since there is ample evidence of market dominance in certain relevant markets. On the issue of vertical integration the report suggested that the cap on vertical holdings should be carefully determined based on existing market conditions. Amongst other recommendations, it also recommended that disclosures regarding cross media affiliations and ownerships should be in the public domain.

There are no cross media ownership restrictions across Print, Television and Radio in the country. However, in the FM radio sector enabling provisions have been made for compliance of any media ownership rules as and when they are prescribed by the Government. As far as vertical integration of media entities in broadcasting sector is concerned, certain restrictions have been put in place in the guidelines for obtaining license for Direct-to-Home (DTH) platform and in the Head-end in the sky (HITS) policy of the Government dated 26.11.2009.

MIB has vide reference dated 16<sup>th</sup> May, 2012, requested TRAI to re-look the issue of vertical integration in the broadcasting and TV distribution sector and cross media holdings across the TV, Print & Radio sectors. MIB has requested TRAI to suggest measures that can be put to address vertical integration in order to ensure fair growth of the broadcasting sector. Further, TRAI has been requested to suggest measures with respect to cross media ownerships with an objective to ensure plurality of news and views and availability of quality services at reasonable prices to the consumers.

During the formulation of the consultation paper, an exercise was undertaken by TRAI to collect and collate information regarding shareholding pattern, market share of various TV/ radio channels, newspapers as well as various distribution services offered by various

companies operating in the broadcasting and print sector and their cross media holdings. In this effort, fifty four companies/group companies, mentioned in the ASCI report, engaged in broadcasting, print and distribution activities were asked to update information concerning their company, as available in the ASCI report...

This consultation paper seeks the comments/views of the stakeholders on the need, nature and level of restrictions and safeguards with respect to vertical integration in the broadcasting and distribution sectors and cross holdings across various media sectors."

1.73 When asked to spell out the procedure and criteria for owning/opening a channel, the Ministry replied as under:-

"The Ministry of Information & Broadcasting grants permissions to companies registered under the companies Act 1956, for operating a satellite TV channel. The applications for new TV channels are examined in the light of the eligibility criteria as prescribed in the Policy Guidelines for Uplinking and Downlinking. The applications are forwarded to the Ministry of Home Affairs for obtaining security clearance for the Company and its Board of Directors. The applications are simultaneously sent to the Department of Space/Department of Revenue as the case may be for obtaining necessary clearances. The Net worth of the company is also examined to determine the eligibility of the company among other eligibility criteria. Permissions are issued by the Ministry to the applicants after obtaining Inter Ministerial clearances and Registration and Permission Fee as applicable."

1.74 Various stakeholders, in their submission before the Committee, stated that there should be a regulation on starting TV channels/newspapers and a limit on ownership of a media house. Some of the views/suggestions of the experts/stakeholders/ organisations regarding ownership of media houses and Cross Media Holdings/Ownership received by the Committee, are as follows:-

Sl. No	Experts/ Stakeholders/ Organisations	Views/ Suggestions/ observations
1.	Former Chief Election Commissioner (Shri T.K. Krishnamurthy)	There should be a regulation of a political party starting TV channels. I find that it is not directly started by political parties. Normally, the members are allowed to start these channels but they are used as a vehicle for broadcasting political messages during the election period. If a person has got certain interest in a media, I think he must be made to disclose that interest in the affidavit that he files at the time of nomination so that people get to know that this person has got an advantage of a media usage.
2.	Prasar Bharati	Right of any political party or corporate body to open a channel should not be curbed as they already have such right in respect of print media. However, they should be subjected to strict regulation. Also, such affiliations should be part of the name of the channel e.g. ABC Channel, a mouth piece of XYZ party.



3.	Former member PCI (Shri P. Guha Thakurta)	Right now, in India, we do not have any restrictions, cross media restrictions of any kind. We have no restrictions on anybody owning any newspapers, any magazine, any TV channel, any website. So as of now any political party, there is no restriction for any political party starting any publication. So, as of now, the law of the land is that anybody can start any publication provided you adhere to the rules which are there.
4.	Publisher-Editor, Rajasthan Prawakta (Shri Rajesh Kumar Sharma)	Absolute ownership of big media houses should be checked. The big newspapers should be published by Trust/Committee and should be controlled by the Government.
5.	President - Media Watch (an NGO) (Shri M.B. Pillai) and Secretary, Media Watch, Kerala (Shri N.B. Raje)	Enact laws, on the part of newspapers and other media organisations, to disclose their ownership pattern and publish their balance sheets.

1.75 The other suggestions received are:-

- Cross ownership has to be stopped as multiple ownership is capturing /controlling every media and destroying small newspapers too.
- Funding of media houses to be brought into the public domain. Individuals active in politics should not have direct or indirect ownership in privately-owned media companies and in public owned media companies, not more than 1/1000th of the total valuation of the company.
- There should be a ban on channels run by MPs/MLAs.
- Parliament may lay a Code of Conduct in regard to the ownership of media units and TV channels by political parties.
- Mass media should be freed from the clutches of big business houses, politicians, corporate sector and fix a limit on investment in media houses so as to make big houses incapable of having upper hand.
- Permission to operate a channel should not be more than five years instead of the present provision of ten years.

1.76 In addition, a glaring flaw regarding the launching/starting of newspaper/channel, as highlighted by the Fact Finding Team of PCI on 'Paid News' in Gujarat Assembly Election, is as under:-

“‘Sandesh’ Gujarati newspaper recently launched in October this year Sandesh TV in the State, while ‘Gujarat Samachar’ newspaper launched its GS TV channel on December, 10. 2012 (just three days before the first phase of Assembly polls). Timing of launching these channels, just around the Assembly polls, has put a question mark on the credibility of the news items carried out by each of them. Leaning to a particular political party in the polls fray, by each of these channels was visible in the coverage. Even common viewers on the street could make out the coverage having been ‘sponsored’ for required favours.”

1.77 Further, on the issue of delinking the media from industrial houses and about having ceiling/limit on the ownership of media houses, , former Chief Election Commissioner, Shri T.K. Krishnamurthy, during evidence, submitted as under:-

"It is desirable but we cannot completely close it, probably because media itself will require investment. But there must be some kind of a limit for industrial houses investing in media. You cannot completely shut it out. But I personally feel that the investment limit has to be specified.....xxxx.....Yes, it should be both ways. It is because we have come across some instance where the media has been given shares as a compensation for publishing some news. ....xxxx.....investments in these companies which are starting either the newspaper or the TV channels need to be regulated. For example, either the channel itself invests in various industries either by direct investment or by indirect investment in the sense that instead of giving them money, the media is provided with shares in a particular company and so on. So, there must be a ceiling limit on the investments in any business other than the media. Similarly, companies investing in media business should also have a specified ceiling limit. In my opinion, it should not be more than 5 per cent. Only then you can bring some kind of independence in the media management. But then the specified percentage can be considered, discussed and a decision can be taken on that.....xxxx.....if TV channel or a newspaper is being started by a group of people, but getting support from one industrial group, now there is no limit, they can put 25 per cent, 30 per cent or 40 per cent. Five per cent I gave off the cuff; it could be even 10 per cent. It does not matter. It means it gets distributed. The ownership gets distributed, four or five or six industrial houses can join together and form a company. But it is not concentrated in one hand. That is the first point. The second thing I thought I should mention is that just as in trade and commerce you have restricted trade practices commission, when you mentioned about specific provision, restrictive or unfair practices during the election time, can be covered under the Press Council Act."

1.78 He further added:-

"..xx..As far as paid news phenomenon is concerned, it is a direct off-shoot of money power in Indian electoral scene. But, it is not so much evident in other countries although in certain western countries the Press is bought. But, they are more transparently done so that they can identify that this particular newspaper gives only this particular party's views. People know that. But here, there is no such thing because many newspapers are considered to be independent; but they are not. So, it is a perception of the people."

1.79 On being asked to respond to the suggestions of the various stakeholders, on the ownership of Media houses, the Ministry of Information and Broadcasting commented as under:

"So far as the instances of Paid News on TV Channels owned by Political parties are concerned, the Election Commission has already issued guidelines for dealing with candidates advertisements on TV/cable Channels owned by political parties or their functionaries'

official bearers during elections..xx.. Regulation of Ownership of Media houses cannot be forced in view of right to freedom of speech and expression. In pursuance of freedom of press a particular class cannot be restricted form ownership in Media sector. However, distinction between functions of management and editorial autonomy is preferable. Moreover, in present times, media industry is also technology driven, hence like any other industry, requires funds to grow...xx..Differential treatment or harsh measures on investment in the media would impact the sector adversely.”

1.80 Nevertheless, the Ministry of Information and Broadcasting also stated that there cannot be any restriction on any particular class from ownership of media companies.

## **CHAPTER-IV**

### **Paid News and its implications on Electoral Process**

1.81 For an effective democracy check and balance between various organs of the Government i.e. Executive, Legislative and Judiciary is inevitable and the effective role of fourth pillar i.e. media is imperative to achieve this balance. However, the rise of 'Paid News', especially during Election, has undermined the essence of a democratic process. According to Rural Affairs Editor, The Hindu, 'Paid News' mocks the electoral process, often reducing it to farce and it would be incorrect to say that 'Paid News' is purely an election time phenomenon. However, obviously its greatest impact on general public comes during elections.

1.82 Quoting PCI's Report on Paid News during 2009 General Election, the Ministry stated that the election-time 'Paid News' has three dimensions. The First one is, the reader or the viewer does not get a correct picture of the personality or performance of the candidate in whose favour or against he decides to cast his vote. The second is, contesting candidates perhaps do not show it in their election expense account thereby violating the Conduct of Election Rules and the last is those newspapers and television channels which received money in cash but did not disclose it in their official statements or accounts violates the Companies Act 1956 as well as the Income Tax act 1961.

1.83 As narrated in the earlier part of this Report, several instances of 'Paid News', in the General and Assembly Elections have indicated as to how democratic process is being affected by this syndrome. However, Election Commission's historic verdict in October, 2011, disqualifying Uttar Pradesh's then sitting MLA Smt. Umlesh Yadav from contesting again for three years under Section 10A of the Representation of the People Act, 1951, for suppressing expenditure in her election accounts, has set a trend by making her not only the first political victim of the paid news phenomenon but also the first sitting legislator to be disqualified for excessive expenditure.

1.84 Election Commission, in their Order dated 20<sup>th</sup> October, 2011, in the instant case observed as under:-

"In the context...., another aspect which needs to be kept in view is that by suppressing expenditure on 'paid news' and filing an incorrect or false account, the candidate involved is guilty of not merely circumventing the law relating to election expenses but also of resorting of false propaganda by projecting a wrong picture and defrauding the electorate. The press Council of India has rightly observed in its adjudication order in the present case that 'The format of the impugned material was such that it would appear as a news report to the layman and word ADVT printed at the lowest end rather appeared to accompany a small boxed Appeal by the candidate. There was beyond doubt a possibility of confusing the voters when the elections were just a day away and all campaigning has stopped. Such

an attempt by the candidate to mislead the electorate runs grossly counter to, and in the face of, the Supreme Court's solemn declaration in *People's Union for Civil Liberties vs Union of India and others* (AIR 2003 SC 2363) that the electorate should be made aware of the candidate's antecedents, assets, liabilities and educational qualifications so that they can make an informed choice about their representative while exercising their franchise."

1.85 According to Shri N. Goplaswami, former Chief Election Commissioner, the Election Commission's exercise of power under Section 10A of the Representation of People Act, 1951 to disqualify a candidate, who resorted to 'Paid News' and failed to include that expenditure in his/her election expenditure statement, is a welcome step. However, he added that there are two cases which are still pending before the Election Commission of India on the score of 'Paid News' and concealing of expenditure, one against the MLA from Maharashtra and the other from Jharkhand.

1.86 According to a recent media report by Rural Affairs Editor, *The Hindu*, the political class is more honest than the media when it comes to 'paid news' during elections and this can be judged by the fact that several poll candidates have owned up to this corrupt practice. At least, after the Election Commission and the Press Council of India gives notices to them and holds inquiries into the matter. They have acknowledged guilt by belatedly adding their 'news' buying expenses to their election statement of accounts. According to the media report, there are instances where candidates have accepted in writing that they have bought 'Paid News Advertisements', but not a single newspaper have accepted that they received money and published news.

1.87 Further, referring to the disqualification of a MLA from Uttar Pradesh, various stakeholders/experts in their memoranda have raised a question on the existing provision of penalty for media, that is, if the candidate/individual found guilty of getting published an 'Advertisement' as News/Advertorial is punished/debarred then why the media is just warned or just made to express/scroll regret. Besides, how it can be just an ethical issue for the media and a matter of corruption for the others. Answering to these questions, former Chief Election Commissioner (CEC), Shri T.K. Krishnamurthy, during evidence, stated as under:

"I feel that the media is equally guilty of this offence and it should be punished."

1.88 Adding further, the former CEC stated that the disqualification of MLA from Uttar Pradesh under the Representation of Peoples Act, 1951 came there because of violation of the ceiling on the individual expenditure. However, if there is a violation by the political party, it does not deal with that. He submitted another point for consideration of the Committee that is since the election expenditure incurred by political parties does not come under any ceiling, the Representation of Peoples' Act, 1951 should be enlarged to cover the expenditure incurred by the political parties as well; and the political party should be made to pay a monetary penalty or

some kind of a fine on them so that they would refrain themselves from indulging in this. Several submissions before the Committee have endorsed this suggestion.

1.89 On being asked whether the proposed ceiling on expenditure by political parties should be based on their being a national party or a state/regional party, the former CEC responded as under:-

"Ceiling should be different for the national parties and it should be different for the State/regional parties. It need not be the same because the regional parties concentrate only on a limited number of States whereas the national party is expected to spend throughout the country. The ceiling again should be in relation to the Parliamentary Elections as well as in relation to the State Elections. For example, if there are simultaneous elections both for the States and for the Parliament, then the ceiling should be in relation to that and not should be in relation to a particular State."

1.90 In addition to the suggestion contained in some of the Memoranda, submitted to the Committee, for making 'Paid News' as an electoral offence, Shri Paranjoy Guha Thakurta, former PCI member, during evidence, submitted as under:

"I believe that it is very important for the Parliament of India to amend sections 1, 2, 3 of the Representation of the People Act, 1951 so that this coverage masquerading of advertisement as news should be made into a cognizable punishable offence. It is already being treated as an electoral malpractice under the conduct of election rules by the Election Commission of India. If sections 1, 2, 3 of the Representation of People Act are amended, then it would give further strength to curb this practice."

1.91 In this context, the Ministry of Information and Broadcasting stated as under:-

"Election Commission has also forwarded a proposal to the Ministry of Law and Justice proposing amendment in the Representation of People (RP) Act, 1951 to make paid news an electoral offence which is under consideration."

1.92 In addition, responding to a starred Q. No. 216(c), the Minister of State in the Ministry of Information and Broadcasting on 12<sup>th</sup> March, 2013 stated as under:-

"The issue of paid news has been included in the agenda for all party meeting on issues relating to electoral reforms. Besides, the issue of electoral reforms in its entirety has been referred to the Law Commission of India for consideration and to suggest comprehensive measures for changes in the law. Before initiating any legislative measures, the issue requires to be examined on the basis of recommendations to be made by the Law Commission and also in consultation with the stakeholders."

1.93 On the implications of 'Paid News' on electoral process some of the views/suggestions of the experts/stakeholders/organisations are as follows:-

- Strict action should be taken against the people's representatives who indulge in 'Paid News'. Those found guilty, their election should be declared null and void or alternatively they may be debarred from contesting election in future.
- The ruling party may not be allowed to publish their achievements by way of advertisements in the State/Centre during their rule at Government's expenses atleast six months before elections.
- A committee should be made under the Election Commission of India to monitor the issue of 'Paid News'. If found guilty, then on the report of committee the Election Commission should have the power to take action. The committee may consist of Supreme Court Judges, media, State Election Commission, Chairman of Prasar Bharati etc.
- For two and a half years, the Election Commission of India played a brilliant role in fighting paid news and the damage the paid news did to democracy. .... It created extensive new rules and regulations to fight the practice. It expanded monitoring of poll campaigns to a new level altogether.... The ECI even started a whole new division within its structure to confront the Paid News phenomenon: the expenditure monitoring division. It is correctly headed by an Income Tax commissioner - Paid News is very much an IT scam as well....The ECI, however, faltered at the last hurdle in a case relating to Maharashtra Assembly which is now pending in Supreme Court."

1.94 While examining the subject another issue has been raised by various stakeholders/experts and that is about the anomaly in the Supreme Court's order dated 13<sup>th</sup> April, 2004 according to which television channels and radio stations are prohibited or banned from broadcasting election campaign related news after campaigning stops 48 hours before polling is scheduled to take place. However, a similar ban does not apply to the print media and hence, newspapers carry election campaign related news and advertising even on the morning of polling. Even Press Council of India is of the view that this anomaly should be rectified with immediate effect by the Election Commission of India.

1.95 In this regard, a former PCI Member Shri Paranjay Guha Thakurta, during his evidence before the Committee, submitted as under:-

"There is one anomaly in the Act and the interpretation of the Supreme Court in the Act. Let me draw your attention to the report that I submitted to you .... which says that the Supreme Court of India has enjoined the TV channels to stop broadcasting campaign related information on candidates and political parties 48 hours before elections can take place. This needs to be extended to the print medium. So far, this restriction does not apply to the print medium. If it applies to the electronic medium, why not the print medium."

1.96 Further, endorsing the above view, a former CEC, in this regard, submitted as under:

"I would say whether it is possible to ban political advertisements in electronic media beyond a particular time limit. For example, now we

say two days before the election there should not be any canvassing. But then the print media is exempted from it. We have advertisements during this period.”

1.97 Considering the severity of the problem and the impact of 'Paid News' on Elections, the Committee asked about the existing provisions in the Election Code of Conduct to overcome the maladies of 'Paid News'. To this, the Ministry, in their written reply submitted as under:

“The Election commission has directed that maximum vigilance may be observed by making use of the existing provisions of law so that incidence of 'Paid News' or surrogate advertisements in print and electronic media in the context of elections are arrested. The legal provisions under section 127A of the Representation of People Act, 1951 make it mandatory for the publisher of an election advertisement, pamphlet etc. to print the name and address of the publisher as well as the printer and failure to do so attracts penalty of imprisonment up to two years and/or fine of Rs. 2000/-. Section 171H of the IPC prohibits incurring of expenditure on, inter alia advertisement without the authority of the contesting candidate. The Election Commission's detailed guidelines in this regard covers the declared or specified release as advertisement inserted in the newspaper etc and disclosure of amount paid for such advertisement. For the purpose of section 127A (1) of the RP Act, 1951, “election pamphlet or poster” means any printed pamphlet, hand bills or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates. Thus, Paid News would fall under the category of the 'Other document' liable to be included in election pamphlet and poster and action taken accordingly. Hence an obvious case of news reporting in print media dedicated/giving advantage to a particular candidate or the party while ignoring/causing prejudice to other candidates or parties would require investigation.

The Election Commission, for the purpose of investigation has directed the Chief Electoral Officers of all the States to constitute the District level Committee in each district to do vigorous scrutiny of all newspapers being published or having circulation in the district in order to locate political advertisements in the garb of news coverage appearing during the election period.”

1.98 On being asked about the concrete measures suggested by the Election Commission, the Ministry, in their written reply, stated as under:

“The Election Commission has issued instructions for constituting the District level and State level Media Certification and Monitoring Committee for scrutiny of paid news. The Election Commission requested the Press Council of India to provide a district-wise list of the Independent Journalists/Citizens for inclusion in the District level MCMC. The PCI has forwarded a list of former members of the Press Council for the purpose of consulting them for selection of journalist in the Committee. The PCI also suggested that eminent media educationists of the States form University/College recognized by University Grant Commission and also media researchers specializing



in psephology from Centres like Centre for Media studies, Delhi. The Election Commission has requested the CEOs of Assam, Kerala, Tamilnadu, West Bengal and Puducherry accordingly and has also forwarded the list of former members of the Press Council for selection of journalists for the District level MCMC to check and monitor the Paid news."

1.99 The Committee were also informed that in order to monitor the expenditure of political parties and candidates, the Election Commission of India has issued standing instructions to be followed by those who are responsible for the printing and publication of such election posters and pamphlets, etc.

1.100 Considering the provisions of the standing instructions for the printing and publication and apprehending that a candidate can be trapped by other candidate if he/she issues notices in opponents favour therefore putting the candidate into trap, the Committee desired to know about such possibility of mala-fide intention. The Secretary, Ministry of Information and Broadcasting during evidence replied that all legal provisions have this possibility.

1.101 Regarding the authority to disqualify the candidates Shri T. K Krishnamurthy, the former Chief Election Commissioner submitted as under:-

"As far as the paid news is concerned, I would say that the Election Commission should be authorised by the Representation of Peoples' Act to enquire into any allegations of paid news and if it is found to be true, the Election Commission should be authorised to disqualify the candidate...."

1.102 On being asked whether the PCI could be entrusted with the task, the former CEC responded as under:-

"If this power cannot be given to the Election Commission, atleast it should be given to the Press Council..xx.. The Press Council should have the ability to disqualify a candidate or to impose a penalty on a political party. Penalty need not be necessarily monetary penalty; it can be a penalty in some other form. But they must have the power after due enquiry to pass a reasonable order by which they are able to punish a party or a candidate...xx...For example, the High Courts have power over election petitions. There is no contradiction at all because if you want to give an independent status for an enquiry, Election Commission can take up the matter with the Press Council and the Press Council can take a decision."

1.103 The Ministry of Information and Broadcasting, in their background note, also stated that realizing the threat posed by 'Paid News' to functioning of an independent media in the country and the working of Indian democracy by influencing free and fair elections Press Council of India constituted a Sub-Committee comprising Shri Paranjoy Guha Thakurta and Shri Kalimekolam Sreenivas Reddy to examine the phenomenon of paid news observed during the 2009 Lok Sabha Election. The Report (72 pages) titled 'Paid News: How corruption in the Indian media undermines democracy' was submitted to PCI in March, 2010.

Chairman, PCI, then appointed a drafting committee to prepare a final report for the consideration of the Council. This twelve member Drafting Committee again drafted a final report on 'Paid News' (15 pages). A brief conclusion of the sub-Committee Report and recommendation of final Report, as submitted by the Ministry, is placed at *Annexure-I and II* respectively. Some of the significant recommendations related to the Electoral process, as outlined in the PCI's Sub-Committee on Paid News are as under:

"It should be mandatory for all candidates/political parties to fully disclose their equity stakes and/or financial interests in newspapers/television channels on which news about their candidates/parties as well as interviews with candidates and/or representatives of the political parties are published or broadcast. If a candidate is being interviewed or given positive publicity on a particular newspaper/television channel, the association (financial or otherwise) of the candidate with the newspaper/television channel if any must be disclosed to the reader/viewer.

Section 123 of the Representation of the People Act, 1951, should be amended by Parliament to make the practice of paying for news coverage in newspapers and television channels an "electoral malpractice" or an act of corruption and made a punishable offence.

The Election Commission of India should set up a special cell to receive complaints about "paid news" in the run-up to elections and initiate a process through which expeditious action could be taken on the basis of such complaints. In order to place a check on frivolous complaints being made a time limit of, say, one month from the date of publication or broadcast of the report should be imposed. The Election Commission of India should nominate independent journalists and/or public figures as observers in consultation with the Press Council of India who would accompany the election observers deputed by the Election Commission of India to various states and districts. Just as the deputed election observers are expected to report and keep a check on any malpractices in election campaign and the conduct of elections, these nominated journalists could report on instances of activities of practice of paid news to the Press Council of India and the Election Commission of India.

The Press Council of India should constitute a body of media professionals with wide representation at the national/state/district levels to investigate (either suo-motu or on receipt of complaints of) instances of "paid news" and the recommendations of such a body – after going through an appellate mechanism -- should be binding on the Election Commission of India and other government authorities."

1.104 Information furnished by Election Commission of India on the issue of paid news is placed at *Annexure-III*.

## CHAPTER-V

### **Existing mechanism/ Guidelines/ Codes/ Norms/ Acts/ Organizations/ Professional bodies/ Legislations/ etc.**

1.105 During the course of examination of the subject, the Committee came across various guidelines/ Codes/ Norms/ Acts/ Organizations/ Professional bodies/ Legislations in existence to check the 'Paid News'. Some of these include Working Journalists Act, News Broadcasters Association Code, Press Council of India Act and its Norms of Journalistic Conduct, Indian Broadcasters Foundation Guidelines, Mint Code of Journalistic Conduct, Cable Television Networks (Regulation) Act, 1995, Press and Registration of Books Act, 1867, Code for Commercial Advertising on Doordarshan, etc. When the Ministry was asked to provide details about the existing mechanism/ Guidelines/ Codes/ Norms/ Acts/ Organizations'/ Professional bodies/ Legislations/ etc., so as to check the 'Paid News', they stated as under:

"In pursuance of the twin objective of preserving the freedom of press and maintaining and improving the standard of newspapers in India and also to inculcate the principles of self-regulation among the press, the Government has set up the Press Council of India (PCI), an autonomous body under the Press Council Act, 1978. The PCI under Section 13(2)(b) has developed 'Norms of Journalistic Conduct' that cover the principles and ethics regarding journalism for adherence by media. PCI has also laid down guidelines on reporting of specific issues of public and national importance. In 1996, it drew up a set of guidelines that are applicable to financial journalism and also on reporting of elections.

