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**STANDING COMMITTEE ON COMMUNICATIONS
AND INFORMATION TECHNOLOGY
(2022-23)**

SEVENTEENTH LOK SABHA

MINISTRY OF INFORMATION AND BROADCASTING

**REVIEW OF FUNCTIONING OF
CENTRAL BOARD OF FILM CERTIFICATION (CBFC)**

FORTY-SEVENTH REPORT



LOK SABHA SECRETARIAT

NEW DELHI

August, 2023/ Sravana, 1945 (Saka)

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Presented to Lok Sabha on 01.08.2023

Laid in Rajya Sabha on 01.08.2023



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2023/ Sravana, 1945 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON INFORMATION TECHNOLOGY (2020-21)

Dr. Shashi Tharoor - Chairperson

Lok Sabha

2. Smt. Locket Chatterjee
3. Shri Karti P. Chidambaram
4. Dr. Nishikant Dubey
5. Smt. Sunita Duggal*
6. Smt. Raksha Nikhil Khadse
7. Dr. Sukanta Majumdar
8. Shri Dhairyasheel Sambhajirao Mane
9. Ms. Mahua Moitra
10. Shri P. R. Natarajan
11. Shri Santosh Pandey
12. Col. Rajyavardhan Singh Rathore
13. Dr. Gaddam Ranjith Reddy
14. Shri Jayadev Galla
15. Shri Sanjay Seth
16. Shri Chandan Singh
17. Shri L.S. Tejasvi Surya
18. Dr. T. Sumathy (A) Thamizhachi Thangapandian
19. Smt. Sumalatha Ambareesh
20. Shri Ganesh Singh*
21. Shri Parvesh Sahib Singh*

Rajya Sabha

22. Dr. Anil Agrawal
23. Dr. Subhash Chandra
24. Shri Y. S. Chowdary
25. Shri Shaktisinh Gohil
26. Shri Suresh Gopi
27. Shri Md. Nadimul Haque
28. Shri Syed Nasir Hussain
29. Shri Syed Zafar Islam
30. Dr. Narendra Jadhav
31. Shri Nabam Rebia

* Smt. Sunita Duggal, Shri Ganesh Singh and Shri Parvesh Sahib Singh (vice Shri Sunny Deol) were nominated to the Committee vide Para No. 2822 of Bulletin Part-II dated 27 July, 2021.

**COMPOSITION OF THE STANDING COMMITTEE ON COMMUNICATIONS
AND INFORMATION TECHNOLOGY (2021-22)**

Dr. Shashi Tharoor - Chairperson

Lok Sabha

2. Smt. Sumalatha Ambareesh
3. Smt. Locket Chatterjee
4. Shri Karti P. Chidambaram
5. Dr. Nishikant Dubey
6. Smt. Sunita Duggal
7. Shri Jayadev Galla
8. Smt. Raksha Nikhil Khadse
9. Dr. Sukanta Majumdar
10. Shri Dhairyasheel Sambhajirao Mane
11. Ms. Mahua Moitra
12. Shri Santosh Pandey
13. Shri P. R. Natarajan
14. Col. Rajyavardhan Rathore
15. Dr. Gaddam Ranjith Reddy
16. Shri Sanjay Seth
17. Shri Ganesh Singh
18. Shri Parvesh Sahib Singh
19. Shri Tejasvi Surya
20. Dr. T. Sumathy (A) Thamizhachi Thangapandian
21. **Vacant^{\$}**

Rajya Sabha

22. Dr. Anil Agrawal
23. Shri John Brittas
24. Shri Syed Nasir Hussain
25. Shri Jawhar Sircar
26. **Vacant^{\$}**
27. **Vacant^{*}**
28. **Vacant^{**}**
29. **Vacant^{***}**
30. **Vacant^{****}**
31. **Vacant^{*****}**

Name of the Committee Changed on 23.11.2021 from Standing Committee on Information Technology to Standing Committee on Communications and Information Technology.

^{\$} Vacant since the inception of the current term of the Committee

^{*} Dr. Subhash Chandra, M.P., Rajya Sabha retired w.e.f. 01.08.2022 as per Rajya Sabha Table Office Parliamentary Bulletin Part-II No. 61503 dated 05.01.2022.

^{**} Shri Syed Zafar Islam, M.P., Rajya Sabha retired w.e.f. 04.07.2022 as per Rajya Sabha Table Office Parliamentary Bulletin Part-II No. 61503 dated 05.01.2022.

***Shri Y.S. Chowdary, M.P. Rajya Sabha retired w.e.f. 21.06.2022 as per Rajya Sabha Table Office Parliamentary Bulletin Part-II No. 61503 dated 05.01.2022.

****Shri Ranjan Gogoi, Member, Rajya Sabha, has resigned w.e.f. 05.05.2022 from the membership of the Committee on Communications and Information Technology as per Lok Sabha Bulletin Part-II No. 4691 dated 10.05.2022.

*****Shri Suresh Gopi, M.P. Rajya Sabha retired w.e.f. 24.04.2022 as per Rajya Sabha Table Office Parliamentary Bulletin Part-II No. 61503 dated 05.01.2022.

**Composition of the Standing Committee on Communications and
Information Technology (2022-23)**

Shri Prataprao Jadhav - Chairperson

Lok Sabha

2. Smt. Sumalatha Ambareesh
3. Shri Karti P. Chidambaram
4. Dr. Nishikant Dubey
5. Smt. Sunita Duggal
6. Shri Jayadev Galla
7. Smt. Raksha Nikhil Khadse
8. Dr. Sukanta Majumdar
9. Smt. Mahua Moitra
10. Shri P. R. Natarajan
11. Shri Santosh Pandey
12. Col. Rajyavardhan Singh Rathore
13. Dr. Gaddam Ranjith Reddy
14. Shri Sanjay Seth
15. Shri Ganesh Singh
16. Shri Parvesh Sahib Singh
17. Shri Shatrughan Prasad Sinha
18. Shri L.S. Tejasvi Surya
19. Dr. T. Sumathy (A) Thamizhachi Thangapandian
20. Dr. M. K. Vishnu Prasad[@]
21. Shri S. Jagathrakshakan^{\$}

Rajya Sabha

22. Dr. Anil Agrawal
23. Shri V. Vijayendra Prasad[#]
24. Dr. John Brittas
25. Shri Syed Nasir Hussain
26. Shri Ilaiyaraaja
27. Shri Jaggesh
28. Shri Praful Patel
29. Shri Kartikeya Sharma
30. Shri Jawhar Sircar
31. Shri Lahar Singh Siroya

Secretariat

- | | | |
|------------------------|---|-------------------|
| 1. Shri Satpal Gulati | - | Joint Secretary |
| 2. Smt. A. Jyothirmayi | - | Director |
| 3. Smt. Rinky Singh | - | Executive Officer |

Committee constituted w.e.f. 13th September, 2022 *vide* Para No.5288 of Bulletin Part-II dated 4th October, 2022.

@ Dr. M. K. Vishnu Prasad has been nominated *vice* Dr. Shashi Tharoor *vide* Para No. 5311 of Bulletin Part-II dated 12th October, 2022.

\$ Shri S. Jagathrakshakan has been nominated *vide* Para No. 5580 of Bulletin Part –II dated 8th December, 2022.

Shri V. Vijayendra Prasad has been nominated *vice* Dr. Laxmikant Bajpayee *vide* Rajya Sabha Bulletin No. 63085 dated 12th April, 2023 of Parliamentary Bulletin Part II.

INTRODUCTION

I, the Chairperson, Standing Committee on Communications and Information Technology (2022-23), having been authorized by the Committee do present the Forty-seventh Report on the subject 'Review of functioning of Central Board of Film Certification (CBFC)' relating to the Ministry of Information and Broadcasting.

2. The Standing Committee on Information Technology (2020-21) selected this subject for detailed examination and Report to the Parliament. The examination of the subject, however, could not be completed during the term of the Committee (2020-21). Keeping in view the importance of the subject and the need for wider consultation, the Standing Committee on Communications and Information Technology (2021-22) re-selected the subject for further examination and Report. The Report, though finalized, could not be adopted during the year 2021-22 due to expiry of the term of the Committee. The Committee, therefore, selected the subject once again during the year 2022-23 for its final adoption and presentation to the House.

3. The representatives of the Ministry of Information and Broadcasting and Central Board of Film Certification (CBFC) briefed the Committee on the subject on 13.01.2021. On 04.02.2021, the Committee heard the views of the some of the individuals/experts/stakeholders/organizations. The representatives of the Ministry of Information and Broadcasting and the Ministry of Electronics and Information Technology (MeitY) briefed the Committee on 'Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021', in the context of examination of the subject 'Review of functioning of Central Board of Film Certification (CBFC)' on 15.03.2021. On 06.07.2021, the Committee took evidence of the representatives of the Ministry of Information and Broadcasting on the subject 'in the context of 'Draft Cinematograph (Amendment) Bill, 2021'. Further, on 27.07.2021, the Committee took evidence of the representatives of M/o I&B in connection with the examination of the subject in context of the draft 'Cinematograph (Amendment) Bill, 2021'. The Committee also heard the views of an expert and the representatives of "Producers' Guild of India (PGI)" and "Indian Broadcasting Federation (IBF)" on 27.07.2021. On 17.11.2021, the Committee took the evidence of the representatives of M/o I&B on the subject with special emphasis on Reports of two Committees i.e. Mukul Mudgal Committee and Shyam Benegal Committee. The Committee also received written submissions from Indian Broadcasting Federation (IBF); Producers Guild of India (PGI); Director, Indian Motion Pictures Producers'

Association (IMPPA);, Associate Policy Counsel and Centre for Communication Governance (CCG) Digital Fellow of Internet Freedom Foundation on 'IT (IGDMEC) Rules, 2021'; Film Director/Producer/Script Writer; an Actor/Filmmaker/Screenwriter/Playback singer and a Film Director/Producer/Screenwriter.

4. The Committee at their sitting held on 26.07.2023 considered and adopted the Report. The Committee wish to express their thanks to the representatives of the Ministry of Information and Broadcasting, Ministry of Electronics and Information Technology and CBFC who tendered their evidence before the Committee and furnished valuable information. The Committee also wish to express their sincere thanks to all the individuals/stakeholders/organizations for providing valuable inputs either by appearing before the Committee or by furnishing written Memoranda which were of great help in examination of the subject.

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

6. 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;
27 July, 2023
5 Shravana, 1945 (Saka)**

**PRATAPRAO JADHAV,
Chairperson,
Standing Committee on
Communications and Information Technology.**

REPORT

Part – I

I. Introductory

In 1920, Boards of Film Censors were setup in Bombay, Calcutta, Madras and Rangoon, the four places at which films were imported into the country (Burma then being part of India). At that time there was hardly any indigenous industry of filmmaking. The principles of censorship were based on the rules of censorship drawn up by the British Board of Film Censors. In 1952, a consolidated statute (Act 37 of 1952) called the Cinematograph Act of 1952 was enacted. The Board was established in 1951 as the Central Board of Film Censorship. Through an amendment in the Cinematograph Act on June 1, 1983 the name of the Board was changed to its present version Central Board of Film Certification.

2. The Central Board of Film Certification (CBFC), setup under the Cinematograph Act, 1952, performs the statutory function of certifying films for public exhibition under the provisions of the Cinematograph Act, 1952. It functions under the Ministry of Information and Broadcasting, Government of India. All films, music videos, and documentaries meant for public exhibition, irrespective of their length, and media type (Celluloid, video, CD, or DVD version) are subjected to certification by CBFC. The Cinematograph Act, 1952 is read along with the Cinematograph (Certification) Rules, 1983 and the Central Government guidelines of 1991 are the statutes from where the CBFC derives its authority. The Board functions with its headquarters at Mumbai and has nine Regional offices each at Mumbai, Kolkata, Chennai, Bengaluru, Thiruvananthapuram, Hyderabad, New Delhi, Cuttack and Guwahati.

II. Mandate and Objectives:

(A) Mandate

3. The mandate of CBFC are as under:

- a) To examine and sanction the Cinematograph Films for public exhibition in India
- b) To certify the Cinematograph Films as suitable
- c) Section 6 of Cable Television Network Rules 1994 (Programme Code) mandates CBFC to certify films, film songs, film promos, film trailers, music videos, music albums or their promos, whether produced in India or abroad, as suitable for unrestricted public exhibition in India, so that they can be carried through cable service.

- d) To certify the advertisements of genuine brand extension products, that use a brand name or logo, which is also used for cigarettes, tobacco products, wine, alcohol, liquor or other intoxicants [Rule 7(2) of Cable Television Network Amendment) Rules, 2009 (Advertising Code)]

4. Regarding fulfillment of mandate under the Cinematograph Act of 1952, the Ministry in their written reply submitted that it is the mandate of CBFC to ensure that appropriate ratings are given to films and majority of films are certified in the primary screenings by Examining Committees themselves. However, if the applicant is not satisfied, he/she can approach the Revising Committee which comprises of a CBFC Board member as well. With digitization, modernization and simplification of its application process, the organization has made significant efforts to fulfill the mandate given to it under the Act.

(B) Objectives of film certification

5. The basic principles that guide CBFC in certifying films for public exhibition in India are laid down in the Cinematograph Act 1952. Cinematograph (Certification) Rules, 1983 and the guidelines issued by the Government under Section 5B(2) of the Act. In accordance with the guidelines for certification issued under the provisions of Section 5B of Cinematograph Act 1952, following are the objectives of film certification:

- i. The medium of film remains responsible and sensitive to the values and standards of society
- ii. Artistic expression and creative freedom are not unduly curbed
- iii. Certification is responsible to social changes
- iv. The medium of film provides clean and healthy entertainment
- v. The film is of aesthetic value and cinematically of a good standard.

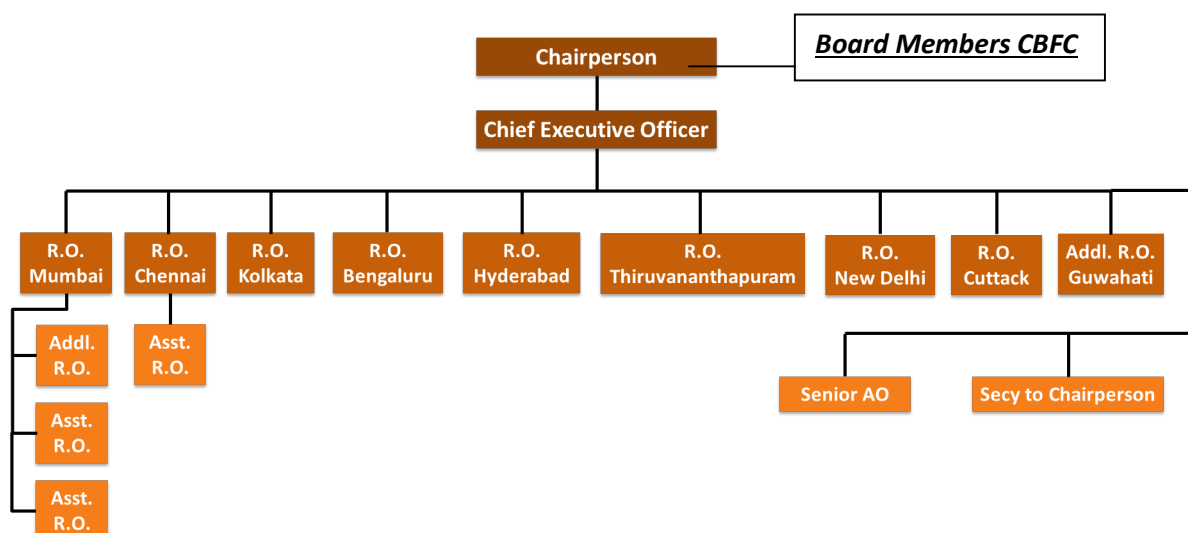
6. In pursuance of the above objectives, the CBFC strives to ensure the following:

- i. Any film is to be judged in its entirety from the point of view of its overall impact.
- ii. It is to be examined in the light of the period depicted in the film and the contemporary standards of the country and the people to whom the film relates, provided that the film does not deprave the morality of the audience.

III. Organizational Structure of CBFC

7. As stated earlier, the Central Board of Film Certification which is a two tier organization has the Board at Mumbai and the 9 regional offices at Mumbai, Kolkata, Chennai, Bangalore, Thiruvananthapuram, Hyderabad, New Delhi, Cuttack and Guwahati. The organizational structure of the CBFC, which is based on the provisions of the Cinematograph Act, 1952 and the Cinematograph (Certification) Rules 1983, is given below:

Structure of CBFC



A. Human resource – composition, role and function

8. CBFC comprises of a Chairperson and 12 to 25 members. The Chairperson and other members of the Board are appointed for a term of three years or till such time as decided by the Central Government. All the appointed members are eminent personalities from different spheres like education, art, film, social sciences, law, etc., and they represent a cross section of the society.

9. Since 11.08.2017, apart from the Chairperson, Shri Prasoon Joshi, there were 12 other Board members appointed w.e.f. 11.08.2017.

10. The existing strength of panel members in different offices of CBFC is as below:-

Status of Advisory Panel members as on Date:				
Sr. No.	Region	Total	Female	Male
1	Mumbai	222	115	107
2	Hyderabad	158	69	89
3	Chennai	194	97	97
4	Bengaluru	125	56	69
5	Thiruvananthapuram	70	23	47
6	Delhi	75	45	30
7	Kolkata	101	45	56
8	Guwahati	55	23	32
9	Cuttack	33	15	18

11. According to the Ministry, there is an Advisory Panel for assisting CBFC for discharging its functions efficiently under the Act. Advisory Panel has been established at each of the nine regional offices of CBFC. The Members of regional Advisory Panels are drawn from various walks of life and are appointed in accordance with Section 5 of the Cinematograph Act, 1952 read with Rules 7 and 8 of the Cinematograph (Certification) Rules, 1983. An Advisory Panel shall consist of such number of persons, being persons qualified in the opinion of the Central Government to judge the effect of films on the public as the Central Government may think fit to appoint thereto. Generally, these members of the panel hail from different walks of life like social sciences, education, legal, film making, art, etc., and represent a cross-section of the population. There is adequate representation of women in the advisory panels.

12. The members of Advisory Panel are selected for two years and they are mandated to

- i. Attend the Examination Committee meetings
- ii. Attend the Revising Committee meetings (if nominated)
- iii. Attend workshops/seminars
- iv. Visit cinema houses to detect violations of CBFC certificates

13. The members of an Advisory Panel examine the films along with Examining Officers (in Examining Committees) and Presiding Officers (in Revising Committees). Examining Committee generally consists of 1 Examining Officer and 4 panel members, at least two of whom should be women. Whereas Revising Committee consists of 4 to 9 panel members, apart from the Chairperson/Board member who acted as a Presiding Officer. It was ensured that there are minimum 50 per cent women members in the Revising committees as well. When asked whether the Advisory panels were entrusted with quasi-judicial powers, the Ministry reply was negative.

14. On the issue of women representation in the Board, the Ministry during evidence submitted as under:

“As of today, there is no limit over the number of women that will be in the Certification Board. So, Mudgal Committee said that one-third should be women. We would like to make changes in the rules and ensure *due representation*. There is a recommendation regarding Advisory Panels. Mudgal Committee said that they should not be called Advisory Panels. Rather they should be called Screening Panels. Of course, it is just a matter of name. Mudgal Committee again recommended one-third should be women in the Advisory Panels also”.

15. Adding on the issue of women representation in the Board, the Chairperson, CBFC while deposing before the Committee submitted that in practice women representation is more than fifty per cent. Asked about the plan to include 'at least one-third' representation of women as recommended by the Benegal Committee, the Secretary, M/o I&B during evidence submitted that CBFC was already working with one-third and it would be done.

(i) Chairperson, Board Members, CEO and Regional Officer of CBFC

16. The functions of the Chairperson are given below:-

- i. Providing direction and guidance on behalf of CBFC to all Regional Officers in performing the statutory functions of film certifications.
- ii. Ensure films are certified in accordance with the provisions of the Act & Rules.
- iii. Scrutinize the records of proceedings of the Examining Committee received from the Regional Officers.
- iv. Sanction of the film in four categories i.e., "U", "UA", "A" and "S".
- v. Appoints and determines the time and place of the Revising Committee,
- vi. Presides over the Revising Committee for re-examination of the Certified Films.
- vii. Signs for and on behalf of the Board, Certificate authorizing the public exhibition of films.
- viii. Advises the Central Government about the composition of the CBFC and also of the Advisory panels by suggesting suitable names.

17. Some of the important functions of the Board Members are:-

- i. Attend the meetings of the Board
- ii. Chair the Revising Committee Meetings (if nominated)
- iii. Review the work of Regional Officers and members of the Advisory Panel.

18. The functions of the CEO are as us under:

- i. Advise the Chairperson, CBFC in all matters
- ii. Implement various plan and non-plan schemes pertaining to CBFC, sanctioned by the Ministry
- iii. Supervise the administrative work of CBFC headquarters and coordinate the work of all nine regional offices
- iv. Liaise with Ministry of Information and Broadcasting on financial and administrative issues.
- v. Examination of films in accordance with Cinematograph Act and the Rules made there under.
- vi. Appointing authority in respect of all the staff working in the CBFC headquarters and all regional offices of the CBFC except the Regional Officers and Additional Regional Officers of CBFC.
- vii. Chief Vigilance Officer (CVO) for CBFC
- viii. To represent the CBFC in all court and CAT cases and authorized to file affidavits on behalf of CBFC

19. The functions of the Regional Officer (RO) are as under:
- i. To supervise the work of scrutiny on behalf of the CBFC of applications from producers of Cinematograph films or their representatives in respect of all films.
 - ii. Appoints an Examining Committee in respect of each application.
 - iii. Associate himself as a member of the Committee for examining the film in accordance with the guiding principles laid down in the Cinematograph Act.
 - iv. Sign on behalf of the Chairperson the certificates authorizing the public exhibition.
20. As regards the criteria and procedure for appointment of the Chairperson and the Members of the CBFC, the Ministry in their written submission stated that it was in accordance with Section 3(1) of the Cinematograph Act, 1952 read with rule 3 of the Cinematograph (Certification) Rules, 1983. Section 3(1) of the Cinematograph Act, 1952, reads as under:
- “For the purpose of sanctioning films for public exhibition, the Central Government may, by notification in the Official Gazette, constitute a Board to be called the Board of Film Certification which shall consist of a chairman and not less than twelve and not more than twenty-five other members appointed by the Central Government.”
21. In the light of thousands of films made every year, the Committee desired to know about the sufficiency of number of members in CBFC. Responding to this, the Ministry, in their written submission stated as under:
- "Desired strength of the advisory panel members in respect of each Regional Office of CBFC is worked out after carrying out a detailed analysis of work load in each of the regional offices based on the number of feature films, video films and short films certified. CBFC has been functioning over last few years with support of its 12 Board members and a total of 963 advisory panel members across different offices. Both Board members and panel members have been active participants in the certification process and there have been no hiccups owing to their numerical strength. It is always ensured that there should be diversity and adequate representation to different sections, while appointing Board and the advisory panels. The members have also seen that they adequately involve themselves into CBFC's work and are available for its meetings and committee work".
22. Adding on the adequacy of the existing human resource in CBFC, the Ministry replied that with the growth of film industry over the years, the work of CBFC has also increased manifold. There has been almost a 3 fold increase in the number of feature films certification since the year 2000. A detailed study of CBFC's manpower vis-à-vis workload has been conducted for taking necessary measures to enhance the human resources for

smooth working of the organization. As regards changes proposed, the Ministry replied as under :

"No changes are proposed in the role, function and structure of CBFC as of now".

23. Regarding appointment of Members of CBFC, one of the witnesses during evidence submitted as under:

"The Members of CBFC should not be appointed by the Central Government instead there should be an independent self-regulatory body comprising of people appointed by the industry similar to a Broadcasting Content Complaints Council (BCCC) for non-news Television content".

24. Raising concern over functioning of Regional board and Regional officer, a Director and Producer from the industry, in his memorandum submitted that each Regional Board operates under a Regional Officer and they are obliged to carry out instructions from above. It was also submitted that other members of the Board were neither film professionals nor experts on any subject.

B. Infrastructure

25. According to the Ministry, CBFC is presently functioning at its 9 regional offices located in Central/State government complexes in different cities. The office spaces are mainly used for video film screenings, conducting meetings, smaller conferences and workshops, and for administrative and certification-related work; whereas theatrical film screenings are held in Films Division theatre in the same premises. As far as CBFC Head Quarter office is concerned, it also examines films for certification in the auditorium of Films Division located in the same premises. There was shortage of space in CBFC Headquarters office in Mumbai in the Films Division Complex, due to which it could not procure/ install Digital Projection System and Digital Theatres as planned. Therefore, the funds allocated for the said purposes could not be utilised which led to shortfall in financial targets. Suitable action for providing office space for CBFC is being done by utilizing the existing auditorium of Films Division in the same building complex.

26. When asked to clarify about the shortage of office space in Mumbai, the representative of the CBFC during initial stage of examination of subject had submitted that they are looking for additional space from the Films Division. The representative from the Ministry had also assured to take care of the requirements of the Board as this was their responsibility and they would be doing it. Later, the Ministry informed that for redressing the space issue, CBFC, Mumbai had been allotted three theatres from Films

Division in the Films Division Complex and the theatres were being effectively used by CBFC which had helped in improved coordination and saving of time in the film certification process, besides revenue generation. They also informed that after the merger of media units, the Films Division's space and other space within the campus, more space would be available for CBFC.

IV. CERTIFICATION

(A) Category for Certification

27. At present, films are certified under 4 categories, U, UA, A&S, which are as follows:

Category	Description
U	Films considered suitable for unrestricted public exhibition
UA	Films which contain portions considered unsuitable for children below the age of twelve, but otherwise suitable for unrestricted public exhibition
A	Films considered suitable for exhibition restricted to adults only
S	Films restricted for exhibition to specialized audience such as doctors etc.

28. In June, 2021, the Ministry of Information and Broadcasting had sought comments from the Public on the Draft 'Cinematograph (Amendment) Bill, 2021'. One of the amendments proposed in Draft Bill, 2021 related to Certification of films under 'unrestricted public exhibition' category. It is proposed to be amended so as to further sub-divide the existing UA category into age-based categories, viz. U/A 7+, U/A 13+ and U/A 16+.

29. Justifying the proposed amendment to sub-divide the existing UA category, the Ministry, in their written submission, have stated as under:

"Both Mudgal and Benegal Committees have suggested for introducing age related classification of films. [Mudgal Committee – U, 12+, 15+, A and S; Benegal Committee – U, UA12+, UA15+, A, AC (Adult with Caution) and S]. The Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021" issued on 25.02.2021 has introduced five age based categories - U (Universal), U/A 7+, U/A 13+, U/A 16+, and A (Adult) for OTT platforms, based on international practices. The classification of U/A 7+, U/A 13+, U/A 16+ in the draft Cinematograph (Amendment) Bill 2021 have been derived from the IT(GIDMEC) Rules, 2021. Accordingly, it is proposed to further sub-divide the existing UA category in the Cinematograph Act into U/A 7+, U/A 13+ and U/A 16+ as introduced for OTT platforms to keep it in sync with the IT (GIDMEC) Rules 2021. This will lead to a uniform categorization across all platforms including OTT platforms. The idea provides a level- playing field to the filmic content classified under Cinematograph Act, 1952 and Audio Visual content classified for OTT platforms. Age-appropriate classification of content was

recommended by the Mudgal and Benegal Committees. Mudgal Committee recommended 5 categories of certification. Benegal Committee recommended 6 categories for certification. In the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 for the OTT platforms, 5 categories of age- based classification have been notified. To keep uniformity of content classification within the country, the classification notified for the OTT platforms recently has been proposed. Parents or guardian of a child shall be responsible for considering whether a child below the age of seven years, thirteen years or sixteen years, may be allowed to see a film certified under U/A 7+, U/A 13+ or U/A 16+, respectively. Age based categories would help people to make informed choices about the suitability of content, at the same time ensuring the artistic and creative freedom of filmmakers are also protected. This will lead to creation and development of new content in the industry that caters to age specific classification”.

30. On the issue of sub-dividing the existing U/A category, Indian Broadcasting and Digital Foundation (IBDF), in their Memorandum, submitted the following:

“We believe that the current practice of certifying a film into U, U/A and A categories is appropriate and sufficient. Further, provisions contained in proviso to Section 4(1)(i) of the Cinematograph Act 1952 (as amended) (“Cinematograph Act”) that empowers parents / guardians by giving them the option to decide whether or not they believe that a film with U/A certification is appropriate for viewing by their children / wards in movie theaters is adequate and appropriate.

Any sub-division of existing U/A category into the three proposed age-based categories is regressive step instead of progressive considering the socio-economic change in the society and will also inter-alia cause unnecessary inconvenience to movie goers, their families as well as film exhibitors. In this regard it is submitted that it will be a logistical nightmare for film exhibitors if they are required or expected to conduct age verification exercise of each and every person coming to watch a film in order to determine whether or not such person is entitled to watch the relevant film basis such film’s age-based certification. Further, requirement to do any such exercise will also invariably lead towards increasing gaps between shows in the theaters for completion of age verification exercise and may also result in causing delays between shows. The Government also needs to be cognizant of the fact that the proposed additional sub-divisions may also lead to agitation / quarrels / untoward incidents”.

Various sub-categories will also divide the viewers as per the age group restrictions, which will reduce the number of viewers which will ultimately impact the commercial exploitation due to such age group parameters. All this will adversely impact the investment in production of good quality of films due to low return on investments. Finally, this will impact the employment opportunities and income generated under this sector.

Although the approach in the Draft Bill seems to reflect the USA and UK classification, it does not reflect the mechanism of self-classification and self-certification that is integral to the self-regulatory principle and as adopted by such jurisdictions.

The proposed amendment in Draft Bill is only valid against a methodology or basis for arriving at the relevant sub- classification; and clarity on the objective and usage of such sub-classification – in absence of which it is prone to arbitrariness and would be contradictory to the mandate of Article 14.

Sub-classification, without methodology or clarity on objective and use, is susceptible to adversely impact the dissemination of cinematograph films on cable and satellite TV, which broadcasts films certified for unrestricted public exhibition. Moreover, CBFC will be unnecessarily overburdened with these additional certifications, without achieving much”.

31. Opposing certification and classification and sub-division, IBDF in the written submission have stated as under:

"On principle, the necessity for certification and classification for broadcast of films for television is arbitrary, unreasonable and imposes excessive restrictions on the dissemination of content specially by importing the standards of 'public exhibition' into the television ecosystem where the viewer accesses content in the privacy of their own premises. Fundamentally, the extrapolation of pre-certification for film to be received and viewed on the Television platform is contrary to the principles of non-arbitrary and reasonable classification enshrined in Articles 14 and the right to free speech enshrined 19(1)(a) on the Constitution".

32. On the amendment proposing to introduce age-based certification, Producers Guild of India made following submissions:

- i. As per the 2021 Amendments, s.4(1)(i), s.5A(1)(a), and s.6(2)(b) of the Act are proposed to be amended in order to further sub-divide the "U/A" category into age-based categories of certification, such as „U/A 7+", "U/A 13+", and "U/A 16+”.
- ii. Our limited request with the said amendment is that the amendment should also clarify the criterion for each proposed certification. Without clarification, filmmakers would be in a constant state of uncertainty as to what certification their film is going to get.
- iii. Moreover, without any guidelines/criteria being defined, it could lead to the CBFC also incorrectly certifying films thus impacting filmmaker revenues.
- iv. As also highlighted with respect to the amendment in S.6(1) of the Act, with the abolishment of the FCAT, the only recourse is via the High Courts. If films are incorrectly certified due to lack of clarity on the appropriate certifications, producers will have to spend a lot of time and money before the courts getting the certification rectified. This would also add to the existing burdens of the High Courts.
- v. Both Mudgal Committee and Benegal Committee in fact had provided for guidelines of how to certify a film into age-based certifications rather than censoring the films to fit them into categories”.

33. During evidence, the representative from Producers Guild of India (PGI), submitted as under:

“In principle, we agree that certificate category needs to be broader because the current regime of U, UA, PG and Adult is pretty restrictive. So, we welcome the broadening of the categories, but we need clarity as to what all these categories would constitute for different age groups so that there is no confusion both at the end of content creators as also at the exhibitors’ end when they have to actually check who is coming to the theatres”.

34. On the same proposed amendment, a representative of IBDF, submitted the following during evidence:

“I will give you an example. Today you have a classification of U and UA. I can take a ‘U’ movie and show it on the children’s channel after showing it to CBFC and I have no problems. But when you start subdividing the category into 3+, 7+ and 13+ and so on and so forth, which movie will run where and how would you control a remote control in a house? A 13+ movie is being watched by a child who is seven years old. What do you do about that? I am not getting into details of it; I am just making holistic points”.

35. When asked to comment on the concerns related to the proposed amendment for sub-dividing the existing U/A category, the Secretary, M/o I&B submitted as under:

“The amendment that we have proposed says it should be considered by the parents or guardians. The suggestions also that we have received ...xxx...xxx.... say that guardians and parents should ensure it, not the cinema hall owner because it will not be possible for him to check the age. For example, if am going to a cinema hall it is not that I should take the Birth certificate of my child. The other way round, the Gatekeeper can also say that you should carry the Aadhaar Card and Birth Certificate, we will calculate the age. So, this onus is on the parents”.

36. Adding on the issue, the representative of the Ministry while deposing before the Committee submitted the following:

“I would like to read from Section 4 of the existing Cinematograph Act on examination of films, which is about age categorization. Board may, after examining or having the film examined in the prescribed manner, sanction the film for unrestricted public exhibition, whether any child below the age of 12 years may be allowed to see such a film should be considered by the parents or guardians of such children. So, below 18 years it is the responsibility of parent or guardian. So, the responsibility lies on them. Then, it is also emphasized when the draft was brought out, that it would be the responsibility not of the exhibitor but of the parent and the guardian. Concerns have been received from the film fraternity on this, but it is yet to be finalized as you know”.

