

AS INTRODUCED IN THE RAJYA SABHA
ON 5TH AUGUST, 2011

Bill No. XCII of 2010

THE MEDIA COUNCIL BILL, 2010

A

BILL

to provide for the establishment of a Media Council and certain stringent measures to regulate electronic and print media and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Media Council Act, 2010.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification
5 in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "Chairperson" means Chairperson of the Media Council established under section 3;

(b) "Council" means the Media Council established under section 3;

(c) "electronic media" means any contents shown or telecast in a news channel and those connected with showing or telecasting these contents, including working journalists, editors and the management. 5

(d) "member" means a member of the Council and includes its Chairperson;

(e) "print media" means any contents published in the newspapers or magazines or agencies and those connected with publishing these contents including working journalists, editors and the management; 10

(f) "prescribed" means prescribed by rules made under this Act.

(g) The expressions "editor" and "newspaper" shall have the meanings respectively assigned to them in the Press and Registration of Books Act, 1867, and the expression "working journalist" shall have the meaning assigned to it in the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provision Act, 1955. 25 of 1867. 15 45 of 1955.

Establishment of the Media Council.

3. (1) With effect from such date as the Central Government, may by notification in the Official Gazette, appoint, there shall be established a council by the name of the Media Council. 20

(2) The Council shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and shall by the said name sue and be sued.

(3) The head office of the Council shall be located at New Delhi.

Composition of the Council.

4. (1) The Council shall consist of a Chairperson and thirty other members. 25

(2) The Chairperson shall be a person appointed by a Committee consisting of the Vice-President of India, the Speaker of Lok Sabha, and a person elected by the members of the Rajya Sabha in such manner as may be prescribed.

(3) Of the other members—

(a) ten shall be nominated in accordance with such procedure as may be prescribed from among the working journalists of whom five shall be editors of newspapers and the remaining five shall be working journalists other than editors: 30

Provided that the number of editors and working journalists other than editors and working journalists in relation to newspapers published in Indian languages shall not be less than two each respectively. 35

(b) four shall be nominated in accordance with such procedure as may be prescribed from among the electronic media persons of whom two shall be editors of electronic media programme and the remaining two shall be electronic media persons other than editors:

Provided that the number of electronic media editors and electronic media persons other than electronic media editors and electronic media persons in relation to electronic media operated in Indian languages shall at least be one each respectively. 40

(c) five shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers: 45

Provided that there shall be two representatives from each of the categories of

big newspapers and medium newspapers and one from the category of small newspapers.

(d) two shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of electronic media;

(e) four shall be persons having special knowledge or practical experience in respect of education, science, law, literature and culture of whom respectively one shall be nominated by the University Grants Commission, one by the Bar Council of India and one by the Sahitya Academy; and

(f) five shall be members of Parliament of whom three shall be nominated by the Speaker from among the members of the Lok Sabha and two shall be nominated by the Chairman of the Rajya Sabha from among its members.

5. (1) The salary, allowances, terms and conditions of service of the Chairperson and members of the Council shall be such as may be prescribed.

Salary, allowances and terms and conditions of Chairperson, members and employees.

(2) The Council shall consist of such number of officers and employees as may be necessary to discharge its functions effectively on such salary and allowances and terms of conditions as may be prescribed.

(3) Every member of the Council and every officer or other employee appointed by the Council shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860. 20

6. (1) Subject to the provisions of this Act, the Council shall have the power to make such observations and pass such orders and give such directions, as it may think fit in any of its decisions or report in any of the matter before it or otherwise in respect of the conduct of any individual or any authority including the authorities of both the Central and State Government as the case may be.

Functions and power of the Council.

(2) The Council shall frame and notify a Code of Conduct for newspapers, news agencies, working journalists, editors, electronic media persons and news channels in accordance with high professional standards and maintaining standards of journalistic ethic or public taste and fostering a due sense of both the rights and responsibilities of citizenship.

(3) In case any violation of Code of Conduct against newspapers, news channel, editor or a working journalist has been reported by way of the publication or non-publication of any matter in a newspaper or showing any content in a news channel, the Council shall *suo motu* take action in respect of such matters in such manner as may be prescribed.

(4) The report of the Council on journalistic ethics and contents shall be final and binding on the newspapers, news agency, the editor or journalist of both, the print and electronic media.

(5) The Council shall be empowered to adjudicate complaints of paid news and to give such directions or appropriate orders, as it may think fit.

7. (1) Any person, in respect of the publication, non-publication of any matter in any newspaper or telecast or non-telecast of any matter in electronic media, may file a complaint to the Council in such form and in such manner, as may be prescribed:

Procedure for complaint and inquiry.