The PCI conducts hearing into the complaints of violation of Journalistic Ethics and Norms through its Inquiry Committees. The Inquiry Committees, after written and oral submission of the parties, submit its recommendations in the matters to the full Council for action. Under section 14 of the Press Council Act, 1978, the Council can warn, admonish or censure the newspaper, editor or the journalist as the case may be.

As regards the electronic media, all TV channels are required to comply with the Programme & Advertisement Codes failing which action can be taken as per the terms and conditions of permission/registration. The Advertisement Code stipulates that all advertisements should be clearly distinguishable from the programme. The Programme Code prohibits carriage of programmes containing anything deliberate, false, suggestive, innuendos and half-truths. Though there is a well-established procedure to take action for such violations, the problem is to establish the violation *per se*. There are so many different ways which can be adopted towards obliging the channels financially that it is extremely difficult to establish a violation in this regard. However, if a violation is established the Ministry is well within its power to take action which may include taking the channel off-air either permanently or for a limited period.

.....xxxxx... In addition to the existing mechanism to curb the menace of paid news, the Government is also considering the recommendations of the Standing Committee on IT on 'The Press and

Registration of Books and Publications Bill, 2011' regarding need to curb the menace of paid news and to propose penal provisions in the Bill."

1.106 The Ministry has also outlined the 'Norms and Guidelines issued by NBSA in November 2011' which provides as under:

"Every news broadcasting organization shall disclose conspicuously in an appropriate manner during broadcast of a programme, on their television channel/s and on their website/s, including during a news, current affairs, sports, entertainment or promotional broadcast as to whether the content of such broadcast has been paid for by or on behalf of the Entity that is subject matter of such broadcast in any manner whatsoever; and whether such broadcast is an 'advertorial' or other media marketing initiative."

The self-regulation mechanism put in place by the broadcasters, however, does not replace the existing regulatory function of the Government, arising out of the extant statute, namely, Cable Television Networks (Regulation) Act, 1995 and Rules framed thereunder. While self-regulation is aimed at facilitating better content regulation at broadcasters' level, it does not mean that the Government will abdicate its overall statutory functions. Government steps in as warranted by the existing Act, wherever self-regulation does not succeed in content regulation.

1.107 Further, when the Ministry was asked whether the existing provisions in various Acts to check malpractice of 'paid News' adequate, they stated as under:-

"The existing provisions of laws of the land, including the provisions of the Companies Act, 1956 and the Income Tax Act, 1961 have the potential to check the malpractices of paid news, but the problem is to establish the violation per se. PCI's Report on Paid News also indicates that the payment and receipt of money for paid news is a clandestine operation."

1.108 Highlighting further on the existing monitoring mechanism, the Ministry submitted as under:-

At the centre, the Government has set up a state-of-art Electronic Media Monitoring Centre (EMMC) to monitor and record channels on a 24x7 basis. The capacity of the centre was enhanced during the year 2010-11 from 150 channels to be able to monitor 300 Channels at a time on a random basis. The EMMC has enabled the Ministry to suo moto take action without depending on the recordings provided by the channels which were subject to manipulation by the channel. This set up has strengthened the regulatory system and reduced the time period required for taking action in case of violations.

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## State level and District level Monitoring Committees

The implementation of the Cable Television Networks (Regulation) Act, 1995 at the local level falls within the domain of the local authorities of the concerned State Governments.

Section 2 of the Cable Television Networks (Regulation) Act, 1995 provides that "authorised officer", within his local limits of jurisdiction, means a District Magistrate, or a Sub-Divisional Magistrate or a Commissioner of Police. Further, Sections 11 and 12 of the said Act provide that the authorized officer has the power to seize and confiscate the cable operator for violation of the provisions of the Act.

In order to enforce the Cable Act and Rules at the State/District level, the Ministry issued order on 6.9.2005 for "Monitoring Committee for the Programme and Advertisements telecast by Cable TV channels" at the State, District/local level. Subsequently, detailed guidelines were issued by this Ministry on 19.2.2008 providing for District level Monitoring Committee and State level Monitoring Committee.

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So far, 16 States viz., Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Manipur, Meghalaya, Mizoram, Rajasthan, Tripura, Uttarakhand and West Bengal have set up State level Committees. 5 Union Territories, namely, Andaman & Nicobar Islands, Chandigarh, Daman Diu, Dadra & Nagar Haveli and Lakshadweep have also set up State level Committees. So far as District level Committees are concerned, 276 Districts across India have already set up such Committees."

1.109 On being informed by the Ministry, as narrated in earlier part of the Report, that Advertisement and Programme Code has not been strictly followed, the Committee desired to know about the follow up action taken by the Ministry. Responding to this, the Ministry in this regard, has submitted as under:-

"This Ministry has set up an Electronic Media Monitoring centre to track violations of the Advertisement Code and the Programme Code as provided in the Cable Act. Violations are also referred to the self-regulatory body i.e., ASCI (Advertising Standards Council of India), for taking up with the concerned advertiser/ advertising agency. Ministry takes appropriate action after receiving the report of ASCI in such cases. IMC (Inter-Ministerial Committee) has also been constituted in the Ministry to look into violations of Programme and Advertising Codes and to recommend suitable action depending on the gravity of violation."

1.110 However, the Ministry themselves have accepted that there is no mechanism to enforce the Election Commission's code to channels and newspapers.

1.111 Elaborating further on the measures, to be taken for strict enforcement of the existing codes of conduct by the media, the Ministry in their written reply stated

that the Government steps in if a channel is found violating the Programme and/ or Advertisement Codes. The Ministry also submitted as under:-

"Every broadcaster through various Policy Guidelines has been mandated to follow the Programme and Advertisement Codes as prescribed under the Cable Television Networks (Regulation) Act, 1995 and Rules framed there under. For regulation of content on Satellite TV channels, an Inter-Ministerial Committee (IMC) chaired by Additional Secretary (I&B) has been constituted, with representatives from other Ministries, which gives its recommendations on alleged violation and suitable action to be taken against the channel. The IMC functions in a recommendatory capacity. The final decision regarding penalties and its quantum is taken on the basis of the recommendations of IMC."

1.112 News Broadcasters Association (NBA), a self-regulatory body was also asked about the existing mechanism and measure to tackle the menace. To this, President of the NBA, during evidence, stated as under:

"On the news side, we started carrying scrolls saying that if any member of the public has any complaint on any content of our channels, he may report the matter to the News Broadcasting Standards Authority. On the entertainment side also, a similar body has been set up and so we now have a Broadcasting Content Authority on that side as well.

Sir, paid news is certainly bad. We do not want it and nobody should indulge in it. But I think it is something that has to be regulated by us within our mechanism for self-regulation that we have got. I honestly believe that the State should not have a role to play in this. We have leading lights in democracies of the world where self-regulation has worked very well and that is exactly what is needed. Paid news is certainly bad and it should be regulated in the self-regulatory mechanism."

1.113 Further, representative of the NBA, during evidence, added:-

"...xx..Sir, my humble submission to the Committee is that in case there is any incident of paid news that comes to the notice of any member of the public or any member of the polity, there is a framework that is laid down for redressal. That person can go to the channel concerned and if dissatisfied, he can go to a broader redressal mechanism that is headed by a person of eminence of Justice Verma. These avenues are available for redressal and they have proved to be very effective in the last couple of years of self-regulation."

1.114 On the efficacy of existing Code/ Guidelines/ Acts/Norms and the success of various professional bodies like Editors Guild of India, Indian Broadcasting Foundation, Advertising Standards Council of India, News Broadcasters Association etc., for tackling the menace of 'Paid News', NBA, in their written reply, submitted that recognizing the importance of the issue, they have put in place a set of Norms and Guidelines on Paid News.

1.115 Responding on the same query, Prasar Bharati in their written reply, submitted as under:

"In the absence of any statutory regulator, other measures adopted so far have not been very effective in checking the menace of 'paid news'. There has been an effort to regulate the functioning of private channels through the Cable Television Network (Regulation) Act 1995. However, there is no mechanism put in place to enforce the provisions of the Act. Steps in the direction of self-regulation by various media bodies have been virtually ineffectual due to lack of teeth."

1.116 When asked to provide suggestions for making the existing mechanism/ organizations/ bodies/ norms/ codes/ guidelines/ acts, etc., efficient enough to curb the menace of 'Paid News', Prasar Bharati submitted as under:

"Self-regulation has not been very successful in respect of private Indian media. Perhaps an independent regulator is very much needed. Independent regulator should be under the control of the Government. This should be a multi-member body of independent persons, who may be appointed in consultations with representatives of media bodies."

1.117 On this issue, CEO, Prasar Bharati, during evidence, submitted as under:-

"People are imprisoned for tax violations. It is the question of ruling of law extending itself. It cannot happen overnight. It will happen slowly. It will happen if we keep up the pressure. I would submit that this is an area where amendments need to be brought in. The choice of amendments ..... xxxxx... I would submit, it should be through an array of instruments. The legal authority lies in the Cable Television Networks Regulation Act. This is the only Act in which we may not need to go in for a new Act. A little bit of tweaking here and there. This is administered by the Ministry of Information and Broadcasting, which can enforce provisions where there is a grey area, by insisting on an undertaking and then acting upon that undertaking 'that you have undertaken at every level that you have not done it for a consideration'."

.....xxx..... So what we suggest and what we always suggest to the I&B Ministry is to issue guidelines in this respect because it is the nodal agency to take care of the Act. They can take action against the channels who violate those guidelines and provisions of this Act because the Cable Networks Act gives powers to the Ministry to take action in consultation with the State Government and District Magistrate."

1.118 He further added:-

"Those guidelines have to be very effectively monitored and Prasar Bharati can always reiterate the guidelines which we follow in this regard because we have clear guidelines, code of conduct for ourselves. We can certainly suggest to the I&B Ministry that these can be issued to other channels and they may also replicate them otherwise action would be taken by the Ministry because everything is there. But that code and all those kinds of things are not binding on private channels and private newspapers and other people at all. Like

these days, viewers do not know, if something comes, whether it is sponsored advertisement or news because of want of guidelines that it should be properly scrolled and if it is not declared as advertisement, it is news."

1.119 However, according to the former Chief Election Commissioner, Shri T.K. Krishnamurthy, instead of creating new institutions, it is better that there is a set up within the Press Council or the Election Commission. The reasons provided by him are as under:

"It is because for the Ombudsmen again there would be time lost in exchanging correspondence with the Election Commission as well as the Press Council before taking any decision. So, my humble suggestion is that it should be either with the Press Council or with the Election Commission.

I have no objection at all if it is going to the Press Council. The objection that I have is, please do not create one more institution to create more problems in terms of time and then that institution will become all powerful with the other two may not even be able to communicate with them. So, it is better to have some kind of an institutional mechanism within the existing institutions."

1.120 The Committee also desired to know whether the Ministry has done a study on the usefulness of the self regulating bodies viz. PCI, NBA etc., the Secretary, Ministry of Information and Broadcasting during evidence, submitted as under:

"We do not get any periodic reports from them. There is no prescription like that. Our BCCC had submitted their annual report about three, four months back. But most of the violations are basically in the domain of news broadcasting. They do claim that they have a website where they put all their actions and also actions taken by them. Some have been reported. In a recent case they had really put a fine of Rs. 1,00,000 on one of the news channels for violations. I think, this was for not verifying the source."

**The case of M/s Jindal Steel Power Limited and M/s Zee Ltd – highlighting loophole in the existing guidelines/code/ mechanism**

1.121 During the course of examination of the subject, M/s Jindal Steel and Power Limited (JSPL), in their letter dated 19<sup>th</sup> December, 2012, invited attention of the Committee to certain alleged unethical malpractices of M/s Zee News Limited and stated that M/s Zee News has aired considerable number of programmes containing wrong, manipulated, untrue and *per-se* defamatory contents against M/s Jindal Steel and Power Limited (JSPL). They also stated that M/s Zee News have violated Point No. 4 and Point No. 6 of the Code of Ethics and Broadcasting Standards of the News Broadcasters Association and that of Rule 6(d) and (i) of the Programme and Advertising Codes prescribed under the Cable Television Networks Rules, 1994.



1.122 During evidence, the representatives of M/s JSPL drew attention of the Committee, to the following issues:

"The issue of 'paid news' -- one of the issues that this august Committee is discussing -- is a very serious problem. Even more serious is the issue of extortion by using newspaper or TV channels...xxxx....In fact, it is far more serious than 'paid news' because they are indulging in criminal acts. ...xxxx.. Now, in this case, till today, no action has been taken by the Ministry despite repeated complaints by us. Seven letters have been sent by us from October till December. An inter-Ministerial Committee meeting took place on 4<sup>th</sup> January, 2013, where we made a presentation, but thereafter it seems that on the pretext that this matter is *sub-judice* before the criminal courts and before a defamation court, that is, before the Mumbai High Court where a defamation suit has been filed by us, so far, nothing further has moved and it seems that no action is being taken in this very very serious matter.

.....xxxxx.....The General Clauses Act says that whoever has the power to do something, also has the power to take away that. So, any license granted, if having a channel requires a license from the Ministry of I&B, which it does, a license has been given to them by the Ministry of I&B, this Ministry has the right to revoke that license under the General Clauses Act. This Ministry has come out with certain guidelines in what sort of situations we can do what, and they have a particular guideline under which they say that in cases of serious violations which are against public interest, we can even revoke the license.

We have given all these things to the Ministry and said that this would squarely come within the guideline no. 8.1 of the Ministry. There is also a programme code which the Ministry has which says that only these are the things that you can do and these are the things that you cannot do, under the Cable Networks Act, which is a statutory provision in which there are various things that you cannot do – you cannot defame somebody, you cannot falsely say something against somebody, etc., which is what they have done here."

1.123 Section 8.1 of the Uplinking guidelines referred to above, reads as under:

"In the event of a channel/teleport/SNG/DSNG found to have been/ being used for transmitting/ uplinking any objectionable unauthorized content, messages, or communication inconsistent with public interest or national security or failing to comply with the directions as per para 5.9 above, the permission granted shall be revoked and the company shall be disqualified to hold any such permission for a period of five years, apart from liability for punishment under other applicable laws."

1.124 M/s JSPL, further, submitted as under:

"Now, if some programme is being shown about somebody which is false for the purpose of extorting money, my question is, would it not come under objectionable unauthorised content inconsistent with public interest? If somebody shows something false about somebody with a view only to extort money from him, that would clearly, in my

submission, come within objectionable unauthorised content inconsistent with public interest....”

1.125 When the Ministry was asked to clarify on M/s JSPL’s submission, they stated that though the NBA has examined the issue in light of its Code of Ethics, the Ministry is also examining the issue separately. The Ministry, further, added as under:-

“(i) The matter was placed on 04.01.2013 before the Inter Ministerial Committee (IMC), constituted to look into violations of Programme and Advertising codes by private satellite TV networks, for affording an opportunity for personal hearing to M/s JSPL. In the meeting, M/s JSPL made a detailed presentation about the issues involved. M/s Zee News Ltd. was also called for making their submissions before the IMC. M/s Zee News Ltd. has stated that they have sought personal hearing by way of abundant precaution, as they learned that M/s JSPL made allegations against them. However, they also pleaded that an opportunity should be given to them to explain their side of issues raised by M/s JSPL.

(ii) After hearing both the parties, it was decided by the IMC that M/s Zee News Ltd needed to clarify certain issues pointed out by M/s JSPL. M/s Zee News Ltd (ZNL) was asked to submit their response by 7.2.2013, which on request of M/s ZNL, was extended upto 14.02.2013. M/s ZNL has submitted their response *vide* their letter dated 14.02.2013, which is under examination and is coming for consideration of the IMC in its next meeting scheduled on 7<sup>th</sup> March, 2013.”

1.126 In this context, the Secretary, Ministry of Information and Broadcasting, during evidence, submitted as under:-

“Sir, I would like to very humbly submit that the process is on; they have also drawn our attention to this provision; and it is correct that this is although an administrative guideline, it does not have the sanction of a law, but it certainly gives authority. For instance, taking another case, if there is a blatant lie about our national security, I think the Ministry is absolutely mandated to really invoke this particular Section and take action against the channel. So, there is no doubt that this provision has been there essentially to be made use of. But it has to be made use of in a manner, which is legally tenable ...xxx...That is what the IMC is doing, because they have a member from the Law Ministry as well. So, they have had a discussion with them. It is my information that they are going to have further discussions to understand very clearly that whatever they do, should not actually appear so blatantly wrong that it is quashed in the court of law. That would not be a good thing to happen.”

1.127 The Secretary, also, stated:-

“The key words are whether it is in consistent with public interest or national security. Then, this Section is attracted. I think, we will have

to really take a call whether a dispute between the two private entities is a matter of public interest or not.”

1.128 When Ministry was asked to state whether NBA had taken cognizance of this case *suo-motu*, they replied as under:

“With regard to the Zee News case, NBA/ NBSA have informed this Ministry about *suo-motu* notice taken by them. Their communication is reproduced verbatim as follows:

“....xxx..... on the basis of material forwarded to NBSA by Justice (Retd) Markandey Katju, Chairman, Press Council of India (PCI), the NBSA took suo motu cognizance of the matter and issued notice on 19.10.2012, to the concerned parties.

During the course of hearing on 31.10.2012, NBSA was informed by the parties that an FIR had been lodged on 2.10.2012 by M/s Jindal Steel & Power Ltd. (JSPL) against officers of Zee News Ltd (ZNL) and the same was under investigation. Further, NBSA was informed that a suit had also been filed by JSPL against ZNL on 25.10.2012 in the High Court of Bombay at Mumbai making claims arising from the same subject matter.

Accordingly, the matter was “sub judice” even before any information was forwarded to NBSA and therefore the NBSA could not take cognizance of the matter.”

1.129 On the matter being *sub-judice*, the Committee asked the representatives of M/S JSPL to clarify further. Responding to this, a representative of M/s JSPL, during evidence, submitted as under:

“Absolutely not for the simple reason that the issue of revocation of licence cannot be dealt with either by the police or the Magistrate where the complaint is pending or by the High Court in the defamation suit. This relief of cancellation of licence to a channel can only be granted by the Ministry of Information and Broadcasting. Therefore, for them to take a stand that “Look, we cannot do anything till the matter is sub judice” is, in my submission, completely wrong because if you do not take some action against somebody who is using this big weapon of being in the media, of having a channel, of being able to show anything against anybody and who is using it as a blackmail, then who else can take action? This will be dereliction of duty.”

## CHAPTER-VI

### **Measures to tackle the menace of 'Paid News'**

1.130 With regard to regulating the menace of 'Paid News' some experts/stakeholders have advocated for State involvement whereas others have recommended for self-regulation and some other have suggested for multi-tier regulation including ombudsman and self regulation as first tier of regulation and at second tier a body/authority/organisation with legal/statutory backing or limited external regulation.

1.131 When asked about the best line of action to tackle this menace, the Secretary, Ministry of Information and Broadcasting during evidence submitted as under:-

"It would be very necessary, in my view, and very important for the Committee to have discussions with a wide section of the people and perhaps the Election Commission of India and the Press Council itself, the SEBI because of the financial interests as well as, I think, the members of the Press Council who had drafted the report and may be journalists who have written on this subject from time to time, the representatives of organisations like the Editors Guild which also took a very strong view and issued a very strong statement on paid news. I think a number of people would be more than happy to depose before the Committee. On your direction, we have already issued an advertisement in the paper inviting comments so that you can receive it in writing. After that, the Committee may like to discuss with some of them.

As Secretary of the Ministry, I do feel that it is very necessary to build a very strong public opinion which would ultimately be the answer. Whatever may be the penal provision that we prescribe, if there is a general feeling among the people at large that this is something which is diluting their rights for free flow of information and they are being fed information which is not correct, I think that would perhaps be the best antidote in the long run."

1.132 On the query about the strategy and time frame to tackle the issue, the Ministry stated that the matter requires prior consultations with stakeholders after receiving the recommendation of GoM proposed to be re-constituted and since it requires wider consultations, no time frame in this regard could be given.

1.133 However, considering the views/suggestions of the Stakeholders, the Committee have analyzed following issues to curb the malpractices.

#### **(i) Efficacy of Self regulation**

1.134 As pointed out by the former Chief Election Commissioner, Shri T.K Krishnamurthy, the most critical issue for curbing 'Paid News' is to have a regulatory mechanism as media resort to taking leverage under freedom of expression. Besides, almost all the individuals/experts/stakeholders/organisations,

except News Broadcasters Association (NBA), have advocated on the need for having an oversight/regulatory mechanism so as to curb the syndrome.

1.135 The CEO, Prasar Bharati, on the issue of having a regulator, during evidence before the Committee submitted as under:-

"The Ministry of Information and Broadcasting, in fact, has been working on this for a very long time and, in fact, a Draft Bill has been circulated to the stake holders, a number of meetings were held by the hon. Minister of Information and Broadcasting but a final position has not yet emerged.

The consultation between the Ministry of Information and Broadcasting and the Ministry of Law and stake holders has been going on for at least five years now for forming an independent regulatory authority to regulate all these things and there is always a debate, the media people come and it is a very tricky situation. They say that they have their own Code of Conduct though practically that is not seen in everyday functioning of the private channels and fine line between advertisement, paid news and news, that has become quite blurred and it is becoming more and more blurred every day."

1.136 A written Memorandum from Association for Democratic Reform Mazdoor Kisan Shakti Sangathan stated that media in India is essentially self regulated by an industry body, the Editors Guild of India and a statutory body-Press Council of India which is ineffectual because it has no real power and also because of its constitution. It *inter-alia* quoted an eminent Chief Editor's speech delivered to media professional on 3<sup>rd</sup> December, 2010 which is as under:-

"Paid News: a year ago in Editors Guild we asked editors to take a pledge-a pledge somewhere that they should be ready, at least in their own individual capacity, to resist proprietors who will want paid news without norms of disclosure ....xxxx....We got about 18-20 editors only answering and giving that pledge. A majority haven't done so. It required the election commission to intervene (.....) we could have a code of conduct, we could devise it but are editors going to be willing to adhere to that code of conduct....xxx..."

1.137 On the issue of regulation, the Ministry, in their written reply stated that media should be self regulated and further added as under:-

"In the democratic structure of the country, freedom of speech and expression is one of the fundamental rights. The freedom of press in India flows from this right. The media, while reporting should not be under any compulsion. In this scenario, media, on its part should convey correct and fair information to the people. The instance which has been brought out in Radia tapes is extremely disturbing. However, the Ministry feels that it is an aberration. The Parliament has passed the Press Council Act, 1978 which provides for regulation of the media by its peers."

1.138 Regarding regulation for electronic media, apart from self-regulation, the Ministry in their written reply stated as under:-

"As regards the electronic media, all TV channels are required to comply with the Programme & Advertisement Codes failing which action can be taken as per the terms and conditions of permission/registration. The Advertisement Code stipulates that all advertisements should be clearly distinguishable from the programme. The Programme Code prohibits carriage of programmes containing anything deliberate, false, suggestive, innuendos and half-truths. Though there is a well-established procedure to take action for such violations, the problem is to establish the violation per se. There are so many different ways which can be adopted towards obliging the channels financially that it is extremely difficult to establish a violation in this regard. However, if a violation is established the Ministry is well within its power to take action which may include taking the channel off-air either permanently or for a limited period...xx..

Besides, broadcasting industry is also making attempts to self regulate, stipulate codes of ethics and standards for itself."

1.139 However, the Secretary, Ministry of Information and Broadcasting during evidence before the Committee took the stand that if the Standing Committee provides a definitive view on the need of having a regulator/ self-regulation/ and the manner in which the Ministry have to proceed, it will strengthen their hands and provide better clarity on the issue.

1.140 Considering the opinion of the Ministry on self-regulation, the Committee desired to know the efficacy of self-regulation mechanism/body and whether it has been able to check the menace of 'paid news'. The Committee also asked whether the Codes of Ethics and Standards stipulated by self-regulating bodies of Media industry been effective in inculcating 'self regulation' in media or not. Responding to this query, the Ministry of Information and Broadcasting, in their written reply, submitted as under:-

"Ministry of Information and Broadcasting feels that the media should be self-regulated. The instances of paid news in print media can be tackled with the steps being considered in the proposed amendments in the PRB Act based on the recommendations of the Standing Committee on IT in regard to the Press and Registration of Books Bill. Besides, other various other steps being taken by PCI, Election Commission of India and M/o I&B may also help check the instances of paid news.