37. Elaborating on the mechanism for ensuring reliable age verification for content classification by various platforms for having effective implementation of parental lock

system, the Ministry submitted that the Code of Ethics for OTT platforms provides that the platform making available content that is classified as 'U/A 13+' or higher shall ensure that access control mechanisms, including parental locks, are made available for such content. Additionally, a platform which makes available content or programmes classified as 'A' shall implement a reliable age verification mechanism for viewership of such content. Examples of age-verification mechanisms include separate profiles of the children, and password protection of other profiles to restrict access by children.

38. On the issue of parental control, a Member from CBFC and an actor while deposing before the Committee during evidence, submitted as under:

"There is an issue with the word 'parental control' and it exists. For example, my experience of CBFC in the past six years is this. I have seen in cinema halls children walking and streaming and parents being oblivious of the fact. I would suggest or request the Committee about the literacy towards parental control. There is a very little literacy despite the fact that cinema is such an old idiom and certification has been done since decades here. People still do not understand the difference between what the U, UA and A is. So, in a country where that is still in nascent, by just putting a disclaimer or putting age related classification, there is a big question mark. Again, I said it is a matter of debate".

39. Clarifying on the issue of age verification, the Secretary, M/o I&B during evidence submitted that it is not the theatre owner who is supposed to restrict the entry of the child. He also submitted:

"As far as I understand, in the adult category only there is restriction. But in the U/A category, as you said, it is a guidance for the parents that this is not for a 7-year-old or 13-year-old and the discretion has to be employed by the parents or guardians".

40. While examining the witnesses, during evidence, the Committee putforth a situation wherein a teenager could go to a theatre to watch a film without a parent or a guardian and observed that this invariably indicated that there was a lack of clarity with respect to application of this Rule. Responding to this, the Secretary, M/o I&B submitted that they would consider it and bring about more clarity on this.

41. On the proposed sub-division of the existing U/A category, following is the submission of Chairperson, CBFC during evidence:

"On this issue, I have only requested for fine tuning of the categories. We have U/A right now. Now, U/A has been actually fine tuned into U/A 7+, U/A 13+ and U/A 16+. The way the Members today work, they will need guidelines on this that how one chunk of U/A has been now sliced. How do you see them differently? How will you see the categories of 7+, 13+ and 16+ differently? A little clarity and deliberation on that is required probably because this is also going to be

happening on OTT platforms. There is a synergy there. So, that is where probably some work needs to be done in my opinion. And, of course, Benegal Committee has got a category AC (Adults with Caution) which is a debatable point whether we should have that at all”.

42. Adding further, the Chairperson, CBFC also submitted:

“If the clarity of intent emerges, then it would be good for everyone because,...xxx...xxx...xxx..., it is about implementation as well”.

43. On the need for uniform categories of film certification, the representative of the Ministry in a submission before the Committee during oral examination of the subject stated as under:

“There would be a change in the categories of film certification and broadly we could have the same pattern for certification....xxxx...xxx...xxx.... this is the thinking, that is, to have similar categories because the population that is watching this content is the same. Therefore, it makes total sense that the same sets of categories should be there across the platforms”.

44. On an issue related to Certification, President of Indian Motion Picture Producers' Association (IMPPA), in a written submission has stated as under:

" 'A' certified films cannot be screened on Satellite which forms a major portion of the revenue that a producer can generate from the film, the producers are forced to re-apply for grant of 'UA' Certificate/'U' Certificate for the 'A' certified film in which case the producers are expected to pay the same amount of fees for certification as for a new certificate which is very expensive and we request that incase of re-certification of 'A' films into 'UA' it should not be treated as new certificate and the already financially suffering producer is not made to pay heavy CBFC fees which he can ill afford".

45. IBDF while suggesting for inclusion of additional stipulations regarding certification of films have submitted the following:

"Government should consider including stipulations on the following lines to be brought in the Cinematograph Act. viz. the applicants should have opportunity to seek review and apply for re-certification of the same film at any point in time inter-alia in view of the changing social behavior / norms within the country / globally; and the applicants should have an opportunity to apply for film certification in one or more categories (i.e., U, U/A or A) of its choice for the same film. According to them this will inter-alia give flexibility to producers to decide whether they would want to release a film with uniform certification (e.g., U certification) across all territories, or whether they would want to release the film with different certification (e.g., U/A certification) in certain territories. Additionally, this would also address difficulties faced by broadcasters / applicants while broadcasting the film on television channels. In this regard, it may be noted that the Programme Code under the Cable Television Network Regulation Rules, 1994 (as amended) requires broadcasters to broadcast films, which are certified by CBFC under the U or U/A categories. It becomes necessary for broadcasters who acquire films, which are certified as 'A' to remove any portion that may be

unsuitable for unrestricted public exhibition and to get the edited version of the film recertified by the CBFC".

46. Further, IBDF have also stated as under:

"Presently, there are no specific provisions or process set out under the Cinematograph Act to enable the process of recertification of a film, which has already been certified by the CBFC under a particular category. Thus, they have requested to consider the above submissions and inter-alia introduce a process for recertifying a film and also provide for an enabling provision that allows certification of different version(s) of the same film with age-appropriate ratings. It is also submitted that re-certification of a film may also be necessitated on account of the fact that change in maturity level of audience is a continuing phenomenon thereby, bringing certain topics / issues to the mainstream that may have earlier been considered to be a taboo. It may be noted that currently, an applicant is permitted to obtain separate certification in respect of each language version of the same film. We believe that applicants should be allowed to obtain multiple age-based certifications in respect of the same film since, the same will inter-alia not only allow wider outreach for the film but will also throw light on content consumption statistics / patterns. This will also enable stakeholders to make informed choices based on analysis of demand for various type of content".

(B) Certification Process

47. CBFC is the body that certifies long and short films both in the celluloid and digital format. It also certifies documentaries, advertisements, films and promos of feature films. With regard to the guidelines issued by the Central Government for film certification in 1991, the Ministry have stated that Section 5B(2) of the Cinematograph Act, 1952 authorizes the Central Government to issue such directions as it may think fit, setting out the principles which shall guide the CBFC in sanctioning films for public exhibition. Accordingly, under Section 5B(2) of the Act, the Central Government has issued Guidelines for certification of films for Public Exhibition in 1991 and while certifying a film, the CBFC is guided by these guidelines. A copy of these guidelines is at ***Annexure-I***.

48. According to the Ministry, Certification Rules also apply to Foreign Films imported into India, dubbed films and video films. Further, the work of certification of films is a Central Subject and the penal provisions of the Act can be enforced by the State Governments only.

49. As per Cinematograph (Certification) Rules, 1983, the procedure for film certification is as follows:

- (i) The material for certification is required to be submitted to the Regional officer of the concerned Regional center. In case of a dubbed film, it may be

submitted at the same Regional Office where the original was certified and the same category certificate would be awarded.

- (ii) On receipt of all the film materials, requisite fees (certification fees, screening fees) and written matter required under the rules, the Regional officer will form an Examining Committee to view the film. The composition of this committee will be as follows:
 - a. In the case of a short film (less than 70 minutes in duration or less than 2000m in celluloid), it will consist of an officer of the CBFC and an advisory panel member one of whom shall be a woman.
 - b. In the case of a long film/feature film (other than short films), it will consist of an officer of the CBFC alongwith four advisory panel members, two of whom shall be women. If the EO is not present, 5 advisory panel members may also constitute the Examining Committee.
- (iii) After the film has been previewed, each member gives his/her report in writing about the general theme of the film, deletions and/or modifications recommended in light of the applicable guidelines and the category of certificate the film should be given.
- (iv) The Examining Officer then submits report to the Chairperson. If the Chairperson or the producer agrees with the recommendations of the Examining Committee, the Chairperson directs the Regional officer to initiate further procedures for issue of certificate, on behalf of the Board, in conformity with the recommendations of the Examining Committee made either unanimously or by majority.
- (v) If required, the Chairman on his own motion or on the request of the Producer if he disagrees with the decision of EC, may refer a decision of Examining Committee to a Revising Committee. The appeal to the Revising Committee can be made by the producer within 14 days of the Examining Committee's recommendation.
- (vi) A Revising committee will consist of the Chairperson or in his absence, a member of the Board and not more than nine advisory panel members, provided none of them were on the Examining Committee that viewed the film earlier.
- (vii) The Revising Committee will view the same film print shown to the Examining Committee without any changes. Each member will be required to record his verdict before leaving the theatre. Where the Chairperson disagrees with the decision of the majority committee, the Board can itself examine the film or cause the film to be examined again by another Revising Committee and that decision of the Board or the second revising committee, as the case maybe is regarded as final.
- (viii) After the applicant is apprised of the decision of the Board, Examining Committee or the Revising Committee, he may submit a revised version to the regional officer for certification of the revised film. If the applicant is aggrieved by the order of the board, an appeal can be made under section 5C of the 1952 Act to the Film Certification Appellate Tribunal (FCAT) [In April, 2021 FCAT has been abolished and its functions have been transferred to the High Courts].

50. Details of films certified by the CBFC from 2018-19 to 2022-23, are as under:

				Total	Grand Total
2018-19	Indian Long Films	Video	855	4288	22570
		Digital	2447		
	Foreign Long Films	Video	701		
		Digital	285		
	Indian Short Films	Video	6438	18282	
		Digital	11068		
	Foreign Short Films	Video	245		
		Digital	531		
2019-20	Indian Long Films	Video	841	4466	20593
		Digital	2454		
	Foreign Long Films	Video	905		
		Digital	266		
	Indian Short Films	Video	5772	16127	
		Digital	9557		
	Foreign Short Films	Video	273		
		Digital	525		
2020-21	Indian Long Films	Video	1054	3175	8299*
		Digital	1204		
	Foreign Long Films	Video	776		
		Digital	141		
	Indian Short Films	Video	3058	5124	
		Digital	1887		
	Foreign Short Films	Video	65		
		Digital	114		
2021-22	Indian Long Films	Video	1054	3906	12719
		Digital	1856		
	Foreign Long Films	Video	547		
		Digital	175		
	Indian Short Films	Video	4359	8813	
		Digital	3967		
	Foreign Short Films	Video	175		
		Digital	312		

Long film: more than 70 minute duration ; **Short film:** upto 70 minute duration

51. Detailed statements for the period 2019-20, 2020-21, 2021-22 and 2022-23 (upto September, 2022) are given at **Annexure-II (A to D)**. It can be seen from the above that the number of films certified during 2018-19, 2019-20, 2020-21 and 2021-22 the total number of films that were certified by CBFC were 22570, 20593, 8299 and 12719 respectively. During 2022-23 (upto September, 2022) 9484 films were certified by CBFC. Providing reasons for decline in the number of films seeking certification from CBFC, the Ministry have stated that it was due to COVID-19 pandemic.

52. While deposing before the Committee, the representative of the Ministry also submitted as under:

“The year 2019 had 4600 certifications of theatrical films. During the last year 2020, due to pandemic, it had about 2500 certifications. But in all formats put

together like documentaries, short films, etc., they issue about 20,000 annual certifications in a year in different formats. The cineplexes are further getting converted into leisure zones. So, this sector is huge and also set to grow. This sector has also seen a huge growth despite all kinds of technologies, from VCRs, CDs to blue rays and everything coming over. But this sector, which is the cinema sector has continued to grow. So, in this context, I would say that we, in the Ministry are here to facilitate this ever-growing sector. Films are also one of our biggest exports to the world. It is the soft power of India, and we are committed to support the growth of this sector by creating an enabling environment like checking piracy, and also promoting ease of doing business. Sir, despite the restrictions that this pandemic has imposed on us, which is a temporary phase, we see this sector growing immensely”.

(C) Time limits for the certification process

53. According to the Cinematograph Rules, the following time limits have been stipulated for certification process:

Process	Time Limit
Scrutiny of Application	7 days
Formation of Examination Committee (EC)	15 days
Forwarding the EC report to Chairman	10 days
Communication of the order to the applicant	3 days
Surrender of cuts by the producer	14 days
Examination of cuts	14 days
Issue of Certificate	5 days
Total Time Limit	68 days

54. Further, there is a time limit of 68 days for certification process i.e. from the time of submission of complete application to issue of certificate. After the launching of the online certification system of ‘e-cinepramaan’ and the new website of *cbfcindia.gov.in* since 2017, the certification process has been working smoothly, including online payments of certification fees.

55. When asked whether 100 per cent of the films submitted to CBFC get cleared within 68 days, the representative of CBFC during evidence stated that almost all the films are certified within 20 to 25 days and generally, it was done within 15 days. Adding to this, the Chairperson, CBFC submitted:

“In my experience, only when they go through the Committees, Sub-Committees, and Revising Committees, the delays happen. ...xxx...xxx...xxx.... That is a cause for concern as it takes more time. But that is also done under 68 days”.

56. Further dwelling on the issue, Chairperson, CBFC explained as under:

“क्या होता है की कई बार, जैसा इन्होंने बोला की Examining Committee is the first Committee. If everything is agreed in that Committee, then the certificate is

issued very quickly. Suppose, कुछ उसके बीच में विवाद है या कोई चीज पर एग्रीमेंट नहीं है, जो इन्होंने कहा है, उससे फिल्म मेकर्स सहमत नहीं हैं। फिल्म मेकर्स जो होते हैं, वे कहते हैं की हम रिविसिंग कमिटी के पास जाना चाहते हैं। इसका पुनः अवलोकन किया जाए। उसको तब दोबारा देखा जाता है और उसकी दोबारा कमिटी बनती है। इस बार जो कमिटी का अध्यक्ष होता है, वह एक बोर्ड मेंबर होता है ताकि उसमें आर्टिस्टिक सेंसेबिलिटी आ जाए। इसलिए आप देखेंगे की बोर्ड मेंबर्स ज्यादातर फिल्मों से ही जुड़े हुए लोग हैं। उनकी अध्यक्षता में दूसरी कमिटी बनती है। अगर इस तरह के लूप में वह घुस गया तो शायद उनको ज्यादा वक्त लग जाएगा” ।

57. Regarding the time taken to complete the process of certification, the CEO, CBFC while deposing before the Committee submitted as under:

“Once the application is accepted, from the date of application on an average within 10-15 days, as of now, we are issuing the certificate....xxx...xxx...xxx...It depends on the workload also at times, but we have been given a maximum time of 68 days....xxx...xxx...xxx..... If the film is referred to the Revising Committee, then it may take more than two weeks also. If it is being challenged in the CAT, then accordingly it takes time. Otherwise, on an average, it is 10-15 days. As of now, we do not have a backlog of more than a month's time.....xxx.....xxx..... It all depends on the kind of compliance. If they can submit the cuts that we have suggested the next day, then we will further process it. Sometimes, they take months to submit the cuts also. So, it all depends on the kind of compliance followed by them”.

58. Responding to the concern regarding inordinate delays in certification leading to huge financial burden on producers, Member CBFC in a deposition before the Committee submitted as under:

“There is no 70 days delay. I think we had really expedited the process. But within the Act, it is the 65 days process which requires certification. I must also tell you one thing. Sir, the producers come one week before the release date. Now, that is not the point which you asked. This has become a norm... So, there are 100 more people in the line who already have adhered to a process. So, there is a lot which is amiss between the cup and lip. We do get badgered for being in CBFC but one has to understand, especially, for example, for national awards, by December 31, you need the certification done. Everybody, between 15th December and 31st December, would come down like a tonne of bricks on us saying we will miss the deadline. So, there is little adherence to procedures”.

59. On the delay in certification process, the Ministry pointed out to one of the recommendations of Benegal Committee and submitted that the Committee had recommended for having a provision for Tatkal certification of films on an enhanced payment and this provision could be brought into the rules by amending them.

60. About their adherence to the timeline for certification, the CEO, CBFC submitted that with the implementation of e-pramaan, the notice is sent online on the day the film is screened and the Report is to be submitted within that evening and the show cause notice is given the next day. He also stated that screening of film was done within one week of filing of application.

61. Regarding the timeline for providing certification to films, President of Indian Motion Picture Producers' Association (IMPPA), in a written submission, stated:

“Due to large number of films produced there is inordinate delay in previewing the film and since the advent of online certification the producer has to wait cluelessly for number of weeks to get the SMS regarding the preview in which regard no information is given to the producer on the phone or writing and he has to keep waiting for the elusive SMS which takes very long time to come....xxx...xxx...xxx.. Despite repeated request there has been no change in the timelines provided in the guidelines of 68 days which was done in 1954 are highly excessive as in today's date of digitization and speedy communication there is no reason why 68 days should be taken and with everything in the world going digital as per the Prime Minister's Digital Vision of India in our opinion certification of films should not take more than 3-4 days as according to the report submitted by the C & AG the time taken by CBFC to issue certificates varied from 3 to 491 days, thereby proving our contention that it is possible to clear films in 3 days but this was the facility being extended only to big films & producers who make small & medium budget films and were producing more than 90% of the films were facing heavy delays and while the big films were cleared in a matter of days small & medium budget films formed bulk of the films which took 491 days or slightly less to get cleared”.

62. On the submission of President, IMPPA, that the time taken by CBFC to issue certificate should be reduced from 64 days to 3-4 days because for medium and small budget films (which form 90% of the films) it took almost 491 days or little less, the Ministry was asked to provide their comments. To this, the Ministry, in their written submission responded as under:

“68 days is the maximum time that has been mentioned in the Cinematograph (Certification) Rules, 1983. However, CBFC ensures that certification of most of the films is completed in not more than 10-15 days. Besides, there is no preferential treatment given to big budget films. Very occasionally, films have taken longer time of a few months because the filmmakers/applicants have not complied by producing requisite documents (NOCs) or submitted the necessary cuts in time”.

63. When the Committee sought to know why there was differential treatment in issuing certificate, the CEO, CBFC, during evidence explained as under:

“It all depends on the kind of compliance. If they can submit the cuts that we have suggested the next day, then we will further process it. Sometimes, they take months to submit the cuts also. So, it all depends on the kind of compliance followed by them”.

64. To a query related to differential treatment given for film certification even if same dialogue is used, , the Chairperson, CBFC responded as under:

“इसमें दो चीजें हैं। एक तो कला के क्षेत्र में आप यह नहीं कह सकते हैं यह डायलॉग सैक्रोसैक्ट है। There is no suspended reality. It is a contextual reality. वही डायलॉग अगर मैं पिता से कहूंगा, तो वह अपमानजनक हो जाएगा। वही डायलॉग अगर मैं अपने मित्र से कहूंगा, तो वह अपमानजनक नहीं रहेगा। वह बैटर हो जाएगा। There is a difference between banter and crossing the boundary”.

65. On another related issue, the Ministry during evidence informed that at present deletions in films are made in percentage terms or in terms of length of metres. However, in the digital technology, it is made in terms of minutes and seconds and percentages as well. When asked to clarify about ‘quantum deletion’, the Ministry during evidence submitted as under:

“It is because they happen at different points of time, five seconds here or ten seconds there, etc. So, they all clubbed together and that is the number of deletions. They are all clubbed together and that is why it is called quantum deletion. Otherwise, it is just deletion. The units used today are millimetre or meter....xxx.....xxx....xxx..These are procedural improvements in the formats that are submitted. It is just to make it more explicit that it is mentioned both in terms of percentage as well as in minutes or seconds”.

66. Further, the Chairperson, CBFC submitted as under:

“It is to the contrary. The percentage will tell you the reduction in potency. So, the precision of seconds tells you the entry point and exit point of this particular scene and the length of the scene, which is flouting the rules as per Cinematograph Act. We often talked about it as to whether the power to suggest these changes should be there or not”.

67. Clarifying on one instance where a cut was recommended in one Hollywood movie where kiss scene was for 35 seconds, the Ministry during evidence submitted as under:

“It is not about any kiss being shown 35 seconds or five seconds. It is just about, in a film of two hours, if the CBFC decides that the cut is for 35 seconds then the rule says that the cut should be mentioned in terms of percentage. Now, we will mention 0.1 per cent and 35 seconds. It is not about duration about anything”.

(D) Revenue from Certification and fees

68. CBFC receives revenue in the form of certification charges. Details of revenue collected during last five years are as under:

Sl. No.	Period	Revenue collected in Rupees
1.	2017-18	8,40,35,600
2.	2018-19	13,46,33,658
3.	2019-20	13,67,45,463
4.	2020-21	8,40,92,178
5.	2021-22	12,21,40,116
6.	2022-23 (up to September 2022)	7,58,50,596
	TOTAL	63,74,97,611

69. When asked to provide views on the existing fee structure of CBFC along with lacunae, the Ministry replied as under:

"Fees chargeable for examination of films is prescribed under Rule 36 of the Cinematograph (Certification) Rules, 1983 and the present fees charged by CBFC for examination are in accordance with Notification dated 27.01.2017. There is discount given for Predominantly Educational (PE) films that generally includes different kinds of documentaries, children's films, scientific films, films on health and environmental awareness, etc. For a two hour long film, the Certification fee works out as Rs. 4350/- for PE films and Rs. 21,850/- for other (Non-PE) films. No lacunae have been noted in the existing fee structure of CBFC and it is found to be quite rational and logical".

70. On the proposal to revise the certification fee, the Ministry submitted that the Film Certification fees structure was reviewed at regular intervals in the light of increased procedural costs and honorarium of panel members. However, taking into consideration the impact of COVID-19 pandemic on film industry, there was no immediate likelihood of revision of certification fees.

(E) CERTIFICATION vis-à-vis CENSORSHIP

71. On the relevance of censorship in today's scenario and possibility of implementing a purely certification model in India, the Ministry, in their written reply, submitted as under:

"Sanctioning of Cinematograph films for exhibition' is included in Entry 60 of the Union List (List I) of the Seventh Schedule of the Constitution of India. The Union Government has been entrusted with matters pertaining to sanctioning or certification of films for exhibition in India and accordingly the Central Board of Film Certification (CBFC) certifies film for public exhibition under the provisions of Cinematograph Act. Article 19(1)(a) and 19(2) of the Constitution of India lays down that while all citizens shall have the right to freedom of speech and expression, the State can operate any existing law, or make any law, in so far as

such law imposes reasonable restrictions on the exercise of the right conferred by the 19(1)(a), in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence".

72. The Ministry also added that over the years, CBFC has evolved from a Board of Censors to a modern Board of film certification organization. However, as per its mandate, CBFC was empowered to examine and certify cinematograph films prior to their exhibition. The CBFC was performing its duties under Section 5(B) and related guidelines of the Cinematograph Act. Besides, CBFC also relied upon other prevailing laws of the land and Acts while certifying films. Therefore, due diligence was exercised while examining the films for public exhibition. Some of the laws were as follows:

- (i) The Cable Television Networks (Regulation) Act, 1995 r.w. the Cable Television Network Rules, 1994 (Programmes and Advertising Codes therein)
- (ii) The Cigarettes and Other Tobacco Products Act (COTPA), 2003 & Rules, 2004
- (iii) The Prevention of Cruelty to Animals Act
- (iv) The Emblems and Names (Prevention of Improper Use) Act, 1950
- (v) The Prevention of Insults to National Honour Act, 1971
- (vi) The Drug and Magic Remedies Act
- (vii) The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989
- (viii) The Indecent Representation of Women (Prohibition) Act, 1986
- (ix) The Protection of Children for Sexual Offences Act (POCSO Act), 2012 etc.

73. Asked about the grounds for excisions or modifications imposed by CBFC in films, the Ministry stated as under:

"The cuts in the Film are given in the light of guidelines of Cinematograph Act and in order to meet the Category-specific requirements of the Films. However, these cuts are more often in the form of minor modifications rather than actual excisions of the entire scenes/sequences. Many of these are procedural cuts only like anti-smoking static messages as per the requirement of The Cigarette and Other Tobacco Products Act (COTPA) 2003. Over the course of last few years, CBFC has attempted to create an amicable platform for discussions with the filmmakers, to ensure that filmmakers get sensitized to the larger societal point of view".

74. On the issue of making cuts in the films for getting certificate the Chairperson, CBFC while deposing before the Committee submitted as under:

“मोबिलिटी के बारे में मैं प्रैक्टिकल सेंसर देता हूँ कि क्यों ऐसा हो रहा है? श्यामबेनेगल कमेटी में, जब उन्होंने कहा कि आप सर्टिफिकेट दीजिए या अगर आपको लगता है कि इस आधार पर ये फिल्म नहीं दिखाई जानी चाहिए, for example, if there is something against the sovereignty of the country or something which is very critical or certain things

which harm the nation, आप उसको सर्टिफिकेट मत दीजिए। आपके सामने दोही ऑप्शन हैं। मैं आपको प्रैक्टिकल बात बता रहा हूं, फिल्म में उसका एक सीन इस तरह का है, जो देश की सम्प्रभुता को हानि पहुंचाता है, लेकिन, उस सीन को हटा देने के बाद वह फिल्म ठीक हो जाता है। ये चवौंश आपने उनसे लेली। I am not a lawmaker here. I am just a body which is certifying and implementing what is there. But in practical life, why it has sustained is that if you have only one option that because of this particular scene, ये पिक्चर नहीं दिखाई जा सकती है, यह देश के लिए सही नहीं है। इसमें सिक्योरिटी की कोई ब्रीच है। यदि, ऐसी कोई चीज है और सभी उस पर सहमत हैं कि ऐसी चीजें नहीं आनी चाहिए, तब वह पिक्चर नहीं दिखाई जाएगी। क्योंकि, आपके पास बीच का ऑप्शन नहीं है कि आप उनसे कहें कि इस वजह से यह फिल्म नहीं दिखाई जा सकती है। आज आपके पास वह ऑप्शन होता है। The filmmaker says that he is ready to sacrifice that part from the film and then the film can come out. So, there is a practical solution out there. Without that particular scene or episode, the film comes out. We are taking that option away from the filmmaker who would have probably not realized while submitting the film that there is something objectionable as per laws of the land. He himself realizes that he would not have done it had he taken cognizance of that. Now in that retrospective, it cannot be corrected. But given a choice, this film practically goes out and sees the light of the day. That is where probably the buck stops”.

75. He also added:

“I just want to add to what you have suggested earlier. In most of the cases today, the filmmakers are making voluntary changes. At least, I can tell you in my time. Most of the times, they are coming, realizing, and doing things on their own. So, accessions and cuts are anyway on decline. Most of the times, they are realizing it and coming back to us with submissions. So, that is already happening”.

76. Following is the submission of a witness with respect to censorship and certification:

“It is a fact that ‘regulation’ itself is a very scary term for most of the actors and content makers. Today, content is created in so many ways. Coming to what you are trying to ask, Mr. Chairman Sir, there is a paradigm shift in how we create and consume content today. Obviously, we are one of the largest film-producing nations in the world, and for CBFC per se, it would be absolutely a Nat Geo wild guess to know that across various formats, languages, we certify more than 20000 films in a year. It means that regarding the whole crux of certification, as I call it, you are right in suggesting that ‘censor’ is a very old term which was used during the British colonial period where India was a colony to the British, and broadcasting information was censored and obstructed. At least, in the past three years, within the six years that I have been on the Board, the way forward has been certification. When we say ‘certification’, we have three paradigms of creating certification in India – one is ‘Universal viewing’, which is for all age groups, second is ‘Universal/Adult’ which is for 13 plus, and of course, the third is ‘Adult’ which is for 18 plus. We just have these three categories, unlike most of the other countries in the world which have five to six different categories, where

there is parental guidance, viewing for 13 plus, viewing for 16 plus, and finally coming to what we call as adult rating....xxxx....xxx...xxxx.... But in the past three years, there have been films which have been a matter of great social debate. ...xxx...xxxx... there were no cuts or deletions at all. Now there is another word which we use in CBFC. It is called, 'modification'. Modification means that there is a democratic dialogue with the film maker who is there in the room after the viewing is done. It is a kind of a, you could say, empirical tradition that a dialogue is made after the film is screened. There are nine panel members who sit with me who is a Board member. We are only the last leg which is revising the Committee Report. They are the examining Committee which sit with various regional officers. It sits with panel members from that region. So, coming to the certification part, in the past three years, we have really tried hard. We have strengthened and empowered our dialogues with the film industry, which were not there in the past so many decades. We need to understand the area in which the content creators also work. There will be storylines which will have socio-political ramification. There may be comments about societal concerns. But we being a hyper sensitive democracy, at least three or four things are given when it comes to caste, when it comes to religion and when it comes to gender rights. One thing which personally bothers me is violence in children. Of course, these are matters which are taken into cognizance when we are certifying films".

77. Adding on OTT, it was submitted:

"Coming to OTT, there is a big difference between content being collective where a thousand or 500 odd people are sitting in a dark room and they are watching a film together. They are strangers to each other. It is within the Cinematograph Act of 1952 about which you very correctly pointed out that it is crying for amendment. As technology has grown, as we have seen things grow around us in the creative eco systems of the country, obviously, it needs amendment and needs change. But within the guidelines when you are watching a film with 500 odd people in a dark room, as Peter Brook says, 'everything in front of you is a dark hole'. How you receive it is what creates or makes or breaks it. Similarly, OTT or what we say, Over the Top content today, till about 11 months ago, was in our palm. The report you mentioned that I co-authored with hon. Mr. Shekhar Kapoor looks at non-linear narratives of creating stories. Non-linear narrative means that you do not have a continuum of the story. We are all used to soap operas on television or a film which ends in three hours. But here you have non-linear format of storytelling where you start somewhere. The middle could be very different from the beginning and the end would be absolutely separate from where the story started. So, immersive story telling is the way forward and immersive story telling also means gaming, augmented reality and artificial intelligence. The algorithms, which rule everyday social media units like Face Book and Twitter, also read which 25 people should be on my net page that I should be communicating with every single day. AI is already ruling us. It is already intrinsically a part of our lives and that also includes the story telling narratives. So, within the report, we have spoken about creative freedom; we have not really spoken about regulation. But before we get into the ambit of regulation, domain experts need to speak upon this. There are a lot of analysts which have been doing this kind of work. Me and Shekhar were talking about this for past many years since the advent of also the OTT platforms, which is fairly nascent in India. It is just about five and a half years old. Coming to the Code

part, the industry also has to step up. There has not been enough dialogue where we find convergent realities of how content is being created. We do not see enough film makers, content creators talk about what the method of storytelling is, how they are actually creating the story. So, the way forward is not one size fits all. There need to be deeper dialogues and discussions around this, including the content creators and those who are very much a part of it. But there needs to be a standard Code which also the industry should be a part of – whether it is a Code for looking at how content is being put out or whether it is a Code for looking at the best practices, which the countries like the United States, the U.K., Singapore and Australia – which we have explored deeply in the report – have adhered to. Finally, the difference between provocative hurtful vs. telling the truth needs to be made”.

78. Further, on the issue of censorship, the submission made by the witness was as under:

“Madam, there are nine panel members who sit with me, who belong to various walks of life like architects, doctors, engineers and they are not necessarily film critics, film makers, film writers or actors. Only a Board Member like me, which is the last stage of the Revising Committee sits. So, the Examining Committee is also there having six panel members with the Regional Officer. Under the Cinematograph Act of 1952, it is a democratic process where nine panel members sit with me and have an opinion. Within the Act, the guidelines are that there has to be a consensus, which means one dissent and certification will not happen. We have no business with this word that media constantly uses ‘ban’. We cannot do it, and in the history of this country I have never banned a film. We are not even a judicial body that we can ban or stop or whatever, but it is a democratic process. Those nine members have to agree with me. I am bound under an oath of confidence and cannot tell you, but there are times and there are films that I certified and the panel members disagreed with me, but I had to go with the consensus opinion. Hence, I am saying that the Act is crying for amendment. It will always be a process of human resource and the mind. Those nine people will come with their set of ethics, morality, perceptions, societal and political concerns. To put this all on the Government and the Ministry that they are not allowing all this has never happened. So, to begin with, for political messaging, the first question that you asked, in my six years of the consciousness of this body I have never received a phone call -- despite the political background I come from -- from a Minister or a Ministry official to say that: “***, do not let this film go through”. The fact is that we deliberate for hours together. There are times when people in the panel feel very strongly towards sexuality, explicit content, language, etc., and for hours we sit. So, before that one question that the guy lingers on outside, that is, the Producer / Director, those many hours we are sitting inside short of breaking each other’s head – pun intended – which means that it is a democratic process. There is a lot of dialogue, which occurs inside. The tradition of the producers and director coming, they come because they are also badly with us. I am putting this on record confidentially, they say, my film will not get sold to the satellite rights or to certain television if I have a certain certificate, give me cuts, I will take this certificate. This never gets spoken about outside but this is what occurs. So, there is interaction which occurs between two sets of human beings, one which has

commercial interests within the part of creating what they are their creative freedom, and the other part is those people who are trying hard not to obstruct the creative freedom but have concerns about when this content or this piece goes out. So, opinion, Madam, no. The opinion is right in that room. It is the people and a lot of people within their mindsets who know how it works.

Within the Board, for the past three years, one thing I am going to say with great confidence – objectification of women has been a ‘no’ for us. Yes, we have taken very serious points of view on item numbers, on the objectification of women, and about the certification, one word in Hindi ‘niyat’ called ‘intent’ in English is important. We have in Board meetings constantly spoken about what do we do about the objectification of women. Madam, you talked about lyrics, yes, if it objectifies women, we will have an objection towards it. There are people who go at length discussing whatever they are pelting out as explicit, vulgar, whatever content, where women are involved in the scene, and feel pride about it, of course, we have an aggressive debate with them after the screening of the film. About the lingering part, sometimes, it is the deliberation that takes a long time. This is within the Act that if the producer has to be told, what the Committee felt, sometimes, if a film doesn’t get certified because of lack of democratic consensus. This is very much part of the Act; the guidelines are bound by it. That is what we have to adhere to”.