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairperson, there is no sufficient ground for holding an inquiry.

(2) The Council shall make an inquiry into the matter and notice of the time, date and place of hearing shall be served on the complainant as well as on the newspaper, news

channel or electronic media and working journalist and electronic media editor, as the case may be.

(3) At the end of the Inquiry, the Council shall make a report of its findings on the allegations contained in the complaint together with its reasons.

(4) Nothing in sub-section (1) of section 7 shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.

(5) Every inquiry held by the Council shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Indian Penal Code, 1860.

Power to
censure.

8. (1) Where in a report, the Council has reason to believe that a newspaper or news agency or news channel or editors has offended against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency or channel, the editor or journalist concerned final opportunity of being heard and for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the channel, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be.

(2) If the Council is of the opinion that it is necessary or expedient in public interest so to do, it may require any newspaper to publish therein in such manner as the Council thinks fit, any particulars relating to any inquiry under section 7 against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, channel, editor or journalist:

Provided that compliance with such directions shall be mandatory and binding upon newspaper, news agency and channel:

Provided further that in the event of non-compliance with the directions within the period specified, the Council may censure the newspaper, channel, journalist concerned or direct the authorities of the State, to suspend or stop release of advertisement to it till the adjudication is published or for the period specified by the Council.

(3) On the award of two censures under this section within a period of six months, the Council may if it deems fit, direct the concerned authorities to blacklist the newspaper or the channel for the purpose of release of Government funded advertisement and in the case of news agency, editor or journalist, suspension of accreditation of such editor or journalist, as the case may be, for a period not exceeding three months:

Provided that more than two such instances of non-compliance with the directions issued under this section within a period of one year shall invite the penalty of suspension of registration of the newspapers or news agencies or channels, as the case may be, for a period not exceeding fifteen days:

Provided further that the recommendations of the Council under this section shall be binding on the authorities of the centre and the States.

(4) The decision of the Council, as the case be, shall be final and shall not be questioned in a court of law.

Levy of fees.

9. (1) The Council may for the purpose of performing its functions under this Act, levy fees upon the Information Directorate of the Central and State Government, at the rate of one per cent of its budgetary allocation for advertisements released to both print and electronic media in the preceding financial year.

(2) Any fees payable to the Council under sub-section (1) of section 9 may be recovered as an arrear of land revenue.

10. The Central Government shall after due appropriation made by Parliament by law in this behalf, pay to the Council by way of grants such sums of money as the Central Government may consider necessary for the performance of the functions of the Council under this Act. Grants by the Central Government.

5 **11. (1)** The Council shall have its own fund and there shall be credited all such sums as may, from time to time, be paid to it by the Central Government and all grants and advances made to it by any authority or person and all payments by the Council shall be made therefrom. Fund of the Council.

(2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as may, subject to the approval of the Central Government, be decided by the Council. 10

(3) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Council.

15 **12.** The Council shall prepare once in every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year, and giving an account of the standards of newspapers, news channel and news agencies and factors affecting them and copies thereof, together with the statement of accounts audited shall be forwarded to the Central Government which shall cause the same to be laid before both Houses of Parliament. Annual report to be laid before the Houses of Parliament.

20 **13.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

In today's changing scenario, the media, which also includes electronic media besides the traditional print one, has become a very powerful democratic tool. While on the flip side, it has been a boon for the society, it also has darker side which has been seen in some 'State Assemblies' elections last year in the shape of what has now come to be known as "paid news". Hence, there is a need to check this menace before it goes beyond control. It would otherwise undermine the democracy, the journalistic profession and credibility of independent media. More important is to ensure that media cannot and should not be regulated by the Government. Therefore the media council shall not only have its own funds but its recommendations shall be binding both on the media as well as authorities.

At the same time, it is for the council to ensure that the media does not cross the *lakshman rekha* and maintains certain dignity and parameters is so far as its editorial or journalistic contents are concerned. In view of this, there is pressing need to ensure that the Media Council has enough teeth to keep a check both on the media and the authorities for a healthy democracy and that its word is final and binding on them.

Hence this Bill.

PRAKASH JAVADEKAR

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Media Council. Clause 5 provides for the salary and allowances and other conditions of service of the Chairperson, members and employees of the Media Council. Clause 10 provides that the Central Government shall pay to the Council by way of grants such sums of money as the Central Government may consider necessary for the performance of the functions of the Council under this Act. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India and it is difficult to calculate the expense at this juncture. A non-recurring expenditure of rupees one hundred crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of this Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

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to provide for the establishment of a Media Council and certain stringent measures to regulate electronic and print media and for matters connected therewith and incidental thereto.

(Shri Prakash Javadekar, M.P.)