This Ministry has been of the view that content generation falls exclusively in the domain of broadcasters and self-regulation could be an effective mechanism for a healthy content regulation. For giving this mechanism an opportunity to become robust and effective, complaints received in the Ministry against a news channel are sent to NBA in the first instance for placing before NBSA for appropriate action.

The News Broadcasters Association (NBA), as part of its self-regulation mechanism, has formulated a Code of Ethics and Broadcasting Standards covering a wide range of principles to self-regulate news broadcasting. NBA has also formulated News Broadcasting Standards Regulations. They have set up a Two - Tier structure to deal with content related complaints. At Tier I, complaints are dealt with by the individual broadcasters at their level. At Tier II, NBA has set up News Broadcasting Standards Authority (NBSA).

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The self-regulation mechanism put in place by the broadcasters, however, does not replace the existing regulatory function of the Government, arising out of the extant statute, namely, Cable Television Networks (Regulation) Act, 1995 and Rules framed thereunder. While self-regulation is aimed at facilitating better content regulation at broadcasters' level, it does not mean that the Government will abdicate its overall statutory functions. Government steps in as warranted by the existing Act, wherever self-regulation does not succeed in content regulation."

1.141 On the same issue, PCI, in their written reply stated as under:-

"Self-regulation is futile and meaningless, because self-regulation is an oxymoron. All social activity has to be regulated. Regulation is different from control. In control, there is no freedom, while in regulation, there is freedom but it is subject to reasonable restrictions in the public interest. The Press Council is in favour of regulation and not control, and this regulation should be by an independent statutory authority like the Press Council of India and not the government."

1.142 In this regard, News Broadcasters Association's (NBA) submission to the Committee is that Paid News' must be a part of the self-regulatory regime and ought not be legislated upon. The agency is of the opinion that the issue of 'Paid News' is clearly an 'ethics issue' and therefore must squarely be a part of the self-regulatory regime that NBA has initiated so far and which has successfully evolved since then. In addition, NBA is of the view that multiple agencies should not be created or entrusted with the task of monitoring and enforcing prohibition on Paid-News as this would create conflicts and inefficiencies in implementation.

1.143 It was noted that there are various self-regulatory organizations viz. News Broadcasters Association (NBA) (for news and current affairs formed in 2007-08), Indian Broadcasting Federation's Broadcasting Content Complaints Council (BCCC) (for non news and current affairs/general entertainment channels formed in 1999), Advertising Standards Council of India (ASCI), Press Council of India (PCI),etc.

1.144 When asked about their mechanisms and competency to deal with other body/association with different standards/code of ethics, the President, NBA, during evidence, submitted as under:-

"The News Broadcasting Standards Authority has jurisdiction over every channel that is owned by any of the member of the News Broadcasters Association. There are about 40 national channels. For example, when the Government says that there are 300 news channels today, there are in fact only 45 news channels. The rest of the channels are normal entertainment channels which do not have any element of news. Even half an hour news a week would make that a news channel for the purpose of those guidelines. I think, we need to differentiate between the two. It is really very difficult for me to speak for the entire broadcasting fraternity. But, if we confine ourselves to 24-hour news channels, I think, most of our 24-hour news channels, whether they are regional or national, are members of the News Broadcasters Association. We are going around and trying to increase the membership."

1.145 Highlighting a major drawback of self-regulatory body/mechanism, President, Editors Guild of India, during evidence, submitted as under:

"As an association what can we do? We can only put moral pressure. We have no legal powers against our members."

1.146 The Committee received numerous suggestions/views from the experts/stakeholders/ organisations on the issue of regulation. Some of the significant ones are as under:-

Sl. No.	Individuals experts/stakeholders/ organisations	Suggestions/Views
1.	Prasar Bharati	<p>Self-regulation as an open phenomenon has not succeeded. But self-regulation, if you want to make it start, then you have to put the keys on. You have to propose a draft of a body saying that this is the draft body that we want to set up. And within that draft body, I would submit two layers. One is the consultative and judicial layer, that is seniors, and the other is the execution layer. In the execution layer, it should comprise of an independent investigator and an independent complaint office and suppression of identity of the complainant, whistle blower.</p> <p>...XX....      ...XX....      ...XX....      ...XX....</p> <p>Self-regulation has not been very successful in respect of private Indian media. Perhaps an independent regulator is very much needed. Independent regulator should be under the control of the Government. This should be a multi-member body of independent persons, who may be appointed in consultations with representatives of media bodies.</p>



2.	Press Council of India	<p>If the Press is to function effectively as the watchdog of public interest, it must have a secure freedom of expression, unfettered and unhindered by any authority, organized bodies or individuals. But, this claim to press freedom has legitimacy only if it is exercised with a due sense of responsibility. The Press must, therefore, scrupulously adhere to accepted norms of journalistic ethics and maintain high standards of professional conduct. Where the norms are breached and the freedom is defied by unprofessional conduct, a way must exist to check and control it. Yet, control by Government or official authorities may prove destructive of this freedom. Therefore, the best way is to let the peers of the profession, assisted by a few discerning laymen to regulate it through a properly structured representative impartial machinery. A need for such a mechanism has been felt for a long time both by the authorities as well as the Press itself all over the world.</p> <p>...XX....      ...XX....      ...XX....      ...XX....</p> <p>Regulation is acceptable only through the mechanism of self regulation with statutory backing.</p>
3.	Akhil Bhartiya Grahak Panchayat (ABGP)	<p>It is admitted fact that every system need a regulatory mechanism to monitor its programme and improve efficiency. Checks and balance are part of the system thereby considered necessary. Regulatory provisions are more relevant in case, issues are directly effecting the public interest. Recently Ministry of Information and Broadcasting finalized certain norms incorporating cancellation of licence after five violation in programme code. However, it had been resisted by broadcasters on the plea of freedom of speech and expression as granted under constitution. In this regard, Hon'ble Supreme Court observation/judgement 1995 in the case of "airwaves" had also been referred. Freedom of speech is welcome but simultaneous responsibility in self-regulation cannot be ignored. Society demands that spirit of judgement be implemented in toto and not as per suitability or convenience. Therefore, we have our reservations towards complete independent regulatory mechanism at this stage as per experience in power sector.</p> <p>There should be a regulatory body to check and control the media. The members of this regulatory body should be independent Journalists.</p>

4.	President, Editors Guild of India	Editors Guild had taken a strong position on the problem of 'Paid News' which we believe undermines the whole ethos of credible and free press. We initially asked the members that we have to sign an affidavit stating that they will not be party to any 'Paid News'. A substantial number of our members have actually signed the affidavit. We have taken up the issue with the Government. We had a meeting with the Election Commission also. We wanted them to take action in relation to election issues and the Chief Election Commissioner had said that they would take action. We did not know, as a voluntary body, what else we could do, but we have discussed the issue. There is one suggestion which I would like to make to the Committee which is that the issue has to be addressed without affecting the freedom of the Press.
5.	Association for Democratic Reforms	An independent regulatory mechanism is needed to restore media standards and public respect for the fourth estate....xxx....Regulatory mechanism completely independent of State is needed to restore media standards. Two-tiered approach, predominantly self-regulation with limited external regulation for serious violations. A well defined Ombudsman role in media companies as first level of internal regulation and at second level, an organization consisting of all media ombudsman. Finally an independent Commission with legal powers to investigate serious transgressions and levy penalties both on the media house and ineffectual ombudsman. The appointment can be along the lines of Central Information Commission (CIC), Central Vigilance Commission (CVC), Central Bureau of Investigation (CBI) etc.
6.	Former PCI Member (Shri Pranjoy Guha Thakurta)	Self-regulation is good; a voluntary code of conduct is good, but it is not enough. Today, unfortunately, the biggest newspapers, the biggest television channels have shown the way on how to be corrupt.....They are named; all the publications are named in this report. Again, we did not have the power of the Income-Tax Department or we did not have the power of the CBI, so we did not catch somebody giving money to another person. But we have circumstantial evidence; we have people on record. Not a single allegation in this report is anonymous. Every allegation has been attributed to some individual, person or organization. Every individual or organization against whom these allegations were made was given an opportunity

		<p>to give their reply and everywhere the reply has been given; some chose not to. So, every single allegation has been substantiated. ....xxx..... Self-regulation is always the best. But what happens when some people cross that proverbial lakshman rekha? For them, you need some regulation. I would also urge that a suitable authority be set up by an Act of Parliament for the electronic media, especially the television medium because television medium has become huge. Twenty years ago, there was one broadcaster. Today the Ministry of Information and Broadcasting tells you that there are more than 700 television channels, and more than 350 are News and Current Affairs.</p> <p>These are all important steps that could be taken. The Election Commission of India has taken some steps. The Securities and Exchange Board of India has taken some steps. It is now up to our hon. Law-makers to take further steps so that this kind of corruption which undermines the very basis of democracy could be stopped or if not stopped, at least, could be curbed. I am not saying that you can stop everything, but at least it should be curbed.</p>
7.	Former Chief Election Commissioner, (Shri T.K. Krishnamurthy)	<p>A legal provision to enable the authorities to disqualify/penalise such candidate with proper supervisory mechanism is the need of the hour.....</p> <p>A suggestion was made some time back that State funding will be able to get rid of this paid news phenomenon. I do not agree at all because this paid news phenomenon will continue even if State funding is taking place because these are all done in a subtle manner and in a clandestine manner and the payment is either in cash or in kind depending upon the circumstances of each case. The first thing that we came across was a number of political parties using TV channels for conveying political messages not only through advertisements but also through episodes, programmes and so on. The dialogues were mischievously crafted to drive home the message that it is for a particular political party.</p> <p>...XX....                      ...XX....                      ..XX....                      ...XX....</p> <p>I have no objection at all if it is going to the Press Council. The objection that I have is, please do not create one more institution to create more problems in terms of time and then that institution will become all powerful with the</p>

		other two may not even be able to communicate with them. So, it is better to have some kind of an institutional mechanism within the existing institutions.
8.	Rural Affair Editor, the Hindu	We also need to, on the one hand, push and prod the media towards greater self-regulation, towards evolving a code of conduct, towards making their operations clear and transparent. At the same time, strengthen regulators like the Press Council of India, SEBI etc., in their respective fields. Self-regulation is not proving to be sufficient - but simply enforcing the laws that exist in terms of taxes, market regulations, press council norms, and applying them as honestly to media corporations as to anyone else, will make a great difference.
9.	Chairman, Centre for Media Studies (Shri N. Bhaskara Rao)	Various bodies like Indian Broadcasting Federation (IBF) and News Broadcasting Association (NBA) may be involved in formulating guidelines to curb the menace of 'Paid News'. Political/electoral reforms are needed to curb 'Paid News'. No single initiative can curb such deviant behavior. So, three pronged strategy like News media, Professional Bodies-like academicians, independent researches, civil society groups and agencies like PCI, EC, Information Commission, TRAI etc. are required. State bodies like PCI, EC, TRAI etc, need to be proactive.
10.	Former PCI Member (Shri Y.C Halan)	It is true that media is un-regulated today, particularly the electronic media. But in no country the media regulation has proved effective.....xxxx.. Media by and large is responsible but there are pockets and there are times when media becomes irresponsible. It depends on the maturity of the Government and the wisdom to devise a certain way in which the credibility of the media is not affected and the media works under a regulatory mechanism which can be used in a way that the credibility of the news is not concerned and it is not misused by the Government. It is a very difficulty situation and way I know but since the problem is being confronted and discussed very widely in the society and the Governments and all the political parties are worried about it, I think, some solution can be found out when we pull out from this political instability. ....xxx...A national law is required. A law, in the long run, would be effective provided it does not interfere with the functioning of the newspapers. That is my view.

1.147 Other suggestions received are:-

- Self Regulation by the media would not achieve the desired results.
- The best way to deal with this issue is to have a very strong neutral and impartial regulatory body alongwith speedy and strong judicial system.
- A separate wing to monitor the paid services may be created to have a strict vigil on the issue.
- Self regulation would neither be adequate nor workable in view of huge profits. A strict law has to be enacted for checking, malpractices.
- In case media is unable to hold up as worthy of possessing the tag of journalistic integrity, perhaps it is time for the Government to step in and put in place such requirements and expectations.
- Over-regulation of media will restrict the freedom of the press. Independent Regulatory body with power to penalize. Guidelines for print and TV, Radio should be made applicable to internet and mobile business. Registration of Online and Mobile Media business. Guidelines for bloggers also required.

1.148 Emphasising the need for regulating media particularly for broadcasting sector, the Committee note that in a judgement made in *Indraprastha People & ANR vs. Union of India*, Hon'ble High Court has *inter-alia* observed as under:-

"The absence of state intervention on its own is no guarantee of a rich media environment. On the contrary: to promote a media environment characterized by pluralism and diversity, State intervention is necessary....Freedom of expression is not an absolute right and it can be restricted to protect the rights of others...This debate in India has been won by the latter viewpoint evidenced by the fact that the print as also the broadcast media and the third form of mass communication i.e. cinema has been regulated by legislation...Under self-regulation the media voluntarily commits to uphold a code of ethics that it itself drafts....but ethics itself is a complex and controversial subject due to society not being homogeneous....

Thus,.... as we find pertaining to cinema and print media, there is no reason why the legislature does not put in place a statutory, regulatory body, and taking cue from The Cinematograph Act 1952 and The Press Council Act 1978 legislate to have a statutory Board comprising men and women of eminence in the field of Law, Science, Art and Culture, Literature, History and Social Sciences.

Since broadcast has been regulated by The Cable Television Networks (Regulation) Act 1995 and The Cable Television Network Rules 1994 and there exists a Programme Code as also an Advertising Code, violation whereof entails action under Section 16, 17, 19 and 20 of The Cable Television Networks (Regulation) Act 1995, finding no statutory regulatory body constituted, meaning thereby, as per the extant law the duty would fall on the executive to ensure that the mandate of the legislation is complied with, a situation which would be an anathema in a democratic set up inasmuch as it would put broadcast under the direct control of the state, we recommend that a statutory regulatory body be constituted consisting of men and women of eminence.

Security of tenure of a kind should be provided for the Members of the Board so that they are free from Government interference.”

1.149 As seen from the above, almost all the views and suggestions mentioned by various experts/stakeholders, except NBA, are not in favour of self regulatory mechanism being the only option. When asked about having a mechanism to curb this menace, the Ministry of Information and Broadcasting submitted that the matter regarding institutional mechanism to check paid news is under consideration.

1.150 However, when asked for an opinion on suggestions of having a single agency with multiple tier for investigation, monitoring taking legal action, etc., for tackling the menace, the Ministry, in their written reply, stated:-

“The Ministry is of the view that the print and electronic media are different in nature, hence the regulation should also be different. Besides, the election time paid news is being tackled with under the existing provisions of Representation of People’s Act and the election time paid news is monitored by the State/District Committees formed by the Election Commission of India whereas the mandate of investigation and adjudication lies with the PCI in case of paid news in print media and with the Ministry in respect of cases in electronic media through Inter-Ministerial Committee (IMC). It would therefore not be feasible for a single agency to monitor, investigate as well as to adjudicate the instances of paid news.”

1.151 Further, elaborating the Prasar Bharati’s view point that self-regulation is not very successful and there should be an independent regulation, the CEO, Prasar Bharati, during evidence, submitted as under:-

“If you want a completely unbiased and unpaid approach, then we are there. We are running channels before they were born. We know how to run channels. We know what goes on. We know what our reporters go through. We are aware of it. They have commercialized; we have not. Yet we earn about half of our keep through sponsored advertisements mainly on the public campaign route. We know how the industry runs. We are there now for 25 years, 30 years in full operation..xx., I would submit that you also call us because if there is anything that goes contrary to what the hon. Committee feels, we can point out immediately.”

1.152 In this context, the Ministry was asked for their opinion on making Prasar Bharti a part of Self-regulatory organization viz. NBA, IBF etc. To this, the Ministry, in their written reply, stated as under:-

“Prasar Bharati is an autonomous body under this Ministry. Prasar Bharati has been actively negotiating with IBF (Indian Broadcasting Foundation) for taking Board membership of IBF Board, being the largest broadcaster in India in terms of coverage and capacity.”

### **International Scenario**

1.153 When the Committee desired to know from the Ministry as to whether they have conducted any study of the international practice to curb the issues related to Paid News, they replied that no such study has been conducted by the Ministry.

However, they submitted that India's self regulatory initiative is in line with the International Best Practices seen in developed countries such as the USA, UK and Germany where they are known as SROs (Self Regulatory Organizations).

1.154 On the same query, the Press Council of India stated that they have not studied mechanism adopted by other countries to tackle the menace of paid news.

1.155 NBA inspite of claiming that they are studying the issue and they will revert back did not furnish any information subsequently.

1.156 On this issue, Vice President, Akhil Bharitya Grahak Panchayat, cited mechanism prevailing in four countries viz. United States of America, Sweden, Australia and Ireland which are as under:-

#### "United States of America

The Federal Communications Commission is an independent United States agency. The FCC was established by the Communication Act of 1934 and is charged with regulating interstate and internal communications by radio, television, wire, satellite and cable. The FCC's jurisdiction covers the 50 States, the District of Columbia and U.S. possessions.

#### Sweden

There are two agencies (i) The Swedish Radio and TV Authority which grants licences for digitizing terrestrial television, local community, radio broadcasting and issues publishing licences for databases, and (ii) The Swedish Broadcasting Commission overseas the content of radio and television broadcasts.

#### Australia

The Australia Communication and media Authority (ACMA) established in 2005 is a statutory authority within the federal government portfolio dealing with broadband, communications and digital economy. It is responsible for the regulation of broadcasting, the internet, radio communication and telecommunication.

#### Ireland

The Broadcasting Bill 2008 announced by the Government of Ireland in May, 2008 is expected to significantly change the broadcasting landscape in the Country. The primary focus is the drafting of the Bill has been to ensure that broadcasting sector delivers on the needs and wants of the viewer and listener."

1.157 Some other suggestions from stakeholders/organisations/experts on international scenario received by the Committee are as under:-

- Most countries of the world, not all, many democracies of the world have two separate organizations for the print and electronic media. This is going to be even bigger problem because the Internet and what 'freedom of expression' means on Internet has become a huge issue.

In India, other than the Ministry of I&B and the Cable TV Rules, there is no regulator for the electronic medium; under the IT Act, there are no regulators for the Internet. For the print medium, you have the Press Council. In my opinion, you should have either two separate organizations or one comprehensive type of Communications Commission, like the UK model of Office of Communications or like the American model, the FCC, Federal Communications Commission. But UK also has the Press Complaints Commission. UK has a hybrid one. You should have some system in place. To me, it is immaterial whether it is a separate organization or one – whether you make the Press Council bigger or smaller.

- Press Councils vary widely in prevalence (e.g. USA does not have a national level PC, but there are PCs in four states of the USA) and constitution; however all Press Councils are self-regulatory bodies to promote fairness and accuracy in news reporting. The British PCC (Press Complaints Commission) is one of the most efficacious, and works by 'dealing with complaints, framed within the terms of the Editors' Code of Practice, about the editorial content of newspapers and magazines and the conduct of journalists'. However the PCC too has often been criticized for being toothless (it has no legal powers) and not adequately representing the interests of the consumer.
- We do not need to waste our time doing what other countries are doing. Our country is altogether different and distinguished. So, what the USA is doing is absolutely useless to us, to take note of. The smaller countries have better mechanisms. However, those are not applicable. For example, South Africa has a better mechanism than USA or UK. But, unfortunately, they are not talked about because everything is USA and UK.

1.158 During the course of examination, the Secretary, Ministry of Information and Broadcasting informed that the Prime Minister of UK set up an Inquiry Committee under Lord Justice Leveson. From the Justice Leveson Report on the culture, practices and ethics of the press, submitted in November, 2012, the Committee note that various issues viz. regulatory models for future, protecting journalists, access to information, media employment, press and politics, plurality and media ownership, etc. have been dealt with.

## **(ii) Role of Press Council of India (PCI) in tackling Paid News**

1.159 Various stakeholders in their Memoranda, submitted to the Committee, adversely commented on the efficacy of PCI especially to tackle the menace of 'Paid News' and suggested for providing more power to PCI for its expansion. According to Ministry of Information of Broadcasting, Press Council was established with a specific purpose and had a two-fold purpose underlying the objective of the Press. One was, of course, to protect the freedom of the Press from any interference. The other was to develop codes of conduct for the Press. The whole purpose of its existence is to meet both these objectives.



1.160 On being asked about the functioning of PCI, the Ministry, in their written reply, submitted as under:-

"The Ministry feels that PCI has been fulfilling its objectives of preserving the freedom of press and maintaining and improving the standards of the newspapers in the country."

1.161 However, according to PCI, the Council is invested only with authority of oral observations which carry ethical moral force and in the absence of an express authority it is difficult to enforce compliance of its direction. Therefore, the Council has sought amendment in the Press Council Act seeking more powers.

1.162 In this connection, PCI in its report on 'Paid News' relating to 2009 General Election has delineated following recommendations for strengthening the Council:-

"The Press Council of India should constitute a body of media professionals with wide representation at the national/state/district levels to investigate (either suo motu or on receipt of complaints of) instances of "paid news" and the recommendations of such a body – after going through an appellate mechanism -- should be binding on the Election Commission of India and other government authorities.

..XX..      ..XX..      ..XX..      ..XX..      ..XX..      ..XX..

A proposal to amend Section 15(4) of the Press Council Act, 1978, to make the directions of the Council binding on government authorities, has been pending for a long time and should be amended to provide the Council more 'teeth'."

1.163 According to some of the former members of PCI, who deposed before the Committee, the Council is a toothless body without any power.

1.164 In addition, depicting the internal scenario of the Council's composition, a member of the Sub-Committee of PCI who drafted the Report on 'Paid News', during evidence, submitted as under:-

"After the report was given by the two Members of the Sub-Committee in April, 2010, a drafting Committee was set up. That Drafting Committee met and finally there was a division within the Council as to whether the full report of the Sub-Committee should be annexed. The Members present and voting on that particular day by a very thin majority said no and we will not annexe it. I and some others said that we want to give a dissenting note. We were not allowed to give a dissenting note. There was a show of hands. That was how it happened."

1.165 Elaborating on the underlying pressure existing within the PCI, Rural Affairs Editor, The Hindu, in his memoranda submitted as under:-

"When the controversy broke out during and after the 2009 elections, the PCI in 2010 appointed a two-member committee headed by veteran journalists Paranjay Guha Thakurta and Sreenivasa Reddy to investigate it. The committee produced a devastating 72 page report

laying bare the ugliness of what had happened during the elections. The PCI, under pressure from media owners then shamefully suppressed its own report. It put up instead, a 12-page truncated report deleting all the names of the offenders and their actual practices. The PCI was brought to its knees by the power of corporate media.”

1.166 On being asked to clarify, on the reported deficiencies about functioning and efficacy of PCI, the Ministry was silent on this.

1.167 On the need for empowering PCI, the Ministry of Information and Broadcasting submitted as under:-

“Matter regarding empowerment of PCI by amendment of PC Act has been raised in the PCI’s report on Paid News which is under consideration of the Government.”

1.168 Various stakeholders in their Memoranda submitted to the Committee, advocated for reviewing the composition of PCI. In this regard, When the Committee asked about the need for revaluating the composition of PCI, Secretary, PCI during evidence stated as under:

“To an extent, yes, but not on the count that the Members tend to protect each other. This has not been our experience in the last 40 years.”

1.169 Various stakeholders/experts/organisations in their memoranda argued for amending/strengthening PCI. Some of the suggestions, regarding this are as follows:-

<b>Sl. No.</b>	<b>Stakeholders</b>	<b>Suggestions/Observations</b>
1.	Association for Democratic Reforms	The PCI is inefficient both because it has no real powers but also because of its constitution -- 20 out of 28 members are media industry representatives, 5 are MPs and one each from the Sahitya Academy, University Grants Commission and the Bar Council of India.
2.	Samachar Sampadak Doordarshan Samachar (Shri Sanjay Kumar)	PCI is ineffective to curb the menace of Paid News. The Council should be given more powers and strengthened.
3.	Chairman, Centre for Media Studies (Shri N. Bhaskara Rao)	PCI is not geared up, it is not equipped, it is not structured. It is combination of all the three. It is neither structured in terms of its composition, nor is it geared up in terms of capabilities. It is not a priority as far as the functioning of the Press Council is concerned. Justice Sawant, when he was the Press Council Chairman in

		1993, was the one who really brought up these issues
4.	Former Member PCI (Shri S.N.Sinha)	PCI be empowered to adjudicate cases of paid news and to award penalties including suspension of publication/channel. EC may also be asked to take action against the election candidate/political party.
5.	Rural Affair Editor, the Hindu	<p>It is best the Press Council is dissolved, re-constituted as the Broadcasting Council (bringing the electronic media into the umbrella, too) and given meaningful powers. ....xxx.....The missing element in media democracy here is accountability. Once the corporatization mode reigns supreme, the dominant media are accountable to no one bar a few top shareholders. The media cannot have it both ways, and neither can the corporations. If you say you are a business and not a platform for journalism, then the rules and scrutiny that apply to all businesses must apply to you as well. Freedom of the Press must not be allowed to degenerate to Freedom of the Purse. It already has happened.</p> <p>Strengthen public broadcasters, their skills and their autonomy. ...xxxx.... There is a desperate need to revamp, improve, expand and make ever more accessible, public broadcasters in this country. For that, they would have to have a greater sense of autonomy from government - and correspondingly greater accountability to the public as well.</p>

1.170 Other suggestions received are:-

- Press Council of India needs to be given more powers and strength.
- Press Council of India (PCI) Act may be amended to make its recommendations binding.
- Empower the Press Council of India to take stringent action against the journalists, editors, owners, publishers of Newspapers and other media houses.