79. Responding to a question on modification of films, the witness submitted as under:

“To your question about modification, it is a democratic discussion which happens. If nine panel members with me feel very strongly about a certain content, they are also parents, educationists, there could be people from all walks of life, that is the opinion which matters and we have to have convergence of ideas for a consensus. Madam, you asked me about language. We have language experts. We have zonal offices all across the country. For South, we have one in Trivandrum and in Chennai; for Northeast, we have one in Guwahati and in Kolkata; one in Delhi and Mumbai is the biggest head office. So, language, minority rights, anything connected to sensitive content, panel members are always there as representatives”.

80. Responding to a query whether certification is done even if the suggested cuts are not made, another witness submitted the following during evidence:

“That does not happen. Usually, it is like getting an ‘A’. If it is a big budget film, obviously you do not want ‘A’ as it restricts your audiences and it restricts your sales to TV channels. Then you negotiate. There is a discussion and they would say if you remove these five points, you can get a ‘UA’, or if you remove these 10 points you get a ‘U’. That does happen. At least in my personal experience, it has never been like if you do not do this, you would not get certificate at all. Are we made to wait? No, that has never happened. I can only speak from my personal experience. It has never been an unpleasant experience. It has always been an experience when you go and debate. After the viewing you have a discussion and then it is a question of us being able to convince them or they being able to say that these are necessary cuts. Then you evaluate it and you come back and

make those cuts or you can always take it to the next step where you say you do not agree and let it be reviewed”.

81. On the issue of censorship and cuts made in films, Shyam Bengal Committee in their Report had observed that the current system of suggesting modifications and amendments to a film by the CBFC should be done away with and the Board must function only as a film certification body. The Shyam Bengal Committee had also drafted a new set of guidelines for certification. The objectives of these guidelines *inter-alia* included (i) artistic expression and creative freedom of filmmakers is protected through parameters that are objective, (ii) audiences are empowered to make informed viewing decisions and (iii) the process of certification is responsive to social change.

82. On this issue, Indian Broadcasting and Digital Foundation (IBDF) have suggested for having only certification and no modification/deletion/cuts. According to IBDF, CBFC should only certify the movies in specific categories basis the subject, its treatment, audio-visual presentation and target audience. In this certification process, CBFC should not suggest the edits in the content, so as to ensure that the certification process remains limited to categorization of films instead of extending to editing the films. If the producer/ author of the film does not want his/her films to be certified in a particular category e.g., “A”, then the producer / author should be allowed to voluntarily carry out the necessary edits to bring the movie within desired category e.g., “UA” or “U” category. (b) We believe that the current practice of certifying a film into U, U/A and A categories is appropriate and sufficient. Further, provisions contained in proviso to Section 4(1)(i) of the Cinematograph Act 1952 (as amended) (“Cinematograph Act”) that empowers parents / guardians by giving them the option to decide whether or not they believe that a film with U/A certification is appropriate for viewing by their children / wards in movie theaters is adequate and appropriate.

83. The submission of President, IMPPA, on this issue is as under:

"It is to be appreciated that Films are a business where a producer makes the entire investment and his film has to have content which the audience wants to see as otherwise no one will buy a ticket which is why more than 90% of films are miserable flops and in view of the fact that the film is specifically made for a ticket buying audience only after seeing the publicity material knowing fully well what they are going to see and hence there should be no restriction as such on the creative freedom of expression of the film maker as long as the same are within the norms of decency and national pride".

84. Voicing against Censorship a witness in a written memorandum submitted the following:

“ (i) Censoring is a legacy left behind by our colonizers, the British as they were highly suspicious of the subjects of its colony. Strangely, we as a free democracy have inherited it and are reveling in its enforcement unabashedly without any sense of guilt or remorse.

(ii) Although it was re-named some time back The Central Board of Film Certification, it has all along continued to function as The Central Board of Film Censoring for all practical purposes.

(iii) Over the years Censoring has become more and more coercive but the Film industry has never protested against it as it had high stakes in terms of investment and thus couldn't afford to invite any displeasure of the authorities.

(iv) Censoring films is redundant in today's time with the new advances in science and technology. In this age of TV, internet, streaming and other devices, only cinema is singled out for close scrutiny clinging on to many archaic and irrelevant regulations and also periodically adding on to them. It is conveniently forgotten that with the change of times, Cinema has ceased to be the only medium of popular entertainment. One gets the feeling that the past weighs heavily on the Governments. It is high time they woke up to ground realities.

(v) Our Constitution has ensured the Citizen freedom of speech and expression in all modes of creativity within reasonable limits.

(v) The State need interfere only when these limits are transgressed. And such aberrations are within the purview of the judiciary to examine and judge.

(vi) With the idea of issuing a Censor certificate for public screening of films came the stipulation of having to exhibit on the body of the film itself all kinds of free Governmental ads unmindful of the fact that it is unethical and unaesthetic. Nowhere in the world are such violations tolerated and sustained without a question”.

85. Another witness, during evidence had stated that there should not be censorship of any kind. The reasons provided were as under:

“Just to continue the thing about self-regulation - as a filmmaker, I would say that self-regulation is the best regulation. Ultimately, the market forces also step in and the intent of the filmmaker is also very important. It is one of those intangible things that we cannot really define. It is there and the audience picks up on the intent. You know that this shot is being taken for titillation or it is necessary for storytelling. You know whether the hero is smoking to glorify smoking or to look cool or if this is necessary. I would give a simple example of how one rule could create problems for filmmakers. My last film that is '83' based on the 1983 Cricket World Cup. ...xxx...xxxx...xxx... If I do not show Srikanth smoking, a lot of people will say that I am not showing Srikanth properly; this is incorrect portrayal of Srikanth because he is infamous for smoking. For showing smoking, I am in the risk of getting several cuts in my film. These are the tricky parts. Ultimately,

you will be able to see the intent of the filmmaker. If I am showing Srikanth smoking in style in some backlight, with smoke going up in the air and then him going out to bat and hit a six, I am glorifying smoking. When I am showing Srikanth just sitting and smoking everywhere, then I am just trying to authentically recreate a personality of the 80s who everybody knows about. So, these are the tricky areas that we get into when there is a blanket rule that smoking should not be shown...xxxx.....xxxx....xxxx....It is because I am a creator and I will never want people sitting on shoulders and telling me what I can do and what I cannot do. So, my take will always be no. We need to have a sense of humour and again even in that joke you can see the intent. Is that meant to be hitting below the belt or no? It is a genuine comment on our society.....xxxxxx....xxx...xxxx... Twenty years ago, I remember I used to sit in front of Doordarshan at 6 o'clock and the film was played and we all would watch the film as a family. Unfortunately, today we do not have that system. But today we have a system where when I sit with my 12 years old daughter, I know there are certain films I can watch with her and there are certain films that I cannot watch with her. I have the choice. I have those 50 films earmarked and I know that out of these, 25 of them I will watch very happily with my 12 years old daughter and the rest 25 I will not let her watch till she is 18 years and can decide for herself. So, what has changed in 20 years is also the options and the choices we have. During the lockdown we thought that we will watch everything. We could not watch even 2 per cent of what is available. I would not agree entirely that there is nothing you can watch with your family. I think, our film industry is producing a lot of films which are good for family consumption where you can really enjoy the film with your family. Yes, of course, there are films where you will not want to go with your family. I am just saying that let you decide that. I do not think that another body should decide what you want to watch with your family and what is correct for your family. I think, the individual needs to decide that with the correct information. Say, for example, I want to watch a film or I am seeing a poster and the poster is saying that there is excessive abusive content, excessive violence, sex and nudity and I am saying that it is not for me today and I do not go for it. But if there is somebody who wants that, then I do not want to be the person to decide that it is not for you. That is my perspective on this".

86. On the issue of vulgarity, the witness submitted as under:

"Ultimately, what is vulgarity? There is sexual content. Is it necessary? It is a debate and two people can never agree on it. That is the whole problem with creativity. Me as a content creator will always try and push for less regulation. As a director and as a creator, I would always want less regulation. There is one fundamental point and we have still not spoken about it. It is very important when you are looking at regulation. Both OTTs and feature films, watching them is a voluntary act and that is something that we must take into consideration. If you have certification and it says, 'this film has excessive violence, a lot of violence or a sexual content', the person buying the ticket which is usually very expensive, going in and watching it is a voluntary act. It is not being pushed down. It is a pull content. There are some series which I totally agree with you have excessive abuses because they are doing it to get thrills, they know they will get more eyeballs if they do some thrills. But I will never say that it is not what filmmakers like to do. If a filmmaker wants to do it, I will say that let them do it but certify it in a way that clearly says that this series has a lot of abusive content and then let

the audience decide. I do agree that the children need to be protected but today, the children can be protected by certification easily. In theatres, a child cannot go or if it is below fifteen. In the OTT, the technology is there to prevent a child from it, there are child locks and personal passcodes. If there is a show which is not suitable for a child, you can even have for that show itself a passcode that the consumer can press in and access it. So, it does become the responsibility of the parents to make sure that they do that. That is something which I as a filmmaker try and push the point that whatever content people are consuming is a voluntary choice. They are going for that. I do not know where we stop. xxx...xxx...xxx...I am not going to pass any qualitative remarks...xxx...xxx...xxx..., I personally feel that the controversy made maybe ten times more people watch it. Otherwise, it would have died a natural death; I do not think people would have seen that. Even in that we can give a certification. Before you watch the serial you can actually put a disclaimer that this has provocative thing. I have not seen the serial, so I cannot comment. But I am saying whatever it is, if you put the disclaimer the audience knows what they are going in for and they can choose to ignore it”.

87. Providing views on censorship, another witness (an Actor, Producer and Director) submitted as under:

“The contents of the film should be self-regulated just as in the case of television or OTT. The members of CBFC should not be members appointed by the Central Government but should be an independent self-regulatory body comprising of people appointed by the industry similar to a Broadcasting Content Complaints Council (BCCC) for the non-news television content. Such independent self-regulating body shall certify films or act upon complaints based on the firm footing of law or on parameters that are objective”.

88. In written submission, the witness also submitted as under:

“Sharing views against the functioning of CBFC is guided more by the policies of a transient Government than on any sound principles of Law. The number of Films cleared without cuts have been sharply reducing over the years and the number of controversies over film certification has been on the rise. There are regional differences in certifying films. The films with cuts also seem to vary widely from one Language to another, thereby exposing the lack of objectivity in parameters determining certification of a film. Why I refer to regulations and restrictions here is mainly because, the CBFC perceives itself to be more of a censoring body instead of being a certifying body as it should be. What was needed or relevant in 1952 need not any longer be relevant in the present day. Controlling and curbing freedom of expression in a Film through an executive driven body such as CBFC is completely retrograde in the present day. The contents of the Film should be self-regulated just as in the case of Television or OTT”.

89. Responding to a suggestion for fully liberating the process of certification, the Chairperson, CBFC during evidence submitted as under:

“That is fine. But then the accountability comes with the age-old example. You know, you had seen a theatre and your freedom of expression tells you, ‘Fire’.

उसके बाद भगदड़ मच जाती है, 20 लोग मर जाते हैं। You have said fire because it was your freedom. You have said 'fire' aloud. There was no fire but you felt like saying it....x.xx...xxx...xxx. I said that I felt like saying and I said it. It is my imagination and I acted upon it. अगर हम इन चीजों पर लिडसकस नहीं करना चाहते हैं तो न करें, लेकिन मुझे लगता है की state of women in the country and portrayal of women and objectification of women, मैं अक्सर यह उदाहरण देता हूँ की जैसे आप एक फिल्म देख रहे हैं, उसमें एक पुलिस वुमन है और आपको उसमें पुलिस नहीं दिखाई देती है! आप लगातार उसकी टाइट ड्रेस पर फोकस कर रहे हैं और एक गाना चला रहे हैं, उसमें तरह-तरह इनुइनडोस हैं। She is absolutely disrespected by the camera. The intent of the camera is to see her as anything else but as an object. In a country where it is very difficult for her to get educated and then get a job like police, repeatedly you are objectifying her putting titillating songs, and gyrating her.....xxxx.....xxxx.....xxxx..xxxxx.... If you do not talk about these things, especially in a country where you see such burning issues which should concern us, and only talk about one side of that – I am free to do and I only want to see her as an object - then I think we will not be having the same debate. We will not be talking about correction. You know that it is not everybody's intent to portray a woman in just the way she is. it could be exploitation. It could be that we need to correct that perception about a woman in uniform. There are films and there are people who are doing it repeatedly. If we do not bring these things up, and do not debate them, then let us not at all talk about these issues. When it is convenient to us, we talk about it and on the other hand when it suits us, we start raising objections about it.....xxx....xxxx....xxxx....There are people who are sexualising children. Even if it is pleasing a few, if you say that sexualising children should be left to your imagination, where are we going”.

90. When asked to comment on whether we should move from a censorship culture to a certification culture, the Chairperson, CBFC submitted as under:

“This is a larger debate because India is a layered country. We do not use censorship. I mean we have been working now mostly on certification. Most of the times, the filmmakers have voluntarily offered to do so. What does a committee do? If you watch them, they are the people from normal walks of life -- they could be teachers, and doctors, etc. They are looking it from the point of view of families and that is the way it was constituted. How would people react to it? They would want their children to watch it or not watch it. Especially, now, we have skewed the committee towards more women. So, if you see, about 60 per cent of the presence in the committee is women because we felt that probably overcorrection is required in certain parts of our society, including, the children -- the vulnerable ones. Those things concern people. So, that is how, it was created. Are we done with it? We do not require any sort of filter or any point of view there. I am not very sure. There is a need for certification and deliberation”.

91. The Chairperson, CBFC was asked to comment on a situation where a foreign film exhibited in India requires certification by CBFC, however, an Indian movie seen abroad

does not require certificate. Responding to this, the Chairperson, CBFC submitted the following before the Committee:

“सर, जो हमारे देश में दिखाया जा रहा है, वह हमारे दर्शकों की सेन्सिबिलिटी का ध्यान में रखकर दिखाया जाए, वह फिल्म चाहे कहीं भी बनी हो। It is actually bottom up approach. It is not top down”.

92. On the issue of censorship and certification, another witness (Director, Producer, screenwriter and Author) submitted as under:

“When mankind stepped into the digital age, everything in every sphere of life changed, and the movies were no exception. Today, the locomotives of the entertainment world are not the big studios, but the OTT platforms. Finally here was the space that the filmmaker had dreamt of... where there was no censorship of any kind, and makers had the freedom to make what they truly desired to, without the shackles that had so cramped their expression earlier on. And now, after having had to live through an entire year of the pandemic, where cinema halls have been shut down all over the world and the world wide web has become the new cinema hall (at least for now), it would be an exercise in futility to attempt to rein in streaming content with archaic censorship laws, which were able to be enforced in a cinema hall, but are completely irrelevant when dealing with this new beast on the block. It would be like attempting to catch an entire ocean in a flimsy fishing net.xxxx....xxxx.....xxxx...xxx.... Having said that, in conclusion I appeal to the Committee to prevail upon the lawmakers not to strangle the voices which are clamouring to tell their stories through this new technology in this age of hyper connectivity. We live in the most fascinating time of human history. The only way we can thrive in it is to embrace this change rather than to attempt to suffocate it. Intelligence has been traditionally viewed as the ability to think and learn. But the experts say that in this post pandemic turbulent world, decision makers will have to acquire another set of cognitive skills that will matter more which is the ability to rethink and unlearn”.

93. Witnessing an increase in usage of OTT platforms, the Committee desired to know about the framework for OTT platforms. To this, the Chairperson, CBFC during evidence stated that "this is actually not the domain but Ministry's domain as OTT does not fall under the CBFC, which does not even have the bandwidth to be able to handle the massive content you are talking about". Elaborating on the issue it was submitted as under:

“OTT is complex and it has just come up. But accountability is something and there has to be accountability in any industry if you are calling it a product and product has to be accountable. Where do you go? If people are finding certain content or seeing it in a certain light, probably where do they go, from where it was sourced? Accountability is of concern. Who is accountable for that piece of content that is available? Where is it coming from? Yes, you are free to choose, when you want to choose but there is a certain code of conduct that is self-

emerging or emerges with collaboration with people but it has to emerge ...xxxx.....xxxx....xxxx....If there is an emergence of a code of conduct, I do not see any harm to film industry, or any other industry. Business and profiteering are fine, but it has to be done in cognizance with society norms because we operate in an ecosystem. It cannot be just one-way street that since it is profitable, it has to be done. I think a code of conduct, whichever way it emerges, will be a good thing. It will emerge only with dialogue. If we shun dialogue of any kind and become adamant that we should not listen to each other, it will not happen. There are diverse points of view which are emerging at this time. I think they should be tabled and then let us see what emerges out of it. I think informed choice has to be given to people. If you are the one who are selling your product it is not enough for me if you certify your product. You are the only one and you know my ideas to make profit. You are out there to make profit. But if there is a sort of collective which does that which is more accountable to each other, I think that is a better way to go because if I am giving information, especially in the creative world, it is not so black and white as to what is 12 plus, 15 plus or 18 plus.....xxx...xxx...xxx....You are talking about accountability. I feel no matter what you do, whether there is no body or no framework or whether the framework comes from the Government or from themselves, I believe in informed choice. If you are empowering the consumers, I need to give consumers a choice, I need to tell them what I am. If you are a vegetarian and I am selling a product which is non-vegetarian and this information is not written on the product, I am offending you”.

94. Further it was also submitted:

“We live in a complex country and such situations have to be studied before we make any decision about it. Even the self-regulation of OTT is in infancy stage. We do not know how it will work and how the associations and bodies will work together. CBFC has for years learnt certain things and mastered certain things, and those things should be definitely learnt from”.

95. On different set of Rules for movies shown on OTT, TV, Theatre and other platforms, the witness while deposing before the Committee stated:

“Actually, it is the first flush. What has happened is, for years we have these rules in cinema that you cannot use abusive language. Suddenly, the OTT platforms came....xxxxx....xxxx....xxxxx..... When we finish from school and go in to college, as boys we go little crazy because it is a sudden new found freedom that you get which you did not have in school. When you enter college, for a moment you lose your mind. Maybe, in the first year you lose your mind. I think our industry is going through that losing of mind to a certain extent because it is the first flush of getting a lot of freedom but I am very-very confident that it will finally settle down because people ultimately will not keep consuming that kind of content. There is a certain intent that you can make out”.

96. The witness also added:

“Today, an individual can be broadcaster. So, the problem on online content is this. You can guess, try and regulate the established players. But where then does it end? It is because there can be ten people who come together and form a

platform. They can shoot on the i-phone and looks pretty good and pretty impressive in terms of technical quality. When you try to regulate online content, I do not know how will it get begin because it is a huge mountain of content. Every day, we have new players. As I said, you could be regulating the main players. You know the Netflix, Amazon and Disney. But how to regulate the new platforms that will keep sprouting up”.

97. The view of Producers Guild of India about movies/content shown on different platforms was as under:

“I think, there is a fundamental difference between watching a film in a cinema hall with people around you, watching television over the dining table, and through OTT platform which is more of a private nature. So, we can have similar guidelines and some of the freedom. I think, we acknowledge that there is a difference in the mediums, the nature of the medium itself”.

98. With respect to regulating OTT platforms, the representative, from Indian Broadcasting and Digital Foundation (IBDF), during evidence submitted:

“First and foremost, we must remember that the line between linear television, which you watch on TVs and digital OTT platforms or cinema halls is very quickly blurring. We are here to talk about an august body which will govern what goes on each of these platforms. But ultimately a decision has to be taken whether we go digital first, which is on an OTT platform and bring the same content on the linear platform, or show it in a cinema hall and keep it digital. But the cinema halls are shut today because of COVID-19 lockdown. Movies are premiering on OTT platforms. Where do you draw the barriers? My first submission to you is to please keep that at the back of your mind when you are talking about content. The more restrictive you make it, the more difficult it is for everybody in the food chain to make a profit”.

99. On the issue of self regulation of OTT platforms, the representative of IBDF submitted as under:

“The first step that we took was with the blessings of the Parliamentary Committee, which is of a similar nature, an organisation called BCCC, Broadcasting Content Complaints Council which is headed by a retired Judge. It has eminent personalities as members. The viewer has the right to complain in case he or she finds the content offensive of any nature. Every channel has to run a scroll saying that if you have any complaint against the content of this channel, please inform or approach so and so and there is a proper methodology. We have been very successful. So far we have been able to deal with all kinds of complaints and take them to their natural conclusion. We have just launched a similar thing for digital content which is why the IBF expanded its mandate to say that we are now called IBDF taking the digital players into foray. Big platforms, which operate in India, like Disney Hotstar, Zee5, Sonyliv, etc., are members of this organisation. We have created a similar Council again headed by Justice Vikramjit Sen, who is an eminent Judge and having eminent

personalities and film personalities like Nikhil Advani, who have experience in creating this kind of content and we are following the same process. So, we are already taking that step”.

100. Supporting the idea of freedom for OTT platforms, Producers' Guild of India (PGI) during evidence submitted the following before the Committee:

“As a general opinion, right from the time of Russia’s love affair with Raj Kapoor, Indian cinema, content has been one of most effective purveyors of India's soft power, our cultural ambassadors. In fact, it is on the verge of exploding worldwide, thanks to the OTT platforms, which are taking our films, our content all over the world. Now is the time to actually let it fly. We are positioned to take on the world. We have a Korean group called BTS taking over the Bill Board charts; we have Turkish drama taking over airwaves all across the world. Indian cinema and content have the potential to do that and more. But we have to let it reach its potential and not cut it to size”.

101. For certification model for OTT, the representative of the Ministry during evidence submitted as under:

““On the OTT platforms, we are looking at some kind of self-certification because as we know that under definitions the audio-visual content on the OTT platforms is not covered under the Cinematograph Act unless we amend the Act. In case we go for that route, will the existing setup of CBFC be able to handle the volumes of OTT...xxxx...xxx...xxx.....We had our Consultative Committee meeting yesterday and this was the subject under discussion - regulation of OTT platform. It was strongly recommended by the MPs that there has to be some kind of regulation, a framework has to be there. This is also the thinking of the Ministry. We need a framework to what extent, censorship is definitely out, we are working on a framework and I can say here. It should be placed in the public domain as soon as the draft is ready. That is the idea. That is the route we would be taking. Once we put things together, and we have a framework for regulation, it will be in the public domain and then, we go as per the consultation or the demand of the country”.

102. Adding on the issue of regulation of OTT platforms, the Secretary, M/o I&B during evidence submitted as under:

“With regard to OTT platforms, the digital media rules have come in the month of February, 2021 and we are just into this. I think, even the self-regulatory mechanism has been introduced for the first time where the Ministry also comes in the third tier. Here, the Ministry means there is a Committee and there is an authorized officer who also can take a view. Till now, what was happening was that anything could be shown on OTT platforms and there was per se nothing actually which was governing OTT platforms. Now, with this coming into place, there are cases which are being referred to the self regulatory mechanism. We have not really received anything till now from the Ministry on the OTT platforms. So, let us see how this works, and if there are issues later on, then we can think of them in the future”.

103. The Chairperson, CBFC also added as under:

“जब मुदगल और श्याम बेनेगल कमेटी की रिपोर्ट्स आई थीं, उस समय डिजिटल प्लेटफॉर्म जैसी कोई चीज पररप्रेक्ष्य में नहीं थी। It was nowhere in the picture. There is an argument which I often used to use about personalized viewing versus collective viewing. Now, collective viewing is that when people together are viewing something and they are cognizant of the fact that somebody is sitting with them and it becomes a different behavioural pattern versus somebody is viewing something very personally. Hence, the consumption and the stimulus has a very different response. So, these things were not in the purview. I think one has seen that there has to be a holistic approach towards certifying content of any kind as various platforms are emerging now. This approach has to be rather agnostic, in my opinion, to the mediums we follow, otherwise we will keep having new inventions in technology. So, I think somewhere at the source one has to sort of look at it in that sense and these Committees had not taken cognizance of these emerging mediums. They were never in the purview. So, that also has been something which is in the discussion. It is not in the CBFC's purview, but I thought I just sort of share my point of view on that”.

104. Pointing out to the scenario where OTT and television viewers though were same, yet 'A' certificate movies were not permitted to be telecast in television, the Committee asked if there was a need to reform the policy because OTT and television caters the same catchment almost. Responding to this, the CBFC, Chairperson submitted to the Committee:

“Not absolutely the same and there is reach, Internet and a lot of other things in OTT. If you go to a remote village, probably you get a television channel, you might not get OTT because of the Internet”.

105. When asked whether there was a need to have a relook on these issues, CBFC, Chairperson submitted as under:

“Yes absolutely. The availability of adult channel is something which probably the Ministry has taken cognizance of earlier also. But I do not think there is any consensus on that, at least, to my knowledge”.

106. The Committee desired to know whether same rules ought to apply to all the platforms, whether it was a public cinema theatre or a private channel wherein one had to pay a subscription to watch or a television exhibition or the internet for that matter. Responding to this, the Chairperson, CBFC submitted as under:

“A more nuanced definition of what is collective viewing is, this could be an intellectual sort of exercise.. xxx....xxx....xxx.... In the lockdown, I have just been observing that the patterns have changed as to how people consume content. Now, people could not step out of their homes. Now, certainly, which you got personalized content became a collective content. People started watching these streaming platforms together in the family and unlike many,

there are not many televisions in somebody's house. There is one TV in the common place and people are watching the contents collectively in their households. Suddenly, something which was probably they found very comfortable watching alone versus suddenly whole family watching it together, the attitude towards the same content got changed. This is human behaviour. They started seeing it very differently and the definition of what is collective and individual suddenly got blurred. So, these are the developments which one has to take cognizance of. I think we need to think about certification of the content and it is not a question which only India is facing. It is a global question and we could take a sort of lead in that because we are huge content producing nation and we can probably guide the whole world in this".

107. When asked to clarify whether there was a need to have different guidelines for personalized content and different guidelines for common viewing, the Chairperson CBFC submitted:

"I am saying, there could be. As a debate, one can look at it how do you look at content differently".

108. Clarifying on intervention by the Ministry, the Secretary, M/o I&B during evidence submitted as under:

"There is no Government intervention there in TV or in internet arena. If you see the oversight mechanism in TV, this Act has been in existence for more than a decade or so and there has not been any complaint of undue interference from the Government so far. Somehow, the apprehension is coming that the oversight will be an overreach. I think there is a subtle difference and the fact remains that even the Government officers who are sitting on these committees are bound to follow the law. There are the judicial proceedings and officers will not take the risk of going beyond the four corners of law. These mechanisms have been working for since 1995 under the Cable Television Network Act. This is what I would like to submit...xxx...xxx...xxx... It is like NBSA for the TV. The news broadcasters have got together and have formed a body. Justice Sikri, if I am not mistaken, is the Chairman of their grievance redressal body. Similarly, the non-news or the entertainment channels, if we can call them, have NBA. So, the OTT platforms already have a society called the Internet and Mobile Association of India. They will themselves select a person as the chair and the member".

109. Presenting the current situation prevailing w.r.t to regulation of OTT, a witness appearing before the Committee during the evidence, submitted as under:

"The CBFC only looks at theatrical releases of films. It starts from there and it ends there. So, whatever is happening on OTT, it is totally unregulated right now. It is entirely up to the viewers' discretion as it is called. We have dealt with one thing in the report. We will send you more copies of the report. Hon. Chairperson, Sir, I would request you that the Committee give views on the report. We have really worked on it.

But the number two part is that as Chairman Sir initially mentioned is about Ombudsmen part. Now, if I am the Judge in the Jury of the audience which means if age related classification is the way forward, then streaming devices should not be doing their own classification because there is a conflict of interest. If there is a separate code which is required to look at classification, then it should be an operative mechanism which looks at what should be for 13 years and what should be for 16 years. All over the world, it is there. I will give you an example of cultural nuance. Somebody mentioned it. In France, gender nudity is not a problem, gangster films are. But in the United States, if gangster films were a problem, France would be popular in making such films. But nudity is a problem when they certify this. So, obviously, there is a cultural nuance to every country. We cannot say that we are devoid of the tradition and the nuance that we belong to but that nuance also should be progressive with the advent of the new technologies. We speak in the Report about AI and augmented reality. This is one thing about which I forgot in the last segment. Screenplays are written for immersive gaming today. How are they doing for films? I mean today, I could be in Kurukshetra and I will become Karun, I will become Krishna and everything with just a click of the button. I will change my own characterisation and the story will not end probably as Mahabharata did. I think that is the absolute name – immersive gaming and immersive story telling. So, if we really have to look at gaming, we go on talking about gaming and all those things. There is a very progressive approach of gaming which is coming up. We should explore it. We should help creators as far as immersive gaming paradigm is concerned. Sir, I do not think we are censoring. We are a hyper-sensitive democracy but we must remember as I said in the beginning, hurtful provocative versus truth telling needs to be defined”.

110. On the problem being faced while certification, a witness submitted before the Committee as under:

“Speaking from my own personal experience, the films that I have made, I am confident that the intention has never been wrong, you know, to create a certain scene or to show a certain character. So, I go with this innate confidence that I have done with a good intent, there would not really be any problems in my films. The problems arise. Sometimes, as I said, there is an arbitrary nature that comes because there are just nine different individuals sitting there and you are not sure how they are going to react. So, when you go in, you are not really sure. Sometimes, there are scenes in a film where you know, okay, this is going to get attention; let us be prepared what we have to argue about this film. But sometimes, something comes out which is not even thought about. It suddenly pops up and you say, okay, now what do I do about this. So, that is for me an impediment. The arbitrary nature that comes from the fact that there are ultimately seven or eight individuals who will come up with their own points of view. How, how do you counter that? How do you divorce it from being at the mercy of different viewpoints on that particular day and how would the reaction to my film be different if a different set of people were there? Which is what needs to be balanced out. It should not be the luck of the draw that the seven people today will have a different view of my film and seven people the next day might have a different view of my film”.

111. Adding on the issue of making certification of film faceless, the witness submitted as under:

"I am going to speak about this from a film maker perspective, from my own personal experiences, from shared experiences of my film maker friends about the whole process of certification/ censoring that our films have gone through over the years. I even do not know where to begin with from because there have been so many layers to it. But let me just begin by saying that when we are going for certification of our films, it is almost like a joke. We do not know what cards will be dealt to us. What I mean is, it has been a little bit arbitrary. It reflects the personalities of the seven or eight panellists who are going to be there. We have had that, a very amusing anecdote to say that when we were walking in there was always one person who does your paper work and takes you into the screening or viewing room and there is always a saying that aree koi problem nahi hai, ye madam yaa ye sir thik hai. What that thik means, we really do not know but it means that they will be a little more lenient, they would not catch on to words. Sometimes we have had cases where the problem, of course, is because there are many things open to interpretation. For example, we should not use abusive language. But in some films of mine I have been told to cut out, in five instances, the word like 'saala'. The line said, 'aree ye saala hamesha late aata hai'. That was found offensive. Sir, it is a matter of degree. When you are opening and out to interpretation to people, that is when systems begin to fail. For us, we need regulations/ systems that work irrespective of who the people involved are. It is a system that needs to work without the human contact once the major guidelines put in place. Mr. Chairperson, as you rightly mentioned the culture of asking for cuts, when you walk in basically what you are bracing yourself for is what are the cuts. I think that needs to be done away with because that truly interferes with a content creator's work. This might sound like romanticised notions but there is a certain rhythm. There is a certain balance to a film, which does get upset when out of context things are removed or you ask to just cut and throw them out. Therefore, there is a need to look at how to circumvent that problem, maybe, through certifications like what Shyam Babu Committee recommended. Then, despite even having seven or eight people in the panel, sometimes there are some contradictory views on issues. ...xxxx...xxxx...xxxx...We need to look at how we get away from individual personalities deciding what is good and what is bad because that is always going to be recipe for trouble. Some filmmakers might be in sync with the ideology or the way those people think; one filmmaker might be on the other side. That should not be deciding the fate of a film, whether it gets the cut or it does not get the cut. We have to accept all viewpoints. We have to accept everybody's perspective as filmmakers because it will really be a boring world if all of us make the same films. I think that is important for us.

112. The witness further added as under:

"To take it forward, I would say that the film industry for long has always been viewed as an industry that just makes stuff to entertain people; we do not recognise actually the economic contribution of the film industry. Now with the OTTs coming in – I will not have the exact figure – if you were to take the spend of just the OTT platforms worldwide, it would be upwards of USD 30-35 billion a

year on content creation. With China out of the picture, India can easily get 20 per cent of that. I am talking of a good amount of USD 4-5 billion of content creation coming out of India. Then, one very important element that I have always noticed as a filmmaker is just the sheer soft power that Indian cinema gives to India. I would be extending myself to say that the soft power that India has really comes primarily from the film industry. I have seen it and it has saved my life as a man did not pull the trigger on me in Afghanistan when he realised that I was from India. He started singing the song Mere Sapnon ki Rani Kab Aayegi Tu. He was going to shoot me when I was doing documentaries in Afghanistan. That is the power of Indian cinema which we also need to recognise. It is, therefore, an industry that needs to be nurtured. Though some form of regulation could be put in place, we really need to have a light hand on that because regulation or over-regulation can constrict creativity. The multinationals are coming here on OTT platforms. Of course, a market is a great market and India is a huge market. They would want to come. I think, ease of doing business is also a very important factor for them. They could easily shift to Turkey which has suddenly become an attractive destination. As you notice, in the last five years, the soft power that Turkey has obtained through its web series is amazing. So is the case of Korea. As a content creator, I would just request that if there needs to be some sort of regulation - because India is a unique country and it is a very diverse country and there are lot of fault-lines present historically arising from contemporary issues and we need to recognise that – I would always say that the filmmakers need to self-regulate and that is the best way to go forward. I know that there will be some people who would take advantage of lax regulation or not too much regulation and do things that can end up becoming a little sensational or, what we call, cheap thrills. But, ultimately it balances out. If you look at the top grossing films in this country, none of them really have abusive language or sexual content for titillation or overtly political dialogues or lines. They are politics, of course, and they must be but it is always in the layers beneath. So, I feel the market also balances out. We as a few filmmakers might make something sexually provocative to get a few extra bucks but it is not going to last for long because a 16-year-old can access the Internet today and see whatever he wants to. So, ultimately, it is the self-regulation that is really going to work. And in the OTT space, really, how much can you regulate? You are going to be talking about thousands and thousands of hours of content. Already, I think there are about 60 OTT platforms and God knows how many will be opening up in the years to come. That is an area which really needs to be looked at very seriously. How does one regulate the OTT content and is it even possible to be able to regulate that”.