1.171 Another issue which emerged, while examining the subject, was conversion of Press Council into Media Council or expansion of Press Council as Media Council so as to include electronic media under its jurisdiction.

1.172 On the issue of bringing electronic media under Press Council of India or for having an Ombudsman/body for electronic media some of the views/suggestions of are as follows:

### The Press Council

The Press Council has proposed that the electronic media be brought within the ambit of the Press Council and with representative of electronic media also on the body to be named Media Council of India. Establishment of the Media Council and Empowerment of the Press Council of India together with the mechanism adopted by the E.C.I can help to monitor the trend.

Whereas electronic media is not under the control of the PCI, for print media it has already enunciated Guidelines..xxx.. The Council is also represented on the Committee set up by the Election Commission of India for the purpose of examining the cases referred it to by the Media Certification and Monitoring Committee.

### Editors Guild of India

I think it would have to be a completely different kind of a body, not within the Press Council. We have to view that the issues concerning the print media are different from the issues concerning the electronic media and they should be ideally treated separately because the impact that the electronic media has on the public is radically different from the impact that the print media has where a literate person reads a newspaper sitting in his house. So, to treat them under the same umbrella is bit of a problem. They should be treated separately because there is a discussion on creating a Broadcasting Council. I think that is the direction to go and print media should be dealt with separately.

#### 1.173 Other suggestions received are:-

- Even the Press Council can tackle this. Make it a Media Council. They can do it. There are suggestions that there should be nominated journalists or a group or committee of journalists in every district of the country.
- Constitute Media Council instead of Press Council for effective redressal of grievances against electronic media; Media Council should be made more effective and competent.
- A body like Press Council of India should also be constituted for electronic media.

1.174 In this context, PCI, in its meeting held on 27<sup>th</sup> August, 2012, passed a Resolution to have more powers and for conversion of PCI into Media Council. In view of this, the Ministry was asked to clarify whether the PCI is authorized to pass such type of resolution *suo-motu*. To this, they stated as under:-

"Section 13 of the Press Council Act read with Section 15(4) sufficiently empower the Council to pass resolution and the power has been upheld by the Hon'ble High Court of Delhi on 22.09.75 in the matter of KK Birla Vs. Press Council of India and others.

However, the issue of setting up of Media Council is to be considered by the Government and any such measure would require deliberation and approval of the Parliament.”

**PCI’s sub-Committee Report, relating to 2009 General Election, titled “Paid News: How corruption in the Indian media undermines democracy”**

1.175 The Ministry, in their written Note, submitted that realising the dangers of ‘Paid News’ to democracy as well as the right to freedom of expression enshrined in Article 19 of the Constitution of India, PCI appointed a Committee to examine the phenomenon of paid news observed during the General Elections, 2009 and after deliberating on the issue, PCI released its ‘Report on Paid News’ on 30<sup>th</sup> July, 2010. However, as narrated in the earlier part of this Report, the report of Sub-Committee on Paid News related to 2009 General Election was not made official for 14 months due to the internal pressure.

1.176 The Committee forwarded the memoranda of stakeholders to the Ministry seeking their comments on the suggestions made by experts/ organisations/ stakeholders/ publics at large. In reply, commenting on the submissions in Memoranda, the Ministry stated that most of the suggestions are covered under PCI’s Report/ PCI’s sub-Committee Report on ‘Paid News’ which is under consideration. Therefore, the Committee desired to know about the status of the PCI’s sub-Committee Report, the Ministry, in their written reply, submitted as under:

“A Group of Ministers (GoM) has also been constituted to examine the Report on Paid News prepared by the Press Council of India and to give views on a comprehensive policy and institutional mechanism to address the phenomenon of paid news. The issues were deliberated upon by the GoM, however the recommendations of the GoM could not be finalized. Later, it was decided that the GoM on Paid News would not be re-constituted and the issues, as and when considered necessary may be placed before appropriate Cabinet Committee/Cabinet. However, since the issue is sensitive and requires Inter-Ministerial consultations, the Cabinet Secretariat has been requested to re-constitute the GoM on Paid News.”

**(iii) Regulation of advertisements by DAVP**

1.177 Some of the stakeholders, in their submission before the Committee, stated that if a particular media house is critical about Government, it faces reduction/stoppage of Government advertisements. In this regard, the Committee also came across a media report wherein a glaring revelation has been made by PCI, Chairman, indicating that advertisements are being used by Governments to arm-twist media companies to have favourable coverage.

1.178 Some of the suggestions received by the Committee, in this context, are as follows:-

- There should be DAVP disclosures about disbursements from public funds, in terms of advertisements from DAVP and State Governments must be disclosed by publishers on quarterly basis on their website as well as on the Ministry of Information and Broadcasting's website.
- All forms of concessions granted to journalists by the Central and State Governments and advertising revenue from Government and companies exceeding a certain value should be mandatorily disclosed.
- The Government should immediately ensure that all advertisements about proposed projects/projects under implementation and their achievements should be banned. Most often, different Departments of the Government decide to release huge advertisements on a specific day, highlighting a specific issue. This needs to be curbed and banned. All Departments may disclose annually the expenses incurred on advertisements. This may be carefully scrutinised.

1.179 Asked about the views of the Ministry, in this regard, they submitted as under:

"There is an established advertisement policy of the Government of India which has been formulated on various factors such as circulation/TRP, representation of small and regional papers etc. The objective of Government advertisements is dissemination of information and wide publicity to the schemes/programmes of the Government.....xxxxx....Govt. advertisement campaigns are subject to the Model Code of Conduct.....xxxxx..... The advertising spend of the Government is always in accordance to the established Advertisement policy."

**(iv) Complaint Redressal mechanism/ Ombudsman**

1.180 Most of the stakeholders, in their submission before the Committee, raised concern over the lack of systemic complaint redressal mechanism/lack of Ombudsman in all the media houses for looking into the complaints of 'Paid News'. On this issue PCI opined that there should be an Ombudsman in all the media houses that can serve as the first tier of redressal/monitor mechanism. One of the stakeholders, in his submission to the Committee, stated that complaints and redressal mechanism should be simple, effective and time-bound.

1.181 When asked for the details of the complaints received by PCI, in the past few years, they submitted a table of complaints (Annexure-IV), reveals the following:

"During 2009-10, PCI received 17 complaints of which 9 were closed because of non-pursuance and for 8 PCI decided to censure the respondent newspaper by giving warning.

During 2010-11, PCI received 2 complaints which were closed due to non- pursuance and because of outside charter.

During 2011-12 PCI received 11 complaints of which 1 is under process, 1 got closed because the matter was *sub-judice* and in remaining 9 cases PCI decided to censure the respondent newspaper by giving warning.

During 2012-13 PCI received 9 complaints of which 1 is closed being time barred as the publication was during election and remaining are under consideration.”

1.182 In light of the above, when the PCI was asked to comment on the cases that were closed because of non-pursuance, the Secretary, PCI, during evidence, submitted as under:

“In the latest data which we have sent ..xxx.., we have indicated that about 40 complaints had been decided though several of them had to be closed for non pursuance because the people who approached the Council did not follow it up. But out of these 40 complaints, 17 complaints were upheld where the papers had been warned or censured for having indulged in paid news.”

1.183 On the Committee’s apprehension that the complainant might not pursue the case because he/she might be scared of the muscle power of the Press, the Secretary, PCI stated as under:

“Sir, we appreciate this. It could be happening. I can convey this to the Council so that it could take this into consideration. But what the Press Council is trying for now is to see whether the newspapers could give an undertaking of a kind that they will not indulge in paid news in future. So, it is a kind of mediation process which we are just trying now.”

1.184 When enquired from News Broadcasters Association (NBA) about the details of the complaints being received by them, they submitted as under:-

“NBA has been in existence since July, 2007. The News Broadcasting Standards Authority has been operational since 2<sup>nd</sup> October 2008 and in this period the NBSA has received/dealt with around 198 complaints. However, not a single complaint received has been in relation to the malpractice of “Paid News.”

1.185 On the suggestion of appointing ombudsman in all media houses, NBA submitted as under:-

“In principle, the idea of appointing an ombudsman would be a positive step. However, the position of Ombudsman should be a completely ‘honorary’ without any ‘perquisites’.”

1.186 In this regard, the Association for Democratic Reforms, submitted as under:

“The contract for a good ombudsman should contain fixed-term and non-renewable, with complete independence from the editors and owners through strictly predefined conditions for termination...xxx... an independent commission with legal powers to investigate serious transgressions and levy penalties on both the media houses and the ineffectual ombudsman. State, media and industry representatives must be barred from appointment on the Council to prevent conflict of interest. Selection and appointment procedure of this Council can be along the lines of the many reforms suggested from bodies like the

Central Information Commission (CIC), Central Vigilance Commission (CVC), Central Bureau of Investigation (CBI), etc.”

1.187 Quoting the international scenario of Complaints on ‘Paid News’ former Chief Election Commissioner, (Shri T.K Krishnamurthy), during evidence, submitted as under:

“..xx..In Brazil they have a Constitution Bench in the Election Commission itself. So, there can be a separate Bench to deal with all media complaints. They can dispose of these things and take a quick decision on that. Maybe a two-member Bench or whatever it is...xx..”

1.188 Prasar Bharati in its proposed draft has suggested for an independent investigation and an independent complaint office. The Ministry was asked to comment on the Prasar Bharati’s suggestion, to which, they replied as under:-

“The Broadcasting and Cable services are regulated by the Telecom Regulatory Authority of India (TRAI) under the provisions of the TRAI Act, 1997. The Ministry had formulated a draft Broadcasting Service Regulation Bill for ensuring orderly growth of Broadcasting Services in 2007. Concerns have been expressed by various sections in the media with respect to the need, scope, functional and financial autonomy and independent functioning of the proposed regulator. The Ministry had constituted a Task Force in the Ministry in 2009 to evolve a consensus amongst stakeholders on the issue. However, there was a spectrum of views and opinions which emerged during the consultation process. Meanwhile, the News Broadcasters Association (NBA) and Indian Broadcasting Foundation (IBF) have set up self regulatory mechanisms for regulating News and general entertainment channels through the News Broadcasting Standards Authority (NBSA) and Broadcasting Content Complaints Council (BCCC) respectively. The Ministry is exercising statutory powers conferred by the Cable Television Networks (Regulation) Act, 1995 with regard to violation of content. ”

1.189 The Ministry was also asked about the mechanism available to address the grievances and complaints against ‘Paid News’ during election period. In reply, the Ministry submitted as under:

“As per the Election Commission instructions issued consequent upon order of the Hon’ble Supreme Court of India, there is a provision for constitution of a Committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties before the advertisements are inserted in the electronic media. The phenomenon of paid news bypasses the scrutiny of the expenses book of the candidate. Chief electoral Officers have been instructed to strengthen these Committees so as to also scrutinize the news reports in electronic media, which bear the character of political advertisement, though without being declared so. Notices to candidates/parties may be issued by the CEOs on the basis of recommendation of such Committees. The District Level Committees have been renamed as District Level Media Certification and Monitoring Committee (MCMC). The Commission may also refer the cases of Paid



News for investigation to Press Council of India whenever it feels necessary to seek expert guidance from the Council.

The election Commission has also directed the CEOs to constitute State Level Media Certification and Monitoring Committee to deal with applications by political parties and organizations for advertisement on television channel and cable network.

..XX..            ..XX..            ..XX..            ..XX..            ..XX..

The State level MCMC is also to dispose of the cases related to appeals against orders of the District level MCMC on Paid News.

In addition to these, a national helpline was also introduced which worked in all 5 States/UTs during the recent assembly elections. Any complaint by a citizen, voter, candidate or any person can be registered on this helpline. Further, there are also district helpline numbers functional in every district. People can also register their complaints on the website of the Chief electoral Officer and District Election Officers of all States/UTs.

In the Background note furnished by the Ministry, it has been stated that on June 8, 2010, the Election Commission of India issued detailed guidelines the Chief Electoral Officers of all States and Union territories on measures to check "paid news" before elections, that is, advertising in the garb of news."

#### **(v) Penalty**

1.190 Most of the suggestions received by the Committee advocated for a strict law to be enacted to penalize all the party involved in paid news menace. When the Ministry was asked about the existing provision for penalizing all guilty found/established in 'Paid News', the Ministry outlined the PCI Act, Advertisement and Programme Code and the provision regarding offences and penalties under section 8 of the 'Policy Guidelines for Uplinking of Television Channels'.

1.191 In addition, as narrated earlier, the Ministry stated that the Government is considering the recommendations of the Standing Committee on IT on 'The Press and Registration of Books and Publications Bill, 2011'; PCI Report on Paid News during 2009 General election and amendment to the Representation of People (RP) Act, 1951.

1.192 On the issue of penalty, former Chief Election Commissioner, during evidence, Shri T. K. Krishnamurthy submitted as under:-

"Monetary penalty or some kind of a fine on them so that they would refrain themselves from indulging in this...xxx..... Well, in such cases, it is easier to enforce a monetary penalty than by any other method because you can certainly deny Government advertisements etc., but then, the impact of it; we really do not feel immediately. The best thing is to impose a definite quantitative monetary penalty...xxx...It is certainly not sufficient. But I looked at it from the point of view of implementation. Suppose, you say that you cannot go ahead with the

publication business, I am sure it is going to be challenged. It will go right up to the Supreme Court; and it would take 10 years to decide. The benefit of immediate monetary penalty that the impact is felt immediately. But I do agree with you that the severity to penalty should be much more than the monetary penalty.....xxx....Perhaps. Depending upon the gravity of the offence, a cancellation of licence can also be done.

1.193 On being asked about the appropriate authority to impose penalties i.e, the Election Commission of India or Press Council of India, he submitted as under:-

"Though as a person who had been in the Election Commission, I would prefer it to be with the Election Commission. But if the media world would not accept it, it can be given to the Press Council. We have no objection to that. But there is a need for quick enforcement of law within that period. It is because before the election is over, something must be felt....."

1.194 Highlighting the limitations of Election Commission of India in tackling paid news, he submitted:-

"We should have a little more manpower to go into the investigation of these complaints and a quicker decision on that. At the moment we have a limited number of staff with us in the Election Commission. We depend upon the State or the district election authorities to give us information apart from the observers who have been sent there. It is a time consuming affair. It takes time. We may not be able to enforce that punishment before the conduct of the election itself. Even so, it is better to punish a person after the election if there is any need for it after proper enquiry. So, we need to strengthen the media cell within the Election Commission itself."

1.195 Some of the significant views/suggestions are as under:-

Sl. No.	Experts/ Stakeholders/ Organisations	Views/ Suggestions/ observations
1.	Prasar Bharati	There is no provision of penalty in paid news cases. Penalty can be graded one in accordance with the gravity of violation and whether the media house is a first time violator or a habitual violator. Penalty can range from censure to suspension or revocation of license to fine and jail term.
2.	Press Council of India	At present the Council can only warn, admonish or censure the erring newspaper unless amendment as sought by way of suspension of govt. advertisements, Accreditation of journalists and registration of the newspapers seeking additional powers to the Press Council is met. xx xx xx xx Mere oral structure may not be adequate. Therefore the proposal of the Press Council report needs to be implemented. xx xx xx xx Besides, Press Council be given the power to pass directions to the government to make its

		recommendations binding.
3.	Former PCI Member (Shri Paranjay Guha Thakurta)	<p>If a regulatory authority can take fast action, that would be a deterrent. If the Press Council theoretically could immediately impose a fine.....xxx...., the publication first pays the fine and then appeals against the decision of the Press Council in a court of law, that acts as a deterrent.</p> <p>It is a faster process than by saying that you have violated the Indecent Representation of Women Act, etc., etc. So, I would believe that this would act as a deterrent to media crossing that limit.....</p> <p style="text-align: center;">xx            xx            xx            xx</p> <p>I will illustrate my point with an example. There was the very well-known case of Janet Jackson, the sister of Michael Jackson, of what she described as a wardrobe malfunction. There was an entertainment programme in between a sporting event in which she exposed much more of her anatomy than she should have. That was a live broadcast, not a pre-recorded one. And it was being shown during primetime when families watch television. Secondly, it was not after 12 o'clock or 11 o'clock at night. Thirdly, there was no prior intimation. What happened in this case was that the television channel said Janet Jackson can never appear on their programmes. Janet Jackson said it was a wardrobe malfunction. But most importantly, the Federal Communications Commission (FCC) fined the channel \$550,000. They had to first pay the fine and then appeal against the order of the FCC.</p>

1.196 Some other suggestions received were as follow:-

- Self regulation would neither be adequate nor workable in view of huge profits involved. A strict law has to be enacted both for print and electronic media.
- For the first violation, it should be a warning. For the second violation, it should be a penalty and for the third violation, there should be the cancellation of licence without any further notice.
- PCI should derecognize the Newspapers who indulge in 'Paid News'.
- The first step is to ensure that those who have been found practising Paid News are named, shamed - and punished Many of the paid news acts constitute serious evasion and attract action under tax laws. These penalties must be enforced. We need a major, publicly transparent probe into the whole racket.
- Strict action should be taken against the people's representatives who indulge in 'Paid News'. Those found guilty, their election should be declared null and void or alternatively they may be debarred from contesting election in future.
- Empower the PCI for stringent actions against the journalists, editors, owners, publishers of Newspapers and other Media. Existing cases must be strictly dealt with by the Press Council of India.
- Empower Police to register FIR against Paid News.

- Disqualify Elected Representatives (Politicians), Corporates, Businessmen and other vested interests who publish Paid News.
- Cancel registration of Newspapers/other Media who publish Paid News.
- Make Right to Information Act, 2005 directly applicable to Newspapers and other Media Houses/Agencies.
- There should be a provision of punishment for both the media and the beneficiary.

**(vi) Transparency regarding Revenue/Assets of Media Houses and Right to Information Act , 2005 (RTI)**

1.197 Various stakeholders, in their Memoranda submitted to the Committee, highlighted the urgency of protecting people's right to information and urged for taking steps to have transparency in media especially regarding revenue assets of media houses. The Committee were informed that there are various guidelines/codes, viz. IBF Guideline, NBA Code, Working Journalists Act, PCI Act, Norms and Guidelines, the Press and Registration of Books and Publications Act, Doordarshan Code for commercial advertising, some sections of the Representation of People Act etc. which contain provisions for ensuring transparency in Media. However, according to one of the stakeholder, inspite of having all the existing guidelines and norms, when the media is asked for disclosure of the source of the income of the newspapers or details of revenue from advertisements, some of them take an alibi that it is against their freedom of the Press and therefore they can not disclose it. Substantiating the problem being faced because of non-disclosure of information, former Chief Election Commissioner (Shri T. K. Krishnamurthy), during evidence, submitted as under:-

"We have the difficulty in knowing the source of income and this is much more acute in the electronic media....xxxx..... therefore, some authority should be able to enquire into the source of funds.

Even in the 2004 Parliament elections when I was the Chief Election Commissioner ...xxx..... We came across a number of instances where magazines carried news items representing the achievements of the Party in power in various State Governments. When we started asking them questions particularly when the model code of conduct was in force, they were not willing to give us replies in time and so on. In addition to that, we also came across advertisements in the Press, the print media. When we started asking them questions as to who gave these advertisements, the newspapers took umbrage that under the cover of the freedom expression they are not bound to disclose that information. So we found ourselves at the dead end. We could not proceed further."

1.198 Regarding disclosure of source of income from advertisements President, Editors Guild of India, stated during evidence:

"Disclosure is not to upset the freedom. It is only disclosure. You are only asking for disclosure...xx...I am not sure that a publication can take the position that disclosing who has paid for an advertisement is violating the freedom of the Press. That is out of position to sustain it.

I am surprised if somebody takes that position because any court can ask you to disclose the information. There should be no problem on that score."

1.199 When the Ministry was asked for suggestion to improve transparency in media houses, especially regarding revenue sources, they submitted as under:-

"Compliance with the Press Council of India's and Securities Exchange Board of India (SEBI)'s guidelines regarding mandatory disclosure by the media company/group of its stake in the corporate sector alongwith the stringent audit of accounts of the media companies may improve transparency in media houses with regard to their revenue sources."

1.200 The Ministry also outlined the provisions of Securities Exchange Board of India (SEBI) regarding disclosure of shares/stake held by media companies in various companies, issued on 27<sup>th</sup> August 2010, and the same reads as under:-

- "1. Disclosures regarding stake held by the media company should be made in the news report/article/editorial in newspapers/television relating to the company in which the media group holds such stake.
2. Disclosure on percentage of stake held by media groups in various companies under such 'Private Treaties' on the website of media groups should be made.
3. Any other disclosure relating to such agreements such as any nominee of the media group on the Board of Directors of the company, any management control or other details which may be required to be disclosed and which may be a potential conflict of interest for media group, should also be mandatorily disclosed."

1.201 On the issue of having transparency, Shri N. Bhaskara Rao, Chairman of Centre for Media Studies, during evidence, suggested as under:-

"First and foremost in the media you need is the monitoring mechanism. We just do not have monitoring mechanism. ...xx... We do not need new laws but it is a good idea to bring it under the Lokpal. But even better idea is, and more immediate idea is, because you cannot wait for the Lokpal, the urgency is that it needs to be brought under the RTI which is easier and quicker.

Let me clarify the point..xx..When I say that the media need to be brought under RTI, for example, an individual journalist who have written about something, we are not talking about the source.

..XX..                      ..XX..                      ..XX..                      ..XX..                      ..XX..

The issues that need to be brought under the RTI Act are confining and relating to these issues. For example, the revenue of a newspaper, the ownership part. For example, in the case of the print media, the annual under R&I, they have to declare that this is the ownership. In the case of television channels, what do you know? Do you know who is the owner of a television channel?"

1.202 Other significant suggestions for having transparency in Media houses as provided by the experts/ stakeholders/organisations are as follows:

<b>Sl. No.</b>	<b>Experts/ Stakeholders/ Organisations</b>	<b>Views/ Suggestions/ observations</b>
1.	President, India Journalists Union and former PCI Member (Shri S. N. Sinha)	I personally feel if media can come under Lokpal or RTI, it does not matter. They should come under them. Why should they not come under them? But I would add only one thing. We have been given some immunity for some things like source of information – the journalists have always been given this immunity. We will not disclose our source of information. That must be respected because if you put under them and ask where did we get this information from, it will create problem. Sometimes, it crosses that line. So, we have to keep some Lakshman Rekha. Otherwise, it is all right and media must be covered. We should know where from they get money.
2.	Prasar Bharati	There might be a danger of over regulation by auditing each and every media account. However, there should be power to examine the accounts on receipt of complaints which are prima-facie correct.
3.	Editor, Medianama (Shri Nikhil Pahwa)	The Media companies must maintain list of advertisers that have contributed more than a determined amount (say 5 per cent) of the companies' advertisement revenue.
4.	Shri Kondal Rao Palaka	Media houses should prominently reveal information regarding any possible conflict of interest in each News item to the public or to other media organizations.

1.203 Feeling the need to have transparency about annual Statement of the publication/media houses, the Committee in their Forty-second Report on 'The Press and Registration of Books and Publication Bill, 2011', had recommended the Ministry to re-examine the issue and a suitable provision for disclosure of annual income from advertisement may be incorporated, in the said Bill so as to check the menace of paid news. The Ministry informed that the Committee's recommendation, in this regard, is under consideration of the Government.

1.204 After receiving suggestions from various experts/stakeholders/organisations, the Committee desired to know from the Ministry whether Media can be brought under the Right to Information Act, 2005 and the proposed Lok Pal Bill. The Ministry, in their written reply, submitted as under:

"The media should convey correct and true information to the people. However, when paid information is presented as news content, it could mislead the public and thereby hamper their judgment to form correct opinion. There is no denying the fact that there is an urgent need to protect the right of public to correct and unbiased information. The

applicability of RTI will go a long way in fulfilling this need. However, at the same time, divulging the source of information or of the report under the provisions of RTI act may affect the free functioning of the investigative journalism. A balance needs to be struck between the right of public to information under the provisions of RTI Act and the occupational needs of journalism.”

**(vii) Awareness/Education/Training and need for a National helpline to curb 'Paid News'**

1.205 Considering the damaging impact of the menace and the subtle ways in which the 'Paid News' is presented as 'News' and 'Advertorials' almost all the individuals/ experts/ stakeholders/ organisations in their submission before the Committee stressed on the need for educating the masses and creating awareness amongst the citizens for identifying and tackling 'Paid News'. In this regard, the PCI's Sub-Committee Report on paid news related to 2009 General Election *inter-alia* states as under:-

“Awareness-generating campaigns should be organized involving, the Ministry of Information & Broadcasting, the Press Council of India, the Election Commission of India, representatives of editors, journalists associations and unions and political parties to deliberate on the issue and arrive at workable solutions to curb corruption in the media in general and the “paid news” phenomenon in particular. Awareness Campaign to educate the voters to differentiate between doctored reporting and the balanced and just reporting.”

1.206 Other suggestions received are:-

- Need to educate people on the drawbacks/maladies of Paid News and about their rights.
- Educate citizens about Paid News and the methods to identify from the Newspapers and other media houses.
- Common man should be vigilant – general awareness and mass awakening on the issue.
- Media Houses should be encouraged to allot certain percentage of their space/air time to critical/social issues, educate viewers/readers to differentiate Paid News.

1.207 When asked to provide comments on this issue, the Ministry stated that the matter is already under the consideration of the Government.

1.208 Further, on being asked as to how the media can be made more accountable to people, the Ministry replied as under:

“In order to make media more accountable to the public, it is suggested that the adjudication by the PCI in respect of the complaints of paid news in the newspapers or decision by the Ministry/self-regulatory bodies such as NBSA in cases of paid news on Satellite TV channels may be published in prominent newspapers or telecast on electronic media.”

1.209 In this context, Prasar Bharati, stated, as under:

“The problem is not with the people. If something is open to public scrutiny, some or the other is bound to detect the mischief. Problem is the lack of a powerful body to whom a complaint is to be registered and which can take effective steps. The real need is for a regulator.”

1.210 For training being imparted to journalists and the steps taken to include ethics in the curriculum of all Institutes/Colleges/Universities providing Degree/Certificate Course in Mass Communication, the Ministry, in their written reply, submitted as under:

“The Ministry does not regulate the curriculum for the courses offered in journalism in various colleges/institutes/universities, however the courses in journalism offered by Indian Institute of Mass Communication (IIMC), an autonomous body of the Ministry of Information & Broadcasting have paper on ‘ethics’ in their curriculum.

The Press Council of India, a statutory autonomous body has been set up under the Press Council Act, 1978 with one of the objectives to maintain and improve the standards of newspapers and news agencies in India. Accordingly, the PCI, under section 13 (2)b of the Act has built up ‘Norms of Journalistic Conduct’. The principles articulated by the Council as compiled in the ‘Norms of Journalistic Conduct’ act as light that lead and guide the journalists along the path of ethical rectitude.

The PCI is making an effort to bring together all stakeholders on a common platform to prepare a document on curriculum and infrastructure requirement of the journalism institutes/colleges.”

1.211 The Ministry of Information and Broadcasting, in their Annual Report (2012-13), has highlighted that the Sectoral Innovation Council, constituted on 28th July 2011, under the Chairpersonship of Smt. Asha Swarup and 10 other distinguished members from the field of media and entertainment, has submitted its Report to the then Minister of Information and Broadcasting on 26<sup>th</sup> July, 2012. The primary objective of the Council, was to design a policy ecosystem in which new ideas would be integrated into the mainstream and get converted into policy initiatives by the Government.

1.212 Sectoral Innovation Council’s Report which analysed the growth potential of the Media & Entertainment Industry contains 64 recommendations in seven critical areas viz. Broadcasting, Print media, Films, Advertising, Media education, Animation, Gaming and VFX. Some of the key recommendations, inter-alia include:

“Film

- There is a need for the Government to have a closer look at its media units and their functioning. In fact, some of the media units have lost



their relevance in the present time, and market has taken up their jobs in a bigger and better manner.

#### Print Media

- The Council does not foresee any immediate threat to newspaper industry in India in the near future. The industry is likely to grow at 10 per cent per annum, as predicted by the industry associations. The Council is of the opinion that there are some irritants and constraints to growth which need to be eradicated.
- Certain degree of consolidation within print media spectrum is required, which could provide much viability in operation, and, in the process, could spur innovation in this sector. It could perhaps also lead to the development of a home grown news agency with a global presence, which is critically absent in Indian context.

#### Advertising

- The Government should, after interaction with all stakeholders, ensure that reliable single source data is available on all mediums of advertising so that the advertisers are able to take decision on reliable data. The Government is also likely to benefit as it is one of the major media buyers in the country.

#### TV Advertising

- The Government should interact with the various players within the industry (broadcasters, advertising agencies, media buyers, distribution platform owners) and expedite a decision/consensus on developing an alternative to TAM so that an appropriate mechanism is developed with industry participation to study audience viewing and listening behavior and bring out regular reports on weekly basis which could guide advertising industry to act rationally on allocating advertising resources to different TV and radio channels.

#### Government Advertising

- At present there are reservations amongst the stake holders about the functioning of DAVP. An online, when it is fully operationalized, will bring greater transparency to the functioning of DAVP. The on-line project needs to be completed soon to infuse confidence amongst advertisers.
- The creatives for Government advertisement should be left to be prepared by the private sector in a decentralized way with the full involvement of the concerned Department/Ministry. That will promote innovation in this sector.

#### Media Education

- The Government should regulate media education which will ensure an orderly growth of the discipline as part of higher education.

- Like medical education and technical education, Media Education be regulated by a new organisation known as Media Education Council, to be as a part of Ministry of Information and Broadcasting. As and when the recommendation of the National Knowledge Commission for setting up an Independent Regulatory Authority for Higher Education is implemented, the Media Education Council could be merged with it.
- The academic course for media education should be modeled on the lines of US/UK universities and the vocational courses as per the requirement of the industry. The Media Education Council should be assigned the task of setting up curriculum for all levels so that standardized curriculum, with national accreditation, becomes a possibility.
- Within the existing research field on media education, absence of intellectual core is clearly visible. Most of the research pursued in India is heterogeneous and derivative in character. Further, there is no industry academia linkage for research and development. There is a strong case for building this linkage as well as involving the academia in discussions on media policy, which at present are taking place mostly between the Government and the industry. In order to meet the paucity of good teachers, research needs to be given a focus and faculty development programmes have to be taken up for the teachers in various colleges, universities and institutes.
- There is a need to make IIMC, FTII, SRFTI into real Centers of Excellence. To make it, in the process, the Government should revise some of the courses being run by these institutions at present; introduce new courses; and improve the faculty in terms of qualifications and pay scales. Subsequently, these institutions could either be separate universities or become part of one Central University, as has been recommended in paragraph 61 of the chapter on Films. The Council feels that there is a need to fast track this process.

1.213 On being asked about the plan to conduct a study to assess to conformity of Journalistic ethics by the media houses, the Ministry stated that at present there is no such plan.

1.214 The Committee also desired to know about the Ministry's suggestions on the role of civil society, research groups, etc., in contributing to curb the 'Paid News syndrome. To this, they submitted as under:

"The civil society or research groups etc may conduct awareness campaigns to educate public to enable them to distinguish between paid news and authentic news. The support of civil society is necessarily required for effective check on the practice of paid news as these groups may remain vigilant to the instances of paid news so that these may be brought to the notice of various adjudicatory and self-regulatory bodies."

## **Part –II**

### **OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE**

#### **Introductory**

**2.1 Media plays a significant role in a democracy not only because it voices concern of the people but also it reflects the true picture of the country's social, cultural, economic and political set up. It is therefore, considered as the fourth pillar of democracy which not only acts as a repository of public trust but also plays a significant role in influencing the human mind. The Committee, therefore, feel that it is of paramount importance that various news/informative programmes delivered by the media through various modes like newspaper, radio, television, internet, mobile phone etc. are factual, neutral, fair and objective. The Committee are, however, deeply concerned to note that certain sections of the media have started receiving monetary or other benefits for publishing or broadcasting in favour of individuals/ organisations/ corporate entities, what is commonly being referred to as 'Paid News' and it has spread at remarkable pace in some sections of the media. The phenomenon has the effect of unduly influencing the financial/stock/real estate market, health, industry and influencing public opinion in election process. The Committee find it disturbing that Paid News' is not limited to corruption of individual journalists instead has become complex and 'organized' involving multiple players like journalists, managers/owners of media companies, corporations, public relations firms/advertising agencies and some sections of the political class. Feeling extremely concerned over the way the media has become compromised and the urgency required to curb the menace the Committee took up this subject for detailed examination.**

**2.2 During the course of examination of the subject the Committee came across startling revelations that 'Paid News' is not only an election time phenomenon but happens everyday and is prolific as launching/marketing of products/organisations/individuals happens around the year and advertisement for these are disguised and presented as full pages of 'news'/'advertorials'. Even though the Committee note that the entire gamut of organisations/authorities like the Ministry of Information and Broadcasting, Press Council of India, Election Commission of India, News Broadcasters Association, Editors Guild of India, Prasar Bharati as well as various eminent personalities have acknowledged the menace of 'Paid News' and have impressed upon the need to take remedial measures, yet, the Committee find it astonishing that a large section of media is completely silent on this**

malpractice. As detailed in succeeding paragraphs, the Government has not taken effective and conclusive action to deal with the menace.

### **Role of the Ministry of Information and Broadcasting**

**2.3** The Committee note that it is the mandate of the Ministry to create enabling environment and set up policy framework for healthy development of various mass media like radio, television, films, press and print publications, advertising and traditional modes of communication. Therefore, the Ministry has an important role to play in ensuring that news/information made available to the public is factual, neutral, fair and objective. Even though the menace of 'Paid News' has been in practice and visible for long, the Committee find it disconcerting that the Ministry has not done anything substantial to check the menace as has been witnessed by the Committee during examination of this subject including interactions with the stakeholders across a wide spectrum. In spite of upsurge of numerous instances of 'Paid News' since last decade, a suitable, concrete and enforceable mechanism is yet to be put in place by the Government. The Committee are of the view that the Ministry of Information and Broadcasting with all policy framework/statutory resources at its disposal has failed to discharge its responsibility. The Committee, therefore, strongly recommend the Ministry to act swiftly on the issue of paid news on priority basis and come out with viable and enforceable mechanism so that this menace is curbed at the earliest. The Committee would await specific action taken by the Government in this regard within 6 months of presentation of this Report.

(Para No. 2.3, Recommendation Sl. NO. 1)

### **Genesis and manifestation of 'Paid News'**

**2.4** The Committee note that in post-independence era, the media developed in a healthy manner and continued the same way for a couple of decades and then started deteriorating after it became much powerful. Everybody realised that the press is the important source of reaching to the people because its credibility was very high. This is the background in which the candidates who were contesting the elections realised that influencing media by one way or the other would be more productive than paying for other sources like advertisements and other means of publicity, thereby paving way for this malpractice. The Committee note that although the Election Commission had started noticing the menace as early as 2004 General Elections itself, the malpractice of 'Paid News' surfaced prominently during General Elections of

2009 and thereafter. The Committee also note during the last 2 decades apart from print media, television which is commonly known as electronic media has emerged strongly and has become increasingly corporatized and greater emphasis is on the business and other commercial aspects. Moreover, the traditional practice of having completely insulated offices of the Editor and the Publisher to preserve the autonomy and independence of the media also appears to have been compromised.

2.5 As informed by the Press Council of India (PCI), the Committee note that over last six decades 'Paid News' have changed its form ranging from accepting gifts on various occasions, going on a sponsored foreign and domestic tour, to other benefits and direct payment of money. The Committee are highly perturbed to learn about another form of paid news i.e. that award ceremonies being sponsored by some media houses wherein industrialists/professionals/personalities who are the sponsors/regular advertisers for their media houses, are awarded. Sometimes, a kind of indirect blackmailing is resorted to by some sections of the media by not giving any kind of publicity to a contesting candidate until he pays or on some occasions giving more favourable publicity to someone on account of personal relationships. Other damaging manifestation of 'Paid News' that has emerged during the course of examination is the nexus between media and other corporate in the form of 'Private Treaties'. While feeling seriously concerned over the ways the menace has manifested, the Committee apprehend that if it is not curtailed at this juncture it would assume gigantic proportions. The Committee, therefore, recommend that the Ministry should meticulously formulate a mechanism to tackle paid news after taking into consideration all its forms, facets and dimensions.

(Para Nos. 2.4 & 2.5, Recommendation SI. NO. 2)

#### **Distinction between 'News' and 'Advertisements'**

2.6 The Committee note that primarily there is no difference between an advertisement and 'Paid News' except that in the case of latter it does not appear as if it is an advertisement. Therefore, it becomes very difficult to understand whether a particular programme/review/ talk show/advertorial is a legitimate one or paid by someone to unduly influence public opinion. The Committee also note that even if paid content has been labelled as advertisements it is done in a very small font and that too with the abbreviation 'Advt.' in some corner of the paper/screen. In print media most

of the times the type face and the font size are the same in print and in electronic media the scroll/ticker is too small to be noticed. In case of radio it is disguised by not announcing about the programme being sponsored. In this regard, the Committee note that for electronic media there is Rule 7(10) under Advertisement Code of Cable Television Networks (Regulation) Rules, 1994 formulated under the Cable Television Networks (Regulation) Act, 1995 according to which all advertisements should be clearly distinguishable from the programme and should not in any manner interfere with the programmes. In addition, there is also Rule 6(1)(d) under Programme Code which states that 'No programme should be carried in the cable service which contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truth'. The Committee, however, find that these guidelines are not being strictly enforced and the Ministry has also acknowledged that Advertising and Programme Code is not being strictly followed by various publications/channels. The Committee, therefore, feel that there is an imperative need for evolving a mechanism which would ensure a clear demarcation as to what is an advertisement and what is not an advertisement.

2.7 The Committee, therefore, recommend the Ministry to take necessary steps for strict enforcement of the existing provisions for demarcating between 'advertisements' and 'news' by the media houses. The Committee would like the Government to ensure that in case of Print Media, the word 'ADVERTISEMENT' should be in different letter and highlighted in such a way that it catches the eye of the reader instantly. Besides, there should be a disclaimer in this regard. In case of Electronic Media, the word 'Advertorial' must remain superimposed during entire transmission of such advertorial. Besides, there should be announcement of the sponsorship before and after each break of the programme, particularly for visually challenged audience. The Committee also endorse the suggestion from a stakeholder that the text 'This show is an advertisement' along with the name of the sponsor should remain superimposed for the entire duration of the show at the top centre of the screen in a font size that is the same as the font size of the name of the News channel. In case of Radio, there should be an announcement that 'this show is sponsored by so and so' at a regular interval/break. The Committee are of strong opinion that an enforceable guideline/code to demarcate between 'advertisements' and 'news' would not only save the common public from being cheated/misguided but would also act as the stepping stone in the direction of curbing the malpractice of 'Paid News'. The Committee

**recommend that these suggestions which do not require any policy decision or amendment in any legislation should be implemented in letter and spirit, without any further loss of time.**

*(Para Nos. 2.6 & 2.7, Recommendation Sl. NO. 3)*

#### **Need for defining 'Paid News'**

**2.8 Taking note of the increasing trend of presenting advertisements in the garb of news, the Committee firmly believe that there is an urgent need for having a comprehensive definition for 'Paid News' so that 'News' and 'Advertisement' can be clearly demarcated. However, with the complexities of 'Paid News' syndrome and its changing forms and manifestations, the challenge continues to be in defining and determining what constitutes or qualifies as 'Paid News'. The Committee, therefore, recommend that the Ministry, instead of blindly endorsing the definition provided by Press Council of India, should in consultation with various stakeholders formulate a comprehensive definition covering all its forms and manifestations which clearly segregate 'news' from 'advertisement' and giving the same a legal formulation so that it can be distinctly identified for appropriate action. The Committee may be apprised of the action taken in this regard accordingly.**

*(Para No. 2.8, Recommendation Sl. NO. 4)*

#### **Complexities involved in establishing 'Paid News' acts**

**2.9 The Committee note that because of the clandestine financial transactions involved in 'Paid News' it becomes extremely difficult to establish the violation per se, and therefore it becomes difficult to prove the menace particularly in case of visual media. The Committee also note that because of the complexities involved, 'circumstantial evidence' forms the basis of consideration for proving this malpractice. For instance, during elections a channel may simply ignore a contesting candidate if he has not 'paid' and this is more difficult to pin down as a malpractice by the authorities namely, Press Council of India (PCI) or Election Commission of India (ECI). Further, as the visual media coverage is transitory in nature, malpractice indulged may escape detection. The Committee also find that in case of Electronic media the main problem lies in retrieving the information/footage of the stored programme as currently there is no mechanism to classify/catalogue the programme which are stored thereby hindering the verification of the violation because it is difficult to prove the menace.**

**2.10 According to PCI's sub-Committee Report (2010) on 'Paid News', though the phenomena of widespread practice of 'Paid News' has been verbally confirmed and vindicated by politicians and campaign managers of political parties, there is no recorded documentation that could finally establish that there has been an exchange of money between media houses/advertisement agents/journalists and politicians/political parties. The Committee also note that as per the existing mechanism, on receipt of a complaint of 'Paid News' it would be looked into by the respective agency i.e. PCI in respect of complaints relating to Print Media and inter-Ministerial Committee (IMC) in respect of content on satellite TV channels.**

**2.11 Considering the fact that there is no straight jacket methodology for establishing this malpractice, the Committee urge the Ministry to brainstorm on this issue and put forward innovative solutions to consider and establish 'circumstantial evidence' in proving the menace. The Committee also desire the Ministry to consider the suggestion that there should be a team of experts specifically for analyzing the coverage pattern and if any unusualness is noticed in the coverage pattern, the concerned regulatory body should immediately swing into action. On the issue of retrieving the data/programme in electronic media for proving the case, the Committee recommend that the Ministry, in coordination with Prasar Bharati and other experts in the field, should evolve a mechanism for taking appropriate action on the available circumstantial evidence to establish the act of 'Paid News' in electronic media.**

(Para Nos. 2.9, 2.10 & 2.11, Recommendation Sl. NO. 5)

### **CAUSES OF 'PAID NEWS'**

#### **Working conditions of Media personnel – contractual employment; wage scenario and Editorial Section v/s Management/Owners of Media Houses**

**2.12 The Committee note that 'Paid News' is not only the outcome of the convergence of the editorial, advertising, public relations (PR), lobbying group and the 'industry' but is also due to the decline in independence of the journalists/reporters. In this regard, the Committee feel that the emergence of contract system of employment is the primary cause for erosion of the independence of journalists/reporters as the system has the affect of reducing their status to mere marketing agents. According to PCI, the journalists are often under pressure to show 'results' till the renewal of contract which is often uncertain and they are under fear of an 'abrupt transfer' without having choice of freedom and there are numerous instances of exploitation of**



journalists under the contractual system of employment. The Committee also note that the decisive role of Editors of the Media have been dampened by the interference of the marketing departments and owners of the media houses. The Committee note from the Report of PCI's Sub-Committee on 'Election, Coverage, Monitoring in Gujarat', according to which, several Editors and Journalists have accepted that Paid News contract deals are signed at the top level and they get time to time 'instructions' to carry a particular news item or photograph which is contrary to the provision of Para 37 (A) of Norms of Journalistic Conduct by PCI relating to Management-Editor Relationship which in essence provides that the editor under no circumstance can be asked by the proprietor to serve his private interests.

2.13 Another related issue that has plagued the working conditions of Journalists/Reporters, is that of wage/salary of the media personnel. The Committee find that journalists on contractual system, may be except in big cities, are paid very meagre wages which could be less than even the minimum wages prescribed by the Government, or sometimes paid commission on given fixed targets for business/ advertisements. In addition, some of the media houses even use stringers who are given the I-cards of the media house and are expected to earn for themselves and for that particular media house by way of collecting advertisements.

2.14 Taking a holistic view of the scenario, the Committee feel perturbed at the pathetic working conditions of the significant part of the media personnel while strongly disapproving the tendency of the media houses to hire and fire. The Committee strongly feel that contract employment should not be used as a tool for attraction/allurement. Sharing the concerns about the mounting pressure on the Editorial/Journalists/Reporters compelling them to indulge in 'Paid News' phenomenon, the Committee are inclined to conclude that inspite of having several guidelines for segregating Editor and Management/Owners, the same are not being enforced efficiently. The Committee, therefore, recommend that the Government/concerned regulatory bodies should take all necessary steps for improving the working conditions of the journalists/media personnel and also ensure that the autonomy of the editorial staff is upheld forth with. More importantly, the media houses will have to rise to the occasion and act. The Committee desire that all the employees of media houses should be covered under the Working Journalists Act and be given the protection under the various provisions of the Act. The Committee also feel that there is a need for constitution of Media Commission to review the

working conditions for media personnel i.e. covering print and electronic media. The Committee, therefore, recommend that the Ministry while taking into consideration all these factors should formulate the regulatory mechanism and make provisions for periodic review of the working scenario/wage conditions of media personnel. The Committee would like the Government to apprise them about the specific action taken in the matter.

*(Para Nos. 2.12, 2.13 & 2.14, Recommendation Sl. NO. 6)*

### **Private Treaties**

2.15 The Committee note that 'Private Treaties' between the media companies and corporate entities is one of the most dangerous manifestation/precursor of 'Paid News'. 'Private Treaties' is referred to as an agreement between the media company and another non-media company in which the latter transfers certain shares of the company to the former in lieu of Advertisements, space and favourable coverage. The Committee note that the phenomenon blatantly violates the journalistic ethics and gives rise to the menace/malpractice of 'Paid News'/'Advertorials'. Today, this phenomenon which was initially devised for marketing, has reached the level of giving favourable coverage/editorial and adverse comments against the opponents. The Committee note that the gravity of the problem has been realised by all who have made their submissions to this Committee and everybody including self regulatory bodies and SEBI have advocated that every media house must mandatorily disclose to the public on its website about any shareholding, investment equity participation or financial interest/conflict of interest of any nature whatsoever including specifically 'Private Treaties'. Considering the adverse impact of 'Private Treatise' in independence of journalists/editors/media professionals and giving rise to the menace of 'Paid News', directly and indirectly, the Committee strongly recommend the Ministry/regulatory bodies to strictly enforce all the existing guidelines/codes for bringing transparency in 'Private Treaties', thereby curbing paid news to a great extent. Shortcomings identified in the existing guidelines/legislations should be taken up for revision.

*(Para No. 2.15, Recommendation Sl. NO. 7)*

### **Cross Media Holdings**

**2.16** Another factor giving rise to 'Paid News' which was brought before the Committee is that of 'Cross Media Holding/ownership' having the effect of promoting monopolies in media and coming in the way of free flow of information. The Committee note that so far as Cross Media Holdings/Ownerships across print, television and radio sectors of the media is concerned, there are no restrictions as of now and this has led to the problem of 'surrogate entities'. The Committee note that the Ministry of Information and Broadcasting in the year 2008 made a reference to TRAI on this issue seeking their recommendations for bringing out a policy for the restriction in ownership of companies seeking licenses/permissions/registrations under various policy guidelines. After following a exhaustive consultation process TRAI gave their recommendations in February, 2009 covering vertical and horizontal integration in media inter-alia recommending that for the time being necessary safeguard should be put in place to ensure that plurality and diversity are maintained across the 3 media segment viz. Print, Television and Radio and this issue could be reviewed after 2 years. In this regard, the TRAI also recommended the Ministry of Information and Broadcasting to carry out an analysis based on detailed market study. In pursuance of this, the Ministry sponsored a study through Administrative Staff College of India, Hyderabad of India. Subsequently, the Ministry of Information and Broadcasting in May 2012 again requested the TRAI to re-examine the whole issue and to suggest measures with respect to cross media (holdings) ownership with an objective to ensure plurality of news and views to the consumers. The Committee have been apprised that TRAI has released a Consultation Paper on 15<sup>th</sup> February, 2013 taking into consideration the Administrative Staff College of India's Report and has sought views from various stakeholders on the need, nature and level of restriction and safeguards with respect to vertical integration in the broadcasting and distribution sectors and cross holdings across various media sectors. In this regard, the Committee, in their Thirty-second Report on Demands for Grants (2012-13) and Fortieth Action Taken Report on Demands for Grants (2012-13) had expressed an urgency to frame rules for cross media ownership to regulate both the vertical and horizontal integration so as to prevent monopolistic practice.