113. Regarding the process of certification by CBFC, one of the witness who is an Actor, Producer and Director has submitted that it should be faceless.

(F) Validity of certificate

114. The Committee were given to understand that one of the proposed provisions in the Cinematograph (Amendment) Bill, 2021 relates to “Validity of the Certificate” issued by

CBFC. Regarding this, the Ministry informed that as per the provision of the present Act under Sub-section 3 of Section 5A, the certificate issued by the Board is valid for 10 years. Although this restriction on validity of certificate for only 10 years was removed through an executive order, the existing provision in the Act required to be amended to remove the stipulation such that the certificate is valid in perpetuity.

115. Justification provided by the Ministry for this proposed amendment is that in 1984 the Central Government had passed an order to remove the validity of 10 years for a film certification. However, the provision in the Act was still in existence which would be deleted through the amendment. This would continue to allow the films to be exhibited without getting the certification revalidated from time to time. They also informed that Mudgal Committee had also recommended for making the validity of certificates perpetual as it was in line with ease of doing business policy of the Government.

116. During cross-examination by the Committee, the representative of the Ministry justified the proposed amendment related to validity of certification, by submitting the following:

“We brought this proposal of amendment in the Act but a notification under Section 9 of the Act, which is about power to exempt, had already been issued which said that the validity of certificate will not be fixed. The term ‘for a period of ten years’ is not mentioned there...xxx...xxx...xxx... Technically, it is already implemented. We brought it into the draft Bill because we thought that the Act should be updated. If something happens in the meantime, that should also form a part of the Act but it has been already implemented..xxx...xxx...xxx.... In 1984, *vide* a notification of the Central Government, that validity of 10 years was removed. So, that has already been done. Only, it has to be added in the law. It requires to be included in the main body of the Act”.

117. As regards validity of certificate, Indian Broadcasting and Digital Foundation (IBDF), in their written submission, welcomed and concurred with Government’s proposal in the Draft Bill to remove the stipulation in the Cinematograph Act, which currently provides for film certificate issued by Central Board of Film Certification (“CBFC” or “Board”) to be valid for ten (10) years so as to make such certificate valid in perpetuity.

(G) Revisionary Power of the Government

118. The examination of the draft ‘Cinematograph (Amendment) Bill, 2021’ had revealed that another provision proposed relates to Sub-section(1) of Section 6 which was

regarding “Revisional powers of the Central Government”. In this regard, the Ministry in their written submission, stated:

“High Court of Karnataka in its judgment dated 2nd April, 1990 in Writ Petition No. 4335 of 1979 - K.M. Shankarappa Vs Union of India had struck down some clauses in sub-section(1) of Section 6 such that the Central Government could not exercise revisional powers in respect of films that are already certified by the Board, viz. "or has been decided by", "or as the case may be decided by the Tribunal", and "or to whom a certificate has been granted as the case may be". This was also upheld by the Hon'ble Supreme Court *vide* judgment dated 28/11/2000 in Civil Appeal 3106 of 1991. Benegal Committee had also recommended modifying Section 6 in view of the Karnataka High Court and Supreme Court judgment. Hence the struck down provisions are being deleted.

The Hon'ble Supreme Court *vide* judgment dated 28/11/2000 in Civil Appeal 3106 in the K.M. Shankarappa case has opined that at the highest, the Government may apply to the Tribunal itself for a review, if circumstances so warrant. However, the option to apply to the Tribunal for review is no longer feasible with the abolishment of the FCAT by ‘The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021’.

Sometimes complaints are received against a film that allude to violation of Section 5B(1) of the Cinematograph Act, 1952 after a film is certified and provisions of Section 5B(1) are derived from Article 19(2) of the Constitution and are non-negotiable. Therefore, if a complaint is received regarding violation of Section 5B(1) of the Act, the Central Government may refer the matter to CBFC for re-examination of the film.

Benegal Committee recommended that a certified film can be re-examined by CBFC if a reference is received from MHA in respect of violation of section 5B(1) of the Cinematograph Act, 1952 and clause 3 of the CBFC Guidelines. As per the proposed proviso, the Central Government will only be referring a case for re-examination to the Chairman, CBFC and will not pass any order on its own.

In case the certification of a film is re-examined by the CBFC, the interest of the producers of the film will be safeguarded by giving him an opportunity to be heard before orders are passed by CBFC. At the same time, Rules will be framed to clarify the procedure and circumstances under which this power can be exercised so that there is no arbitrariness in the action taken.

It may be noted that Central Government cannot recall or re-certify any film certified by the CBFC. It has been proposed that only on receipt of complaint on account of violation of Principles for guidance in certifying films mentioned in section 5B(1) such as sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of court or is likely to incite the commission of any offence, the Government may direct CBFC to re-examine a film. CBFC will take the final decision in this regard”.

119. On the proposed amendment in the draft 'Cinematograph (Amendment) Bill, 2021' relating to 'Revisional powers of the Central Government, a witness who is a Director and Producer, in a written memorandum, submitted as under:

"The proposal to re-censor films that have already been censored by a Government appointed board with an officer of the Government as its head is suspicious. It is not clear who this super-censor is. As practitioners of the art, we have anxious questions about why and what for. The Government should not suspect its own officials who carry out all the dictums without fail".

120. Following is the submission of another witness on the proposed amendment:

"The draft amendment bill seeks to vest the Union Government with Revisionary powers to review a film after being certified by CBFC, when such power to review a film after certification by the CBFC has already been struck down by the Hon'ble Supreme Court as unconstitutional in the Union Of India vs K. M. Shankarappa case. The Hon'ble Supreme Court held that Section 6(1) of the Cinematograph Act 1952 is a travesty of the rule of law, which is one of the basic structures of the Constitution. In its note, the Ministry justifies the introduction of the amendment by stating that sometimes complaints are received against a film that allude to violation of Section 5B(1) of the Cinematograph Act, 1952 after a film is certified," and that the Government is not able to act on those complaints because the Courts have said it has no power once a film is certified by the CBFC. The above justification is a big fallacy. The impression that the Central Government is powerless to act against complaints received has no basis. The Hon'ble Supreme Court of India had observed that if the circumstances so warrant, the Government may apply to the Tribunal for a review and be bound by the ultimate decision of the Tribunal. The Government is well empowered to act against complaints received by submitting itself to judicial review against decisions of the Board granting certification instead of trying to impose executive excess, and this was the core principle laid down by the Hon'ble Supreme Court through its order. The proposed amendment seeks to empower the Central Government to have a back door entry for controlling and curbing the creative expressions of a Film maker with retrospective effect, through the Chairman of the Board who is somebody receiving his salary and allowances, as determined by the Central Government. I am of the humble view that what the Hon'ble Supreme Court has prevented the Central Government from doing directly should not be done even indirectly, which this proposed amendment paves way to".

121. On the proposed amendment in the draft 'Cinematograph (Amendment) Bill, 2021', the witness while deposing before the Committee further added as under:

"The provisions of Section 5E and 5F of Cinematographic Act 1952 should be repealed. The proposed amendment with respect to revisionary powers of the Government should not be implemented, as it is redundant and superfluous for reasons mentioned above. Therefore, any unconstitutional interference with the right to speech and expression under article 19(1)(a) shall only result in spate of litigations. If the Central Government is aggrieved by a certification, it should, instead, of referring to the Chairman for review, should subject itself before a judicial review to challenge the certification issue. The retrospective nature of the

proposed amendment is most sinister. If a film once certified loses its certification on account of any whimsical decision of a transient executive, the same shall snowball into multifarious legal issues, contractual violations and severe economic losses. Hence, the same should not be implemented. The powers envisaged under the proposed amendment for the CBFC shall only pave way for executive excess, bias, undue influence and totalitarianism against free and fair voice and expression, which is the main pillar in a flourishing democracy, and hence should not be implemented”.

122. According to Indian Broadcasting and Digital Foundation (IBDF), the proposition was against the principles of separation of power and a potential ground to enable executive interference with independent decision making by an expert body sitting in committee / and a statutory mechanism. The separation of powers was undermined as the principal fact remained that the office of the expert body was solely at the pleasure of the Central Government. The principle is against the essence of the judgment in Union of India vs KM Shankarappa. In their written memorandum, they also submitted following:

“The ability of the executive (Government) to direct reopening of a matter decided by an expert body at any point of time, is an infringement of the rights established and articulated by courts as granted by Article 14 and the rights integrated under Article 19(1)(a) which only permits regulation under specified grounds in a ‘reasonable’ manner. The failure to provide any time limit brings regulatory uncertainty and it defies the principles of legitimate expectation. They have stated that the Central Government ought to refrain from seeking any revisionary powers as contemplated in the Draft Bill as further revisionary requirement as suggested in the Draft Bill is not necessary and would be considered as an over-breadth.

Considering that the producer of a film will be proceeding with release and incurring huge expenses in marketing, promotion and release of the film basis the certification given by CBFC to such film, therefore, any revision / cancellation of such CBFC certificate or delay on account of complaints / references, would cause irreparable losses to the producer, theatre owners, etc. Further, if such re-examination is ordered after the release of the film, it will cause disruption in its theatrical exploitation, the losses towards which can never be recovered by the producer since, within a short time after release, the pirated copies of the films are available on torrent and other pirate websites and the shelf life of theatrical exhibition is presently at an average of two (2) weeks. Further, there is neither any consultation nor discussion, as to what will happen in case Central Government receives multiple references albeit at different points in time. It is not clear whether the Central Government will keep on seeking review, which may ultimately stifle release of a film. Further, there is no clarity as to how and when a time-bound finality to film certification process will be achieved. There is also no clarity or discussion on any due diligence that will be conducted by Central Government before any such revisionary power entitling it to seek review of a film’s certification before High Court can be exercised. Failure to address these issues or provide a reasonable solution not only has potential to cause

irreparable loss / damages to producers but, importantly, may also be violative of their fundamental rights.

The Cinematograph Act had a provision that allowed Government to have final say in all matters relating to certification of a film. However, this provision was set aside by the Hon'ble High Court of Karnataka and subsequently upheld by the Hon'ble Supreme Court in Union of India vs. K. M. Shankarappa matter. The present draft stipulation is an attempt to overcome the principles laid down under the aforesaid Judgments and allow Central Government to indirectly review/revise the certificate granted by CBFC. The draft stipulation is not desirable and susceptible to misuse. To illustrate – Government may require High Court to re-examine a film umpteen number of time based on complaints received by it at different points in time on account of alleged violation of certification principles, even though the actual reason for seeking re- examination may have political undertones. It is not desirable for Central Government to become an adjudicator or a stakeholder calling for re- examination, when CBFC itself is constituted by the Central Government for fulfilling the purposes of certification. Distinction / separation of powers needs to be maintained since, any direction by Central Government for re-examination may weigh in with CBFC to recertify or even decline any certification.

We suggest that CBFC should have an autonomy in taking independent decisions in furtherance of the objectives of the Cinematograph Act and Rules framed there under. It should not be influenced by any political pressure/ views of the Central Government. If the Central Government is not satisfied with the re-examined certifications, then the government has the discretion to challenge the same before the appropriate High Court.

This would also adversely impact the licensing/production deals in connection with procurement/creation of content, as there will always be a sword hanging on the head of the creator or the licensor wherein, even after complying with the law to take requisite certification there is no conclusiveness on whether a subsequent demand to re-examine could be raised. This may even impact the negotiating power as the licensee would always want to be protected if there is any adverse impact in their exploitation of the film and expose licensees and assignees to adverse actions by the Government apart from economic losses being suffered”.

123. The CEO, Producers Guild of India (PGI), on the proposed amendment had made the following written submissions to the Committee :

“The proposed amendments, while attempting to be different, are yet giving the Central Government the same powers it had with respect to certification prior to Shankarappa. While the Central Government itself will not be re-certifying the film, it will be directing the CBFC to re-examine an already certified and released film, and since such a directive would be coming from the Central Government therefore there is a high likelihood of a re-certification of the film by the CBFC. Moreover, the language of the amendment is vague, as it does not specify who can make such reference/complaint to the Central Government, thus enabling anyone to do so even for frivolous / mischievous purposes.

Even though the Shankarappa judgment was given at a time before the Film Certification Appellate Tribunal was abolished, there is still a provision for the High Courts around the country to be the appropriate forum to hear any issues (including with respect to certification) and the Government does not need any powers in addition to this. There is therefore no change in the foundation of the Shankarappa judgment, and thus the introduction of the proposed amendment, which will have the effect of nullifying the Shankarappa decision, will be ultra vires the constitution and against the principle of separation of powers.

In addition to the contravention of the SC decision in Shankarappa, and the lack of basis to overrule a judgment by enactment of this legislature, the proposed amendment to Section 6(1) also threatens to affect the producers' fundamental rights of freedom of speech and expression under Article 19 of the Constitution. This is simply because if anyone is allowed to raise a complaint with the Central Government, they will do so through their personal subjective cultural lens and raise issues with the film that actually embody the free speech and expression of the producer/director. Therefore, allowing the proposed amendment, would open the floodgates of issues for filmmakers since these amendments would enable any individual to raise their personal grievances against any film, which would not only hinder cultural advancement but would also interfere with the freedom of expression of the producer / director.

Lastly, while the Act does not specifically provide for any transparency in the discharge of functions, it is an established rule of law, that implementation of the legislature should be done in an open and transparent matter. While it is appreciated that comments are being taken on the proposed amendments, it is surprising that this amendment has never been proposed earlier – for example in the Mudgal Report, the Shyam Benegal Report, the Standing Committee Report and even the 2019 draft bill. Therefore, the basis/discussion of such amendment has clearly not been done, and it has directly been introduced to the public for their comments. This is similar to the manner in which the FCAT was abolished in April 2021”.

124. During evidence, the representative of PGI added as under:

“Our biggest concern, of course, is the proposed amendment to Section 6(1) which, we feel, is not only bad in law but also at odds with constitutional guarantees. This would create havoc in the film industry. We can get into the practical difficulties of having a sword constantly hanging over our head where even a film, which is certified, could tomorrow be pulled out on the basis of a frivolous complaint. That is a huge concern for all of us. We hope, the Committee would recommend against keeping it”.

125. On this proposed amendment in the draft ‘Cinematograph (Amendment) Bill, 2021’, following view was expressed by the Chairperson, CBFC, during evidence:

“I think, it would have created an unnecessary layer. If the intent is to go for the rare cases where there has been an oversight or something which really impacts the country's security or things like that or those issues, I understand the

concerns, but that one .0001 per cent chance will also open a Pandora's Box where everything becomes important. How do you put a judgment there as to what is important and what is not important? There has to be more flashing out of it...xxx...xxx.xxx...If you ever have this kind of an intervention, it has to be very sharply and precisely articulated that this would be in very rare cases. If it becomes an everyday practice, then I see that it hampers the way we function”.

126. However, the Ministry while emphasizing on the need for this proposed amendment in the draft ‘Cinematograph (Amendment) Bill, 2021’, during evidence, submitted the following:

“As I said, very, very few or rare cases do come up once in a while, maybe once in three or four years, that undermine the security and integrity of the country....xxxx...xxx...xxx....In the case of two particular films ‘KaumDe Heere’ and ‘Mastermind SukhaJinda’, certificates were issued. After this certification, MHA had written to the Ministry”.

127. The representative of the Ministry also added:

“The CBFC cannot re-examine its own case once it has finalised the decision..xxx...xxx.... It is because the procedure in CBFC is that there is an Examining Committee and it has examined it. If there is no decision by majority, there is a Revising Committee. Again, if there is no majority decision or no conclusive decision, there is a Second Revising Committee. After that, the decision of the CBFC is final....xxx...xxxx...xxxx....I will break up the issues. Firstly, what are the kind of circumstances under which the Government would give the direction to the CBFC?xxx...xxx...xxx...The circumstances under which the Government would require to give this direction to the CBFC could be very rare because for everything else there is the CBFC and the court of appeal, which is now the High Court. So, what are those circumstances? There are a few cases that have come over a period of time, which are again rare cases. Let me first say that this power is along with a provision. The provision is about the manner in which the Government will be issuing directions to the CBFC to re-examine the films and it will be prescribed in the rules”.

128. Elaborating on the circumstances under which the Government can refer the matter to the CBFC, the representative of the Ministry during evidence submitted before the Committee as under:

“Now, what are the circumstances under which the Government can refer the matter to the CBFC? These could be issues of national security and integrity. That is a suggestion made by the Benegal Committee that this should be done on a report received from MHA. I will give example of a couple of films, where it was felt that this provision should be evoked. One is the film called ‘Kaum De Heere’, certified and released in 2014. It means ‘gems of the community’. The film was about glorification of two people, who had assassinated a former Prime Minister. MHA informed the Ministry that it has been certified and the Ministry wanted to intervene. But the matter went to the court and ultimately the court decided. Another film, which was next to it, was called ‘Mastermind Sukha Jinda’, which was about the assassination of a retired Army Chief, who was heading the

Army at the time of operation Blue Star. This again was a film which was objected. These films were not only eulogising a particular act but it came at a particular time when the ideology of terrorism was feared to be reviving or could lead to such revival. So, that was the concern of the MHA and that is why it was felt required in such kind of rare cases, where such things come up. Another case can be when CBFC feels that it has certified a film after following all the procedures within the CBFC. But after that they still feel that they have not certified it properly and it needs re-certification. There are cases like that. In that case, CBFC can write to the Ministry and the Ministry can direct the CBFC to go through that. As I insisted and informed, the final decision of any re-examination that will be done will be of the CBFC. The Government cannot or will not take the final decision so far as final re-examination is concerned. This process, one, will be detailed and the rules will be prescribed as to what kind of circumstances would require the use of this provision. There are safeguards because there is a rule of law. These all will be given in detail. The person concerned will be heard by the CBFC and a speaking order will be passed by the CBFC, after which he can go to the court. Further prescribing of the rules and the details to check any arbitrary power by the Government would be detailed in the rules. This is what I have to say regarding this. I must assure the hon. Members that the Ministry of Information and Broadcasting of the Central Government will not be deciding the certification of a film because it has been struck down. The Central Government does not have the power and it will not have the power. The power will be with the CBFC....xxx...xxx...xxx....

As I said, the provision has not been understood in the right spirit. The provision that we have proposed is that the Central Government will not have any revisional power to decide it herself because it has been struck down. So, it goes back to the CBFC. Further, as the CBFC functions, it is an independent body; it is an autonomous body. All the officials – Chairman and the members – are appointed by the Government and all the employees belong to the Government. But it is an independent body. They have their own systems. The Government does not interfere there. It is a body which takes its own decisions. There can be situations, where they themselves feel that there should be a provision to reexamine a film or change the certification of a particular film. As I said, the power to be exercised by the Central Government in this regard, will be specified clearly in the rules and will not be arbitrary. That is the safeguard that we will have. Of course, when CBFC decides it, it has to hear. It will be required to give an opportunity of hearing to the persons concerned and take a decision”.

129. Furthering the submission of the Ministry, the CEO, CBFC during evidence submitted as under:

“Actually there are certain cases in which, we feel, some developments come later on - some matters are under litigation – and you have already certified a film. In that case, CBFC also does not have any provision to review, once a certificate has been issued....xxx...xxx...xxx... a certificate is issued only after going to the revising committee. Certification is the final process, once all the revising committees have been done. That is our internal mechanism to reach to the certification stage. Sometimes, you come to a certain kind of development where you feel that you have already certified a film. Recently also, we got a

case in which the matter was under litigation and the film was certified. Then, the aggrieved party approached the High Court and we approached the Ministry. Then, we were directed to re-examine the film. We suo motu cannot take a film, once certification is done. In that case, we need that power”.

130. On the same issue, the representative of the Ministry during evidence added:

“There are two things here. One is, I have already mentioned that this is at the consultation stage and we have received more than 200 suggestions from different industry bodies. The provision is not that the Government will review. The provision is that the Government may ask the CBFC to review. There is a slight difference here. The Government is not taking the power but unfortunately, the impression that has gone due to the legal language perhaps is that the Government is going to review the certificate that has been already granted whereas the provision is that the Government will ask the Central Board of Certification to review. However, as I said, we have received about 200 suggestions on this issue”.

131. Further, it was added as under:

"Sir, as we just heard the hon. Member, there can be a situation where a certificate has been granted in 'x' place because of lack of knowledge of the language or the social situation. There may be a problem with the certificate. This is my view. There needs to be some exceptional provision if a certificate has been granted. It is not that it should be a general power as Chairman of CBFC, mentioned. The provision should be only in the rarest of the rare cases. But if there is no provision, then we will say that whatever has been given by the Thiruvananthapuram Board is final and now nothing can be done. Will that situation be good? That is the issue which comes before us. Many a time, we know that perhaps this should not have been done or at that point of time, the officers at the local level could not appreciate the wider implication which it could have in other places because they are looking perhaps at their perspective. In the regional level, it should have a different perspective and at the national level, it could have a different perspective. So, this is the rarest of the rare provision but definitely, we will go by your suggestions. But I must say that this problem does arise in some cases”.

132. The Ministry stated that there was a misunderstanding of the proposed amendment to Section 6(1) in the draft 'Cinematograph (Amendment) Bill, 2021', which related to revisionary power by the Government and added that it was a re-examination by the Board and not by the Central Government. Elaborating on the issue, the Ministry submitted as under:

“This issue of re-examination of films has come about because in the Shankarappa case, the High Court and the Supreme Court had struck down certain provisions of 6(1) of the Act. Those provisions have to be deleted from the main body of the Act. While we delete that particular provision, which is a proposal under the Bill, the issue of re-examination comes up. While the provisions of the Central Government have been struck down by the hon. Court, a provision has been proposed for re-examination of the certification by CBFC.

The genesis for this is this. In this, the same provision is being touched upon. So, in the same provision, we are touching upon any related amendment that is required to be done...xxx...xxx...xxx...Sir, I will be very specific. I will try to explain the background of the proposed provision. While examining the recommendations of the Committee, we were also touching upon and deleting certain provisions of the same Section. The provision or the requirement of re-examination of film was felt in certain cases, and that is why, both the Shyam Benegal Committee and Justice Mukul Mudgal Committee have recommended a provision to this extent, and that is the background. The hon. Supreme Court had deleted these provisions in the year 2000, and these two reports have come in 2013 and 2016. So, both these Committees and both the Chairpersons and the members knew the background of the case regarding re-examination. So, I will read out the recommendation of Justice Mudgal Committee in this regard. Section 29 of the draft Bill that has been proposed by Justice Mudgal Committee says, 'reexamination of a certified film (i) where any complaint is received by the Board in respect of film which has been certified for public exhibition, the same shall be forwarded to the Central Government. The Central Government, if it considers so to do, shall direct the Chairperson of the Board to re-examine any film in respect of which a complaint is received by it directly or from the Board under sub-section (i) in such manner as may be prescribed.' This is the recommendation of Justice Mukul Mudgal Committee....xxx...xxxx...xxx.... Similarly, the Shyam Benegal Committee in its draft CBFC rule 32 talks about re-examination of a certified film. They say, 'where in respect of a film that has been certified for public exhibition, the Central Government receives a reference from the Ministry of Home Affairs in respect of Section 5B (1) of the Cinematograph Act, 1952 and clause 3 of the CBFC guidelines, the Chairperson may, if he considers it necessary so to do, direct the Board through the CEO to re-examine any film.....xxxx...xxxx...xxx.... Probably, this is a provision that has been largely misunderstood. The Central Government cannot have the power because the Supreme Court has struck down this power. So, the Central Government cannot have the power to re-examine a case that has been decided by the Board or the Tribunal. The Tribunal is no longer in existence. So, here it is the Board. So, the provision that we have proposed is that the Central Government, if it receives a complaint either from the MHA or from the Board itself, may direct the CBFC to re-examine and the decision of the CBFC will be final".

133. Assuring the Committee that arbitrariness will be taken care, the representative of the Ministry during evidence submitted as under:

"It is still a proposal under consultation. We have gone into pre-legislative consultation. It is in intent, as of now. Further to this is that we have to see how the due diligence will be carried out so that there is no arbitrariness or it is used in the rarest of cases and which are those rarest of cases will be enumerated in detail. That is what I can say. This is still at consultation stage. After all, it will come to the Parliament after a view is formed".

134. While deposing before the Committee the representative of the Ministry also informed that since the proposed amendment was objected to by many stakeholders, a formal view had not been taken. After the process of taking views and discussion with

others was over, whether this will come up or not at all in the final recommendation or in the proposal of the Bill, it will come at a later stage. Even the Secretary, M/o I&B, during evidence stated that they have received a number of comments, many people had their views on it and the Government has to take a view.

135. Following view was put forward by the representative of CBFC during evidence:

“That could be one view, Sir, but the other view is this, and I am sure, the Hon. Members may have had some experience of this. Sometimes, it does happen that perhaps certificates of all films do not come to the Chairman. The certificates are issued at the regional level. Their perspective and the perspective which the Chairman of CBFC may be having, could be quite different. It could be viewed differently. So, the first question is whether there should be a revisionary power or no revisionary power. The second issue is that if there is to be a revisionary power, who should exercise it? Should the appointing authority exercise any revisionary power? I think, this is the question that you have raised. About the first issue, Sir, my submission to the Hon. Committee would be that some exceptional provision is always required. It can happen that. In some Regional Board, there could be a situation of wrong certification, which needs to be corrected, or some cuts may be required. There have been agitations at many places. I need not repeat that. Later on, the concerned producers had to make certain adjustments so that they are in line. Regarding your question, Sir, we have got a number of representations, and the Government will finally take a view. I would not be competent to give the final view of the Government. We will place it before the Government whether this revisionary power should be exercised by the Board itself if it does come. The first question is, whether there should be a power. Secondly, if there is a power, perhaps one solution could be that the CBFC in exceptional cases may itself exercise that power without Government interference because we have no intention, whatsoever to interfere. The hon. Minister has also replied that we have no intention of interfering in the work and taking over the film certificates. That is very clear. In my view, some residual power is required in exceptional cases. But as was rightly mentioned, it should be properly worded that ‘exception’ should not become the rule that everything is exceptional and we start reviewing all the films. Secondly, as the hon. Member asked, whether it should be exercised by the Central Government through the appointing authority or whether it could be a separate system. That is something, which I will place before the Government. We have already got 200 plus suggestions, and then, I think, the Government will take a final view”.

136. Regarding the authority that would decide what is ‘exceptional’ in these cases, the Secretary, M/o I&B submitted the following to the Committee during evidence:

“It comes back to the same question, whether this power is to be exercised by which authority and on what basis. So, basis would be, what has been written in the Act itself, and as already mentioned, only in cases of violation of sovereignty of India, and other clauses which we have, it should be exercised. But who will exercise, I think the hon. MP made a point. ...xxxx...xxx...I am coming to it. It is that the exceptional rules should not be drafted in such a manner that everything

becomes an exception. If it becomes a matter of right, then 'exception' itself will become a rule. That situation is also to be covered".

V. DIGITIZATION / ONLINE CERTIFICATION SYSTEM – 'E-CINEPRAMAAN'

137. During the course of examination, the Committee learnt that from a manual operation prior to 2009, CBFC has progressively moved towards automation. It saw one of its major paradigm shift with the implementation of digital certification process in toto. The Online Certification System of CBFC 'e-cinepramaan' which was launched on 27th March, 2017, aimed at transparency and ease of doing business in the Media and Entertainment Sector. The move was an important step in making CBFC office paperless and also to enable effective monitoring and real time progress tracking for both CBFC officials and the producers. The certification fees payment system has been fully integrated with Bharatkosh e-payment gateway. With the launch of 'e-cinepramaan', CBFC started online examination of short films (films of less than 10 minutes duration), resulting in swift certification of these films. Further the work of scanning and digitization of past certification records had also been undertaken by CBFC.

138. According to the Ministry, the next phase of digitisation was to make 'e-cinepramaan' more user-friendly. For this various steps were being undertaken, some of which are mentioned below:

- a) Provision for online upload of cuts and online verification of those.
- b) Online verification of alterations in film carried out after certification (under Rule 33).
- c) Simplification of system by delegating some roles from Regional Officer to Examining Officer's dashboard, and by removing the role of editor and other redundant entries.
- d) Alternate payment gateway facility (in addition to Bharatkosh) for fees payment.
- e) Provision for intimation of 'tentative date of screening' to the applicants.
- f) Development of mobile app version of e-cinepramaan.
- g) Revamping of CBFC website to make it more dynamic, interactive and state-of-the art.

139. The key objectives of Computerization Phase-II as envisaged are:

- Complete Process Automation
- Minimal Human Intervention
- Technology Usage (SMS/Email Gateway) Towards Effective Information Dissemination
- Dashboard For Real Time Progress Tracking
- Robust MIS For Performance Tracking And SLA Management
- Inbuilt Workflow And Auto Escalation Mechanism

- Effective Archival Of Records And Film Scripts
- Effective Grievance Management
- Increased Access To Information

140. The Ministry informed the Committee that currently the certification application process was completely online and offline applications had been dispensed with. In the context of Covid-19 pandemic and challenges posed by it on movement of people, the examination of the films was also being done through platforms like vimeo which provide for download-disabled and password protected sharing of content.

141. CBFC had taken proactive measures to enhance the ease of film certification by implementing some changes in the e-cinepramaan system, which are as under:

- (i) Online submission of cuts – CBFC has started online submission and acceptance of cuts/modifications in films w.e.f. 8th July, 2021 to increase transparency and reduce manual interventions with the applicants. The applicants or their representatives will not have to make physical visits to CBFC hereon to submit cuts/modifications up to 10 minutes duration, as the same would be accepted on the e-cinepramaan portal. Also, the online submitted cuts would be better archived and accessible than the ones stored in DVDs that may get damaged over time.
- (ii) Integration and simplification of application forms – CBFC has integrated the existing four types of application forms into a unified common application form for film certification w.e.f. 9th August, 2021. The form size has been greatly reduced, the redundant entries on the Application forms have been eliminated, language has been simplified, and the documentary requirements have also been reduced.
- (iii) Integration of alternate payment gateway - In order to minimize cash transactions, CBFC has made all adequate provisions for online payments through Bharatkosh payment gateway. In alternate, work of integration with another payment gateway viz. SBI payment gateway has been started and once completed, the same will be available for applicants.

142. According to the Ministry the changes were aimed at reducing the regulatory compliance burden which was an important step towards simplification of the certification process of films. All these changes significantly contributed in system improvement, thereby reducing certification time. When asked whether 'online certification system' helped in reducing the number of days taken to certify a film, the Ministry replied as under:

"Online certification system has substantially reduced the number of days taken in film certification by curtailing the procedural delays that used to often take place at the time of file movement. The scrutiny of applications and its online processing including submission of examination reports by officers can be done

from home as well, which has brought down the average time taken for long film certification to less than 10-15 days as compared to earlier 20-30 days. More prominently, short films including songs, promos and teasers etc., can now be examined on the online system itself thereby reducing short films certification time to just 1 to 2 days”.

143. When asked whether digitization has helped in improving transparency and efficiency of the certification process, the Ministry replied that it had played a very vital role in improving transparency because the filmmakers could now check the status of their applications through their logins only. Filmmakers could reply to intimations and enquire through dedicated helpdesk of CBFC. There was full transparency in documentation processes. The duplications in certifications had been eliminated and with QR code implementation, authenticity of certificates could be checked which had helped in tackling the forged certificates’ problem. General public, press and researchers could also now access certification details of the films on CBFC website, as the same had been integrated with e-cinepramaan for pooling of certification data.

144. When asked about the satisfaction with respect to digitization of certification process by CBFC, the Ministry has replied that they had actively supported it and they laud the efforts put in by CBFC in facilitating the film industry through use of digital technology. Dedicated funds had been provided by the Ministry to CBFC as part of a Central Sector Scheme named ‘Infrastructure Development Programme relating to Film Sector’.

145. Raising concern over digitization of certification, President, IMPPA, in a Memorandum to the Committee, submitted as under:

“It is important that the systems be recalibrated and simplified because when any company or individual producer submits the papers required for opening ID for online certification and when all documents are already submitted why producer's personal presence is compulsorily required at time of scrutiny if all the documents are in order and why scrutiny should take months if producer is not able to attend personally and hence it is necessary that authorized representative of the producer should be allowed to complete the formalities. I have to state that though CBFC has started online registration for CBFC purposes but no one has bothered to answer the question as to why when online registration has started 8 hard printed copies of all documents like script, screen play have to be submitted at time of screening and these documents are not taken online. Even after completing the full process of certification the producer is forced to be personally present to collect the certificate but they have to visit again and again as most of the time the film is cleared but the certificate has not been signed for one reason or the other forcing repeated visits of the producer to CBFC office. I cannot

understand why 'certificate is ready' message is not sent after certificate is signed because today producer has to wait for a very long time and make repeated visits to collect the certificate”.

146. When the Ministry was asked whether complaints had been received expressing dissatisfaction with the digitisation of certification process, they replied that the present online certification system had been developed and improved from time to time after consultation with all stakeholders including filmmakers and applicants. The changes were done in the system from time to time based on the feedback received from them. Occasional complaints had also helped into relooking the system, identifying the bugs if any and resolving the issues. It was also stated that four years into operation, the online system was functioning satisfactorily and applicants were also comfortable with it. CEO, CBFC and Regional Officer CBFC Mumbai had held detailed specific interaction with Film Association office-bearers across India on 6th August 2020 on the automation process relating to film certification, and following system improvements were being carried out in the second phase based on their suggestion/feedback:

- i. Merging of four different application forms into a common simplified form, also removing redundant entries.
- ii. Making cut verification process completely online
- iii. Informing applicants on the tentative date of screening on their dashboard
- iv. Providing alternate and additional payment gateway for deposition of fees

VI. ACT/ RULES/GUIDELINES related to functioning of CFBC

147. According to the Ministry, CBFC discharged its function of certification in accordance with the provisions of Article 19(1)(a) and 19(2) of the Constitution of India and provisions of Act, Rules & guidelines which are given below:

- (a) The Cinematograph Act 1952
- (b) The Cinematograph (Certification) Rules, 1983
- (c) The Guidelines issued by the Central Government under Section 5B of the Cinematograph Act, in 1991.

148. According to the Ministry, various laws of the land are applicable to the films that were certified. Acts, Rules and Guidelines that CBFC had to consider while certifying films were:

- i. The Cable Television Networks (Regulation) Act, 1995
- ii. The Prevention of Cruelty to Animals Act.
- iii. The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 & Rules 2004.

- iv. The Emblems and Names (Prevention of Improper Use) Act, 1950.
- v. The Prevention of Insults to National Honour Act, 1971.
- vi. The Drug and Magic Remedies Act.

149. Asked whether the guidelines issued by the Central Government for film certification in 1991 had become outdated, the Ministry stated that the guidelines issued for film certification in 1991 had been time tested and were relevant as on date. However, at the same time changes were made in these guidelines from time to time as required. They informed that these guidelines provided broader objectives and issue-specific insights for the committees to judge the contents for public exhibition.

150. According to the submissions made to the Committee, the present Cinematograph Act was enacted in 1952 and cinema had undergone radical changes since then. During last sixty eight years, the Cinematograph Act, 1952 had been amended nine times. Some of the important amendments were as follows:

- i. Cinematograph (Amendment) Act, 1953
 - a. Section 6-A was introduced: making it mandatory for a person delivering certified film to any distributor or exhibitor to also give information and documents of the Film and its Certificate.
 - b. Section 7 was amended: Enhanced penalty for interpolations, violations
- ii. Cinematograph (Amendment) Act, 1959
 - a. Section 7-A inserted: empowering police to seize the film exhibited in contravention of the Cinematograph Act
 - b. Section 5(B): Incorporated the principles for guidance in certifying films, based on the provisions of Article 19(2) of the Constitution
- iii. Cinematograph (Amendment) Act, 1973: Cinematograph Act extended to Jammu and Kashmir
- iv. Cinematograph (Amendment) Act, 1981
 - a. Section 3: CBFC members' strength increased from earlier 9 (maximum) to 12-25 members (minimum 12, maximum 25 board members)
 - b. Section 4: Two new certificate categories added viz. 'U/A' and 'S'
 - c. Section 5-B: one more principle for guidance in certifying the films added, namely, 'in the interests of sovereignty and integrity of India'
 - d. Section 5-C: provision to set up Film Certification Appellate Tribunal (FCAT).
 - e. Provision to suspend or revoke the certificate granted by CBFC in contravention of Cinematograph Act and the Rules made thereunder
- v. Cinematograph (Amendment) Act, 1984: Enhance penalties under Section 7 making exhibition of uncertified/interpolated film a cognizable offence

- vi. Finance Act 2017: Section 5-DD added in Cinematograph Act: Qualifications terms and conditions of service of Chairman and members of FCAT to be governed by Finance Act , 2017
- vii. The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021: Abolition of FCAT; functions transferred to High Court

151. The Ministry informed the Committee that a review of the Cinematograph Act, 1952 was undertaken to address various issues concerning the certification process in a comprehensive manner by suitably amending the Cinematograph Act to make the process of sanctioning of films for exhibition more effective, in tune with the changed times and curb the menace of piracy. In 2019, to tackle the menace of film piracy, the Cinematograph (Amendment) Bill, 2019 was introduced in the Rajya Sabha on 12.02.2019 after getting Cabinet approval on 06.02.2019, wherein it was proposed to insert a new section 6AA and a new sub-section (1A) in Section 7 of the Act. The Standing Committee on Information Technology (2019-20) had presented their 9th Report on 'Cinematograph (Amendment) Bill, 2019' in Rajya Sabha and Lok Sabha on 16.03.2020. Thereafter, on 18.06.2021 the Ministry of Information and Broadcasting notified 'The Cinematograph (Amendment) Bill, 2021' on the website of Ministry and CBFC for seeking public comments.

152. When asked to provide update with respect to action taken on the comments received from the general Public on the Draft 'Cinematograph (Amendment) Bill, 2021', the Ministry replied that a large number of views and comments were received from various film bodies/organizations and members of the public regarding the proposed amendments. In compliance of the Pre-Legislative Consultation policy of the Government, the inter-ministerial consultations and the pre-legislative consultations with the major stakeholders were done:

- a) **Inter-Ministerial Consultations:** The Ministry of Home Affairs, the Ministry of Electronics and Information Technology, the Ministry of Culture, the Ministry of Education, the Department of Industrial Policy and Promotion, Department of Revenue, the Department of Telecommunications and the Law Ministry were consulted.
- b) **Pre-Legislative Consultations:** Suggestions/comments were received from more than 200 film bodies/organizations and members of the public, regarding the proposed amendments and have been examined.

153. The Ministry, in their written submission, also added:

"It was decided that before a final view is taken on the comments received, wider stakeholder consultations should be held, in person, to allay the concerns of the film industry and to make them active partners in the regulatory ecosystem.

Accordingly, two consultation meetings were held with major stakeholders on 3th March, 2022 in Chennai and in Mumbai on 4th March, 2022 to *inter-alia* discuss the proposed amendments in the Cinematograph Act and improvements in the certification process.

A review of the Cinematograph Act, 1952 has been done to address the various issues concerning the certification process in a comprehensive manner. Inter-ministerial consultations (IMC) and the pre-legislative consultations with the major stakeholders have also been completed.

Amendment of the Cinematograph Act, 1952 is under active consideration and Ministry is in the process of finalizing the Cinematograph (Amendment) Bill. The various procedural formalities for introduction of the Bill will take some more time to complete. Since the initially proposed amendment has undergone substantial changes, it is required to undertake IMC for approaching the Cabinet for its approval to convey the new Bill in Parliament. After the IMC & Cabinet approval, the Bill will be laid in the Parliament”.

154. When the Committee desired to know whether this draft was a piecemeal amendment like Draft, Bill, 2019 or a comprehensive one, the Ministry during evidence submitted as under:

“About the proposed Bill, you had asked whether it is the complete structure. Yes. The last time we had brought the Bill only for piracy but this has enlarged the scope. There are four major items....xxx...xxx...xxx... unfortunately, I would say that the entire attention has got focused to one particular provision relating to review but there are three other provisions. I would like to mention that many of them have been appreciated and you can check it with the industry”.

155. Regarding the consultation process, the representative of the Ministry during evidence submitted as under:

“The Ministry has initiated discussions with film-makers and film bodies. The Secretary visited Mumbai recently and had an interaction with film-makers. He has directed that further consultations may be held with the stakeholders on the comments received from them, specifically the larger bodies like film producers’ bodies and guilds that have given their observations and comments to the Ministry. The Ministry will be interacting with them and taking into account their views as to what extent they want improvements in the system..xxx... xxx...xxx... a formal view will be given only when this consultation process is over”.

156. On being asked about consultation done by the Ministry of Information and Broadcasting/CBFC on the draft Bill, 2021, some of the witnesses appearing before the Committee have replied in the negative.

157. The views expressed by the Chairperson, CBFC on the amendments proposed in the draft Bill, 2021, were:

“As far as CBFC and our point of view about the current amendments are concerned, I want to be very clear that I also kind of disagree with the

intervention there. I feel that there is a sufficient mechanism. We have had dialogues. That is the way in which we have been working over the years, especially during my last four years. This is the industry's feedback on that also. मैं हमेशा कहता हूँ कि विवादों की जगह, विचार-विमर्श करना चाहिए। We have been able to find a way and have come to a solution amicably with dialogues with the industry with regard to films which people felt are too sensitive to come out. So, the whole mechanism is in place...xxx....xxx...xxx... So, we try to do as much as possible for the industry”.

158. Responding to the concern of the Committee that the principal Act had become old and obsolete and it required an overhaul, the representative of the Ministry during evidence submitted as under:

“The Ministry has felt that an overhaul is not required...xxx...xxx. The Ministry feels that changes and improvements are always required in the system, but then the system may not be required to be overhauled in total. The Ministry was also asked to build a consensus on the recommendations of the two Committees. We have worked on it”.

159. The Ministry have informed that an Expert Committee was constituted in February, 2013 under the Chairmanship of Justice Mukul Mudgal, Retired Chief Justice, High Court of Punjab and Haryana to examine issues of certification under the Cinematograph Act, 1952. The Mudgal Committee submitted its report on 28.09.2013. Alongwith its findings and recommendations, this Committee also submitted a draft Cinematograph Bill with its report. Thereafter, a Committee of Experts headed by Shri Shyam Benegal was constituted on 1st January, 2016 to recommend broad guidelines/ procedures which would set principles to guide the Board with respect to certification of films. The Benegal Committee submitted first part of report in April, 2016 and final part in June, 2016 along with draft Cinematograph Certification Rules and draft guidelines for certification of films. The key recommendations of the Mudgal Committee and the Benegal Committee are given at **Annexure III(A) and Annexure III(B)**.

160. When asked for the rationale for constituting a new Committee when Mudgal Committee had already given their Report , the Ministry during evidence submitted before the Committee as under:

“We have looked at the papers and it appears that in 2016, it was felt that the amendments or overhauling of the Act is not required; within the ambit of existing Act, the procedures and guidelines for certification have to be improved. That is what the Shyam Benegal Committee had worked on. In fact, there were lot of recommendations of the Mukul Mudgal Committee since they recreated the Cinematograph Act. So, they took up lot of provisions which were already

existing in the Act....xxx...xxxx...xxxx..... The Mukul Mudgal Committee was about a new draft Bill and the second Committee was for the improvement in procedures under the existing Cinematograph Act. By 2016, the Government had already decided that the existing provisions of Cinematograph Act and the rules and guidelines require amendments in the existing Act. In 2016, we were not looking at a new Act. So, the improvements were sought to be made in the existing system. I am reading this from the ToR of the Shyam Benegal Committee Report”.

161. Asked to furnish details of the action taken on the recommendations/observations of the Mudgal Committee and Shyam Benegal Committee, the Ministry, in their written reply, submitted the following:

“The reports submitted by both the Committees have been thoroughly examined in the Ministry in consultation with the Central Board of Film Certification (CBFC) for acceptance/non-acceptance/acceptance with modifications of the recommendations made by both Committees. The acceptable recommendations of the Mudgal and Benegal Committees can be considered for implementation by amendment in the Cinematograph Act, 1952, amendment in the Cinematograph (Certification) Rules, 1983, issue of Executive Orders and drafting of category specific guidelines”.

162. Further, on the status of implementation of Mudgal and Benegal Committee, the representative of the Ministry during evidence submitted as under:

“The Mukul Mudgal Committee had come up with 40 recommendations, which we have examined in the Ministry. This was in 2013. This was largely to examine the issues of certification. They also gave a draft amendment bill that would be carried out. The Shyam Benegal Committee had 35 recommendations, which were given in 2016. These were again broad guidelines and procedures for certification of films within the ambit of the existing law. When we examined these, we felt that the recommendations fall under three categories based on the action to be taken on these recommendations. Some would be included in the Act in terms of additional definitions or other amendments, and there could be amendments in the Cinematograph Certification Rules of 1983 or some of the recommendations could be met by issue of Executive Orders. So, we are working on all of these, and as the Chairman said that we are also looking at these recommendations in the light of the subject that has been transferred to the Ministry, that is, audio-visual content on the digital platforms”.

163. The Ministry in their written submission, apprised the Committee as under:

"It is pointed out that certain recommendations made by the Mudgal and Shyam Benegal Committees, are already under implementation. For instance, the recommendation made by the Benegal Committee regarding online submission and processing of applications for certification is already under implementation since the Online Certification System of CBFC 'e-cinepramaan' came into force in April, 2017. The recommendation of Mudgal Committee regarding size of the Board, power of the Chairman to suo-moto refer films to Revising Committee, role of the Chief Executive Officer, eligibility criteria for Regional Officers (ROs)/Additional Regional Officers (AROs), meetings of Board, selection of

Members for Examining Committee and strength of Revising Committee are also already in force. The Mudgal Committee had proposed new definitions of the terms 'cinematograph', 'exhibit/exhibition', 'public medium' in order to keep pace with changing technology associated with representation of cinema by enlarging the scope of CBFC. Further, both the Committees have recommended introduction of additional categories of certification. The Mudgal Committee had suggested subdividing the existing 'UA' category into two new categories, i.e. 12+ and 15+. The Benegal Committee has suggested subdividing the existing 'UA' category into two new categories, i.e. UA12+ and UA15+, and for a new category 'AC' (adults with caution). In light of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, it is being considered to further sub-divide the existing UA category into age-based categories, viz. U/A 7+, U/A 13+ and U/A 16+, in order to have a uniform categorization across all platforms including OTT platforms. The introduction of Category specific guidelines under the Cinematograph (Certification) Rules 1983 is also being considered so as to better aid CBFC in objective assessment of films".

164. According to the Ministry, both the Committees had made varying recommendations in respect of some similar issues, viz. the composition and criteria of appointment in respect of the Board, the composition and criteria of appointment in respect of Advisory Panels, categories of certification, specific provision for re-certification, re-examination of already certified films on reference from Government, etc. The details of such recommendations are given in Annexure III (C).

165. The Ministry have also added as under:

"The recommendations of Benegal Committee have been examined along with the recommendations of Mudgal Committee and a comprehensive review of the Cinematograph Act, 1952 has been undertaken in the Ministry to address the various issues concerning the certification process. After examining the matter, a Draft Cabinet Note for introduction of the Cinematograph (Amendment) Bill, 2021 was circulated on 03.06.2021 to various Ministries/ Departments for Inter-Ministerial Consultations for seeking their comments. In compliance of the Pre-Legislative Consultation policy of the Government, the essential elements of the proposed legislation were published in public domain on the website of Ministry and CBFC on 18.06.2021 for seeking public comments. A large number of views and comments have been received from the stakeholders and members of the public regarding the various proposed amendments. The Ministry has examined the comments and intends to have further deliberations with the major stakeholders on the concerns expressed by them".

166. A witness appearing before the Committee, stated that the recommendations of Shyam Benegal Committee on the certification and guidelines should be implemented and regarding delay in implementation of Benegal Committee Report or presenting the same in the House, the following was put forth:

“It is done to refrain from making it long winded. That recommendation itself has all the explanations and are not just paranoia, but well-founded fears that came from a committee of filmmakers and film producers. That has already been spoken of in detail and I have recommended it. We have spent a lot of man-hours on it to produce it for the benefit of the Government”.

167. In the light of the present day requirement and recent developments, the Committee desired to know about the relevance of the recommendations made by Shyam Bengal Committee and Mukul Mudgal Committee. To this, the Ministry replied that recommendations like category-specific Guidelines, ensuring adequate representation of women on CBFC Board and advisory panels, enhancing term of panel members to three years, merging of application forms, tatkal scheme for urgency screening requests would be useful in effective functioning of CBFC and these were being considered. Both committees had suggested for having more categories of certification.

VII. FILM CERTIFICATION APPELLATE TRIBUNAL (FCAT)

168. During evidence when the Committee asked about the existing Grievance Redressal Mechanism (GRM), the Chairperson, CBFC stated that there was Appellate Tribunal. However, on 04.04.2021, with the promulgation of the ‘Tribunals Reforms (Rationalization and Conditions of Service) Ordinance, 2021’ the FCAT had been abolished and its functions had been transferred to the High Courts. Consequently, the filmmakers could exercise their right to appeal against the decisions of CBFC by directly approaching the High Courts.

169. When asked to furnish a brief note on FCAT, from its inception till abolition, the Ministry informed that Film Certification Appellate Tribunal (FCAT) was a statutory body, constituted under the provisions of Section 5C and 5D of the Cinematograph Act, 1952 (37 of 1952), under the Ministry of Information and Broadcasting. The role of FCAT was to hear appeals made under Section 5C of the Cinematograph Act, 1952 by an applicant for a certificate in respect of a film in case he was aggrieved by an order of the CBFC. The Tribunal was headquartered in New Delhi and was headed by a retired High Court Judge as Chairperson with four other members appointed by the Central Government. Apart from the Chairperson and the Members, the Tribunal had a Secretary to look after its day to day affairs. FCAT was one amongst five tribunals to be abolished by the ‘Tribunals Reforms (Rationalization and Conditions of Service) Ordinance, 2021’ promulgated on 4th April, 2021.

170. One of the statement of objects and reasons of the 'Tribunals Reforms (Rationalization and Conditions of Service) Bill, 2021' is as under:

"The tribunals that are proposed to be abolished in this phase are of the kind which handle cases in which public at large is not a litigant or those which neither take away any significant workload from High Courts which otherwise would have adjudicated such cases nor provide speedy disposal. Many cases do not achieve finality at the level of tribunals and are litigated further till High Courts and Supreme Court, especially those with significant implications. Therefore, these tribunals only add to another additional layer of litigation. Having separate tribunal requires administrative action in terms of filling up of posts and such other matters, and any delay in such action further delays disposal of cases. Reducing the number of tribunals shall not only be beneficial for the public at large, reduce the burden on public exchequer, but also address the issue of shortage of supporting staff of tribunals and infrastructure".

171. While furnishing the reasons for abolition of FCAT, the Ministry replied as under:

"The Tribunals Reforms (Rationalization and Conditions of Service) Bill, 2021' was introduced in the Budget Session of the Parliament to streamline the tribunals by abolishing certain tribunals and authorities and to provide a mechanism for filing appeal directly to the commercial court or the High Court, as the case may be".

172. The Ministry also added as under:

"From the film industry's specific standpoint, the fact is that over the last few years, the number of films needing to go to an appellate body has seen a steady decline. Over the last 2-3 years, only around 0.2% films were taken to FCAT. Considering the miniscule ratio of films approaching FCAT, this step is not expected to have any significant impact on the film industry".

173. Following is the submission of the Chairperson, CBFC on abolition of FCAT, during evidence:

"As far as the Tribunal is concerned, in the last few years, 0.2 per cent films actually went to the Tribunal. We have three committees, three layers in the CBFC process already. After that court exists. If you ask me, this made a huge difference. It may have definitely made the layer, which has been cut off. But still the court is there. As far as evolving the sensibilities is concerned, I am with you. Sensibilities have to be constantly evolved. For this reason, we keep having training programmes, seminars to make sure we talk about the sensibilities".

174. When sought to know the details of the number of cases where in the filmmakers were not satisfied with the decision of CBFC and had appealed to the Appellate Authority during the last five years, the Ministry replied that from the records available, for last 3 years following theatrical long films had approached Film Certification Appellate Tribunal (FCAT) against the decisions of CBFC:

2018

1. Battle of Banaras: Refused by CBFC, granted UA with Cuts by FCAT
2. Aabhaasam (Malayalam): Given Adult by CBFC, FCAT granted UA category
3. Gandhi Hatya Ek Saazish: Given UA with Cuts by CBFC, FCAT granted Adult
4. Ravi History: Given UA with 3 Cuts by CBFC, FCAT granted clear UA
5. Dark side of Life-Mumbai City: Given Adult by CBFC, FCAT granted UA category
6. Ascharya Fuck It: CBFC decision of A category with cuts upheld by FCAT
7. Rangeela Raja: Partially in favour of filmmaker as some cuts were waived off by FCAT

2019

1. Tarpan: CBFC had given Adult, FCAT granted UA category as applied by Filmmaker
2. Kademanee (Kannada): Given Adult by CBFC, FCAT granted UA category
3. No fathers in Kashmir: CBFC had given Adult, FCAT granted UA category as applied by Filmmaker, however modifications granted by CBFC were upheld by FCAT
4. Moolniwasi Shudra to Khalsa: Refusal to film by CBFC was upheld by FCAT
5. Pallu Padama Pathuko (Tamil): Adult category given by CBFC upheld by FCAT, however some cuts given by CBFC were disallowed.
6. Saligrama (Kannada): Adult category given by CBFC upheld by FCAT
7. Maadathy-An Unfair Tale (Tamil): Given UA with Cuts by CBFC, FCAT granted clear A
8. Delhi Bus: Given A by CBFC, FCAT upheld category, but waived off some cuts
9. "A" (Kannada): Adult category given by CBFC was upheld by FCAT

2020

1. Cheerharan: was refused by CBFC in 2017, granted UA by FCAT
2. Chidi Ballaa: Refusal by CBFC due to repeat application, was upheld by FCAT

2021: None till 04.04.2021, i.e. the date of abolition of FCAT vide promulgation of 'The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021' on 04.04.2021

175. It can be seen from the above-mentioned 18 cases, FCAT gave decision in favour of filmmakers in 8 cases, in 5 cases the decision was partially in favour of them while in remaining 5 cases the decision was against the filmmaker.

176. Expressing concern over abolition of FCAT, a witness, in a Memorandum submitted that while continuing with the practice of censoring, the Appellate Authority has been quietly done away with thereby denying the film producers the one and only institution available to redress unfair and unreasonable decisions made by the Regional Committees of the CBFC.

177. Another witness has submitted that the Central Government has abolished the FCAT in April 2021 leaving a fledgling filmmaker aggrieved by a decision of the CBFC to approach only the relevant High Court, which option not many Producers in the current eco system can afford. Further, it was added that the decision to abolish the Appellate Tribunal by the Central Government is a deviation from the submission made by the Union Government of India in the K.A.Abbas case, where the Central Government undertook to amend the Cinematograph Act to set up an Appellate Tribunal. The Committee has been apprised that the proposed amendment of the Central Government was contrary to its own submission before the Hon'ble Supreme Court of India. The witness also quoted, the comment of the Hon'ble Supreme Court which is as under:

"We express our satisfaction that the Central Government will cease to perform curial functions through one of its Secretaries in this sensitive field involving the fundamental right of speech and expression. Experts sitting as a Tribunal and deciding matters quasi-judicially inspire more confidence than a Secretary and therefore, it is better that the appeal should lie to a court or Tribunal".

178. Emphasizing on the positive role of FCAT, a witness submitted as under:

"I survived many close shaves with insolvency, almost. But that is only because of the Tribunal was there for redressal."

179. Sharing similar view, Indian Broadcasting and Digital Foundation (IBDF) stated that the Central Government ought to consider reinstating Film Certification Appellate Tribunal (FCAT) since having an expert appellate tribunal enables stakeholders to have an affordable, easily accessible and timely adjudication of grievances. Further, the same would also go a long way in reducing burden on higher judiciary.

180. Following is the submission by CEO, Producers Guild of India (PGI) on abolition of the FCAT:

"The making of a film requires heavy investment from producers and the recoupment of such investments depends on the release of the film and its success. Prior to the release, the films also have to receive certification from the CBFC. The CBFC often recommends edits to the filmmakers in order to qualify for certification and such edits have to be made in a timely manner so that the filmmakers can release the film on the pre-announced date. In case the producers have any issues with the edits suggested by the CBFC, now they have to approach the High Courts (earlier FCAT), and until such issue is cleared by the High Courts, they cannot even release their films. If after going through the aforementioned cumbersome process, the filmmakers manage to release the film, and thereafter have to worry about a possible re-certification of the film, the costs for the producers will be immensely high. It will also be a cumbersome process as they will have to withdraw their films from various theatres till there is a re-certification and re-release the film. This will

lead to widespread losses for the filmmakers and the film industry. Such a process will ultimately disincentivise producers from making films and thus will impact the industry as a whole. Moreover, from the perspective of the CBFC, it will start taking a cautious approach with respect to its initial certification as it would not want its certification to be challenged by any individual in the society. Such cautious approach by the CBFC could have widespread repercussions for the producers (especially given the abolishment of the FCAT) as they will constantly have to approach the high courts to resolve any certification issues. The High courts in India are already severely backlogged and thus having to further adjudicate on such matters will cause stress to their case load and will also cause delays to the release of the film, which in turn causes producers losses. Lastly, it should also be considered that India is currently one of the only democratic countries that pre-censors films before public exhibition. Therefore, the proposed amendments will simply add another layer of censorship to the films”.

181. During evidence, the representative of PGI submitted as under:

“We were very upset when the FCAT was abolished, again, without consultation. ...xxx...xxx...xxx..... The minute you hear that the producer is going to court, that is the battle lost for him. Small producer is very scared to go to court. Can't afford to go to court. We saw the FCAT, as a body, which understands our language, and give us reasonably quick justice. So, we being very upset with it. We didn't know actually what to do about it”.

182. When asked whether consultation was made when FCAT was abolished. IBDF replied in negative.

183. Enquired about alternative mechanism being put in place for appeals, for redressal of grievance in future, the Ministry replied that under the Cinematograph Act, 1952 and Cinematograph (Certification) Rules, 1983, CBFC has a robust and efficient mechanism to deal with the concerns of the film fraternity. CBFC has a well placed internal mechanism in the form of representation and appeals in the form of revising committees, which have eminent persons from different fields outside government as their members. Examining and revising committees of CBFC after patient hearing and through a collaborative effort address the grievances of the film makers. However in cases of disagreements, the filmmakers can directly approach High Courts against the decisions of CBFC.

184. On abolition of FCAT, the representative of the Ministry during evidence submitted as under:

“We have received lot of concerns from the filmmakers, film bodies, industry bodies and individuals as well. It has gone for inter-ministerial consultation and also to the Law Ministry. The concerns that have been received will be studied and examined. It is not a formality; the concerns will be taken seriously and we will go through them and examine them”.

185. When the Committee sought to know about Ministry's view on abolition of FCAT, the Secretary, M/o I&B deposed before the Committee as under:

"We have received a letter from the Chairman of the FCAT...xxx...xxx...xxx.... I had sent that to the Ministry of Finance because it is entirely in the jurisdiction of the Ministry of Finance. The Chairman of FCAT had written to me the day it was abolished and we have sent that letter to the Ministry of Finance. But a final view is to be taken. I read in the newspaper. This is not an authentic report. But in the newspaper, it was reported that the Committee has examined and, perhaps, they are submitting some recommendations and report. Sir, the issue which the hon. Member raised about revision, let me submit, having been also on the Ministerial side and various positions in Bihar and Jharkhand, actually the power of revision lies with the same court. Appellate is the higher court. Appellate Authority remits the case like the hon. Supreme Court many times remits the case to the High Court".

186. The Committee learnt that on 13th August, 2021, 'The Tribunals Reforms Act, 2021' was passed by both the Houses of the Parliament.

VIII. Role of CBFC in light of recent developments

187. In November, 2020, the Central Government *vide* their notification had amended the Allocation of Business Rules, 1961 relating to MIB and had inserted 'digital/online media' in their work allocation. In February, 2021, 'Information Technology (Intermediary Guidelines of Digital Media Ethics Code), Rules, 2021' was notified. Under this Rule, Digital Media Ethics Code relating to Digital Media and OTT Platforms is to be administered by Ministry of Information and Broadcasting. On 'IT Rules, 2021', the Ministry of Information and Broadcasting had informed as under:

"The Government studied the models in other countries including Singapore, Australia, EU and UK and has gathered that most of them either have an institutional mechanism to regulate digital content or are in the process of setting-up one. The Rules establish a soft-touch self-regulatory architecture and a Code of Ethics and three tier grievance redressal mechanism for news publishers and OTT Platforms and digital media".

188. The Ministry of Information and Broadcasting also informed that notified under section 87 of Information Technology Act, 'IT (Intermediary Guidelines of Digital Media Ethics Code) Rules, 2021' these Rules empower them to implement Part-III of the 'IT Rules, 2021' which prescribe the following:

"Code of Ethics for online news, OTT platforms and digital media: This Code of Ethics prescribe the **guidelines** to be followed by OTT platforms and online news and digital media entities.

Self-Classification of Content: The OTT platforms, called as the publishers of online **curated** content in the rules, would **self-classify the content into five age based categories-** U (Universal), U/A 7+, U/A 13+, U/A 16+, and A (Adult). Platforms would be required to implement **parental locks for content classified as U/A 13+ or higher**, and **reliable age verification mechanisms for content classified as “A”**. The publisher of online curated content shall prominently **display the classification rating** specific to each content or programme together with a content descriptor informing the user about the nature of the content, and advising on viewer description (if applicable) at the beginning of every programme enabling the user to make an informed decision, prior to watching the programme.

Publishers of news on digital media would be required to observe **Norms of Journalistic Conduct of the Press Council of India and the Programme Code under the Cable Television Networks Regulation Act** thereby providing a **level playing field between the offline (Print, TV) and digital media**.

A **three-level grievance redressal mechanism** has been established under the rules **with different levels of self-regulation**.

- Level-I: Self-regulation by the publishers;
- Level-II: Self-regulation by the self-regulating bodies of the publishers;
- Level-III: Oversight mechanism.

Self-regulation by the Publisher: Publisher shall appoint a Grievance Redressal Officer based in India who shall be responsible for the redressal of grievances received by it. The officer shall take decision on every grievance received by it within 15 days.

Self-Regulatory Body: There may be one or more self-regulatory bodies of publishers. Such a body shall be headed by a retired judge of the Supreme Court, a High Court or independent eminent person and have not more than six members. Such a body will have to register with the Ministry of Information and Broadcasting. This body will oversee the adherence by the publisher to the Code of Ethics and address grievances that have not been resolved by the publisher within 15 days.

Oversight Mechanism: Ministry of Information and Broadcasting shall formulate an oversight mechanism. It shall publish a charter for self-regulating bodies, including Codes of Practices. It shall establish an Inter-Departmental Committee for hearing grievances”.

189. The Ministry also stated as under:

“The ‘IT (IGDMEC) Rules, 2021’, provides an institutional mechanism for the digital media sector while protecting artistic freedom and creativity. The provisions adopted in Part III of the IT Rules, 2021 are in consonance with measures adopted globally and also account for the politico-administrative, socio-cultural, legal, and demographic factors in India. Various features of the rules such as age-verification, classification of content, complaint mechanism, and blocking of content for public access, are in line with the mechanisms adopted by other countries. It may also be added that the rules for digital media publishers are more liberal than the regulations prevailing in several other countries, including Singapore and Australia, where statutory authorities have been established to regulate digital media content’.

190. Adding on the institutional mechanism, the Ministry informed as under:

“The institutional mechanism establishes three levels-two levels of self-regulation (Level-I being the publisher and Level-II being the Self Regulatory Body), and an Oversight Mechanism. The presence of a retired judge of the Hon’ble Supreme Court/High Court, or an independent eminent person from the field of media, broadcasting, entertainment, child rights, human rights or such other relevant field as the Chairperson of the Self Regulating Body further raises its stature. The first two levels are independent from any intervention by the Government. With regard to the third tier, the Inter-Departmental Committee would not only consist of representatives of Ministries/Departments, but also members from other “organisations, including domain experts” [Rule 14(1)]. Section 69A of the Information Technology Act contains provisions and grounds related to the blocking of content. For the past eleven years, since 2009, this provision has been exercised by the Secretary, Ministry of Electronics and IT under the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009. Under the rules issued on 25th February, 2021, this provision has only been replaced with Secretary, Ministry of I&B because Part III of the ‘IT (IGDMEC) Rules, 2021’, would be administered by the Ministry of Information & Broadcasting. No change in provision has been made nor any new provision has been added on blocking of content under Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021”.

191. Updating about the implementation of self regulatory mechanism by OTT platforms, the Ministry of Information and Broadcasting, in their written reply, had submitted that they are in the process of putting in place the institutions and mechanisms required for implementation of the Part III of the ‘IT (IGDMEC) Rules, 2021’. The Authorized Officer under Rule 13(2) has already been appointed and the nominations from the concerned Ministries/Departments for constitution of the Inter-Departmental Committee have been sought. The mechanism for submission of information by the publishers of news and current affairs and publishers of online curated content is being worked out by the Ministry. The Hon’ble Minister of Information & Broadcasting also held interactions with the representatives of digital news publishers and OTT platforms. They also stated that with regard to Part III of the rules, some of the OTT players have requested for more time to undertake the 5-tier classification of the large pre-existing catalogue of content. The publishers may also require more time to establish the self-regulatory bodies forming Level II of the grievance redressal mechanism.

192. Asked as to why Government officials would be there for self regulation, the Ministry during evidence clarified as under:

“Sir, level I and level II committees are purely industry bodies where they can engage with any eminent person. If they find that any reader is useful to them, any viewer is useful, they can have him as a member. There is absolutely no government person in tier-I and tier-II”.

193. In light of the ‘IT (IGDMEC) Rules, 2021’, the Ministry was asked about changes planned in role, function and structure of CBFC or in Rules/Acts related to it. Responding to this, they submitted as under:

‘IT (IGDMEC) Rules, 2021’ do not have any direct bearing on the role, function and structure of CBFC or the application of Cinematograph Act, 1952 and Cinematograph Certification Rules 1983. However, it is being considered to further sub-divide the existing UA category into age-based categories, viz. U/A 7+, U/A 13+ and U/A 16+, in order to have a uniform categorization across all platforms including OTT platforms. The introduction of category specific guidelines under the Cinematograph (Certification) Rules 1983 is being considered so as to better aid CBFC in objective assessment of films”.