**2.17** Since it is already over 5 years when the matter was first referred to TRAI in 2008 and during this period the cross holdings could have multiplied, the Committee strongly recommend that the Ministry and the TRAI to consider

**this important issue having national ramifications on priority basis. Needless to emphasise that TRAI should come out with its recommendations and the Ministry should promptly take conclusive action on it and apprise the Committee within six months from the presentation of this Report.**

**(Para Nos. 2.16 & 2.17 Recommendation Sl. NO. 8)**

### **Paid News and its implications on Electoral Process**

**2.18 The Committee note that the increasing trend of presenting paid content as news/editorial/talkshow/review is not only a serious fraud on the innocent audiences/readers/viewers/public but is also a threat to the democratic process. The Committee find it very disturbing that the malpractice of 'Paid News', which surfaced prominently during 2009 General Elections, is on the rise and has affected the entire country. The PCI's Sub-Committee Report on 2009 General Elections contains some shocking revelations indicating that media, which is considered as the fourth pillar of democracy, has its nose dipped in various clandestine operations including 'Paid News'. The Committee are startled with the revelation of PCI's fact finding team on Gujarat Election (2012) wherein they have cited 126 confirmed cases of Paid News with 61 candidates in the poll fray admitting to have paid for such news. The situation becomes more alarming in light of the District Level Media Certification and Monitoring Committee's observation that during Gujarat election 414 cases of paid news were confirmed. The Committee are alarmed to note that sections of media are deeply involved in the business of 'Paid News' and have started distributing rate cards/packages for not merely praising a particular candidate but also for criticizing their political opponents. Worse is the situation that if the candidates do not go along with such blackmailing/extortionist practice of the media they are denied coverage. The Committee note that there could be cases where there is no payment as such but still it may lead to negative/vindictive action for non-payment. The Committee, therefore, feel that this phenomenon has not only threatened our democratic set up but also added to the money power in politics in the Country.**

**2.19 As regards the remedial measures to curb the menace, the Committee note that there has been suggestions from various quarters to amend the Representation of the People Act, 1951 so as to make 'Paid News' a cognisable, punishable and electoral offence. The Committee find that the Election Commission of India has also favoured necessary changes in the law for strict prevention of this malpractice and has made reference to the Law**

Ministry in the year 2011 to include 'Paid News' in the category of corrupt practices under the Representation of the People Act, 1951. The Commission has also recommended to include publishing and abetting of publishing of 'Paid News' for furthering the prospects of election of any candidate as an electoral offence under Chapter III of Part VII of the 1951 Act, with exemplary punishment of a minimum of two years imprisonment. The Committee are, however, concerned to note that the proposal is still pending with the Ministry of Law and Justice.

2.20 Other suggestions from various stakeholders to curb this malaise include -imposing ban on print media too for carrying election campaign 48 hours before polling is scheduled as is applicable for television channels and radio stations; increasing the ceiling/limit on electoral expense of candidates; having different ceilings for national parties and for State/ regional parties; Setting up a special cell by EC with nomination from media to receive complaints about 'paid news' in the run-up to elections with a time limit of action, reviewing the possibility that a candidate can be trapped by other candidate by issuing notices and remedial provisions to take care of such mala-fide intention, etc. The Committee also note that PCI in its Sub-Committee Report on 2009 General Elections had suggested for a mandatory disclosure, by all candidates/political parties, of equity stakes and/or financial interests in newspapers/television channels on which news about their candidates/parties as well as interviews with candidates and/or representatives of the political parties are published or broadcasted.

2.21 Taking holistic view of the entire scenario the Committee note that the proposal made by the Election Commission is good one and merit urgent consideration of the Government for bringing appropriate amendment in the Representation of the People Act, 1951. The Committee are of the firm view that there is an urgent need to review the election code of conduct and the Representation of the People Act, 1951 as well as guidelines/rules framed thereunder so as to give more power to Election Commission to firmly deal with this menace. While considering the serious damage of 'Paid News' on electoral/democratic process, the Committee impress upon the Government to consider all their recommendations so as to put in place a comprehensive mechanism to tackle the menace of 'Paid News' by making necessary provisions in the set Rules/Guidelines framed thereunder and making

necessary changes in model Code of Conduct for elections. The Committee also urge the Ministry of Information and Broadcasting to coordinate with the Ministry of Law and Justice for taking an early action on the proposals made by the Election Commission of India.

(Para Nos. 2.18, 2.19, 2.20 & 2.21, Recommendation Sl. NO. 9)

### **Existing Regulatory Mechanism**

2.22 The Committee note that to deal with the Paid News malpractice, directly or indirectly, there are host of regulatory bodies/organisations/professional bodies viz. Press Council of India (PCI), News Broadcasters Association (NBA), Indian Broadcasters Federation (IBF), Advertising Standards Council of India, Electronic Media Monitoring Centre (EMMC – established by Ministry of Information and Broadcasting), Editors Guild of India (EGI) and several other self formed unions, associations, civil society, etc. With respect to guidelines/norms/codes/Acts, there are Working Journalists Act, NBA Code, IBF Guidelines, Advertising Standards Council of India guidelines, PCI Act, DD Code for commercial advertising, the Press and Registration of Books and Publications Act, 1867, the Cable Television Network (Regulation) Act, 1995, the Representation of Peoples Act, 1951, Income Tax Act, 1961, the Companies Act, 1956, etc. However, the Committee's findings reveal that none of these have proved effective enough to curb the menace of Paid News. The Press Council of India and Editors Guild of India have been candid in their admission that with their existing powers and mandate they can only exert moral pressure and cannot penalize media/ are not authorised to do so. They have repeatedly expressed their helplessness of being a body/organisation without teeth. Similarly, the Ministry themselves were frank enough to accept that the existing Advertising and Programme Code is not being followed strictly and there is no mechanism to enforce the Code to private channels/newspapers even during the election time. The Committee are unhappy to note that the Electronic Media Monitoring Centre created by the Ministry to tackle violations of the Advertisement and Programme Code is only recommendatory in nature and has no power to take action. The Committee also note that District Level and State Level Monitoring Committee set up by the Election Commission, existing in 276 Districts and 16 States, handle the 'Paid News' instances during election periods only and do not have power to take action against the media. Not only this, media themselves have come up with a body of their own viz. NBA for news and

current affairs channels, IBF for non-news and general entertainment channels, ASCI for advertising.

**2.23 While agreeing to the basic principle that Media should be free from State control, the Committee at the same time strongly feel that self regulatory bodies have proved merely an eye wash. This feeling of the Committee gets firmed/strengthened in light of NBA's submission that out of 198 complaints they have received since 2008, there are no complaints reported against 'Paid News'. The specious plea of self regulatory bodies and the contention of the Ministry that the Self regulatory mechanisms alone can curb the menace is elusive and totally untenable. The Committee strongly feel that inspite of so many provisions to deal with the violations, the existing self regulatory bodies have abysmally failed to invoke the provisions and take appropriate deterrent action. The Committee, therefore, recommend that there is an urgent need to review the efficacy of the existing self regulatory bodies/code/Act etc. governing the media. The Committee also urge upon the Ministry to urgently chalk out a comprehensive action plan on this crucial matter and also recommend the Ministry to ensure that till such time a structured mechanism is put in place, all the existing relevant provisions/ guidelines/ Acts/ Rules/ Codes are strictly enforced and followed by the concerned authorities.**

(Para Nos. 2.22 & 2.23, Recommendation Sl. NO. 10)

**The case of M/s Jindal Steel Power Limited and M/s Zee Ltd – highlighting loophole in the existing guidelines/code/ mechanism**

**2.24 The Committee came across the live case of M/s Jindal Steel and Power Limited (JSPL) v/s M/s Zee News wherein M/s JSPL had alleged that M/s Zee News has aired considerable number of programmes containing wrong, manipulated, untrue and per-se defamatory contents against JSPL in violation of the provisions of Code of Ethics and Broadcasting Standards of the News Broadcasters Association and Rules framed under the Cable Television Networks (regulation) Act, 1995. During the course of evidence, M/s JSPL submitted before the Committee that no action has been taken by the Ministry of Information and Broadcasting despite repeated complaints presumably on the pretext that the matter is sub-judice. M/s JSPL had also stated that since the license is granted by the Ministry of Information and Broadcasting, it can be revoked only by the Ministry of Information and Broadcasting and not by any other authority.**

**2.25 The Committee have been apprised by the Ministry of Information and Broadcasting that the matter has been referred to the Inter Ministerial Committee (IMC) to look into the violations of Programme and Advertising codes by private satellite TV networks which has already heard both the parties and has sought further clarifications from them so as to ensure that any decision taken by IMC withstands the legal scrutiny. The Committee note that the instant case is not only a reflection of severity of malpractices that take place in media for earning revenue but also highlights the helplessness of regulatory bodies in proceeding ahead/taking action in the absence of any statutory/legal powers conferred upon them. The Committee deplore the indecisiveness on the part of the Ministry of Information and Broadcasting which is highlighted by the fact that the Ministry lacks clarity as to how to proceed when the matter being sub-judice and in deciding whether a dispute between two entities is a matter of public interest or national security. Even the self-regulatory body like NBSA has pleaded its helplessness in taking cognizance of the matter on the plea that the matter is sub-judice. The Committee, therefore, strongly recommend the Ministry to complete examination of the case at the earliest and take appropriate action on the Inter-Ministerial Committee's recommendations which is presently seized of the matter. The Ministry should also ensure that henceforth such cases are decided in shortest possible time frame. The Committee are of the view that administrative machinery should not come to halt if any of the parties approach the Court unless there is specific stay orders granted by the judiciary. The Committee may be apprised of the follow-up action taken in this regard.**

(Para Nos. 2.24 & 2.25, Recommendation Sl. NO. 11)

### **International practices**

**2.26 To have a better understanding of the international practice with regard to 'Paid News', effectiveness of self regulation and the oversight mechanism, the Committee asked the Ministry about the international position. The Committee have been informed by the Ministry that India's Self regulatory initiative is in line with the international best practices seen in developed countries such as USA, UK and Germany where they are known as SROs (Self Regulatory Organisations). The Committee are however, concerned to note that neither the Ministry nor any Self regulatory body viz. PCI/NBA, etc, has conducted any study to evaluate the mechanism adopted by other countries to tackle the menace of 'Paid News'. Even with regard to the existing mechanism**



to regulate media, they did not provide any information. However, the Committee note that the issue of culture, ethics malpractice in media has engaged serious attention worldwide. Very recently, an enquiry Commission under Lord Justice Leveson was set up by the UK Government. Hon'ble Justice Leveson conducted an enquiry into the culture, practices and ethics of the press and submitted his Report in November, 2012. In this Report various issues viz. regulatory models for future, protecting journalists, access to information, media employment, press and politics, plurality and media ownership, etc. have been dealt with. The Committee note from the implementation status of the Justice Leveson Report that after the publication of the Report there were mixed reactions and there were cross-party discussions on how to implement the proposals of the Report. Reportedly the Government of UK will go ahead with the establishment of a body which will approve press regulators and the Leveson proposals will be put before the privy council which would meet on 8<sup>th</sup> May, 2013 for approval and then move on to the Queen for the final seal. Considering the post presentation developments of Leveson Report and in view of the ills, including 'Paid News', afflicting the Indian media, the Committee expect the Ministry to consider the recommendations and the developments associated with Leveson Report while dealing with the issue.

(Para No. 2.26, Recommendation Sl. NO. 12)

### **Role of Press Council of India (PCI) in tackling Paid News**

2.27 While assessing the PCI's role in handling 'Paid News' cases, since 2009-10 upto 2012-13, the Committee find that of the 40 complaints received more than a quarter of them were closed due to non pursuance and in only 17 cases the papers were warned/censured for having indulged in 'Paid News' cases. The Committee are given to understand by the Ministry that Press Council of India has been fulfilling its objective of preserving the freedom of press and maintaining and improving the standards of the newspapers in the country and safeguarding the interest of public at large. However, the Committee are extremely unhappy to note from the Press Council of India's submission that the Council is vested only with authority of oral observations which carry ethical and moral force and in the absence of an express authority it is difficult to enforce compliance of its directions. PCI has, therefore, sought amendment in the Press Council Act seeking more powers. To the utter surprise of the Committee, almost all the submissions made to them on the subject have insisted that the composition of PCI need to be re-examined and

its mandate be expanded to give it more powers. The Committee are also startled at the Ministry's silence on this issue thus giving an impression that the Ministry is apathetic about the empowerment/revamp of PCI. The Committee are shocked to learn about the underlying pressure within PCI because of its composition, as revealed by one of the former PCI member, who was also the head of the two member Sub-Committee constituted by PCI on Paid News during 2009 General Elections, wherein he had stated that due to the pressure from media owners who were part of PCI, the original report of the Sub-Committee on 'Paid News' could not be annexed with the final Report of PCI. Worse is the revelation that the Report of the Sub-Committee was voted out by a very thin majority with show of hands and even the dissenting notes by the Sub-Committee Members were not allowed. In the light of disturbing revelation the Committee are sceptical about the Secretary, PCI's submission that though the composition of PCI needs revaluation but it is not on the count that the Members tend to protect each other, which has not happened in PCI during the last 40 years. The Committee, therefore, note that in its existing composition there could be tendency of members coming together to protect their interest within the PCI.

2.28 The Committee note that about 35 years back when the PCI was set up under the provisions of the PCI Act, 1978, the media was basically dominated by the print section and the presence of electronic media was the Governmental one. At that time the PCI was mandated with the task of governing only Print media. The Committee are unhappy to note that though over last two decades the electronic media has emerged very strongly yet neither the mandate of the PCI has been expanded to include electronic media nor any specific statutory regulatory body has been put in place for regulating it and ensuring compliance of provisions of the Cable TV Network Regulation Act, 1995 and various rules/guidelines framed thereunder.

(Para Nos. 2.27 & 2.28, Recommendation Sl. NO. 13)

**PCI's Sub-Committee Report on paid news during 2009 General Election titled 'Paid News: How corruption in the Indian media undermines democracy'**

2.29 Realising the dangers of 'Paid News' to democracy as well as the right to freedom of expression enshrined in Article 19 of the Constitution of India, Press Council of India (PCI) appointed a Committee to examine the menace of paid news observed during the General Elections, 2009 and after deliberating on the issue it released the final Report on Paid News on 30th July, 2010 and submitted to the Ministry. However, to the dismay of the Committee the

Ministry is still considering the Report. When asked to spell out the status of the Report, the Committee have been informed that a GoM was constituted by the Government to examine the Report, to give views on a comprehensive policy and institutional mechanism to address the phenomenon of paid news. The Committee express their strong displeasure that though the issues were deliberated upon by the GoM, yet the recommendations of the GoM could not be finalized. Not only this, it was also decided that the GoM on Paid News would not be re-constituted and the issue as and when considered necessary may be placed before appropriate Cabinet Committee/Cabinet. The Committee are also given to understand that since the issue is sensitive and requires Inter-Ministerial consultations, the Ministry has requested the Cabinet Secretariat to re-constitute the GoM on Paid News. In the considered opinion of the Committee, the Government is dithering on this important policy initiative on one pretext or the other as the same is revealed by the failure of the Government in taking a decision on the recommendations of the PCI appointed Committee made in July, 2010 on the shortcomings noticed in 2009 General Elections. The Committee, therefore, strongly recommend the Ministry to take expeditious action on the Report of PCI and apprise the Committee of the Government's stand.

(Para No. 2.29, Recommendation Sl. NO. 14)

### **Regulation of Advertisements by DAVP**

**2.30** The Directorate of Advertising and Visual Publicity (DAVP) is the nodal multimedia advertising central agency of the Government under the Ministry of Information and Broadcasting to execute publicity campaigns through advertisements etc., on behalf of various Ministries/ Departments of Government of India, autonomous Bodies and Public Sector Undertakings. However, it has been brought to the notice of the Committee by various stakeholders that advertisements are used by the Government to arm-twist media companies to have favourable coverage and even stopping advertisements to the media houses who are critical about the Government. In view of the serious irregularities advanced by numerous editors/media personnel/media houses, the Committee are not satisfied with the Ministry's contention that there is an established advertisement policy of the Government and the advertisement spending of the Government is always in accordance with this established Advertisement policy.

**2.31 The Committee feel that the advertisement policy of the Government is a matter of great public concern. In a democratic set up like India there is a need for having transparency in providing advertisements by Government body like DAVP. The Committee, therefore, strongly recommend for a more transparent and unbiased policy for allocation of advertisements by the Central Government/State Government Departments which is open to scrutiny. Besides, there should be disclosure about disbursement of advertisements expenditure from DAVP for advertisements on its website. Similarly, it should be made mandatory for all media houses to disclose details of all forms of concessions granted to them and about the advertising revenue from Government and private parties, on their websites. In view of allegations by many stakeholders/experts that the issue of circulation of paper/viewership of channels is being manipulated to get more TRP's/benefits from the Government to influence the public in believing wrong information, it is imperative that the Ministry examine and take appropriate action in the matter in consultation with concerned organisations and Government bodies and inform the Committee in detail about the action taken in this regard.**

(Para Nos. 2.30 & 2.31, Recommendation Sl. NO. 15)

### **Penalty**

**2.32 So far as the penalty for 'Paid News' menace is concerned, the Committee note that under the existing set up, for print media the penalty can be administered only in the form of warning/ admonishing/censuring the erring newspaper under the PCI Act and for the electronic media there is a provision for cancelling the licence for offences or inconsistencies in the programme under section 8 of the Policy Guidelines for Uplinking of Television Channels from India.**

**2.33 Examination of the subject by the Committee has revealed that existing penal provisions have not been proved effective at all. Various stakeholder have advocated for a strict law to penalise all the guilty parties involved in the menace. Going by the submissions of stakeholders, the Committee agree that there is a need for imposing strict penalty provisions for all the parties involved in 'Paid News'. In the opinion of the Committee, the penalty may range from warning, censure, fine and even cancellation/revocation of licence of the media house, imprisonment, depending upon the gravity of the violation as well as the repetition of violations. The Committee also feel that the**

**decision of imposition of penalty should be prompt and swift if it has to serve as a strong deterrent.**

**2.34 Another aspect related to penalty is that of the designated authority to take action/impose penalty. The Committee note that with existence of multiple bodies like Ministry of Information and Broadcasting, PCI, Election Commission of India, various self regulatory bodies, etc., there is lack of clarity in regard to specific authority who would be final authority in deciding a case of irregularity in this regard. The Committee are of the opinion that in the envisaged oversight regulatory mechanism there should also be a cell for complaint redressal with the authority/legal backing to implement its verdict for penalty and the decision of that cell should be binding on all parties involved including the media. The Committee find that, based on PCI's findings on 'Paid News' in a case relating to the 2009 UP Assembly Elections, the Election Commission of India disqualified a candidate using its power under Section 10(A) of the Representation of People Act, 1951, whereas, in another similar case relating to the 2009 Election of Maharashtra Assembly where a candidate was alleged to have indulge in 'Paid News' the Election Commission was prevented to exercise the same power on ground of its jurisdiction to exercise such power under the Representation of People Act, 1951 and the issue is pending in the Supreme Court. The Committee, therefore, feel that the ambiguity on such issues needs to be done away with and the power of imposing penalties of the nature of disqualification of contesting candidates/ sitting MPs/MLAs on account of paid news should remain with the Election Commission of India. Further, looking at the poor disposal status of 'Paid News' complaints by PCI wherein 11 cases out of 40 have been closed because of lack of pursuance, the Committee feel that PCI in its existing form is not fulfilling the role expected to be performed by it. The Committee, therefore, stress upon the need for revamping the PCI so that it functions like a Regulatory authority and strengthening PCI so that it can adjudicate the paid news cases and award penalties to the guilty individuals and organisations. The Committee would like to be apprised about the action taken in this regard.**

**(Para Nos. 2.32, 2.33 & 2.34, Recommendation Sl. NO. 16)**

**Transparency regarding Revenue/Assets of Media Houses and Right to Information Act , 2005 (RTI)**

2.35 The Committee note that due to clandestine nature of financial transactions involved in 'Paid News' there is no transparency with regard to accounts of media houses as well as on the part of the parties providing favour/money. The Committee are concerned to note that when the media is asked for disclosure of the source of income or details of revenue generated through advertisements, some section of them take the plea that it is against freedom of the Press. The most worrisome piece of evidence is submission of a former Chief Election Commissioner that the Election Commission faces difficulty in knowing the source of income for the suspected case of 'Paid News/advertorial/advertisement' and they find themselves at the dead end. The Committee can not but express their displeasure to note that despite SEBI's guideline for disclosure of shares/stakes held by media companies there are media houses/group who avoid/evade the guideline. In this regard, the Committee take note of the suggestions in many submissions that media should be subjected to Right to Information Act, 2005 and brought under the ambit of Lok Pal Bill particularly the media's source of income/revenue. Considering the fact that people's right to unbiased information weighs more than the individual's/companies right, the Committee are of considered view that there is an urgent need to protect public from misguided and camouflaged paid content. The Committee also opine that the media houses should be open and transparent about the sources of their revenue, shares, stakes and more importantly about the sponsored programme/review/editorial, etc. Further, disagreeing with the media's plea that seeking accountability and transparency with regard to source of revenue tantamount to infringement of Right to Freedom of Press, the Committee strongly feel that media is accountable to the public and disclosure of source of revenue is not only their duty under the Companies Act, 1956, the Income Tax Act, 1961, etc. Nevertheless, taking cognizance of Prasar Bharati's submission that there might be a danger of over regulation by audit of each and every account of media, the Committee opine that there should be some provision to hold media accountable to the public and their accounts should be subject to examination. Media should not hide the revenue source/detail for the suspected article/programme/review/talk show. Here, the Committee would also like to reemphasize and reiterate their recommendation made in their Forty Second Report on 'The Press and Registration of Books and Publication Bill, 2011' wherein it was recommended to incorporate a suitable provision in the Bill for disclosure of annual income from advertisements so as

to check the menace of paid news. The Ministry may apprise the Committee about the action taken in this regard.

(Para No. 2.35, Recommendation Sl. NO. 17)

**Need for Awareness/Education/Training programmes**

**2.36** The Committee note that due to the 'camouflage' nature and subtle way in which paid content is presented as advertorial/news, it becomes difficult not only for common man but also for the experts in the field to distinguish between genuine and paid content. The Committee, therefore, feel that there is a definite need for creating awareness amongst the masses about this malaise of 'Paid News' by educating the people on this aspect. Though the Ministry has suggested that the adjudication of paid news case by PCI/Ministry/self regulatory bodies may be published in prominent newspapers or telecast in electronic media for public awareness, the Committee are concerned to note that no concrete action has yet been taken in this regard. The Committee, therefore, recommend for a coordinated effort from the Ministry, PCI, Self Regulatory Bodies, Election Commission, etc. for organizing awareness campaigns on the issue and educate common masses/voters to distinguish between 'paid reporting' and 'balanced/unbiased reporting'. The Committee also recommend for taking the civil society/research groups in the loop while conducting awareness campaigns. The Committee also feel that enhancement of training in media ethics for media personnel will also add to this measure. On this aspect, the Committee would also recommend the Ministry to plan a National Help Line number for addressing the citizen's concerns in this regard.

**2.37** The Committee also observe that the Sectoral Innovation Council of the Ministry of Information and Broadcasting, constituted under the Chairpersonship of Smt. Asha Swarup has submitted its Report. The Report contains 64 recommendations in seven key areas concerning the media and entertainment sector such as Broadcasting, Films, Print Media, Advertising, Media Education, Animation, Gaming and VFX. The Committee are of the firm view that some of the recommendations viz. availability of reliable single source data on all medium of advertising, comprehensive media policy integrating all existing media segments, comprehensive National Media Policy, regulating media education to ensure orderly growth of the discipline, making DAVP's functioning online so as to bring greater transparency, etc, if

implemented, in true spirit would go a long way in curbing the menace of paid news. The Committee, therefore, recommend that while taking policy decisions in regard to control the menace of paid news the Ministry should consider the recommendations of the Council, especially those relating to Broadcasting, Print Media, Advertising and Media Education and apprise them about the action taken accordingly.

(Para Nos. 2.36 & 2.37, Recommendation Sl. NO. 18)

### **SUMMING Up**

While taking note of the fact that the Ministry of Information and Broadcasting, Press Council of India, Election Commission of India, Editors Guild of India, Securities and Exchange Board of India, Telecom Regulatory Authority of India, self regulatory bodies, research bodies, other stakeholders, etc. have acknowledged the gravity of the menace and the fact that the Election Commission of India has also taken several initiatives, the Committee find that the Ministry has miserably failed to match up its efforts in taking the required measures and therefore recommend as under:

- (i) There should be statutory body viz. Media Council having eminent persons as its members to look into all media contents both from print media and electronic media (TV as well as radio) with powers to take strong action against the defaulters. Under this process PCI shall be wound up.

**OR**

- (ii) PCI should be re-vamped/re-cast with powers to take care of print media and a similar statutory body is set up for electronic media.

In both the situation, as expressed in (i) and (ii) the Committee recommend that the media owners/interested parties should not be a part of the proposed Media Council/body including revamped PCI.