194. Noting the paradigm shift in mass media, the Committee desired to know whether pre-censorship by CBFC puts unreasonable restrictions on the stakeholders. To this, the Ministry replied as under:

“As held by various judicial pronouncements, the medium of Cinema cannot be equated with other forms of expression. It is a very powerful medium arousing emotions and actions among the masses. Therefore, people and the societal interest should be the main concern while evaluating the role of CBFC or such other body in guiding the creative content”.

195. As regards the role of CBFC for content being shown on OTT Platforms, the Ministry, in their written submission, stated following:

“The Central Board of Film Certification (CBFC) created under the Cinematograph Act, 1952 performs the statutory function of certifying films for public exhibition in India under the provisions of Cinematograph Act. The Cinematograph Act, 1952 is read along with the Cinematograph (Certification) Rules, 1983 and the Central Government guidelines of 1991 are the statutes from where the CBFC derives its authority”.

196. Following is the submission of Chairperson, CBFC on the role of CBFC:

“The role of the CBFC is to strike a balance between sensibility and societal sensitivity and that always stays a challenge where you hear from various bodies and various parts of the society and you have to take everything into cognizance. We have been trying to do our best for that. At the same time, I had tried to put myself in the shoes of people and filmmakers and try to come up with solutions. The Ministry has been very supportive most of times. But these are the amendments which probably they should talk more about. As far as the role of CBFC is concerned, we do not see any great need to do intervention there. So, I would be rather candid on that”.

197. On the emergence of OTT platforms and role of CBFC vis-à-vis, one of the witness submitted following during evidence:

“With theatre business virtually at a standstill over the last 15 months or so, our people have only turned up to OTT and television for content consumption. The greatest learning that we have today is that the content in Television and OTT is self-regulated and in spite of prolific contents consumed by the society through these medium, there has been no perceptible change in social behaviour. When content communicated through Television or OTT or by way of advertisements are self-regulated by the industry, why should film content alone be under Governmental control? The Film certification should also be self-regulated and the Board should be constituted by persons appointed by the Film Industry...xxx...xxx...xxx...There is no reluctance to come under one roof. I cannot talk for the whole industry, the platform as yet because some of them don't even know that this discussion is happening. That is very important. It is my duty to go back and educate them on these things that is happening, and how it is very pertinent to their lives, and they fail to recognize now. But I would say that our recommendation as far as Certificate Board is concerned, is retrograde, to go back to older censor and as he very carefully put it, abolishing it might be a big word but why not is a very small word”.

198. On IT (IGDMEC) Rules, 2021', Internet Freedom Foundation, in their memorandum, had submitted that Part-II and Part-III of the Rules has serious implications on freedom of speech and expression of Digital News Media and OTT Platforms and on the right of citizens to have access to information. Further, they submitted following:

“(i) The Rules establish a Code of Ethics which is enforced by an Inter-Departmental Committee which consists only of officers of the Government. The Inter-Departmental Committee may recommend the Ministry of Information and Broadcasting to block, delete or modify content published by Digital News Media and OTT platforms. Thus, the Central Government is now the sole arbiter of permissible speech. This affects the publisher's Fundamental Right to Expression and the citizen's right to access differing points of view because publishers will be compelled to only produce content which is palatable to the Central Government

(ii) Notably, Rule 14(1)(b) r/w Rule 14(1)(6) permits the Ministry of Information and Broadcasting to refer complaints to an Inter-Departmental Committee and also decide upon those complaints after taking into consideration the recommendations of the Inter-Departmental Committee. This is arbitrary as the Ministry of Information and Broadcasting becomes a 'judge in its own cause', and has a chilling effect on speech of the publishers.

(iii) The Code of Ethics mandates OTT Platforms to “ take into consideration India's multi-racial and multi-religious context” and exercise 'due caution' when portraying any racial or religious group. If they do not exercise 'due caution' their content may be blocked by the Inter-Departmental Committee. This obligation on OTT Platforms is vague and has a “chilling effect” because vague laws by their

very nature, are overbroad and cover within their ambit both unlawful and legitimate speech”.

199. Internet Freedom Foundation (IFF) also submitted following:

“The regulatory paradigm for digital news media and OTT platforms has also raised grave cause for concern. We believe that here that the first point of departure must be the principles laid down in the report of the Ministry of Information and Broadcasting’s Report of the Committee of Experts chaired by Shyam Benegal that recommended broad guidelines/procedures for certification of films by the central board of film certification. The report of the Ministry of Information and Broadcasting’s Expert Committee on Film Certification recommended a more liberalised regime even for film certification, arguing that the Central Board of Film Certification should not act as a ‘moral compass’, and instead limit itself purely to certification (and not dictate modifications and withdrawals). The committee also stated that film viewing is a consensual act, and so regulation should limit itself to a statutory warning, noting that the artistic expression and creative freedom of filmmakers should be protected and any certification should be responsive to social change. Such arguments apply even more to the realm of online content, where the viewer directly chooses the content they wish to consume. Thus, we believe that the Ministry must put the findings of the Committee of the public consultation process, and ensure that its recommendations are implemented in the next version of the Rules. The deleterious effects of these Rules can already be seen: two journalists from Manipur, who have been hounded for their work by the police before, were served a notice under the new Rules, asking them to furnish details attesting to their compliance with the new Rules. Though the notice was subsequently retracted, this incident may be a precursor to future such events in which journalists are intimidated and harangued in such a manner. Meanwhile, self-regulation has already given way to self-censorship for OTT platforms, with on-demand video streaming platforms already exercising self-censorship”.

200. Clarifying on emergency power and a related incident that happened in Manipur after notification of IT Rules, 2021, the Secretary, M/o I&B during evidence submitted as under:

“About the emergency power, I had written in the article I had written why emergency power is required for the Secretary and I would just repeat. Somebody is showing a wrong map of Jammu and Kashmir or the Indian territories. We would not like for a complaint to be filed and then it referred to level-I and level-II committees. If it is in front of me and the Government knows that the map is incorrect, there should be some provision to correct it immediately. These are the type of emergency powers. They are meant for emergent situation; they are not to be used every day. If I may add in the end, before I conclude, the country has a strong scrutiny by the Judiciary and by the Parliament. So, it is not that the Executive, and particularly the Government officers, if they are given some power, will go beyond their scope and they will do anything and everything. After all, they are also subject. In the case of Manipur incident, within six hours, without anybody going to the court or filing a

representation, we ourselves took notice and corrected it. We said that this is an incorrect interpretation and the order has to be withdrawn. There is no power with the State Government. They had to comply and they complied with it in six hours”.

201. When asked for the impact of Code of Ethics of ‘IT Rules, 2021’ on free speech of publishers and as well as on the right to access information by consumers of content, the Ministry, in their written submission, submitted as under:

“The format of content published over the internet has the unique nature of being medium agnostic. Thus, such content can be in the form of text, audio and/or video formats. The Code of Ethics prescribed for digital news publishers creates a level playing field for news publishers in the print, electronic and digital news media. It provides for similar codes of conduct applicable to news on print media (i.e. Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978) and electronic media (i.e. Programme Code under Section 5 of the Cable Television Network (Regulation) Act, 1995). Additionally, the Code provides that content which is prohibited under any law for the time being in force shall not be published or transmitted. Therefore, under the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021, the Code of Ethics does not provide for any additional or new restrictions on free speech.

The Norms of Journalistic Conduct of the Press Council of India, and Programme Code under the Cable Television Network (Regulation) Act, 1995, are time-tested norms/codes for conventional news media which have protected the freedom of speech of the publishers as well as the right to access information of the consumers.

Similarly the Code of Ethics applicable to OTT Platforms provides guidelines for self-classification of content into categories meant for viewing by different age groups and display of such classification, with content descriptor, at the beginning of the programme. These provisions would enable the viewer to make informed decisions prior to watching the programme. Guidelines for classification of content by OTT platforms have been provided in Schedule to the Rules to remove any ambiguity in this regard. Furthermore, the access control and age-verification mechanisms would enable the parents to protect the children from any content not suitable for their age. Therefore, the Code of Ethics for OTT platforms protects the right to free speech of publishers of online curated content while also empowering the consumers of such content on digital media”.

202. Asked about the approach/policy on balancing freedom of speech and expression and the diverse social fabric of country like India, the Ministry replied as under:

“CBFC has actively stood behind filmmakers defending their artistic freedom against complaints by various interest groups. CBFC constantly strives to simplify its processes and bring in more yet easily accessible and user-friendly technology into the Certification. It has been attempting to improve its physical and human infrastructure. Focus is also upon the better and effective sensitising of its panel members upon the appreciation of the films through periodic workshops and trainings. The film fraternity has a key facilitating body in CBFC

that works in an efficient and pragmatic manner. Therefore, all matters and concerns are dealt with responsibly, amicably and in the spirit of collaboration between the stakeholders.

Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021 provides an institutional mechanism for the digital media sector while protecting artistic freedom and creativity. The provisions adopted in Part III of the IT Rules, 2021 are in consonance with measures adopted globally and also account for the politico-administrative, socio-cultural, legal, and demographic factors in India. Various features of the rules such as age-verification, classification of content, complaint mechanism, and blocking of content for public access, are in line with the mechanisms adopted by other countries. It may also be added that the rules for digital media publishers are more liberal than the regulations prevailing in several other countries, including Singapore and Australia, where statutory authorities have been established to regulate digital media content”.

203. On social responsibility of a film, following is the view expressed by one of the witnesses during evidence:

“There is nothing which says you cannot preach. You can preach, you can use propaganda. If you want to talk about propaganda, the best use of cinema was made by Nazi Germany. It can be used, but it depends in which direction you want to use it. That is when social responsibility comes. For example, there are separate channels from various religions preaching through moving images. So, it has gone beyond the purview of what we thought was an aspect ratio of cinema and television. Now it is a wrist watch. It is round and it has changed. ...xxx...xxx....xxx... It is too broad a spectrum for us to limit it to a rule book. That is why it is going to be even broader and broader. Mr. Christ, Marks and Angels, Gandhiji- they all have the right to write what they want. It is the life according to how they see and believe in. Dhamma Pada is right for Buddha; what I believe in, I try to say this is the best way to live and that is what every thinker and artist would always try to do. So, it is going to become broader and broader. As they were saying that the mediums, everybody is a film maker now. What used to be a big gizmo that need a great technology and a technician behind it, now it boils down to this. I can make a movie in this and release it in this without ever consulting or considering this body. That is where it has come to technically. That person, that film maker does not come under the purview of this body, Censor Board or anything. You will have to actually hunt for him and find out where he is”.

204. Regarding addressing the issues faced by the stakeholders, without infringing on the freedom of expression, the Ministry replied as under:

“With fair amount of hearings with filmmakers, more dialogues and interactions, rational and transparent decisions, many sensitive films have been smoothly cleared by the Board in last few years. With due regard to Guideline 1 (b), viz. “artistic expression and creative freedom are not unduly curbed”, CBFC has in fact time and again, worked towards actively defending freedom of expression in many Courts of law. Its certification and rating standards have matched with the

practices followed by certification bodies in the other progressive democracies of today's world.

CBFC constantly strives to simplify its processes and bring in more yet easily accessible and user-friendly technology into the Certification. It has been attempting to improve its physical and human infrastructure. Focus is also upon the better and effective sensitising its panel members upon the appreciation of the films through periodic workshops and trainings. CBFC has actively stood behind filmmakers defending their artistic freedom against complaints by various interest groups in numerous court cases.

The film fraternity has a key facilitating body in CBFC that works in an efficient and pragmatic manner. Therefore, all matters and concerns are dealt with responsibly, amicably and in the spirit of collaboration between the stakeholders”.

205. Asked to comment on the idea of having a code of conduct for the film industry, the Ministry submitted following:

“All legitimate industries work within certain frameworks and guidelines which are best implemented when there is responsibility and accountability clearly spelt out through a conduct code. The film industry is already functioning under the regulatory framework of Cinematograph Act, 1952 and Rules framed thereunder, the Code of Social Security, 2020 and other laws of the land”.

IX. GRIEVANCE REDRESSAL MECHANISM

206. When asked for details of the existing Grievance Redressal Mechanism in CBFC, the Ministry replied as under:

“It is being especially stressed that filmmakers and applicants are involved and their views are considered while deciding on their films. The representations from filmmakers as well as other complainants are considered by the CBFC committees before making final recommendations. Providing hearings to filmmakers has been made compulsory to all committees before writing their reports.

If the filmmaker is aggrieved with the recommendation of Examining Committee, he can approach Revising Committee constituted under Rule 24 of Cinematograph Certification Rules 1983. There is also provision for re-revising committee if the issue is not resolved at the stage of revising committee. Further, in case of any disagreement, the filmmaker/applicant can appeal in the respective High Court for appropriate remedies.

Chairperson and all officers of the Board are accessible to general public or various organizations, groups that have any complaints about the contents of the Film. Such complaints are put before the respective committees who decide and dispose the same based on their merit.

Chief Executive Officer acts as Chief Grievance Redressal Officer for administrative matters as well as Appellate Authority under RTI Act, 2005”.

207. Regarding problems/constraints being encountered by actor, producer, director, film maker, etc., involved in film making and getting approval/ certified by CBFC, the Ministry, in their written submission, stated as under:

“In recent years, CBFC has strived for an environment of dialogue and discourse and encouraging a collaborative and facilitative approach to film certification. The Board has been very effective in dealing with issues of certification of many potentially sensitive films through dialogue, discussions and a balanced approach. Interactions at various levels have increased, with better quality of hearings and organization of industry events and workshops. Overall focus has been on detailing and streamlining the processes. There has been improved mutual understanding and appreciation by the film fraternity of CBFC's work”.

208. Asked for details of the grievances of producers, Directors, and other stakeholders of Films, the Ministry informed that through various interactions and representations, following grievances have been made by producers, directors and other stakeholders of the films:

S.No.	Grievance	Action taken
1.	At least 50 per cent members of Examining Committees should be from film industry	Due representation is given to the people from creative domains in the Advisory panel. Moreover, for an unbiased and objective committee decision, it is more useful to have people from cross-section of society representing larger and diverse audience base.
2.	Accepting Open DCPs (non KDM protected) for CBFC screenings	KDM-protected DCPs ensure better safety of content. However, Regional Officers have been advised to take a call on this, based on need and convenience.
3.	CBFC screenings sometimes may get cancelled due to technical reasons in DCPs. In such cases, although CBFC charges only 25% cancellation charge, Screening theatres charging full amount upon cancellation of CBFC Screenings	Conveyed that theatre owners lose out on their other bookings as the slots were reserved for CBFC screenings. Although the consideration of this issue lies with the theatre owners, a request has been made to all the theatres on panel to waive off some part of their charges in case of such cancellations. Also CBFC is prioritising government owned theatres for its screening.
4.	Screening of Hindi dubbed films in South Indian offices in the light of restrictions during Covid-19 pandemic	Request Accepted
5.	Online screening of Video Films during COVID times	Request accepted

6.	Simplification of application form system and doing away with needless documents and affidavits	The four different application forms are being integrated into single unified application form. The affidavits on stamped paper have been done away and undertakings on letterheads are being accepted.
7.	Complaints about return of applications where 1) applicants have mentioned their names as Producers of dubbed films so as to sell such films to exhibitors. 2) Indian Copy-right holders mentioning themselves or the intermediary companies from which they purchased the films, as Producers	Communicated that 1) Producer's name cannot be changed and dubbing companies or rights-holders cannot replace Producers' names by their own. This would be violation of Intellectual property norms 2) The Producers' names cannot be changed under any circumstances. Replacing the Producer as a more suitable alternative for inability to provide due agreement copies is not acceptable.
8.	CBFC certifying films with repeat titles	It has been conveyed that Title disputes do not fall under CBFC's purview as held in Bombay High Court Judgment in Neelam Vashisht case (WP 318 in 2016)
9.	Some Regional Officers insisting on Title registration and Publicity Clearance certificates for smaller films which are made only for awards and festival purposes	It has been clarified to all Regional Officers that Title registration certificate is not a mandatory document for accepting applications. Moreover, Publicity Clearance Certificates are not required in cases of films not intended to have commercial theatrical releases.

209. Regarding vigilance cases reported in CBFC, the Ministry replied that three vigilance cases were reported during the last 5 years. The details and status of these three vigilance cases are as follows:

S. No.	Officer against whom vigilance case reported	Details and status of Vigilance case
1.	Former Secretary to Chairman, CBFC, Mumbai	CBFC received a complaint from CVC vide their OM No.3854 dated nil wherein allegation of corruption and misuse of official power and position by the officer were reported. Based on the complaint, an inquiry was conducted and eventually charges against the officer were proven. The officer was removed from service vide CBFC's order dated 23-8-2016.
2.	Additional Regional Officer, Mumbai	CVC vide its letter dated 8.12.2017 advised Ministry to initiate major penalty proceedings against the officer. In pursuance of this, Ministry of I & B vide Order dated

		6-4-2021 appointed an Inquiry Authority and Presenting Officer to inquire into the charges framed against the officer. Major penalty proceedings are in process.
3.	UDC, Mumbai	CVC vide its letter dated 8.12.2017 advised Ministry to take suitable action against one UDC, Mumbai. Vigilance case proceedings against the officer are in process.

210. When asked for State-wise details of violations of certification detected by the regional panels in the cinema houses, the Ministry replied as under:

“There have been some rare cases of violations reported during last five years. One prominent case was about Marathi film ‘Saint Nerry Marathi Medium’ (2018) which was caught having been exhibited without CBFC Certification in a private theatre in Mumbai. CBFC raided the exhibition site and filed the police complaint”.

211. One of the suggestions by President, IMPPA, was that Producers and Directors should be present at the time of screening and post screening discussions with CBFC. When the Ministry was asked to comment on this, they replied as under:

“Producers and Directors are not allowed to be present at the time of screening as the CBFC previews are completely confidential under the Cinematograph (Certification) Rules, 1983 and presence of producers or directors does not serve any purpose. However, they are invited after the screening for discussion and hearing by the committee, where they can make their verbal as well as written submissions before the committee members”.

212. On other issue related to certification, when asked to comment on the harassment faced by Producers while submitting NOC from the Animal Welfare Board of India, which is a mandatory requirement for application for certification, the CEO, CBFC during evidence had stated that they have also come across many such complaints. Adding on this issue he further submitted as under:

“Earlier, the filmmakers were also mandated to submit these certificates for the films which were shot abroad. Now, these things have been done away with. It was discussed with the Animal Welfare Board and they have done away with such a thing. Now, the filmmakers are using the digital technologies to show animals. So, these complaints are now coming down. In recent movies, they are just stating that digital technology has been used while depicting this animal”.

213. Assuring the Committee to address the matter, the representative of the Ministry during evidence submitted as under:

“Now, we can look into it. The idea of the whole thing is to facilitate things, businesses, filmmaking, certification, etc. If something is obstructing that flow of

facilitation, definitely -- as you have pointed out -- we will look into it and see as to how we can do away with something that leads to harassment”.

214. On another related query, the Committee desired to know about the action taken on the letter from the Defence Ministry wherein CBFC was advised to ask production houses to seek a NOC on Army content. Responding to this, the representatives of CBFC during evidence submitted as under:

“There was a reference from the Ministry of Defence regarding NOC to be taken from them but there is no such provision. Whenever there is an Army sensitive content, we are calling the subject experts from their team. They are a part of our team; they screen the film and accordingly, they give us their suggestions and views which are very well taken care of....xxxx....xxxx....xxxxx.....As far as the provision goes, whenever we see not only Army but any particular domain where we feel that there is a sensitivity involved and require expert comments, we have an expert window where we do invite experts of any subject. It could be Defence as well. We do invite them when such subjects come up”.

215. Regarding proposal to make any change in the present system which may appropriately redress the grievances of industry, the Ministry, in their written submission, informed following:

“A review of the Cinematograph Act, 1952 was undertaken to address various issues concerning the certification process in a comprehensive manner by suitably amending the Cinematograph Act. A draft Cabinet Note was moved in this regard and Inter-Ministerial Consultation was initiated. Amendment of sub-section(1) of section 6 regarding ‘Revisional powers of the Central Government’ is inter-alia proposed in the Draft Cabinet Note such that on receipt of a reference against a certified film on account of violation of Section 5B(1) of the Act, the Central Government may direct the Chairman, CBFC to re-examine the film. This is intended to act as a grievance redressal mechanism in the light of abolition of the Film Certification Appellate Tribunal (FCAT). The Ministry also informed that appropriate provisions will be made in the Rules regarding the procedure to be adopted in the Central Government before a film can be referred to CBFC for re-examination”.

216. Following is the submissions of the President, IMPPA on Grievance redressal mechanism:

“In all banks and other institutions working has become online but always there is a window where any aggrieved party can get redressal of his problem and justice but in CBFC it is a rule that to meet Chairman or RO appointment is required but there is no one to give appointment, so it is necessary to make public the number on which appointment can be taken so that the producer does not have to visit again and again without meeting the Chairman or RO who don't meet without appointment and appointment they don't give”.

X. MISCLLENEOUS

A. Initiatives for Persons with Disabilities

217. The Committee were informed that the Ministry of Information of Broadcasting had issued an advisory on 01.10.2019 to major film Industry bodies with the request that they persuade and motivate their associated members to make film more accessible to Persons with Disabilities by using Audio Description and closed captioning in films. Consequently an awareness and sensitization workshop-cum-interaction was held under chairmanship of CEO, CBFC with the stakeholders of film industry and subject experts, for arriving on agreed parameters for implementation of accessibility standards in cinema.

218. When enquired about the extent of implementation of the advisory for making films accessible to differently-abled persons, the Ministry replied as under:

“In the light of the advisory, they are constantly working towards sensitising filmmakers to adopt the accessibility standards while making their films. An elaborate workshop-cum-consultation with all major film industry associations, also involving experts in the field, was held in this regard by CBFC on 29.01.2021. Film Gandhi (Hindi) (Director: Richard Attenborough, produced by NFDC) is the only film certified in Accessible format for differently-abled persons after 1st October, 2019. CBFC Mumbai had examined it and issued endorsement on 13.11.2019”.

B. International practices

219. Asked as to whether any study has been conducted of the global best practices in film certification including the use of Artificial Intelligence, the Ministry replied as under:

“The experiences and mechanisms in other countries including in liberal democracies are constantly referred to while evolving and adapting our own certification system. As previously mentioned, rating systems and certification guidelines in western countries have been studied and we are in the process of suitably modifying those to Indian context. In future too, effort will be to collaborate and learn from global best practices especially in the field of technology and artificial intelligence. However, it is also pertinent to mention here that assessment of a film and certification is essentially a human process based on appreciation of content in the light of narrative and theme of the film and people to whom it relates. Neither it can be mechanized, nor a uniform one-size-fits-all formula be applied to the films while deciding on their classification”.

220. The Committee also desired to know whether Digital Media in India is under too much of regulations leading to adverse impact on creativity, technology and economy. To this, the Ministry submitted as under:

“In India, the digital media sector is a sunrise sector which has been evolving at a rapid pace with changes in technology, entertainment patterns and other socio-economic factors. Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021 would provide an institutional mechanism for the sector while protecting artistic freedom and creativity. It is expected that

policy certainty and a level playing field for all stakeholders of the sector would help in attracting higher investments, leading to growth in the industry.

A comparison between regulations adopted by various countries may need to account for politico-administrative, socio-cultural, legal, and demographic factors. Since these factors vary from country to country, it may not be appropriate to compare the measures adopted by different countries. Still, it may be mentioned that the provisions adopted in Part III of the IT Rules, 2021 are in consonance with measures adopted globally”.

221. The Ministry also informed that various measures have been envisaged by the Ministry for India to be at the forefront of worldwide Media and Entertainment Industry as well as to capitalize the vast pool of talent and capacity available in the country to create more employment opportunities. Some of them are as under:

“For promoting ease of doing business as also to facilitate filming in India (which indirectly promotes allied sectors like hospitality, tourism etc.) the Ministry of Information & Broadcasting has developed a web portal (<https://www.fbo.gov.in>) in the National Film Development Corporation, which functions as a single window facilitation mechanism to accord online permissions for film shooting in India, for both domestic and international film makers.

Specifically for film makers whose films have been selected in international film festivals of repute/ Academy Awards, the Ministry provides financial assistance under Film Promotion Fund Activity to those filmmakers whose films are selected in competition section of an international film festival of repute or Academy Awards.

For promotion of co-production of films between Indian film makers and film makers of different countries, Ministry of Information & Broadcasting enters into audio visual Co-production Agreements with various countries.

The National Centre for Excellence for Animation, Visual effects, Gaming and Comics (NCoE-AVGC) aims to be built as a Centre for excellence at the national level to impart world class talent pool in India to cater to the requirements of the Indian as well as global industry, to set-up an incubation Centre for the AVGC sector in the country and to provide opportunity for small players to grow.

The digital media has been evolving at a rapid pace with changes in technology, entertainment patterns and other socio-economic factors. Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021 would provide an institutional mechanism for the sector while protecting artistic freedom and creativity. It is expected that policy certainty and a level playing field for all stakeholders of the sector would help in attracting higher investments, leading to growth in the industry”.

PART-II

OBSERVATIONS/ RECOMMENDATIONS

INTRODUCTORY

1. The Committee note that ‘Boards of Film Censors’ were setup in 1920 at four places (Bombay, Calcutta, Madras and Rangoon) where films were imported into the country. Thereafter, in 1951, the Board was established as the ‘Central Board of Film Censorship’. In 1952, a consolidated statute (Act 37 of 1952) called the ‘Cinematograph Act of 1952’ was enacted. On 1st June, 1983 through an amendment in the Cinematograph Act, the name of the Board was changed to its present version i.e. ‘Central Board of Film Certification (CBFC)’. The Committee note that a lot of water has flowed under the bridge since inception of CBFC and it has witnessed a long and dynamic journey from being ‘Board of film censors’ to ‘Central Board of Film Certification’. The Board has evolved with change in technology, governance, audience, etc., since at that time of inception there was hardly any indigenous industry of filmmaking and the principles of censorship were based on the rules of censorship drawn up by the British Board of Film Censors.

While noting a few significant changes in last few years like notification of ‘Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021’; emergence of myriad content viewing platforms; change in ‘Allocation of Business Rules, 1961’ of the M/o I&B so as to include the mandate for Digital/Online Media yet with no change in the mandate of CBFC; etc., the functioning of CBFC has been taken up for review. During examination of the subject, the Committee heard divergent views varying from need for regulation to complete freedom in film making and viewing. In the process of examination, the Committee learnt that CBFC under its current regime is pragmatic and believes in consultation with the stakeholders/film industry. Nonetheless, the Committee are of the opinion that functioning of CBFC indeed necessitate certain changes to keep pace with the emerging technologies and changes in the film industry today particularly because India is unique not only in being diverse in culture but also in terms of growth and development. Besides, with digital growth, entertainment industry has surpassed all the barriers and has reached to the remotest part of the

country requiring CBFC to function in tandem with the changes and fulfill their mandate. Accordingly, in the succeeding paragraphs, the Committee have made their observations/recommendations on various issues of Central Board of Film Certification. The Committee hope that these recommendations would help in better functioning of CBFC and in achieving the mandate of CBFC and objective of film certification which *inter-alia* include Certification being responsible to social changes, Artistic expression and creative freedom not being curbed unduly, Medium of film remaining responsible and sensitive to the values and standards of society, and so on.

Human Resource in CBFC

2. The Committee note that the Central Board of Film Certification (CBFC) is a two tier organization *viz.* the Board at Mumbai and 9 regional offices at Mumbai, Kolkata, Chennai, Bangalore, Thiruvananthapuram, Hyderabad, New Delhi, Cuttack and Guwahati. At each of the nine regional offices of CBFC, there is an Advisory Panel established for assisting CBFC for discharging its functions efficiently under the Act. CBFC has 12 to 25 members appointed for a term of three years or till such time as per the directions given by the Central Government. The Committee have been informed that all the appointed members are eminent personalities from different spheres like education, art, film, social sciences, law, etc., representing a cross section of the society and the Board has sufficient representation of women. When asked about the adequacy of number of members in CBFC, the Ministry have informed that over last few years the Board has been functioning with 12 Board members and 963 advisory panel members across different offices. Both Board members and panel members have been active participants in the certification process. According to the Ministry no changes are proposed in the role, function and structure of CBFC. The Committee note that the functioning of Board has not witnessed any problem with regard to their numerical strength and there has been sufficient representation of women in the Board. Nevertheless, the Committee feel that it should be made obligatory to have one-third Members as Women in the CBFC Board and Advisory Panel. Further, the Committee also note that in light of the growth of film industry and almost 3 fold increase in the number of feature films certification, the Ministry have conducted a detailed study of human resources of CBFC vis-à-vis workload. The Committee, desire to be apprised about the outcome

of the said study alongwith the measures taken for smooth functioning of the Organization. The Committee feel that in addition to the eminent personalities in the CBFC Board, having some representation from general public at large would provide an inclusive face to the composition of the Board. Furthermore, in the light of the concerns expressed by some of the Stakeholders regarding functioning of Regional Boards/Officers, the Committee desire to be informed about action taken on any such grievances received by CBFC/Ministry during last five years alongwith the details of complaints regarding functioning of the Members of the Board and Advisory Panel Members and action taken thereon.

Infrastructure of CBFC

3. The Committee are informed that the office space of CBFC and its 9 regional offices are mainly used for video film screenings, administrative and certification-related work and for conducting meetings, smaller conferences and workshops. Screenings of theatrical films are also held in Films Division theatre in the same premises. As far as Headquarter office of CBFC is concerned, it also examines films for certification in the auditorium of Films Division located in the same premises. During initial phase of examination of the subject, the Committee were apprised that the Digital Projection System and Digital Theatres could not be procured or installed as planned because of shortage of space in the Films Division Complex at CBFC Headquarter in Mumbai. However, the Committee note with satisfaction that suitable action for providing office space for CBFC have been taken by utilizing the existing auditorium of Films Division in the same building complex and three theatres from Films Division have been allotted in the Films Division Complex. The Committee have also been informed that after merger of media units, the Films Division's space and other space within the campus will be available for CBFC. With these measures, the Committee hope that the space constraints and related problems witnessed by CBFC would be resolved and the theatres are used effectively. Nevertheless, the Committee recommend the Ministry/CBFC to ensure that such constraints are addressed immediately so as to avoid its cascading effect on the functioning of CBFC.

Time limits for the certification process

4. The Committee note that the Cinematograph (Certification) Rules, 1983 prescribes a time limit of 68 days for the film certification process i.e. from submission of complete application to issuing of certificate. This time limit includes Scrutiny of Application, formation of Examination Committee (EC), forwarding the EC report to Chairman, Communication of the order to the applicant, Surrender of cuts by the producer, Examination of cuts and for Issue of Certificate. The Committee are given to understand that all the films are certified within 68 days and CBFC do not have a backlog of more than a month's time. However, raising concern over delay in film certification, President of 'Indian Motion Picture Producers' Association (IMPPA)' informed the Committee that there is an inordinate delay in previewing the film and even with the advent of online certification the producers were made to wait for weeks to get the SMS regarding the preview and no information is given to the producer over phone or in writing. Referring to a Report of Comptroller and Auditor General of India (C&AG) he submitted that CAG had observed that the time taken by CBFC to issue certificates varied from 3 to 491 days. The Committee express concern that despite repeated requests there has been no change in the timelines of 68 days. When asked for clarification, the representative of CBFC informed the Committee that almost all the films are certified within 20 to 25 days and generally it is done within 15 days. It is only when films go through the Committees, Sub-Committees, and Revising Committees, the delays occur. He also informed that at times it all depended on the workload, but maximum time limit was of 68 days. Besides, with the implementation of e-pramaan, the notice is sent online on the day the film is screened and the Report has to be submitted within that evening. The show cause notice, if any, is given the next day and screening of film is done within one week of filing of application. On another suggestion received by the Committee, to reduce the time for issuing certificate from 64 days to 3-4 days, the Ministry clarified that 68 days is the maximum time that has been mentioned in the Cinematograph (Certification) Rules, 1983, however, CBFC ensured that certification of most of the films is completed within 10-15 days. Regarding submission of the President, IMPPA that in case of big budget films, certification is done within short period whereas for medium and small budget films (which form 90% of the films) it takes almost 491 days or little less, the Committee have been informed that there is no preferential treatment given to big budget films and very occasionally, films have taken longer time of a few months because the filmmakers/applicants have not complied by producing requisite documents (NOCs) or submitted the necessary cuts in time. On the differential treatment in issuing certificate, the CEO, CBFC, informed the Committee that it depends on the kind of

compliance. Regarding the inordinate delays in certification leading to huge financial burden on producers, Member CBFC clarified that there is no delay and the process is really expedited.

The Committee note with appreciation that by and large the time limit for certification process of 68 days is adhered to by CBFC. Nonetheless, in the light of the concerns raised by the stakeholders, the Committee recommend the Ministry/CBFC to adhere to time limit for certification process in letter and spirit. The Committee call upon the Ministry/CBFC to reduce the time period by streamlining the entire certification process and ensuring transparency in the working of CBFC. Further, synchronization of all the stages of certification with SMS facility will enable filmmakers to be updated about each stage concurrently. The Committee maybe kept apprised about the action taken.

Revenue from Certification and fees

5. The Committee note that the fees charged by CBFC for examination of films have been prescribed under Rule 36 of the Cinematograph (Certification) Rules, 1983 and the present fees are in accordance with notification dated 27.01.2017. Predominantly Educational (PE) films that generally includes different kinds of documentaries, children's films, scientific films, films on health and environmental awareness, etc. are given a discount. For a two hour long film, the Certification fee works out as Rs. 4350/- for PE films and Rs 21,850/- for other (Non-PE) films. The Committee also note that during the year 2021-22, CBFC received Rs. 12,21,40,116/- as certification charges and from 2017-18 (upto September 2022) they have received Rs. 63,74,97,611/-. The Committee are pleased to learn that the existing fee structure of CBFC is found to be reasonable and that there is no lacunae. The Committee also learn that in the light of increased procedural costs and honorarium of panel members, the Film Certification fees structure is reviewed at regular intervals and there is no immediate likelihood of revision of certification fees due to impact of COVID-19 pandemic on film industry. Nevertheless, the Committee are concerned over the issue highlighted by the President of Indian Motion Picture Producers' Association (IMPPA) wherein it has been stated that since 'A' certified films cannot be screened on Satellite, the producers are forced to re-apply for grant of 'UA' Certificate/'U' Certificate for the same film and in that case the producers are expected to pay the same amount of fees again for a new certificate which is expensive. A request has been made to the Committee that in case of re-certification of 'A' films into 'UA' it should not be treated as new certificate because the already financially suffering producer is made to pay heavy CBFC fees. Taking into consideration the above submission, the Committee would like the Ministry to

apprise about the feasibility of waiving off the certification fees in cases when a film is re-submitted for re-certification. The Ministry may look into the grievances related to certification fees and other fees charged by CBFC and provide details of the action taken on such grievances.

Certification vis-à-vis Censorship

6. The Committee note that during examination of the subject, the discussion mainly revolved around the contention whether there should be cut/modification while certifying films or should there be a purely certification model without any cuts/modification or to have no regulation at all. The Committee note that most of the stakeholders from film industry voiced against any form of regulation and desired for having minimal regulation i.e. only Certification. Justification for having only certification model was that certification provided choice to the viewer and content is not being pushed and act of watching film is voluntary. Examining the role of CBFC in this regard, the Committee learnt that CBFC has been working mostly on certification and not on censorship. CBFC informed that many a times to get a certificate under a certain category the filmmakers themselves offer to go for cuts/modification because sometimes the film makers are unaware that a particular scene is violating a Section under the Act/Rule. However, the Committee note with concern that over the years the number of films cleared without cuts have been sharply reducing and the number of controversies over film certification has been on the rise. In this regard, one of the Members of CBFC submitted before the Committee that 'Regulation' is a scary term for media or film industry actors or content makers, however, with absolute no oversight mechanism in a country like India, the main concern would always remain for children being exposed to unwanted contents. Further, in the light of submission of one of the stakeholders that the creative freedom of filmmakers and rights of speech and expression should be protected, the Committee feel that with right to freedom of speech and expression there exists reasonable restrictions on the exercise of the rights conferred by Article 19(1)(a) of the Constitution and Article 19 of the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights, 1966 (ICCPR), that provides for the protection and promotion of the right to speech and expression, carries special duties and responsibilities and have

reasonable restrictions for protection of the rights and reputations of others/ national security/ public order/ public health and morals.

Furthermore, during deliberations on the issue of certification, the Member, CBFC submitted before the Committee that there are cultural nuances to every country. For example in France, gender nudity is not a problem while gangster films are and likewise, in other countries other factors can be an issue and thus a country cannot be devoid of the tradition that people belong to. The Committee, therefore, feel that in a country like India which has diverse culture, there is a need to consider the sensibility of the people of the country while making and showing films in our country and therefore there is a need for deliberation and certification. It is important to recollect the words of Supreme Court in K.A. Abbas v. Union of India case wherein it took a stand that treatment of motion pictures must be different from other forms of art and expression because motion picture has the ability to stir up emotions more deeply than any other product of art. Thus, the Committee are of the opinion that open accessibility to violent and pornographic material, especially to kids, would lead to desensitization and consequent collateral damage cannot be offset by gains to the exchequer. Nevertheless, the Committee also feel that it will be grossly wrong to be heavy handed and to have over regulation. The Committee, feel that a great responsibility lies with the Ministry/CBFC/Film industry as there is a need for striking a balance between freedom of speech/creativity/artistic expression and at the same time being sensitive about the cultural diversity of the country and the impact of content of the film. For this, a preemptive mindset is needed to avoid fire-fighting after the damage is already done. The Committee, therefore, desire and hope the Ministry/CBFC along with the Film fraternity will make all endeavours to achieve this balance as it is imperative duty of the film makers to be considerate about the impact of the content of films on the public at large and on children in particular. Besides, in light of paradigm shift in how content is created and consumed today, the Committee urge the Ministry to holistically examine the type of certification model required for the Country and apprise the Committee accordingly. The Committee also recommend the Ministry/CBFC to increase objectivity in parameters for determining category for film certification because with the advent of new technologies, with digitization and with pragmatic approach, human intervention and personal biasness can be minimized and the certification process

can be made responsive to social change. The Ministry may apprise the Committee about the action taken on all the issues highlighted in this paragraph.

Validity of Certificate

7. The Committee note that as per sub-section 3 of section 5A of 'The Cinematograph Act, 1952', the certificate issued by the Board is valid for 10 years and in 1984 the Central Government had passed an order to remove this restriction on validity of certificate. However, the provision in the Act is still in existence. The Committee note that the Ministry have proposed an amendment, relating to 'Validity of the Certificate', in the draft 'Cinematograph (Amendment) Bill, 2021'. Justifying the proposed amendment, the Ministry have stated that although the restriction on validity of certificate for only 10 years was removed through an executive order, the existing provision in the Act is to be amended so that the certificate is valid in perpetuity and the proposed amendment would continue to allow the films to be exhibited without getting the certification revalidated from time to time. In this regard, the Committee have been informed that Mudgal Committee had also recommended for making the validity of certificates perpetual because it is in tandem with ease of doing business policy of the Government. The Committee note that almost all stakeholders have welcomed and concurred with the amendment proposed regarding validity of certificates in the 'Cinematograph (Amendment) Bill, 2021'. The Committee welcome the move of the Ministry in initiating this amendment.

Revisionary power of the Government

8. While examining the subject, the Committee had noted that another amendment proposed in the draft 'Cinematograph (Amendment) Bill, 2021' related to sub-section (1) of Section 6 which was regarding 'Revisional powers of the Central Government'. In this regard, the Committee had learnt that High Court of Karnataka in its judgment on 2nd April, 1990 in Writ Petition No. 4335 of 1979 - K.M. Shankarappa Vs Union of India, had struck down some clauses in sub-section(1) of Section 6. As a result the Central Government could not exercise revisional powers in respect of films that are already certified by the Board, viz. 'or has been decided by', 'or as the case may be decided by the Tribunal', and 'or to whom a certificate has been granted as the case may be'. This was also upheld by the Hon'ble

Supreme Court vide judgment dated 28/11/2000 in Civil Appeal 3106 of 1991. During the course of examination of the subject the Committee came across various views regarding amendment proposed to Section 6(1) of 'The Cinematograph Act, 1952'.

Regarding this proposed amendment in 'The Cinematograph (Amendment) Bill, 2021', the Chairperson, CBFC stated that the amendment to sub-section(1) of Section 6 would create an unnecessary layer because even if the intent is to go for the rare cases, yet it will open a Pandora's Box where everything becomes important. Clarifying about the amendment, the Ministry had informed the Committee that the said provision in 'The Cinematograph (Amendment) Bill, 2021' has been largely misunderstood or not understood in the right spirit because the Central Government cannot have the power to re-examine a case that has been decided by the Board or the Tribunal because the Supreme Court has struck down this power. The Ministry had also stated that the Hon'ble Supreme Court *vide* judgment dated 28/11/2000 in Civil Appeal 3106 in the K.M. Shankarappa case had also opined that at most, the Government may apply to the Tribunal itself for a review, if circumstances so warrant. However, with the abolishment of the Film Certification Appellate Tribunal (FCAT) the option to apply to the Tribunal for review is no longer available. Therefore, the amendment proposed in the draft 'Cinematograph (Amendment) Bill, 2021' was for cases where the Central Government might receive a complaint either from the Ministry of Home Affairs (MHA) or from the CBFC itself. In such cases, the Government may direct CBFC to re-examine and the decision of the CBFC will be final. Endorsing the need for this exception, the CEO, CBFC informed the Committee that there are certain cases in which some developments come after a film is certified and in that case CBFC does not have any provision to review, because Certification by CBFC is the final process after it has gone through all the revising Committees. He also informed the Committee that CBFC suo-motu cannot take up a film for review after certification is done and so in that case the revisionary power is needed. The Committee also learnt that Central Government cannot recall or re-certify any film certified by the CBFC but sometimes after a film is certified complaints are received against a film that allude to violation of Section 5B(1) of the Cinematograph Act, 1952 which has been derived from Article 19(2) of the Constitution and which are non-negotiable and in that case the Central Government may refer the matter to CBFC for re-

examination of the film. Clarifying the intent on the amendment proposed in 'The Cinematograph (Amendment) Bill, 2021', the Ministry had informed that the Central Government will be referring a case for re-examination only on receipt of complaint on account of violation of Principles for guidance in certifying films mentioned in section 5B(1) such as sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of court or is likely to incite the commission of any offence. The Ministry had assured that this would be in the rarest of the rare cases and in case the certification of a film is re-examined by the CBFC, the interest of the producers of the film will be safeguarded by giving him an opportunity to be heard before orders are passed by CBFC. At the same time, Rules will be framed to clarify the procedure and circumstances under which this power can be exercised so that there is no arbitrariness in the action taken. While noting that 'The Cinematograph (Amendment) Bill, 2023' has been introduced in Rajya Sabha on 20th July, 2023 the Committee hope that the Ministry have taken into consideration all the concerns raised during deliberations on the subject.

Digitization / Online Certification system – 'e-Cinepramaan'

9. The Committee note that since 2009 CBFC has been progressively moving from manual operations to automation and on 27th March, 2017 online certification system of CBFC - 'e-cinepramaan' was launched. The Committee appreciate that system for paying certification fees has been fully integrated with Bharatkosh e-payment gateway and the work of scanning and digitization of past certification records has also been undertaken by CBFC. The Committee have been informed that the present online certification system has been developed and changes are done in the system from time to time based on the feedback received from all stakeholders including filmmakers and applicants. The Ministry have informed that four years into operation, the online system is functioning satisfactorily and applicants are also comfortable with it. The Committee note that online certification system has not only reduced the time taken for film certification substantially but has also enabled the filmmakers to check the status of their applications through their logins, reply to intimations and make enquiries through dedicated helpdesk of CBFC. This has brought in transparency in documentation processes and has

brought down the average time taken for long film certification to less than 10-15 days as compared to earlier 20-30 days. Further, short films certification time has reduced to just 1 to 2 days. Duplications in certifications is eliminated and with QR code implementation, authenticity of certificates can be checked, thereby tackling the problem of forged certificates”. Some system improvements that are being carried out in the second phase based on the suggestions/feedback received *inter-alia* include (i) merging of four different application forms into a common simplified form, also removing redundant entries (ii) Making cut verification process completely online (iii) Informing applicants on the tentative date of screening on their dashboard (iv) Providing alternate and additional payment gateway for deposition of fees, etc. With the launch of ‘e-cinepramaan’, CBFC have also started online examination of short films (films of less than 10 minutes duration), enabling swift certification of these films.

Further, the Committee are given to understand that the next phase of digitization is to make ‘e-cinepramaan’ more user-friendly and Computerisation Phase-II aims at complete automation with minimal human intervention. However, it is a matter of concern to note the grievance raised by film makers with respect to some of the manual processes that are still being followed i.e. there is a need for submission of 8 hard copies of all documents like script/screen play at the time of screening and at the time of scrutiny of all the documents producer's personal presence is compulsorily required and there is no provision for allowing authorized representative of the producer to complete the formalities, etc. Even after completing the full process of certification the producer is required to collect the certificate personally. Besides, even after the film is cleared, to collect the certificate producer has to visit CBFC office repeatedly because it does not get signed for one or the other reason. The Committee call upon the Ministry that the initiatives being taken for digitization of certification process may address all concerns of the stakeholders. Further, these initiatives be implemented at the earliest.

Act/ Rules/Guidelines related to functioning of CFBC

10. The Committee note that CBFC discharges its function of certification in accordance with the provisions of (i) The Cinematograph Act 1952, (ii) The

Cinematograph (Certification) Rules, 1983 (iii) The Guidelines issued by the Central Government under Section 5B of the Cinematograph Act, in 1991 and (iv) Article 19(1)(a) and 19(2) of the Constitution of India. The Committee also note that there are various other Acts, Rules and Guidelines that CBFC needs to consider while certifying films. The Committee have been informed that the guidelines issued by the Central Government for film certification in 1991 have been time tested and are relevant even today as they provide broader objectives and issue-specific insights for the Committees to judge the contents for public exhibition. However, the present Cinematograph Act enacted in 1952 needs review/amendment. The Ministry of Information and Broadcasting had notified the draft 'Cinematograph (Amendment) Bill, 2021' on their website seeking public comments. The Committee have been informed that that it was decided that before a final view is taken on the comments received, wider stakeholder consultations would be held in person to allay the concerns of the film industry and to make them active partners in the regulatory ecosystem. Accordingly, two consultation meetings were held with major stakeholders on 3th March, 2022 in Chennai and in Mumbai on 4th March, 2022 to *inter-alia* discuss the proposed amendments in the Cinematograph Act and improvements in the certification process. The Ministry also informed that a review of the Cinematograph Act, 1952 has been done to address the various issues concerning the certification process in a comprehensive manner. Inter-ministerial consultations (IMC) and the pre-legislative consultations were also done with the major stakeholders. During the course of examination of the subject the Ministry had informed that since the initially proposed amendment has undergone substantial changes, it is required to undertake IMC for approaching the Cabinet for its approval to convey the new Bill in Parliament. After the IMC & Cabinet approval, the Bill will be laid in the Parliament. They also had informed the Committee that the proposed Draft, Bill 2021, is a comprehensive amendment. Further, the Committee note that 'The Cinematograph (Amendment) Bill, 2023' is introduced in the Rajya Sabha on 20th July, 2023.

In addition, the Committee note that the recommendations of the two Committee, viz. Mukul Mudgal Committee and Shyam Benegal Committee, are yet to be implemented in toto. On delayed implementation of the recommendations, the Ministry have submitted that upon examination they felt that the recommendations fall under three categories wherein (i) some would be included in the Act in terms of

additional definitions or other amendments, and there could be amendments in the Cinematograph Certification Rules of 1983, (ii) some of the recommendations could be met by issue of Executive Orders, and (iii) certain recommendations made by the Mudgal and Shyam Benegal Committees, are already under implementation. The Committee disapprove the delay by the Ministry in taking concrete action on these two Reports. Having delayed it for more than 6 years, the Committee strongly urge the Ministry to implement the recommendations depending on the feasibility and ensure to avoid such excessive delays in future. The Ministry may also informed whether the concerns expressed by the Committee on the Subject were considered in 'The Cinematograph (Amendment) Bill, 2023' introduced in the House.

Film Certification Appellate Tribunal (FCAT)

11. The Committee note that with promulgation of 'The Tribunals Reforms (Rationalization and Conditions of Service) Ordinance, 2021' on 04.04.2021, the Film Certification Appellate Tribunal (FCAT) has been abolished and its functions have been transferred to the High Courts. The role of FCAT was to hear appeals made under Section 5C of the Cinematograph Act, 1952 by an applicant for a certificate in respect of a film in case he was aggrieved by an order of the CBFC. Explaining the reasons for abolishing FCAT, the Ministry has said that under the Cinematograph Act, 1952 and Cinematograph (Certification) Rules, 1983, CBFC has a robust and efficient mechanism to deal with the concerns of the film fraternity and it has a well placed internal mechanism for representation and appeals in the form of revising committees comprising of eminent persons from different fields outside Government as their members. The Ministry also submitted that examining and revising committees of CBFC after patient hearing and through a collaborative effort address the grievances of the film makers. According to the Ministry, the number of films having to go to an appellate body saw a steady decline and during last 2-3 years, only around 0.2% films were taken to FCAT. Thus, considering the miniscule ratio of films approaching FCAT, abolition of FCAT is not expected to have any significant impact on the film industry. While perusing the Statement of Objects and Reasons of 'The Tribunals Reforms (Rationalization and Conditions of Service) Bill, 2021', the Committee learnt that the tribunals that are proposed to be abolished through this Bill/Act are of the kind which handle cases in which public at large is not a litigant or those which neither take away any significant workload from High

Courts which otherwise would have adjudicated such cases nor provide speedy disposal. Many cases do not achieve finality at the level of tribunals and are litigated further till High Courts and Supreme Court, especially those with significant implications. Therefore, these tribunals only add to another additional layer of litigation. Having separate tribunal requires administrative action in terms of filling up of posts and such other matters, and any delay in such action further delays disposal of cases. The Ministry also informed that reducing the number of tribunals shall not only be beneficial for the public at large, reduce the burden on public exchequer, but also address the issue of shortage of supporting staff of tribunals and infrastructure. In the light of the submissions made by the Ministry and keeping in view the larger interest of the public, the Committee see merit in the Government's justification in abolishing FCAT. Nonetheless, the Committee take into cognizance the submissions of the stakeholders that such experts Appellate Tribunal not only enables stakeholders to have an affordable, easily accessible and timely adjudication of grievances but also avoids cumbersome process of going to courts which inhibits most of the filmmakers because time is the essence in release of films. Thus, the Committee feel such decisions of abolishing a body meant for grievance redressal should at least be done after thorough discussions with the respective stakeholders, in this case film industry fraternity. The Committee, therefore, recommend the Ministry to have extensive/wider consultation so as to have negligible grievances and court cases after implementation of such decision. The Committee desire to be apprised about all the related developments/cases/appeals filed after 'The Tribunals Reforms Act, 2021' was passed by the Parliament in August, 2021 and FCAT was abolished.

Grievance Redressal Mechanism

12. The Committee note that at present the representations from filmmakers as well as other complainants are considered by the Committees of CBFC before making final recommendations and it is compulsory for all their Committees to hear filmmakers before writing their Reports. However, an aggrieved filmmaker can approach Revising Committee constituted under Rule 24 of Cinematograph Certification Rules 1983. There is also a provision for Re-revising Committee, if the issue is not resolved at the stage of revising committee. In case of any disagreement, the filmmaker/applicant can appeal in the respective High Court for

appropriate remedies. The Ministry have informed that the Chairperson and all officers of the Board are accessible to general public or various organizations/groups that have any complaints about the contents of the Film. Such complaints are put before the respective Committees who decide and dispose the same based on their merit. The Ministry have also informed that they have strived for an environment of dialogue and discourse. Thereby, encouraging a collaborative and facilitative approach to film certification and overall focus has been on detailing and streamlining the processes. As a result there has been improved mutual understanding and appreciation by the film fraternity of the work of CBFC. However, in due course of examination, the Committee have come across numerous problems/constraints encountered by actors, producers, directors, film makers, etc., in getting approval/certification by CBFC.

On the concerns related to submission of NOC from the Animal Welfare Board as a mandatory requirement for application for certification and inconvenience faced by the Producers/Film makers, Committee have been assured that the matter will be looked into it. The Ministry have also informed that whenever there is a sensitive issue and there is requirement of expert comments, CBFC has an expert window where they invite experts on any subject. Regarding violations of certification Rules, the Committee note that during the last 5 years there has been a few cases of violations against certification of films. Further, Out of three vigilance cases that were reported in CBFC, in two cases the investigation/proceedings against the officers which started in 2017 are still in process and has not been settled even after 5 years. Therefore, in addition to the present arrangement of having Chief Executive Officer for administrative matters, CBFC should also have one Chief Grievance Redressal Officer at each regional level for dealing with other matters. The Committee urge the Ministry to expedite the pending vigilance cases along with the grievances of Producers/Directors/other Stakeholders of the Film industry at the earliest and apprise the Committee about the same. Having a single window/platform for complaint registration and to fix a timeline for redressing each category of grievance alongwith a help line number for Grievance Redressal and for any aggrieved party seeking appointment with the Chairperson or Regional Officer would ameliorate the situation. The Committee may be apprised about the action taken in this direction.

Initiatives for person with special needs

13. The Committee note that on 01.10.2019 the Ministry had issued an advisory to major Film Industry bodies with the request to persuade and motivate their associated members for making their film more accessible to person with special needs by using Audio Description and closed captioning in films. However, the Committee note with extreme concern that only one film - 'Gandhi' (Hindi) (by Director: Richard Attenborough, produced by NFDC) was certified in accessible format for differently-abled persons after 1st October, 2019. The Committee are perturbed about the shoddy implementation of accessibility standards for persons with disabilities, and feel that such initiatives should emanate from the industry suo-moto to cater to the special needs of differently-abled persons. The Committee urge the Ministry to ensure that their efforts for sensitizing film makers about the accessibility standards has tangible outcomes.

International practices

14. The Committee note that in India, the digital media sector is a sunrise sector which has been evolving at a rapid pace with changes in technology, entertainment patterns and other socio-economic factors. The Ministry have informed that the provisions adopted in Part III of the 'Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021' are in consonance with measures adopted globally and it would provide an institutional mechanism for the sector while protecting artistic freedom and creativity. According to the Ministry, it is expected that policy certainty and a level playing field for all stakeholders of the sector would help in attracting higher investments, leading to growth in the industry. The Committee note that the Ministry are making efforts to collaborate and learn from global best practices especially in the field of technology and artificial intelligence. The Ministry have also stated that a comparison between regulations adopted by various countries may need to account for politico-administrative, socio-cultural, legal, and demographic factors. However, since these factors vary from country to country, the Committee feel that the nuances of other countries cannot be compared/implemented in totality particularly in case of assessment of a film and certification which is essentially a human process based on appreciation of content in the light of narrative and theme of the film and people to whom it relates to. Neither it can be mechanized, nor a uniform one-size-fits-all formula be applied to the films while deciding on their classification. Thus, the Committee expect that

the Ministry to adopt a balanced approach while bringing any Act/Guideline/Policy changes by ensuring protection to the artistic freedom and creativity taking into consideration the diverse nature of the country. Nevertheless, the Committee recommend the Ministry to take comprehensive, concerted efforts on all the issues affecting the functioning of CBFC and inform the Committee about the action taken.

New Delhi;
27 July, 2023
5 Sravana, 1945 (Saka)

PRATAPRAO JADHAV,
Chairperson,
Standing Committee on
Communications and Information Technology.

(Vide Para No. 47)

Guidelines for certification of films

In exercise of the powers conferred by sub-section (2) of section 5B of the Cinematograph Act, 1952 (37 of 1952) and in supersession of the notification of the Government of India in the Ministry of Information and Broadcasting No. S.O. 9E) , dated 7th January, 1978, except as respects things done or omitted to be done before such supersession, the Central Government hereby directs that in sanctioning films of public exhibition , the Board of Film Certification shall be guided by the following principles.

1. Objectives of Film Certification

- a. the medium of film remains responsible and sensitive to the values and standards of society;
- b. artistic expression and creative freedom are not unduly curbed;
- c. certification is responsible to social changes;
- d. the medium of film provides clean and healthy entertainment; and
- e. as far as possible, the film is of aesthetic value and cinematically of a good standard.

2. In pursuance of the above objectives, the CBFC shall ensure that

- vi. anti social activities such as violence are not glorified or justified
- vii. the modus operandi of criminals, other visuals or words likely to incite the commission of any offence are not depicted;
- viii. scenes -
 - a. showing involvement of children in violence as victims or perpetrators or as forced witnesses to violence, or showing children as being subjected to any form of child abuse.
 - b. showing abuse or ridicule of physically and mentally handicapped persons; and
 - c. showing cruelty to, or abuse of animals, are not presented needlessly
- ix. pointless or avoidable scenes of violence, cruelty and horror, scenes of violence primarily intended to provide entertainment and such scenes as may have the effect of de-sensitising or de-humanising people are not shown;
- x. scenes which have the effect of justifying or glorifying drinking are not shown;
- xi. scenes tending to encourage, justify or glamorise drug addiction are not shown;
 - a. scenes tending to encourage, justify or glamorise consumption of tobacco or smoking are not shown;

- xii. human sensibilities are not offended by vulgarity, obscenity or depravity;
- xiii. such dual meaning words as obviously cater to baser instincts are not allowed;
- xiv. scenes degrading or denigrating women in any manner are not presented;
- xv. scenes involving sexual violence against women like attempt to rape, rape or any form of molestation or scenes of a similar nature are avoided, and if any such incidence is germane to the theme, they shall be reduced to the minimum and no details are shown
- xvi. scenes showing sexual perversions shall be avoided and if such matters are germane to the theme they shall be reduced to the minimum and no details are shown
- xvii. visuals or words contemptuous of racial, religious or other groups are not presented
- xviii. visuals or words which promote communal, obscurantist, anti-scientific and anti-national attitude are not presented
- xix. the sovereignty and integrity of India is not called in question;
- xx. the security of the State is not jeopardized or endangered
- xxi. friendly relations with foreign States are not strained;
- xxii. public order is not endangered
- xxiii. visuals or words involving defamation of an individual or a body of individuals, or contempt of court are not presented.

EXPLANATION: Scenes that tend to create scorn, disgrace or disregard of rules or undermine the dignity of court will come under the term "Contempt of Court" : and

- xxiv. national symbols and emblems are not shown except in accordance with the provisions of the Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950)
3. The Board of Film Certification shall also ensure that the film
 - a. Is judged in its entirety from the point of view of its overall impact; and
 - b. Is examined in the light of the period depicted in the films and the contemporary standards of the country and the people to which the film relates provided that the film does not deprave the morality of the audience.
 4. Films that meet the above – mentioned criteria but are considered unsuitable for exhibition to non-adults shall be certified for exhibition to adult audiences only.

1. While certifying films for unrestricted public exhibition, the Board shall ensure that the film is suitable for family viewing, that is to say, the film shall be such that all the members of the family including children can view it together.
 2. If the Board, having regard to the nature, content and theme of the film is of the opinion that it is necessary to caution the parents / guardian to consider as to whether any child below the age of twelve years maybe allowed to see such a film, the film shall be certified for unrestricted public exhibition with an endorsement to that effect.
 3. If the Board having regard to the nature, content and theme of the film, is of the opinion that the exhibition of the film should be restricted to members of any profession or any class of persons, the film shall be certified for public exhibition restricted to the specialized audiences to be specified by the Board in this behalf.
6. The Board shall scrutinize the titles of the films carefully and ensure that they are not provocative, vulgar, offensive or violative of any of the above-mentioned guidelines.

ANNEXURE - II (A)

(Vide Para 50)

**CONSOLIDATED STATEMENT INDICATING THE FILMS CERTIFIED BY THE BOARD FROM
1-4-2019 TO 31-3-2020**

A -CELLULOID

	U	U*	UA	UA*	A	A*	S	S*	TOTAL
Indian Long Films	-	-	-	-	-	-	-	-	-
Foreign Long Films	-	-	-	-	-	-	-	-	-
Indian Short Films	-	-	-	-	-	-	-	-	-
Foreign Short Films	-	-	-	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-	-	-	-

B -VIDEO

	U	U*	UA	UA*	A	A*	S	S*	TOTAL
Indian Long Films	187	68	258	318	5	5	-	-	841
Foreign Long Films	127	23	442	301	7	5	-	-	905
Indian Short Films	3994	136	1451	125	64	2	-	-	5772
Foreign Short Films	124	-	143	6	-	-	-	-	273
TOTAL	4432	227	2294	750	76	12	-	-	7791

C - DIGITAL

	U	U*	UA	UA*	A	A*	S	S*	TOTAL
Indian Long Films	572	342	446	860	64	170	-	-	2454
Foreign Long Films	51	14	63	44	46	48	-	-	266
Indian Short Films	8093	104	1100	178	69	13	-	-	9557
Foreign Short Films	185	0	302	21	15	2	-	-	525
TOTAL	8901	460	1911	1103	194	233	-	-	12802
GRAND TOTAL (A+B+C)	13333	687	4205	1853	270	245	-	-	20593

* with cuts

ANNEXURE II (B)

CONSOLIDATED STATEMENT INDICATING THE FILMS CERTIFIED BY THE BOARD FROM 1-4-2020 TO 31-3-2021

CELLULOID								
	U	U *	UA	UA *	A	A *	S	Total
Indian Feature Films	-	-	-	-	-	-	-	-
Foreign Feature Films	-	-	-	-	-	-	-	-
Indian Short Films	-	-	-	-	-	-	-	-
Foreign Short Films	-	-	-	-	-	-	-	-
TOTAL (A)	-	-	-	-	-	-	-	-

VIDEO								
	U	U *	UA	UA *	A	A *	S	Total
Indian Feature Films	193	78	418	357	4	4	-	1054
Foreign Feature Films	89	9	523	142	5	8	-	776
Indian Short Films	2317	31	641	44	24	1	-	3058
Foreign Short Films	19	-	45	-	1	-	-	65
TOTAL (B)	2618	118	1627	543	34	13	-	4953

DIGITAL								
	U	U *	UA	UA *	A	A *	S	Total
Indian Feature Films	300	174	185	429	31	85	-	1204
Foreign Feature Films	18	5	63	23	13	19	-	141
Indian Short Films	1369	18	424	42	29	5	-	1887
Foreign Short Films	28	-	82	1	3	-	-	114
TOTAL (C)	1715	197	754	495	76	109	-	3346
GRAND TOTAL (A+B+C)	4333	315	2381	1038	110	122	-	8299

* with cuts

Annexure II (C)**CONSOLIDATED STATEMENT INDICATING THE FILMS CERTIFIED BY THE
BOARD FROM 1-4-2021 TO 31-3-2022**

A - CELLULOID									
	U	U *	UA	UA *	A	A *	S	S*	Total
Indian Feature Films	-	-	-	-	-	-	-	-	-
Foreign Feature Films	-	-	-	-	-	-	-	-	-
Indian Short Films	-	-	-	-	-	-	-	-	-
Foreign Short Films	-	-	-	-	-	-	-	-	-
TOTAL (A)	-	-	-	-	-	-	-	-	-

B - VIDEO									
	U	U *	UA	UA *	A	A *	S	S*	Total
Indian Feature Films	224	132	562	390	13	7	-	-	1328
Foreign Feature Films	91	6	356	83	7	4	-	-	547
Indian Short Films	3016	40	1171	84	44	4	-	-	4359
Foreign Short Films	30	-	141	1	3	-	-	-	175
TOTAL (B)	3361	178	2230	558	67	15	-	-	6409

C - DIGITAL									
	U	U *	UA	UA *	A	A *	S	S*	Total
Indian Feature Films	424	191	360	717	48	116	-	-	1856
Foreign Feature Films	23	1	85	17	34	15	-	-	175
Indian Short Films	3037	22	803	74	26	5	-	-	3967
Foreign Short Films	80	-	227	2	3	-	-	-	312
TOTAL (C)	3564	214	1475	810	111	136	-	-	6310
GRAND TOTAL (A+B+C)	6925	392	3705	1368	178	151	-	-	12719

* with cuts

<u>CONSOLIDATED STATEMENT INDICATING THE FILMS CERTIFIED BY THE BOARD FROM 1-4-2022 TO 30-9-2022</u>									
A - CELLULOID									
	U	U *	UA	UA *	A	A *	S	S*	Total
Indian Feature Films	0	0	0	0	0	0	0	0	0
Foreign Feature Films	0	0	0	0	0	0	0	0	0
Indian Short Films	0	0	0	0	0	0	0	0	0
Foreign Short Films	0	0	0	0	0	0	0	0	0
TOTAL (A)	0	0	0	0	0	0	0	0	0
B - VIDEO									
	U	U *	UA	UA *	A	A *	S	S*	Total
Indian Feature Films	123	48	309	208	2	1	0	0	691
Foreign Feature Films	36	2	220	26	2	0	0	0	286
Indian Short Films	1785	34	873	46	17	2	0	0	2757
Foreign Short Films	25	0	45	0	0	0	0	0	70
TOTAL (B)	1969	84	1447	280	21	3	0	0	3804
C - DIGITAL									
	U	U *	UA	UA *	A	A *	S	S*	Total
Indian Feature Films	272	83	280	462	31	73	0	0	1201
Foreign Feature Films	19	1	36	5	8	8	0	0	77
Indian Short Films	3365	9	790	45	18	2	0	0	4229
Foreign Short Films	54	1	118	0	0	0	0	0	173
TOTAL (C)	3710	94	1224	512	57	83	0	0	5680
GRAND TOTAL (A+B+C)	5679	178	2671	792	78	86	0	0	9484
* with cuts									

(Vide Para 155)

Key recommendations of the Mudgal Committee

- 1) **Advisory Panels** - The Committee observed that there were concerns within the industry and outside, about the role and responsibilities of Advisory panel members who are under the Act, appointed by the Ministry in consultation with the Chairman, CBFC. The Committee has recommended a rigorous selection procedure for the advisory panel members, who, as per the Committee's report, should now be referred to as "Screening panel" members. As per the revised procedure recommended by the Committee, the Board would first set up a 9 member committee ensuring language and regional representation and with adequate lady members, who in turn would recommend names of eminent persons from various disciplines such as law, art, media, psychology, education, cinema, literature, history, etc. The Ministry would then choose the Screening panel members from this list. The Board would send a list of double the number of members to be appointed.
- 2) **Guidelines for certification and issues such as portrayal of women, obscenity and communal disharmony.** The Committee was conscious of the fact that today there is a raging debate between artistic freedom vis-a-vis growing concerns about excessive violence and obscenity in films. The Committee was of the opinion that there can be no rigid guidelines for certification, and that there must be a provision in the guidelines under the Act, to ensure that the Examining Committee views the film in its entirety from the point of view of its overall impact, and in the context of its theme, the characters and the period to which the film belongs.
- 3) **Classification of Films** - The Committee has appreciated that present category of classification of films, especially the category of 'U/A' are insufficient considering the myriad of subjects, complex theme, and content of films. Accordingly, the Committee has recommended two new categories namely 12+ and 15+, to replace the existing 'U/A' category.
- 4) **Power of State Government vis-à-vis Central Government** – The Committee has noted that after a film is produced, has received certification from the Board, and is ready for release in theatres, certain vested groups, fringe elements and at times simple publicity seekers create local disturbance on ground, file criminal proceedings and also approach respective High Courts in the country seeking suspension of exhibition of such film. In certain cases, State Governments have proceeded to suspend exhibition of such films *suo moto* or being influenced by such elements or on a perceived threat to law and order with or without invocation of powers under Section 144 of CrPC, thereby prohibiting the Assembly of four or more persons. The Committee strongly recommends inclusion of a statutory provision in cinematograph legislation to firstly provide that ordinarily exhibition of a film which has been certified shall not be suspended. Assuming that there are certain circumstances which have arisen during the public exhibition of such certified films leading to a breach of public order or likelihood of such breach, then the Central Govt. either *suo moto* or at the behest of the relevant State Govt. may

proceed to pass an order of suspension of exhibition of such film. Such order of suspension ought not to be passed unless an opportunity has first been given to the producer / holder the certificate, informing him of the grounds of proposed suspension and to show cause or explain why the film ought not to be suspended. Further, any order passed suspending the exhibition of a certified film must be appealable to the FCAT.