- (iii) Election laws/rules should be reviewed and strengthened to curb the 'Paid News' menace in election process. While reviewing the Election laws/rules, the Election Commission should be empowered with not only dealing with the cases relating to suppression of expenditure in the election on account of 'Paid News' but for also taking action



against the defaulting candidate as also the concerned Media entity found indulged in 'Paid News'.

Incidentally in a judgement by the Delhi High Court delivered as recent as 9<sup>th</sup> April, 2013 while considering the contents of a TV programme have brought out that existing self-regulatory mechanism has not proved effective enough. The High Court in the Judgement has brought out that 'as we find pertaining to cinema and print media, there is no reason why the legislature does not put in place a statutory, regulatory body, and taking cue from The Cinematograph Act 1952 and The Press Council Act 1978 legislate to have a statutory Board comprising men and women of eminence in the field of Law, Science, Art and Culture, Literature, History and Social Sciences.'

(iv) Considering that it is more than five years since the Ministry of Information and Broadcasting had referred the issue of Cross Media Holdings/Ownership to TRAI in 2008 and again in May 2012 the Ministry has requested TRAI to examine the matter, the Committee strongly recommend the Ministry and TRAI to consider this issue on priority basis and act promptly upon it so as to prevent monopolistic trend in the media.

The Committee expect a concerted, comprehensive and swift action from the Ministry on this crucial matter without any further delay, in any case before the onset of next General Elections to prevent resurfacing of the hydra head of 'Paid News'.

New Delhi  
29 April, 2013  
09 Vaisakha, 1935 (Saka)

RAOINDERJIT SINGH  
Chairman,  
Standing Committee on  
Information Technology

***(Vide para 1.103 of the Report)***

**Conclusions of the PCI's Sub-Committee Report on Paid News relating to 2009 General election titled 'Paid News: How corruption in the Indian media undermines democracy'**

- Though the phenomenon of widespread practice of "paid news" has been verbally confirmed and vindicated by politicians and campaign managers of political parties, there is no recorded documentation that would firmly establish that there has been exchange of money between media houses/advertisement agents/journalists and politicians/political parties. The problem in establishing the practice of "paid news" is simply one of obtaining hard proof or conclusive evidence. With one notable exception (Shri Parcha Kodanda Rama Rao of the Loksatta Party in Andhra Pradesh), no complainant has been able to provide the Press Council of India with documents as proof of money having been paid to carry positive news. Even the rate cards that had been formulated by media houses and had been passing around during elections were just typed sheets of paper which carried nothing on it to attribute it to a newspaper/television news channel that had put it together nor anything that could be attributed to a journalist/advertisement agent.
- However, the huge amount of circumstantial evidence that has been painstakingly gathered by a few well-meaning journalists, unions of journalists, other individuals and organizations together with the testimonies of the politicians and journalists who have deposed before the Press Council of India, goes a very long way in establishing the fact that the pernicious practice of "paid news" has become widespread across media (both print and electronic, English and non-English languages) in different parts of the country. Interestingly, this phenomenon appears to be less pervasive in states (such as Kerala and Tamil Nadu) where the media is clearly divided along political lines.
- The guidelines of the Press Council of India that news should be clearly demarcated from advertisements by printing disclaimers, should be strictly enforced by all publications. As far as news is concerned, it must always carry a credit line and should be set in a typeface that would distinguish it from advertisements.
- It should be mandatory for all candidates/political parties to fully disclose their equity stakes and/or financial interests in newspapers/television channels on which news about their candidates/parties as well as interviews with candidates and/or representatives of the political parties are published or broadcast. If a candidate is being interviewed or given positive publicity on a particular newspaper/television channel, the association (financial or otherwise) of the candidate with the newspaper/television channel if any must be disclosed to the reader/viewer.
- Section 123 of the Representation of the People Act, 1951, should be amended by Parliament to make the practice of paying for news coverage in newspapers and television channels an "electoral malpractice" or an act of corruption and made a punishable offence.
- The Election Commission of India should set up a special cell to receive complaints about "paid news" in the run-up to elections and initiate a process through which expeditious action could be taken on the basis of such complaints. In order to place a check on frivolous complaints being made a time limit of, say, one month from the date of publication or broadcast of the report should be imposed. The Election Commission of India should nominate independent journalists and/or public figures as observers in consultation with the Press Council of India who would accompany the election observers deputed by the Election Commission of India to various states and districts. Just as the deputed election observers are expected to report and keep

a check on any malpractices in election campaign and the conduct of elections, these nominated journalists could report on instances of activities of practice of paid news to the Press Council of India and the Election Commission of India.

- The Press Council of India should constitute a body of media professionals with wide representation at the national/state/district levels to investigate (either suo moto or on receipt of complaints of) instances of “paid news” and the recommendations of such a body – after going through an appellate mechanism -- should be binding on the Election Commission of India and other government authorities.
- The Press Council of India should be open to entertaining complaints about “paid news” from journalists while assuring them of secrecy if they act as whistle-blowers.
- Media organizations should refrain from the practice of engaging stringers and correspondents who double up as agents collecting advertisements for their organizations and receiving a commission on the revenue that accrues from advertisements instead of receiving stipends or retainers, if not, regular salaries.
- If working conditions and conditions of job security for journalists are improved and the autonomy of the editorial staff upheld in media companies, this would to an extent curb the phenomenon of “paid news”.
- Despite its quasi-judicial status, the Press Council of India has limited powers. The Council has the power to admonish, reprimand and pass strictures but cannot penalize the errant or those found guilty of malpractices. Besides, the Council’s mandate does not extend beyond the print medium. In the absence of an alternative body, the Press Council of India’s mandate should be widened to receive complaints and grievances against and about the working of television channels, radio stations and internet websites. The Press Council should be given legal powers to not merely admonish or pass strictures but also impose penalties against errant individuals and organizations.
- A proposal to amend Section 15(4) of the Press Council Act, 1978, to make the directions of the Council binding on government authorities, has been pending for a long time and should be amended to provide the Council more “teeth”.
- The Election Commission of India should actively identify instances of “paid news” and if a prima facie case is established, the Commission should initiate action on its own against the errant and, if necessary, seek the assistance of those government authorities responsible for enforcing the provisions of the Indian Penal Code and other laws.
- The editor or editor-in-chief of a publication should print a declaration in his or her newspaper stating that the news that is published has not been paid for by any political party or individual. Such disclaimers should be issued when the model code of conduct for elections comes into force and may morally bind the staffers of a media company to adhere to professional ethical standards while discouraging the management from pushing a particular political agenda. However, self-regulation only offers partial solutions to the problem since there would always be offenders who would refuse to abide by voluntary codes of conduct and ethical norms that are not legally mandated. The owners of media companies need to realize that in the long term, such malpractices undermine not just democracy in the country but the credibility of the media as well. Civil society oversight can also deal with the problem, but only to an extent.
- There should be a debate among all concerned stakeholders on whether a directive of the Supreme Court of India that enjoins television channels to stop broadcasting campaign-related information on candidates and political parties 48 hours before

elections take place can and should be extended to the print medium since such a restriction does not apply to this section of the media at present.

- It can be effectively argued that the existing laws of the land (including the provisions of the Indian Penal Code and the Representation of the People Act) have the potential to check the malpractice of “paid news” provided the concerned authorities, including the Election Commission of India, are not just proactive but also act in an expeditious manner to apprehend those indulging in practices that are tantamount to committing a fraud on the public.
- Conferences, workshops, seminars and awareness-generating campaigns should be organized involving, among others, the Ministry of Information & Broadcasting, the Press Council of India, the Election Commission of India, representatives of editors, journalists associations and unions and political parties to deliberate on the issue and arrive at workable solutions to curb corruption in the media in general and the “paid news” phenomenon in particular.

All these initiatives, if sincerely implemented, may not entirely stop such malpractices in the Indian media but could reduce their incidence to a considerable extent.

***(Vide para 1.103 of the Report)***

**Brief of the recommendations of PCI's Report on Paid News relating to 2009 General election as provided by the Ministry of Information and Broadcasting**

- Representation of the People Act, 1951 be amended to make incidence of paid news a punishable electoral malpractice,
- The Press Council of India must be fully empowered to adjudicate the complaints of "paid news" and give final judgment in the matter.
- Press Council Act be amended to make its recommendations binding and electronic media be brought under its purview, and
- Press Council of India should be reconstituted to include representatives from electronic and other media.

***(Vide para 1.104 of the Report)***

**Information furnished by Election Commission of India on the issue of paid news**

As per the Press Council of India, Paid News is defined, "as any news or analysis appearing in any media (print and electronic) for a price in cash or kind as consideration". The Commission has accepted the definition of Paid News given by Press Council of India. The Commission considers that 'Paid News' disturbs level playing field in election and adversely affects free and fair poll by circumventing election expenditure laws and also causing undue influence on voters. The Commission has received requests from political parties, media representatives and Press Council of India to take appropriate regulatory action. To stop this electoral malpractice the Commission has issued various guidelines starting from June 2010. The Commission issued a set of comprehensive guideline on 27<sup>th</sup> August 2012 regarding formation of district level & state level Media Certification and Monitoring Committees (MCMCs) and mechanism to check the Paid News cases during elections. Chief Electoral Officers of all the States/UTs have been directed to constitute MCMCs, which also should include one expert being an officer to be requisitioned from the Ministry of Information and Broadcasting. Strict timelines were introduced in these guidelines ahead of Gujarat & Himachal Pradesh election. After a case of Paid News is established is the MCMC in relation to print media, the same is also conveyed to Press Council of India. In case of electronic media, due to absence of any regulatory body like in case of print media, the Commission is in the process to coordinate with News Broadcaster Association to develop a mechanism to keep a check on Paid News in electronic media.

In the recently held general elections to the State legislative assemblies of Gujarat, Himachal Pradesh, Meghalaya, Nagaland and Tripura, the MCMCs, constituted by the Commission, examined the newspapers, print media, electronic media, cable network, and other modes of mass communication and kept records of the advertisements, advertorials, messages, discussions and interviews relating to the candidates and parties. The Returning Officers concerned, issued notices to the candidates with regard to suspected cases of Paid News. After disposal of all the appeals in a time-bound manner the accounting Teams calculated the expenditure involved in the confirmed cases of Paid News at the DAVP/DPIR rate, whichever is lower, and asks the candidates to include the expenditure involved in their account, mentioned it in the Shadow Observation Register, maintained by them. The commission takes care to brief political parties and media at State and district levels about the Paid News related enforcement measures before implementing them.

The Election Commission of India is of the view that for the strict prevention of this electoral malpractice, necessary changes in law should also be made. For this, the Commission vide its letter dated 03.02.2011, to Ministry of Law & Justice, has recommended to add 'Paid News' in category of corrupt practices under the RP Act, 1951. The Commission had also recommended that the provision should be made in the Representation of the people Act, 1951 to include publishing and abetting of publishing of 'Paid News' for furthering the prospects of election of any candidate as an electoral offence under Chapter III of Part VII of the 1951 Act, with exemplary punishment of a minimum of two years imprisonment. The proposal is still pending with the Government. The Commission would like to see early action on this. The Commission has also requested Press Council for nomination of members to MCMCs and also to provide for clear criteria to adjudge Paid News

In Commission's new self-regulation by media and Political Parties would provide the final solution to the problem of Paid News. It also expects more initiations from Government of India and the Press Council of India to address the issue.

# ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Paid News/2012/Media

1168-1102

Dated: 27<sup>th</sup> August, 2012

To

Chief Electoral Officer of all the States/UTs

Subject- Measures to check 'Paid News' during elections i.e. advertisement in garb of news in Media and related matters - revised guidelines - regarding.

Sir/Madam,

I am directed to invite your attention to the subject cited and to state that the Commission has issued order No. 509/75/2004/JS-1 dated 15<sup>th</sup> April, 2004 consequent upon order of the Hon'ble Supreme Court of India in SLP © No. 6679/2004. (Ministry of Information and Broadcasting vs. M/s Gemini TV Pvt. Ltd. and Others) requiring the constitution of a committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties, before it is inserted in the electronic media. The Commission issued further guidelines vide its letters of even no. dated 8<sup>th</sup> June 2010, 23<sup>rd</sup> September 2010, 18<sup>th</sup> March 2011 and 16<sup>th</sup> August 2011, to constitute Media Certification and Monitoring Committee (MCMC) in each district during election period to take up the additional task of keeping a check on the cases of Paid News.

In modification of orders on 'Paid News' dated 8<sup>th</sup> June 2010 and thereafter, I am directed to state the following:

## 1. District Level Media certification and Monitoring Committee (MCMC)

1.1 The District level MCMC shall be formed in each district with the following members:

- (a) DEO/RO (of Parliamentary Constituency)
- (b) ARO(not below SDM)
- (c) Central Govt. I & B Ministry official (if any in the district)
- (d) Independent Citizen/Journalist as may be recommended by PCI
- (e) DPRO/District Information Officer/equivalent - Member Secretary

1.1.1 For the purpose of the certification of advertisements as per aforesaid Supreme Court order, Returning Officer of the parliamentary constituency/District Election Officer and an ARO(not below SDM) shall be the members of the MCMC. However, for the scrutiny of the cases of 'Paid News' etc, District MCMC shall have three additional members as given at 'c', 'd' and 'e'.



1.1.2 If Central govt. I & B Ministry Official is not posted in the district, District Election Officer can appoint preferably a Central Govt. Officer or a senior State Govt. Officer posted in the district.

1.1.2 If PCI is not providing names to be included in the MCMC, DEO may himself appoint either an independent senior citizen or journalist, who is willing and as who, in the opinion of the DEO, is eligible in terms of background and record of neutrality.

1.1.3 The Member Secretary (DPRO/DIO or equivalent) should be from the Provincial State Civil Services.

1.2 The committee shall have two distinct sets of functions:

- (i) Certification of Advertisements for which two specific members of MCMC i.e. RO & ARO shall have to consider and decide on such advertisements for certification.
- (ii) Examining complaints/issues of Paid News etc by all members through a monitoring arrangement.

1.3 The MCMC shall, besides discharging the functions of Certification of Advertisement and checking of Paid News, would also assist in enforcement of media related regulations under the RP Act. Hence the Committee's functions shall include:

1.3.1 MCMC shall scan all media ( e.g. newspapers, print media, electronic media, cable network, internet, mobile network etc) for :

- a. suspected cases of paid news (it shall also actively consider paid news cases referred to it by the Expenditure Observers. It shall intimate the Returning Officer for issue of notices to candidates for inclusion of actual expenditure on the published matter or notional expenditure based on DIPR rates in their election expenses account (in absence of DIPR rates, DAVP rates may be used), either based on or irrespective of whether the candidate actually has paid or not paid any amount to the channel/newspaper. A copy of the notice shall also be marked to Expenditure Observer)
- b. monitoring of political advertisements in electronic media (for checking if the telecast/broadcast has been done only after certification by the Committee)
- c. monitoring political advertisements in other media, in relation to candidates, either overt or covert, from Expenditure monitoring angle (this will also include publicity or advertisement or appeal by, or on behalf of candidate, or by Star Campaigner(s) or others, to impact candidate's electoral prospects)
- d. advertisements in print media (MCMC shall check if the advertisement is with the consent or knowledge of candidate: in which case it will be accounted for in the election expenses of the candidate(s); however, if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of Section 171H of IPC)



- e. checking if the name and address of the publisher and the printer is carried on any election pamphlet, poster, hand and other document as required under Section 127A of R.P.A 1951 (If any printed material does not bear on its face the names and addresses of the printer or the publisher, MCMC shall bring it to the notice of the RO for further necessary action; For the purpose of section 127 of RPA 1951, 'Paid News' would also fall in the category of 'other document')

1.3.2 It shall submit a daily report to Accounting team with copy to RO and Expenditure Observer in respect of each candidate in the prescribed format (as per annexure 12 of the prescribed Expenditure Guidelines) w.r.t. expenditure incurred by the candidate on election advertising or actual expenditure incurred for publishing the 'News' that is substantiated by necessary documents furnished by the candidate or notional expenditure as computed by the Committee in the assessed cases of Paid News.

1.3.3 The MCMC shall create a suitable mechanism for monitoring media and shall be equipped with adequate manpower and infrastructure for the same.

## 2. State level MCMC

2.1 The State level MCMC shall comprise of the following officers:

- (a) The Chief Electoral Officer, Chairman
- (b) Any Observer appointed by the Election Commission of India
- (c) One expert to be co-opted by the Committee.
- (d) Officer of Indian Information Service (IIS), (at the level of US/DS) posted in the State/UT, representing a media Department of Government of India as separate from the expert at (c) above.
- (e) Independent citizen or journalist as nominated by PCI (if any)
- (f) Addl/Jt CEO in charge of Media (Member Secretary)

2.1.1 If PCI is not providing names to be included in the Committee, CEO may himself appoint either an independent senior citizen or journalist, who is willing and who, in the opinion of the CEO, is eligible in terms of background and record of neutrality.

2.2 The State level MCMC shall perform two sets of functions:

- (i) Deciding appeal from both District and Addl/Jt CEO Committees on Certification of advertisement as per the aforesaid Commission order dated 15<sup>th</sup> April 2004.
- (ii) Examining all cases of Paid News on appeal against the decision of District MCMC or cases that they may take up suo motu, in which case it shall direct the concerned ROs to issue notices to the candidates.

2.2.1 The appeal on certification of advertisements need to be handled by members at (a), (b) and (c) in the manner specified in the aforesaid order dated 15<sup>th</sup> April 2004, while the members at (d), (e) & (f) are added to deal with Paid News cases.

2.2.2 It is clarified that as regards the certification, the appeal from both District and Addl/Jt CEO Committee will lie only with and will be disposed of by the State Level MCMC headed by CEO as per Commission's order dated 15<sup>th</sup> April, 2004 and no reference in this regard needs to be made to the Commission.

**3. Addl/Joint CEO's Committee on Certification :** The Committee chaired by Addl/Jt CEO for Certification of advertisement, constituted as per the Commission's 15<sup>th</sup> April 2004 order shall continue to function as stated in the aforesaid order and shall have no jurisdiction over cases of 'Paid News'.

#### **4 Appeal against decision of State level MCMC on Paid News**

4.1 Any appeal against the decision of the State level MCMC in matter of Paid News will be made to the Election Commission of India. The State level MCMC can also make a reference to the Commission for advice, if it deems it necessary. Wherever complaints on Paid News cases are made to the Commission directly, the Commission shall forward cases to the State level MCMC for initial consideration.

5. **Paid News Guidelines :** With regard to Paid News, following guidelines may be followed:

5.1 Six months before the due date of normal expiry of Lok Sabha or the State/UT Legislative Assembly, as the case may be, a list of television channels/radio channels/newspapers, broadcast/ circulated in the State/UT and their standard rate cards shall be obtained by the CEOs and provided to all District level MCMCs for fixing the rates of advertisements.

5.2 In case of bye-election to Parliamentary or Assembly constituency, the standard rate card shall be obtained by the District Election Officer concerned immediately on announcement of the bye-election.

5.3 In case of any doubt relating to the application of the standard rate card arising, the matter shall be referred to the DIPR or DAVP, Ministry of I&B, Gov. of India for advice.

5.4 The CEO and DEOs will brief Political Parties and Media Houses about the above guidelines before the commencement of the election campaign. Media shall be asked to exercise self-regulation in this regard. Wide publicity may be given to this order to make the general public also aware about these guidelines. The thrust of the briefing will be on the need for self-regulation.

5.5 The cases of suspected Paid News or advertisement or appeal shall have to be considered within strict timelines as follows:

5.5.1 On reference from District MCMC, RO shall give notice to the candidates within 96 hrs of publication/broadcast/telecast/receipt of complaint to explain/disclose the



expenditure incurred for publishing the 'news' or similar matter, or state why expenditure should not be computed as per standard rate and added to the candidate's expenditure. The same timeline will apply when State level MCMC takes up cases suo motu or on the basis of complaints.

5.5.2 District /State level MCMC shall decide on the reply expeditiously and convey to the Candidate/Party its final decision. In case no reply is received by District MCMC from the candidate within 48 hrs of serving of notice, the decision of MCMC will be final.

5.5.3 If decision of District level MCMC is not acceptable to the candidate, he/she may appeal to State level MCMC within 48 hrs of receipt of decision, with information to the District MCMC.

5.5.4 The State level MCMC shall dispose of the case within 96 hrs of receipt of appeal and convey the decision to the Candidate with a copy to District level MCMC.

5.5.5 The Candidate may appeal against the decision of State level MCMC to ECI within 48 hrs of receiving of order from this Committee. The decision of ECI shall be final.

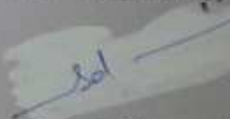
5.6 The entire process shall ordinarily be completed within Election period.

6. It has been observed that in certain cases, notices on paid news has been issued in large numbers while further action on the same remain pending. MCMCs may ensure that due deliberation takes place on each case and only cases that appear to be suspected cases of 'Paid News' are referred to the RO for issue of notice to the candidate. While seeing that frivolous cases are not taken up, MCMC should ensure that there is no laxity on checking actual 'Paid News'.

7. Where the suspected cases of Paid News are decided as a "Paid News" either at District level/CEO level/Commission level, as the case may be, the actual/notional expenditure shall be treated as part of election expenses of the Candidate concerned, with due intimation to him/her or his/her agent.

7. Where the District/State level Committee or ECI decides that it is a Paid News case, such cases shall be conveyed to Press Council of India for further action in relation to the media concerned.

Yours faithfully,

  
(Kahul Sharma)  
Under Secretary

Copy to: Expenditure Division, Legal Division, ECI

Most Urgent  
By Special Messenger

## ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 437/GJ-LA/2012 (WS-I)

Dated: 15<sup>th</sup> October, 2012

To

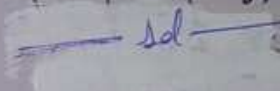
Chief Electoral Officer  
Gujarat  
Gandhi Nagar

Subject - General Election to the Legislative Assembly of Gujarat -  
Clarification on certification of advertisement - reg.

Madam,

I am directed to refer to the subject cited above and to say that certification/permission for launching any album of songs is not to be required from MCMC. However, if any song of the album full or partial is to be used as advertisement to be telecast on any television channel/cable network, Radio, Private FM or in Cinema Hall, certification of the same shall be required from MCMC. However, as you are aware, the contents of all such composite material may be checked after release also from the angle of provisions of Model Code of Conduct.

Yours faithfully,

  
(Rahul Sharma)  
Under Secretary

(Vide para 1.181 of the Report)

**Details of the Complaints received by Press Council of India against 'Paid News' since 2009**

**Complaints received by the Press Council of India on Paid News during 2009-10**

S.No.	File No.	Complainant	Respondent	Subject	Action Taken/Status
1.	14/75/09-10	Kunwar Manvendra Singh, Member (Lok Sabha), Aavgarh House, Dampiar Nagar, Mathura (U.P.)	The Editor, Dainik Jagran, Mathura (U.P.)	Publication of favourable news item in favour of his rival candidate	Closed on 26.4.2010 for non-pursuance
2.	14/178/09-10	Shri Rakesh Srivastava "Nyayik" M.M.22, Vikas Pradhikaran Colony, Shivpur, Varanasi-221 003-(U.P.)	The Editor, Hindustan	Publication of news in favour of BSP candidate during the election by taking money from him.	Closed on 31.8.2010 for non-pursuance
3.	14/179/09-10	Shri Rampravesh Sharma @ Shankar, J.D.U. Candidate, 36, Jahanabad Lok Sabha, Bihar	The Editor, Hindustan, Patna	Publication of news in favour of contesting candidate by taking money	Closed on 3.6.2010 for non-pursuance
4.	14/180/09-10	Shri Lawan Thakur, Chairman, RTI Bureau, 88/6, Samkhetar, Mandi (Himachal Pradesh)	The Editor, The Tribune, Chandigarh.	Publication of news in favour of candidate by taking money.	Closed on 26.4.2010 for non-pursuance
5.	14/183/09-10	Shri Ram Iqbal Singh, Ex-MLA, BJP, 70, Ghosi Lok Sabha Constituency, Mau (U.P.)	The Editor, Dainik Jagran	Publication of news in favour of a candidate by taking money.	Closed on 23.4.2010 for non-pursuance
6.	14/184/09-10	Shri Randeep Thakur, 4, UG Barra-2, Kanpur (U.P.)	The Editor, Dainik Jagran	Publication of news/ advertisements in favour of a candidate by selling news column.	Closed on 24.8.2010 for non-pursuance

7-8	14/185-186/09-10	Shri Lion S. Gopalan, 43, Periyar Nagar, Sengunthapuram Post, Karur-639 002 (Tamil Nadu)	The Editors, 1) Dinamalar 2) The Hindu	Regarding violation of guidelines of press by highlighting the caste profile of the candidates as well as constituencies.	Closed on 23.4.2010 for non-pursuance
9	14/402/09-10	Shri Ramadhar Verma, Purani Basti, Raipur (Chhattisgarh)	The Editor, Dainik Bhaskar Raipur,	Publication of misleading advertisement in favour of a party during the election.	Closed on 1.1.2010 for non-pursuance/lack of address.
10-12	14/407-409/09-10	Shri P.P. Kapoor, Haryana State Convenor, Indian Federation of Trade Unions (IFTU), G.T. Road, Samalakha-132 101-03, Panipat (Haryana)	The Editors, 1. Dainik Bhaskar 2. Dainik Jagran 3. Punjab Kesari	Regarding publication of misleading news/article/advs during Haryana Vidhan Sabha election.	The Press Council in his decision censured the respondent newspapers by giving warning.
13-16	14/582-585/09-10	Shri K. Ramasubramanian, State Secretary, Bahujan Samaj Party(BSP), 83-3B, Arjun Nivas Apartment, 4 <sup>th</sup> Street, Tatabad, Coimbatore-641 012 –(TN).	The Editors, 1. Dinakaran 2. Tamil Murasu 3. Daily Thanthi 4. Maalai Maalar	Publishing election/campaign related news according to whims and fancies.	The Press Council in his decision censured the respondent newspapers by giving warning.
17	14/318/09-10	Shri S.S. Arya, State General Secretary, Indian Justice Party, Haryana, Ambala	Editor, Punjab Kesari	Regarding misleading the people.	The Press Council in his decision censured the respondent newspaper by giving warning.

**Complaints received by the Press Council of India on Paid News during 2010-11**

S.No.	File No.	Complainant	Respondent	Subject	Action Taken/Status
1	14/219/10-11	Shri Rakesh Kumar Sharma, H.No.143, Sector-13, Kurukshetra, Haryana	Editor, Dainik Jagra	Regarding manipulation and fraud with their shareholders and also publish news editorial/advertisements by taking money from the candidates during Lok Sabha and legislative assembly elections.	Closed on 6.9.2010 Outside charter
2	14/459/10-11	Shri Jai Singh Village & PS-Gajrola, Pilibhit (UP)	Amar Ujala	Regarding publication of false and defamatory news item with the motive to blackmail him during district Punchayati Election.	Closed on 23.01.2012 for non-pursuance.



**Complaints received by the Press Council of India on Paid News during 2011-12**

S.No.	File No.	Complainant	Respondent	Subject	Action Taken/Status
1	14/30/11-12	Shri Nama Nagswara Rao, M.P. (Lok Sabha) Telugu Desam Parliamentary Party, 5, Parliament House, New Delhi	Saakshi	Publication of falsehood and malicious campaign.	The matter is under process.
2	14/78/11-12	District Election Officer-cum- District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Hindustan	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.
3	14/79/11-12	District Election Officer-cum- District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Dainik Jagran	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.
4	14/80/11-12	District Election Officer-cum- District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Prabhat Khabar	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.
5	14/81/11-12	District Election Officer-cum- District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Rashtrya Sahara	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.
6	14/82/11-12	District Election Officer-cum- District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Hindustan Times (English)	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.
7	14/83/11-12	District Election Officer-cum- District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Poorvanchal Ki Raah (Election Special )	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.



8	14/84/11-12	District Election Officer-cum-District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Dainik Aaj	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.
9	14/85/11-12	District Election Officer-cum-District Magistrate, Muzaffarpur (Bihar) through Election Commission of India	Dainik Udyog Vyapar Times	Publication of Paid News.	The Press Council in his decision censured the respondent newspaper by giving warning.
10	14/123/11-12	Shri N. Konda, Indian National Congress Worker, S/o Shri N. Varadarajula Reddy, Proddatur, Dadapa District (Andhra Pradesh)	Saakshi	Publication of a series of false news item about his father during election.	The Press Council in his decision censured the respondent newspaper by giving warning.
11	14/371/11-12	Ms. Mayabhushan Nagvenkar, 1392 Doxoxvir, Anjuna, Bordrez, Goa-403 509 And General Secretary, Goa Union of Journalists, Shramshakti Bhavan 6 <sup>th</sup> Floor, Panaji.	The Herald, English Daily, Panaji, Goa	Regarding publication of paid news.	Closed on 29.10.2012 being Sub-judice.

**Complaints received by the Press Council of India on Paid News during 2012-13**

S. No.	File No.	Complainant	Respondent	Subject	Action Taken/Status
1	14/119/12-13	Shri Brajmani Singh, Ex-State Spokesman, All India Hindu Maha Sabha, Gorakhpur	Dainik Jagran	Publication of Paid News during elections	Closed on 29.10.2012 behind time barred.
2-3	14/136-137/12-13	Shri Parvinder Singh Tyagi, New Delhi	1. Dainik Jagran 2. Punjab Kesari	Paid News	Under consideration.
4-7	14/243-246/12-13 Through MIB	Shri Prem Prakash Thapliyal, Central member, Uttarakhand Parivartan Party, Dehradun	1. Amar Ujala 2. Dainik Jagran 3. Hindustan 4. Sandhya Prabhat	Paid news during elections	Under consideration.
8-9	14/292-293/12-13	Shri Clifton De Souza, Zaino Velim, Salcete, Goa-403723	1. The Navhind Times 2. O Heraldo	Paid News published	Under consideration.

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY  
(2010-11)**

**MINUTES OF THE FOURTH SITTING OF THE COMMITTEE**

-----

The Committee sat on Monday, the 20<sup>th</sup> December, 2010 from 1600 hours to 1730 hours in Committee Room No. '62', First Floor, Parliament House, New Delhi.

**PRESENT**

**Shri Rao Inderjit Singh -- Chairman**

**MEMBERS**

***Lok Sabha***

1. Shri Rajendra Agrawal
2. Shri Nikhil Kumar Choudhary
3. Dr. Charles Dias
4. Smt. Dardshana Vikram Jardosh
5. Shri Mithilesh Kumar
6. Shri Inder Singh Namdhari
7. Shri Adhalrao Patil Shivaji
8. Shri Abdul Rahman
9. Shri Prem Das Rai
10. Shri Tufani Saroj
11. Dr. Bholu Singh
12. Shri C. Sivasami

***Rajya Sabha***

13. Shri M.P.Achuthan
14. Shri Mohammad Adeeb
15. Shri Salim Ansari

**SECRETARIAT**

- |                       |    |                     |
|-----------------------|----|---------------------|
| 1. Smt. Sudesh Luthra | -- | Director            |
| 2. Shri H.R.Kamboj    | -- | Additional Director |

## **WITNESSES**

### **MINISTRY OF INFORMATION AND BROADCASTING**

- |                      |                       |
|----------------------|-----------------------|
| 1. Shri Raghu Menon  | Secretary             |
| 2. Shri Arvind Kumar | Joint Secretary (B)   |
| 3. Shri V.B.Pyarelal | Joint Secretary (P&A) |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened for the purpose of briefing by the representatives of the Ministry of Information and Broadcasting in connection with the examination of the subject 'Issues Related to Paid News'.

*(The representatives of the Ministry were then called in.)*

3. The Hon'ble Chairman welcomed the representatives of the Ministry of Information and Broadcasting and drew their attention to the provisions of Direction 55(1) of the Directions by the Hon'ble Speaker, Lok Sabha, regarding the confidentiality of the deliberation till the Report on the subject is presented to the House.

4. The Secretary of the Ministry of Information and Broadcasting, thereafter, briefed the Committee about the various aspects related to 'Paid News'. He also explained the role of the Press Council of India which acts as a watchdog of the Press. During the course of deliberations, the Members sought clarifications on various issues related to the subject and the representatives of the Ministry responded to the same.

The copy of verbatim proceedings of the sitting has been kept.

***The Committee then adjourned.***

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY  
(2011-12)**

**MINUTES OF THE SECOND SITTING OF THE COMMITTEE**

-----

The Committee sat on Monday, the 24<sup>th</sup> October, 2011 from 1100 hours to 1340 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Rao Inderjit Singh – Chairman**

**MEMBERS**

***Lok Sabha***

2. Shri Rajendra Agrawal
3. Smt. Sarika D.S. Baghel
4. Shri Nikhil Kumar Choudhary
5. Shri H.D. Devegowda
6. Shri Charles Dias
7. Smt. Darshana Jardosh
8. Dr. Tarun Mandal
9. Shri P.R. Natarajan
10. Shri Tapas Paul
11. Shri Tathagata Satpathy
- 12... Shri Rajiv Ranjan Singh *alias* Lalan Singh

***Rajya Sabha***

13. Shri M.P. Achuthan
14. Shri Salim Ansari
15. Shri Mohammad Adeeb
16. Shri Rajkumar Dhoot
17. Shri P. Rajeeve
18. Shri Jesudasu Seelam

**Secretariat**

- |                        |                       |
|------------------------|-----------------------|
| 1. Shri T.K. Mukherjee | - Joint Secretary     |
| 2. Smt. Sudesh Luthra  | - Director            |
| 3. Shri H.R. Kamboj    | - Additional Director |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened to take oral evidence of the experts/organizations/stakeholders, on the subject 'Issues related to Paid News'.

3. The Committee then took evidence of the following experts/organisations/stakeholders as per the time indicated below:-

Sl. No.	Experts/organisations/stakeholders	From	To
1.	Mr. Sanjay Rathi National Secretary, National Commission of Journalists and President, Haryana Commission of Journalists, Haryana	1100 hrs.	1200 hrs.
2.	Mr. N. Bhaskara Rao Chairman, Centre for Media Studies (CMS)	1200 hrs.	1235 hrs.
3.	Mr. K.K. Swamy Vice President, Akhil Bhartiya Grahak Panchayat, Delhi and Mr. B.S. Sachdeva	1235 hrs.	1300 hrs.
4.	News Broadcasters Association (NBA), New Delhi	1300 hrs.	1340 hrs.

Before the witnesses were asked to depose before the Committee, the Chairman welcomed them and drew the attention of each of the witnesses to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the deliberations till the report on the subject is presented to the House.

4. The experts/organisations/stakeholders then deposed before the Committee and made their viewpoints/suggestions on various issues related to the subject 'Issues related to Paid News' and responded to the queries of the Members. The Committee requested the witnesses to give written replies to various issues enumerated in the detailed list of points which formed the basis of deliberations at the sitting of the Committee. The copy of the list of points in this regard was given to each of the witnesses.

5. Since, the witnesses who appeared before the Committee took more time than the scheduled, the Committee decided that one of the witnesses, Shri Nikhil Pahwa, Editor, Medianama, Co-organizer TEDx may be requested to depose before the Committee on a later date which would be indicated to him in due course. Shri Nikhil Pahwa was then called in and the Hon'ble Chairman apprised him of the position to which the witness readily agreed.

6. The Chairman then thanked the witnesses for appearing before the Committee and furnishing valuable information in connection with the examination of the aforesaid subject.

*A verbatim record of the proceedings has been kept.*

***The Committee, then, adjourned.***

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY  
(2011-12)**

**MINUTES OF THE FIFTH SITTING OF THE COMMITTEE**

-----

The Committee sat on Wednesday, the 11<sup>th</sup> January, 2012 from 1500 hours to 1740 hours in Room No. '53', Parliament House, New Delhi.

**PRESENT**

**Shri Rao Inderjit Singh – Chairman**

**MEMBERS**

***Lok Sabha***

2. Shri Rajendra Agrawal
3. Smt. Sarika D.S. Baghel
4. Shri Nikhil Kumar Choudhary
5. Shri Charles Dias
6. Shri Ganeshamurthi
7. Shri Rajen Gohain
8. Smt. Darshana Jardosh
9. Dr. Tarun Mandal
10. Shri P.R. Natarajan
11. Shri Tathagata Satpathy
- 12... Shri Rajiv Ranjan Singh *alias* Lalan Singh

***Rajya Sabha***

13. Shri M.P. Achuthan
14. Shri Salim Ansari
15. Shri Mohammad Adeeb
16. Shri Rajkumar Dhoot
17. Shri Ravi Shankar Prasad
18. Shri P. Rajeeve

**Secretariat**

- |                          |   |                  |
|--------------------------|---|------------------|
| 1. Smt. Sudesh Luthra    | - | Director         |
| 2. Dr. Sagarika Dash     | - | Deputy Secretary |
| 3. Dr. Yumnam Arun Kumar | - | Deputy Secretary |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened to take oral evidence of the experts, who are also former Members of Press Council of India, on the subject 'Issues related to Paid News'.

3.       xxxxx               xxxxx               xxxxx               xxxxx               xxxxx.

4. The Committee then took evidence of the following experts, who are also former Members of Press Council of India, as per the time indicated below:-

Sl. No.	Experts	From
i.	Shri Paranjay Guha Thakurta	1515 to 1615 hrs.
ii.	Shri S. N. Sinha	1615 to 1655 hrs.
iii.	Shri Kundan Ramal Lal Vyas	1655 to 1710 hrs.
iv.	Shri Yogesh Chandra Halan	1710 to 1730 hrs.

Before the witnesses deposed before the Committee, the Chairman welcomed each of them and drew their attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the deliberations till the report on the subject is presented to the House.

5. The experts then presented their viewpoints/suggestions on various issues related to the subject 'Issues related to Paid News' which inter-alia included genesis and various facets of the phenomenon of 'Paid News'; existing laws and mechanisms to curb the menace of 'Paid News'; changes to be brought out in various existing Legislations/Acts; effectiveness of Press Council of India and measures to strengthen PCI; etc., and they also responded to the queries of the Members.

6. The Chairman then thanked the witnesses for appearing before the Committee and furnishing valuable information in connection with the examination of the aforesaid subject.

*A verbatim record of the proceedings has been kept.*

**The Committee, then, adjourned.**

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xxxxx               Matters not related to the Report.



**STANDING COMMITTEE ON INFORMATION TECHNOLOGY  
(2011-12)**

**MINUTES OF THE SIXTH SITTING OF THE COMMITTEE**

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The Committee sat on Wednesday, the 31<sup>st</sup> January, 2012 from 1500 hours to 1630 hours in Committee Room No. 'C', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Rao Inderjit Singh – Chairman**

**MEMBERS**

***Lok Sabha***

2. Shri Rajendra Agrawal
3. Smt. Sarika D.S. Baghel
4. Shri Nikhil Kumar Choudhary
5. Dr. Charles Dias
6. Shri Ganeshamurthi
7. Smt. Darshana Jardosh
8. Shri P.R. Natarajan
9. Shri Rajiv Ranjan Singh *alias* Lalan Singh

***Rajya Sabha***

10. Shri M.P. Achuthan
11. Shri Mohammad Adeeb
12. Prof. Alka Balram Kshatriya
13. Shri P. Rajeeve

**Secretariat**

- |                          |   |                  |
|--------------------------|---|------------------|
| 1. T.K.Mukherjee         | - | Joint Secretary  |
| 2. Dr. Sagarika Dash     | - | Deputy Secretary |
| 3. Dr. Yumnam Arun Kumar | - | Deputy Secretary |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened to take oral evidence of the former Chief Election Commissioner and President, Editors' Guild in connection with the examination of the subject 'Issues related to Paid News'.

3. The Committee then took evidence of the following witnesses, as per the time indicated below:-

Sl. No	Experts	From
i.	Shri T. S. Krishna Murthy Former Chief Election Commissioner of India.	1510 to 1555 hrs.
ii.	Shri T. N. Ninan President of Editors Guild of India	1600 to 1630 hrs.

Before the witnesses deposed before the Committee, the Chairman welcomed each of them and drew their attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the deliberations till the Report on the subject is presented to the House.

4. The experts then presented their viewpoints/suggestions on various issues related to the subject which inter-alia included genesis and various facets of the phenomenon of 'Paid News'; effectiveness and need for strengthening of existing laws/organizations/mechanisms so as to curb the menace of 'Paid News'; changes to be brought out in various existing Legislations/Acts/Codes viz. Representation of the People's Act, 1951, Press Council of India Act, Income Tax Act, Code of conduct, Advertisement code, etc. The witnesses also shared their experiences with respect to Paid News and the role played by the respective organizations viz. Election Commission of India and Editors' Guild of India. The Members raised various pertinent issues relating to the subject and the witnesses responded to the same.

5. The Chairman then thanked the witnesses for appearing before the Committee and furnishing valuable information that the Committee desired in connection with the examination of the aforesaid subject.

*A verbatim record of the proceedings has been kept.*

**The Committee, then, adjourned.**

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY  
(2012-13)**

**MINUTES OF THE THIRD SITTING OF THE COMMITTEE**  
-----

The Committee sat on Thursday, the 13<sup>th</sup> December, 2012 from 1500 hours to 1630 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Rajendra Agarwal – In the Chair**

**MEMBERS**

***Lok Sabha***

2. Shri Abdul Rahman
3. Shri Nikhil Kumar Choudhary
4. Shri A. Ganeshamurthi
5. Shri Rajen Gohain
6. Shri Baidya Nath Prasad Mahato
7. Dr. Thokchom Meinya
8. Smt. Seema Upadhyay

***Rajya Sabha***

9. Shri Joy Abraham
10. Shri Salim Ansari
11. Dr. C.P. Thakur

***SECRETARIAT***

- |    |                   |   |                  |
|----|-------------------|---|------------------|
| 1. | Shri Brahm Dutt   | - | Joint Secretary  |
| 2. | Dr. Sagarika Dash | - | Deputy Secretary |

## Witnesses

### Representatives of the Prasar Bharati

- |    |                    |                             |
|----|--------------------|-----------------------------|
| 1. | Shri Jawhar Sircar | Chief Executive Officer, PB |
| 2. | Shri VAM Hussain   | Member (Personnel), PB      |
| 3. | Shri S.M. Khan     | DG (News), Doordashan       |
| 4. | Shri G.Mohanty     | DG (News), AIR              |

2. At the outset, in the absence of the Chairman, the Committee chose Shri Rajendra Agarwal, a Member of the Committee, to act as the Chairman for the sitting in accordance with Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Chairman welcomed the Members to the sitting of the Committee.

XXXXX

XXXXX

XXXXX

XXXXX

XXXXX

### **(The witnesses were then called in)**

4. The Chairman welcomed the representatives of the Prasar Bharati and drew their attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the deliberations till the Report on the Bill is presented to the House.

5. After introducing themselves to the Committee, the representatives of Prasar Bharati elaborated on the various issues related to Paid News. The Committee sought clarifications on important issues like genesis/facets of Paid News, Guidelines/ Codes/ Acts/ Organizations/ Professional bodies/ Legislations related to Paid News, issue of self regulation, Impediments in legislating the cases of Paid News, measures to curb the menace of Paid news, etc. These were replied to by the witnesses. The representatives of Prasar Bharati also clarified on other related aspects and assured to furnish additional information desired by the Committee in connection with the subject.

*A copy of verbatim proceedings of the sitting has been kept.*

**The Committee, then, adjourned.**

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xxxx Matters not related to the Report.

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY  
(2012-13)**

**MINUTES OF THE FIFTH SITTING OF THE COMMITTEE**  
-----

The Committee sat on Thursday, the 16<sup>th</sup> January, 2013 from 1500 hours to 1815 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Rao Inderjit Singh – Chairman**

**MEMBERS**

***Lok Sabha***

12. Shri Abdul Rahman
13. Shri Rajendra Agrawal
14. Shri Nikhil Kumar Choudhary
15. Shri Khagen Das
16. Shri A. Ganeshamurthi
17. Shri Baidya Nath Prasad Mahato
18. Dr. Thokchom Meinya
19. Dr. (Prof.) Prasanna Kumar Patsani
20. Shri Tapas Paul
21. Shri Radhe Mohan Singh (Ghazipur)
22. Smt. Seema Upadhyay

***Rajya Sabha***

23. Shri Joy Abraham
24. Shri Salim Ansari
25. Shri Raj Kumar Dhoot
26. Shri BharatsinhPrabhatsinhParmar

***Secretariat***

- |    |                   |   |                     |
|----|-------------------|---|---------------------|
| 3. | Shri Brahm Dutt   | - | Joint Secretary     |
| 4. | Shri Y.M. Kandpal | - | Additional Director |
| 5. | Dr. Sagarika Dash | - | Deputy Secretary    |

**Witnesses**

**Representatives of the Jindal Steel and Power Limited**

Sl. No.	Name	Designation
1.	Shri AnandGoel	Jt. Managing Director
2.	Shri Rajeev Bhadauria	Director Group, HR
3.	Shri Jayant Bhushan	Sr. Advocate, Supreme Court

**Representatives of the Ministry of Information and Broadcasting**

Sl. No.	Name	Designation
1.	Shri Uday Kumar Varma	Secretary, I&B
2.	Shri Jitendra Shankar Mathur	Additional Secretary, I&B
3.	Shri Anurag Srivastava	Joint Secretary (P&A)
4.	Smt. Supriya Sahu	Joint Secretary (B-I)
5.	Smt. Vibha Bhargava	Secretary, PCI

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened to hear M/s Jindal Steel and Power Limited in connection with the case of M/s Zee News Limited v/s M/s Jindal Steel and Power Limited with regard to paid news aspects and to take evidence of the representatives of the Ministry of Information and Broadcasting in connection with the examination of subject 'Issues related to Paid News'.

[The representatives of M/s Jindal Steel and Power Limited were then called in]

3. The Chairman, then, welcomed the representatives of M/s Jindal Steel and Power Limited and drew their attention to Direction 55 of the Directions by the Speaker regarding confidentiality of the proceedings of the Committee.

4. After introducing themselves to the Committee, the representatives of M/s Jindal Steel and Power Limited with the help of power point presentation elaborated on various issues related to the case of M/s Zee News Limited v/s M/s Jindal Steel and Power Limited. The Committee sought certain clarifications on the situational aspect of the alleged unethical malpractices against M/s Zee News Limited and the same were clarified by the representatives of the Jindal Group.

*[The representatives of M/s Jindal Steel and Power Limited then withdrew.]*

*[The representatives of the Ministry of Information and Broadcasting were then called in.]*

5. The Chairman welcomed the representatives of the Ministry and drew their attention to the provisions of Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee till the Report on

the subject is presented to the House and Direction 58 regarding evidence liable to be treated as public.

6. The Secretary, Ministry of Information and Broadcasting, thereafter explained various issues related to Paid News with the help of power point presentation, which *inter-alia* included myriad facets of the phenomenon of 'Paid News'; complexities and Impediments involved in the Issue; existing mechanism to check the menace; effectiveness of existing laws/organizations/mechanisms, changes needed to be brought out in them and the measures to curb the menace. The representatives also clarified on various issues relating to M/s Zee News Limited v/s M/s Jindal Steel and Power Limited which emerged during the course of deliberations. The detailed information with regard to the role of Election Commission of India, self-regulatory organisations, Press Council of India and the desirability of implementation of its recommendations; etc., were also highlighted in the power point presentation.

7. The Members raised various pertinent issues relating to the subject and the representatives responded to the queries raised by the Members during the course of evidence.

8. The information on some of the points which was not readily available with the representatives was promised to be furnished to the Committee later on.

*(The representatives of Ministry then withdrew).*

*A copy of verbatim proceedings of the sitting has been kept.*

**The Committee, then, adjourned.**

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY  
(2012-13)**

**MINUTES OF THE TWELFTH SITTING OF THE COMMITTEE**

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The Committee sat on Friday, the 26th April, 2013 from 1000 hours to 1100 hours in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Rao Inderjit Singh – Chairman**

**MEMBERS**

**Lok Sabha**

27. Shri Rajendra Agrawal
28. Shri Nikhil Kumar Choudhary
29. Dr. Thokchom Meinya
30. Dr. (Prof.) Prasanna Kumar Patasani
31. Shri Radhe Mohan Singh (Ghazipur)
32. Smt. Seema Upadhyay

**Rajya Sabha**

33. Shri Mohammed Adeeb
34. Shri Salim Ansari
35. Dr. C.P. Thakur

**SECRETARIAT**

- |    |                   |   |                     |
|----|-------------------|---|---------------------|
| 6. | Shri Brahm Dutt   | - | Joint Secretary     |
| 7. | Shri N.C. Gupta   | - | Director            |
| 8. | Shri A.K. Garg    | - | Additional Director |
| 9. | Dr. Sagarika Dash | - | Deputy Secretary    |



2. At the outset, the Chairman welcomed the Members to the sitting of the Committee convened to consider and adopt draft Forty-seventh Report on the subject 'Issues related to Paid News' relating to the Ministry of Information and Broadcasting.
3. The Committee, then, took up the draft Forty-seventh Report for consideration and adoption. After discussing the contents of the Draft Report in detail, the Committee adopted the same with minor modifications.
4. Thereafter, the Committee authorized the Chairman to finalize and present the Report to the House in the current Session of Parliament.
5. The Committee also placed on record their appreciation for the valuable assistance rendered by the officials of the Secretariat attached to the Committee.

**The Committee, then, adjourned.**