- 5) Jurisdiction of the Appellate Tribunal – Under the present scheme of legislation only an applicant for certification may prefer and appeal to the film certification appellate Tribunal (FCAT). This leads to a flood of litigation in various High Courts leading to different points of view by different High Courts in the matter. It also provides a handle to unscrupulous elements who either for vested interests or petty reasons rush to the nearest High Court to seek suspension / a ban on the film. The Committee is of the view that since there is already a specialised Tribunal under the Act, the best remedy would be to expand the jurisdiction of the FCAT to permit any person who is aggrieved by the order of the Board, to file an appeal for the FCAT. This would lead to a beneficial situation where a specialized Tribunal will address issues relating to cinema. Such expansion of jurisdiction would be in consonance with legislation in other fields of quasi-regulation / licensing such as the Securities Appellate Tribunal for the capital markets and so on. Furthermore, a genuinely aggrieved person would not be required to adopt the expensive process of High Court litigation.
- 6) Treatment of Piracy – The Committee strongly felt that piracy, illegal and unauthorized duplication of certified film is to be treated in the strictest form possible and therefore recommended that such Act be made substantive non-bailable offense. In the draft proposed Bill, Committee has suggested structuring of an entire chapter on Offences and Penalties recommending a fine which may extend from Rs. 5 lacs upto Rs. 25 lacs and an imprisonment which may extend upto 3 years.
- 7) Review of the provisions of the Cinematograph Act, 1952 – The Committee has recommended a holistic review of the present cinematograph legislation, and has also submitted a draft Cinematograph Bill for consideration by the Ministry. Among others, the Committee has recommended expansion of the definition of the “film” to include songs, lyrics and related advertising material. This is to ensure that all trailers, music videos, posters, etc., which are often released separately and well before release of actual film, should also be subject to some form of check, regulation and certification.

Key recommendations of the Committee of Experts headed by Shri Shyam Benegal

- (i) There should be no system of imposing excision and the CBFC must transition into practically film certification body - This would require amendment in Section 4(iii) of the Cinematograph Act, 1952 and other relevant sections.
- (ii) Scope of CBFC largely only to decide what category of audiences can watch a particular film.
- (iii) Guidelines needed for each category of certification in order to empower viewers to make informed viewing choices by specifying the category. The present objectives regarding ensuring clean & healthy entertainment, aesthetic value & good standard being outside the purview of CBFC, has been taken out. Highest category of certification is proposed beyond which CBFC can refuse certification.
- (iv) New categories 12+ and 15+ proposed under the UA category. Beyond A, another category A with caution, i.e. A-C category has been suggested. Detailed guidelines for each category have been given. Requirement of additional categories would require amendment in the relevant section of the present Act.
- (v) Films violating the provisions of Section 5B(1) of the Cinematograph Act, i.e. film depicting scenes against the interests of the sovereignty and integrity of India, security of the State, friendly relation with foreign States, public order, decency or morality, defamation or contempt of court etc., be not allowed certification.
- (vi) CBFC Chairperson & Board Members to play a role in guiding the Board at apex level than participating in routine certification process.
- (vii) Lesser number of members in the Board suggested in view of the suggested role of CBFC, i.e. One Member representing each Regional Office (=9) and a Chairperson. This would require an amendment in the Act.
- (viii) Two tier system of Advisory Panels, Regional & Central Panels for Examining & Revising Committee respectively to be chosen through different processes.
- (ix) For Regional Advisory Panels, 25% nomination to come through FFI, 25% through FFSI, 25% from NCPCR & NCW and 25% from NFDC. Women to have 50% representation in these. Central government to notify these committees.
- (x) The Examining Committee members to be nominated through customized software. The Examining Officer to be a member from the Regional Advisory Panel instead of an official from CBFC. Regional Officer to act as member-Secretary of the Committee only.
- (xi) The Central Advisory Panel to be located at the CBFC Head Office and to comprise the pool for Revising Committee Members of slightly higher caliber. Appointment through a 5-member committee by the Central Government with due representation from all the regions.

- (xii) Revising Committee to constitute first stage of appeal whose member-Secretary would be the CEO, CBFC or his representative.
- (xiii) Central Advisory Panel members to be nominated from amongst persons having in depth understanding of Indian Society and persons of eminence in various fields like sociologists, psychologist, anthropologist, etc.
- (xiv) Online submission & processing of applications for certification.
- (xv) Out of turn (Tatkal Scheme) film certification to be allowed on payment of 5- time fees.
- (xvi) Recertification of films to be permitted.
- (xvii) Revision of Honorarium paid to the Examining & Revising Committee.
- (xviii) Cap of two films to be watched by the Examining Committee per day.
- (xix) Re-examination of the films by the CBFC on complaints received after certification of films in certain cases on account of violation of provisions of Section 5B(1) of the Act.
- (xx) In other recommendations it has suggested:
 - a. conduct a study on the impact of cinema when viewed collectively as against individually.
 - b. Categorization of films should not be used for purposes of State taxation.
 - c. NFDC to produce a short film for educating the film going audience about the categories of the films and their applicability to various sections of society. This should be dubbed in primary Indian languages and shown in all theatres for a period of two years.
- (xxi) “Licensed suppliers” of Performing Animals (PA) whose services can be hired by the Producer till a directory of “certified (approved) personnel” is published by AWBI to facilitate NOC for such films.
- (xxii) “Performing animals” in case of a film may be defined as an animal which is written into the script of the movie, and is required to perform an act which it would not normally do.
- (xxiii) A meaningful static anti-smoking disclaimer in the beginning of a film with standard visual background and an audio backing in place of current disclaimers during each and every scene depicting smoking.
- (xxiv) Film Industry should produce small films on anti-tobacco/smoking with popular actors on their own for screening in cinema halls and on TV channels.

(Vide Para 160)

Mudgal Committee and the Benegal Committee have given different recommendations in the following matters

Sl. No.	Mudgal Committee Recommendation	Benegal Committee Recommendation
i)	The CBFC shall consist of a Chairperson and not less than twelve and not more than twenty five other members	The Board shall comprise not less than six and not more than one member each in respect of each Regional Office of CBFC, and a Chairperson
ii)	The other Members of the Board shall be persons who, in the opinion of the Central Government, by reason of their profession, qualifications or experience, in the field of art, cinema, drama, law, literature, history, sociology, psychology, media, education, performing arts, uniform services or public administration are qualified to judge the effect of films on the public,	Criteria of appointment of Members of the Board:- (i) Persons who have an in-depth understanding of Indian society, such as sociologists and anthropologists and psychologists (ii) Persons of eminence comprising writers, artists, media and entertainment experts, lawyers, entrepreneurs etc.
iii)	The Board shall ordinarily meet once in three months for the transaction of business but the Chairperson may at any time call an extraordinary meeting, if considered necessary to do so.	The Board shall ordinarily meet once a quarter, and not less than four times in a calendar year, for the transaction of business but the Chairperson may at any time call for an extraordinary meeting, if he considers it necessary to do so.
iv)	The Board may regulate the procedure to be followed at its meeting including its quorum.	At every meeting of the Board, three members, if the Chairperson is present, and four members, if he is absent, shall form a quorum. The presence of the Member-Secretary (i.e. CEO, CBFC) shall not be taken into account for purposes of meeting the quorum.
v)	Name of Advisory Panel should be changed to 'Screening Panel'.	Has not made any such recommendation regarding change of nomenclature of 'Advisory Panels'. Has said that it will be a two tiered system with Regional Advisory Panel (for Examining Committee) and a Mumbai based Central Advisory Panel (for Revising Committee)
vi)	The Members of the screening panel shall be selected by a Committee comprising of 9 Members constituted from the	The appointment of each <u>Regional Advisory Panel</u> shall be as under:- a. 25% of the strength of a Regional Advisory Panel in each regional office shall be recommended by the

	<p>Board by the Chairperson with at least two lady Members and in such manner as to ensure due regional and language representation, to the extent possible.</p> <p>Such Committee in consultation with the Chairperson shall draw up a panel of Members to be appointed as Members of the screening panel and shall consist of persons, who, in the opinion of the Committee are, by reason of their profession, qualifications or experience in the field of art, cinema, drama, law, literature, history, sociology, psychology, media, education, performing arts, uniform services or public administration, are fit to judge the effect of films on the public.</p>	<p>NFDC Ltd.</p> <p>b. 25% shall be nominated by the Board, comprising members from all walks of life, from recommendations sent by FFSI.</p> <p>c. 25% of members of each Regional Advisory Panel shall comprise representatives nominated by the National Council for Protection of Child Rights(NCPCR) and National Commission of Women(NCW)</p> <p>d. 25% of members of each Regional Advisory Panel shall be from the local film industry. The Film Federation of India, who shall approach all film trade associations of all nine regions specified in the First Schedule and form a database for this purpose.</p> <p>Provided that women shall comprise 50% of the representation on each Regional Advisory Panel.</p> <p>A <u>Central Advisory Panel</u> shall be appointed by the Central Government through a five-member Committee that shall recommend names for the consideration of the Central Government. The Central Advisory Panel shall have due representation from all the regions and not less than 10 members from all the regions mentioned in the First Schedule. The Board, depending upon the requirement, may determine their actual number. The Revising Committee for each film shall be drawn from this panel.</p> <p>Criteria for appointment of members of the Central Advisory Panel will be as under:</p> <p>i) Persons who have an indepth understanding of Indian society, such as sociologists and anthropologists and psychologists</p> <p>ii) Persons of eminence comprising writers, artists, lawyers, entrepreneurs, mass media etc.</p> <p>Provided that 20% of the representation from each region shall be from the film industry.</p>
vii)	Every Member of 'Screening Panel' shall hold office for such period not exceeding two years.	Every member of Advisory panels shall hold office for a period not exceeding three years.
viii)	Does not mention about online application for certification of film	Every application to certify film for public exhibition shall be made online in the form available on the website of the CBFC – website to be mentioned.
ix)	Classification of films as U, 12+, 15+, A, S	Classification of films as U, UA12+, UA15+, A and AC(Adult with Caution) and S.

x)	Provided that the Board may also direct the applicant to carry out such excisions or modifications in the film as it thinks necessary before classifying and sanctioning the film for certification of exhibition	The Board shall not propose or make any cuts, revisions or modifications to the film to meet any of the classification categories.
xi)	Before the issuance of a certificate granted under this section, the applicant or his authorized representative shall deposit, at his own cost, a copy of the film in digital format, in the same format in which it has been certified or in such other format, with such agency or agencies, as may be prescribed, for archival purpose and record thereof.	The applicant or his authorized representative shall also deposit, at his own cost, a copy of the Director's Cut (i.e. edit of the film as approved by the Director of the film) in digital format to the NFAI for archival purpose and record thereof.
xii)	<p>(1) Where any complaint is received by the Board, in respect of a film which has been certified for public exhibition, the same shall be forwarded to the Central Government.</p> <p>(2) The Central Government, if it considers necessary so to do, direct the Chairperson to re-examine any such film, in respect of which a complaint is received by it directly or from the Board under sub-section (1), in such manner as may be prescribed.</p>	Where in respect of a film, that has been certified for public exhibition, the Central Government receives a reference from the Ministry of Home Affairs in respect of Section 5B(1) of the Cinematograph Act, 1952, and Clause 3 of CBFC Guidelines, the Chairperson may, if he considers it necessary so to do, direct the Board (through the CEO) to re-examine any film through a Re-examination Committee in such manner and with such assistance as may be specified in the direction.

MINUTES OF THE TWELFTH SITTING OF THE STANDING COMMITTEE ON
INFORMATION TECHNOLOGY
(2020-21)

The Committee sat on Wednesday, the 13 January, 2021 from 1600 hours to 1752 hours in Committee Room No. 2, Extension to Parliament House Annexe, New Delhi.

PRESENT

Dr. Shashi Tharoor - Chairperson

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Dr. Nishikant Dubey
4. Ms. Mahua Moitra
5. Shri Santosh Pandey
6. Shri Jayadev Galla
7. Shri Sanjay Seth
8. Shri L.S. Tejasvi Surya
9. Shri Bhanu Pratap Singh Verma
10. Smt. Sumalatha Ambareesh

Rajya Sabha

11. Dr. Anil Agrawal
12. Shri Shaktisinh Gohil
13. Shri Syed Zafar Islam

SECRETARIAT

- | | | | |
|----|---------------------|---|---------------------|
| 1. | Shri Y.M. Kandpal | - | Joint Secretary |
| 2. | Shri H. Ram Prakash | - | Director |
| 3. | Smt. Geeta Parmar | - | Additional Director |

LIST OF WITNESSES

MINISTRY OF INFORMATION AND BROADCASTING

Sl. No.	Name	Designation
1.	Ms Neerja Sekhar	Additional Secretary
2.	Ms Anju Nigam	Joint Secretary (Films)
3.	Shri Vikram Sahay	Joint Secretary (P&A)
4.	Ms Dhanpreet Kaur	Director (Films)

CENTRAL BOARD OF FILM CERTIFICATION (CBFC)

1.	Shri Prasoon Joshi	Chairman, CBFC
2.	Shri Ravinder Bhakar	Chief Executive Officer, CBFC

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee convened to have briefing by the representatives of the Ministry of Information and Broadcasting (MIB) in connection with the examination of the subject 'Review of functioning of Central Board of Film Certification (CBFC).

(The witnesses were then called in)

3. Thereafter, the Chairperson welcomed the officials of the Ministry of Information and Broadcasting and CBFC to the sitting of the Committee. Drawing their attention to the rapidly changing landscape of cinema, the technology associated with it and the audience, the Chairperson in his remarks desired to know whether the guidelines issued by the Central Government for film certification in 1991 need an overhaul. He also desired to know the extent to which CBFC has fulfilled the mandate given to it under the Cinematograph Act of 1952 and its subsequent amendment in 1983. He then enquired about the budgetary aspects of CBFC, infrastructure related issues and also about numerous landmark judgments arising out of a conflict between the fundamental right to speech and expression and the restrictions imposed under Article 19(2) of Constitution and their relevance in the present context.

4. Subsequently, the representatives from the M/o I&B and CBFC made a brief presentation highlighting the organizational structure of CBFC, functioning and

achievements of present CBFC Board, certification process, Cinematograph Act 1952, Certification Rules 1983 and Guidelines, other Acts/Rules that CBFC relies upon while certifying films, the Categories of Certificates, automation in CBFC, CBFC's Online Certification System – 'e-cinepramaan', etc. They also briefed the Committee about the proposed upgradation in CBFC.

5. The Committee, then, desired to know the relevance of screening and censorship in today's world particularly in light of OTT (Over the Top) platforms, regulation of OTT platforms, possibility of usage of AI for censorship and reducing human interference. The Committee also sought clarification on the existing grievance redressal mechanism available to film makers whose identical content is rejected whereas that of others is accepted. In addition, the Committee deliberated on issues like certifying films for personalized viewing *vis-à-vis* collective viewing, having transparency in certification and removing procedural hurdles to get certification from CBFC, simplifying the process of receiving clearance from Animal Welfare Board of India (AWBI), measure to reduce impact of Covid-19 lockdown, etc.

6. The Committee also desired to know the status of non-implementation of the recommendations of the two expert Committees *viz.* Justice Mukul Mudgal Committee (constituted in 2013 to examine the issues of certification under the Cinematograph Act, 1952) and Shri Shyam Benegal Committee (constituted in 2016 to evolve broad guidelines/procedures for certification of films). To this, the representative from the Ministry stated that they are at an advanced stage where they have to take a decision as to which recommendations are to be finally accepted. Once the approval of the Minister is through, the Cabinet Note will be ready for circulation for inter-Ministerial consultations and then it will go to the Cabinet. The Committee also deliberated on the problems/constraints encountered by CBFC in performing its role for film certification to the fullest and on the membership of CBFC. The representatives of M/o I&B and CBFC responded to most of the queries raised by the Members. The Chairperson, then, directed that written replies to points on which information were not readily available may be furnished to the Committee.

7. The Chairperson, then, thanked the representatives of representatives of M/o I&B and CBFC for depositing before the Committee.

The witnesses then withdrew.

A copy of verbatim record of the proceedings was kept on record.

The Committee, then, adjourned.

**MINUTES OF THE SIXTEENTH SITTING OF THE STANDING COMMITTEE ON
INFORMATION TECHNOLOGY (2020-21)**

The Committee sat on Thursday, the 4th February, 2021 from 1400 hours to 1550 hours in Committee Room No. 2, Extension to Parliament House Annexe, New Delhi.

PRESENT

Dr. Shashi Tharoor - Chairperson

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Shri Sunny Deol
4. Dr. Nishikant Dubey
5. Ms. Mahua Moitra
6. Shri Santosh Pandey
7. Col. Rajyavardhan Singh Rathore
8. Dr. Gaddam Ranjith Reddy
9. Shri Jayadev Galla
10. Shri Sanjay Seth
11. Dr. T. Sumathy (A) Thamizhachi Thangapandian
12. Shri Bhanu Pratap Singh Verma
13. Smt. Sumalatha Ambareesh

Rajya Sabha

14. Dr. Anil Agrawal
15. Shri Suresh Gopi
16. Shri Syed Nasir Hussain
17. Shri Syed Zafar Islam

SECRETARIAT

- | | | | |
|----|---------------------|---|---------------------|
| 1. | Shri Y.M. Kandpal | - | Joint Secretary |
| 2. | Shri H. Ram Prakash | - | Director |
| 3. | Dr. Sagrika Dash | - | Additional Director |

LIST OF NON-OFFICIAL WITNESSES

Sl. No.	Name	Designation
1.	Ms Vani Tripathi Tikoo	Member, CBFC and Actor
2.	Shri Kabir Khan	Film Director

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee convened to hear the views of the individuals/stakeholders/organisations in connection with the examination of the subject 'Review of functioning of Central Board of Film Certification (CBFC).

(The witnesses were then called in)

3. Thereafter, the Chairperson welcomed the Non-official witnesses to the sitting of the Committee and informed them that the representatives from other two organisations viz. Indian Motion Pictures Producers' Association (IMPPA) and Film Federation of India (FFI) who were also supposed to join the sitting could not make it due to their indisposition.

4. The Chairperson, in his opening remarks, drew the attention of the non-official witnesses to the rapidly changing landscape of cinema, the audience and the technology associated with it and stated that the present day needs and aspirations of the audience have necessitated the need for a fresh look into the relevance of concept of censorship and sought their views in the matter. Drawing attention to the uncensored contents in OTT platforms, he wondered if the OTT platforms should undergo some sort of processes and categories that creative contents in cinema theatres undergo or should OTT platforms be allowed to have some kind of self-certification. He also sought the views of representatives on other important issues such as certification process, Cinematograph Act 1952, categories of Certificates, status of automation/digitisation in CBFC, problems/constraints encountered by Producers, Directors, film makers, etc. in getting their film certified by CBFC etc. Considering the importance of entertainment and creative industry in the economy, he sought guidance from the witnesses in finding a right sort of balance without resorting to restrictions and regulations which may impact the ability of this industry.

5. Thereafter, the Member, CBFC and Actor, Ms. Vani Tripathi Tikoo shared her views on the relevance of censorship in today's world in view of the paradigm shift in creation and consumption of content, existing certification process and categories in India and around the world, new initiatives taken by CBFC through strengthened and empowered

dialogues with film industry on certification part, difference in content being watched collectively and individually, need for amending 'The Cinematograph Act of 1952', etc. She also briefed the Committee about her Report titled 'Embracing NonLinearity: The Future of India's Entertainment Industry', which she co-authored with Shri Shekhar Kapur, and stated that the report speaks about the creative freedom and looks at non-linear narratives of creating stories. She also stated that this, immersive story telling is the way forward and it also means gaming, augmented reality and artificial intelligence. Expressing concern over inadequate dialogue about content creation she felt the need for a deeper dialogue around this. She also stated that there is a need to have a standard Code for looking at how content is being put out and for looking at the best practices around the world with industry representatives on board. Coming to OTT platforms, she apprised the Committee that there are no real numbers available as to the subscription of OTT platforms and in India there is a need for literacy and awareness creation towards parental control and just putting a disclaimer or putting age related classification is a matter of debate.

6. Thereafter, Shri Kabir Khan, Film Director, presented his views from a film maker perspective and shared his experiences about the present system of certification/censoring. He supported the idea to have regulations/systems that work without human contact once the major guidelines are put in place. Expressing reservations over the present system of cuts in CBFC, he opined that this interferes with content creator work and expressed hope that implementation of recommendations of Shyam Benegal Committee could circumvent this problem. He was also of the view that regulation or over regulations can constrict the creativity. While supporting the idea self-regulation by the film makers and he was of the view that regulation of OTT content needs a serious consideration. He also drew the attention of the Committee to the contribution of the Film Industry to country's economy and soft power that Indian cinema can leverage for the country. He emphasized the need for having ease of doing business for multinationals in view of the vast potentials our country does have.

7. The Chairperson and the Members of the Committee, then raised various queries regarding grievances of film producers on cumbersome and undue procedures involved with the certification procedure in the CBFC, regulatory framework for OTT platforms, voluntarily code of conduct for the film industry, promoting domestic content, public audit of OTT content, propagating creativity with ethos, personalized viewing vs. collective viewing, IPR issues, etc. Both the witnesses responded to the queries raised by the Members.

8. The Chairperson, then, thanked both the non-official witnesses for deposing before the Committee.

The witnesses then withdrew.

A copy of verbatim record of the proceedings was kept on record.

The Committee, then, adjourned.

**MINUTES OF THE TWENTY-SECOND SITTING OF THE STANDING COMMITTEE ON
INFORMATION TECHNOLOGY (2020-21)**

The Committee sat on Monday, the 15 March, 2021 from 1500 hours to 1705 hours in Committee Room C, Parliament House Annexe, New Delhi.

PRESENT

Dr. Shashi Tharoor - Chairperson

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Smt. Raksha Nikhil Khadse
4. Shri Dhairyasheel Sambhajirao Mane
5. Shri Santosh Pandey
6. Col. Rajyavardhan Singh Rathore
7. Dr. Gaddam Ranjith Reddy
8. Shri Sanjay Seth
9. Shri Bhanu Pratap Singh Verma
10. Smt. Sumalatha Ambareesh

Rajya Sabha

11. Shri Syed Zafar Islam
12. Dr. Narendra Jadhav

Secretariat

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|----|---------------------|---|---------------------|
| 1. | Shri Y.M. Kandpal | - | Joint Secretary |
| 2. | Shri H. Ram Prakash | - | Director |
| 3. | Dr. Sagarika Dash | - | Additional Director |

LIST OF WITNESSES

MINISTRY OF INFORMATION AND BROADCASTING

Sl. No.	Name	Designation
1.	Shri Amit Khare	Secretary
2.	Ms Neerja Sekhar	Additional Secretary
3.	Ms Anju Nigam	Joint Secretary (Films)
4.	Shri Vikram Sahay	Joint Secretary (P&A)
5.	Ms Dhanpreet Kaur	Director (Films)
6.	Shri Ravinder Bhakar	Chief Executive Officer, CBFC

MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

1.	Shri Ajay Prakash Sawhney	Secretary
2.	Dr. Rajendra Kumar	Additional Secretary
3.	Shri Rakesh Maheshwari	Group Coordinator, Cyber Law and Scientist 'H'
4.	Shri Prafulla Kumar	Senior Director, Cyber law and Scientist 'H'

8. At the outset, the Chairperson welcomed the Members to the sitting of the Committee convened to hear the views of the representatives of the Ministry of Information and Broadcasting (MIB) and the Ministry of Electronics and Information Technology (MeitY) on 'The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021' in the context of examination of the subject 'Review of functioning of Central Board of Film Certification (CBFC)' selected by the Committee.

(The witnesses were then called in)

9. Thereafter, the Chairperson welcomed the officials of the MIB, CBFC and MeitY to the sitting of the Committee. Drawing their attention to 'The Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021', notified on 25th February, 2021, the Chairperson in his remarks desired to know about their plan/roadmap to implement these Rules alongwith the

problems/constraints which may be faced by the Ministries in implementing the new guidelines and implications of the new Rules on free speech, journalistic freedom, artistic creativity, etc. He also drew their attention to the concerns being raised about bringing these rules without any apparent consultation with relevant stakeholders and even to the fact that the Committee were not consulted in advance either and asked the Ministries to provide details of the complaints/suggestions received from civil society, film-makers, political leaders, trade organisations, etc. and the Ministries' preparedness to handle challenges including court cases that might arise from these new Rules. He also desired to know in detail about various related issues which *inter-alia* included oversight mechanisms, plans for having Inter-Departmental Committees for hearing grievances and coordination, mechanism for ensuring reliable age verification for content classification and for the parental lock system, status of implementation of the Reports of Mukul Mudgal Committee and the Shyam Benegal Committee etc.

10. Subsequently, the representatives from the MIB made a brief presentation on the IT Rules 2021, highlighting the scope of the Rules, Digital Media Ethics Code, Grievance Redressal Mechanism, Information Disclosure, Benefits and Outcomes of the Rules, etc. Stressing on the need for bringing these Rules, the Secretary, MIB informed that for bringing level playing field between Online & Offline News Media new Rules were notified. Justifying the new Rules, Secretary, MIB stated that they have taken mid-path between the two extreme views one in which a two-judge bench of the Hon'ble Supreme Court had observed that these Rules lack teeth and be made stricter with penal provisions whereas the other view demanding total freedom. Further, the Committee were informed that Part-I of the Rules is preliminary and provides definitions, Part-II relates to 'Intermediaries' and shall be administered by MeitY whereas Part-III relates to Digital Media Ethics Code and shall be administered by the MIB. The representatives of MIB thereafter elaborated the key aspects of the 'IT Rules, 2021' which *inter-alia* included 'code of Ethics', self-classification of content into five age based categories - U (Universal), U/A 7+, U/A 13+, U/A 16+, and A (Adult), due diligence to be done by the Intermediaries, three-tier grievance redressal mechanism with 'Publisher' being at Level-I, self regulating body at Level-II and at level-III the oversight mechanism by the MIB, etc. The Secretary, MIB informed the Committee that the film industry and others have actually welcomed these new Rules as this institutional mechanism may actually be in favour of the OTT platforms because the plethora of FIRs which are being filed all over the country against OTT may, in fact come down.

11. Thereafter, the representatives from the MeitY made a brief presentation on the Rules 2021, highlighting the process of amendment in 'The Intermediaries Guidelines Rules, 2011' and the changes related to the 'Intermediaries' in the new Rules. On the need for bringing the changes related to 'Intermediaries', which is defined under Section 2(w) of the IT Act, the representative of MeitY stated that the 'Intermediaries' are no longer very pristine intermediaries as they are no longer passive players and they tend to behave like publishers and therefore the changes have been brought. Elaborating on this issue it was stated that Section 79 of the IT Act provides exemption to intermediaries who fulfill certain conditions. The representatives of MeitY also highlighted the salient features with respect to the guidelines related to Social Media to be administered by MeitY which

included (i) due diligence to be followed by Intermediaries, (ii) grievance redressal mechanism, (iii) ensuring online safety and dignity of users, specially women users, (iv) two Categories of social media Intermediaries, (v) additional due diligence to be followed by significant social media intermediary by appointing a Chief Compliance Officer, publishing a monthly compliance Report, etc. (vi) identification of the first originator of the information (vi) Intermediary not required to disclose the contents of any message or any other information to the first originator, (vii) significant social media intermediary to have a physical contact address in India published on its website or mobile app or both, (viii) voluntary user verification mechanism, (ix) giving users an opportunity to be heard, (x) removal of unlawful Information, etc. They also elaborated on various other related issues which *inter-alia* included 'traceability', process of identification of the first originator of the information, users getting an opportunity to be heard, having only government bureaucrats in the third level of Grievance Redressal mechanism etc.

12. After the power point presentation, the Committee sought clarification on various issues like legislative and constitutional basis for bringing the Rules, need to give more explicit meaning to the term used like 'Public order' to avoid undue harassment to innocent parties due to any ambiguity, emergency power vested with the Secretary, MeitY in case of any emergent requirement, obligation of Intermediaries' under the IT Act and the new Rules, appointment of Grievance Redressal Officer by the platform who has more than five million registered users in India, court cases related to the new Rules, impact of the new Rules on functioning of CBFC and Censorship, Plans to make changes in the functioning and structure of CBFC or in the Rules/Acts related to the CBFC, plans to harmonize the new rules with the existing Rules/Acts such as the Press Council of India Act, the Cinematograph Act, the Programme Code under the CTN Regulation Act, etc. The Committee also desired to know the reason for non-implementation of recommendations of Mukul Mudgal Committee and the Shyam Benegal Committee and desired for a copy of the Reports. The Committee also asked the Ministries to clarify on the concerns raised in one of the Memoranda/representations received from the Associate Policy Counsel of Internet Freedom Foundation. The representatives of MIB and MeitY responded to most of the queries raised by the Members. The Chairperson, then, directed that written replies to points on which information were not readily available may be furnished to the Committee.

13. The Chairperson, then, thanked the representatives of MIB, MeitY and CBFC for deposing before the Committee.

The witnesses then withdrew.

A copy of verbatim record of the proceedings was kept on record.

The Committee, then, adjourned.

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY
(2020-21)
MINUTES OF THE TWENTY SIXTH SITTING OF THE COMMITTEE**

The Committee sat on Tuesday, the 6th July, 2021 from 1600 hours to 1730 hours in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

Dr. Shashi Tharoor - Chairperson

MEMBERS

Lok Sabha

2. Smt. Locket Chatterjee
3. Shri Karti P. Chidambaram
4. Dr. Nishikant Dubey
5. Smt. Raksha Nikhil Khadse
6. Ms. Mahua Moitra
7. Shri Santosh Pandey
8. Dr. Gaddam Ranjith Reddy
9. Shri Sanjay Seth
10. Shri L.S. Tejasvi Surya
11. Shri Bhanu Pratap Singh Verma

Rajya Sabha

12. Dr. Anil Agrawal
13. Shri Y.S. Chowdary
14. Shri Shaktisinh Gohil
15. Shri Md. Nadimul Haque
16. Shri Syed Nasir Hussain
17. Shri Syed Zafar Islam

Secretariat

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|--------------------------|---|---------------------|
| 1. Shri Y.M. Kandpal | - | Joint Secretary |
| 2. Shri H. Ram Prakash | - | Director |
| 3. Dr. Sagarika Dash | - | Additional Director |
| 4. Shri Shangreiso Zimik | - | Deputy Secretary |

List of Witnesses

Ministry of Electronics and Information Technology (MeitY)

<i>Sl. No.</i>	<i>Name</i>	<i>Designation</i>
1.	Shri Ajay Prakash Sawhney	Secretary
2.	Smt. Jyoti Arora	Special Secretary and Financial Advisor
3.	Dr. Rajendra Kumar	Additional Secretary
4.	Shri Rakesh Maheshwari	Scientist 'G' & Group Coordinator
5.	Dr. Sanjay Bahl	DG, CERT-In

Ministry of Information and Broadcasting (MIB)

<i>Sl. No.</i>	<i>Name</i>	<i>Designation</i>
1.	Shri Vikram Sahay	Joint Secretary

2. At the outset, Chairperson welcomed the Members to the sitting. of the Committee and informed them that the said sitting has been convened for a briefing by the representatives of Ministry of Electronics and Information Technology (MeitY) and Ministry of Information and Broadcasting (MIB) on the subject 'Safeguarding citizens' rights and prevention of misuse of social/online news media platforms including special emphasis on women security in the digital space'.

[The representatives of MeitY and MIB were then called in]

3. Chairperson welcomed the representatives of MeitY and MIB to the sitting of the Committee. They were asked to brief the Committee on the Intermediary Guidelines and Digital Media Ethics Code Rules, 2021 including issues such as efficacy of the consultation process, the extent to which it achieved a consensus or common ground amongst the various stakeholders, reported opposition to Intermediary Guidelines and Digital Media Ethics Code Rules, 2021 by some intermediaries and online news portals on grounds such as lack of inherent safeguards for the intermediaries, personal liability risk to the Chief Compliance Officer mandated under the rules, ambiguity on expanded scope of

content takedown and lack of clarity on designated authorities empowered to issue content takedown orders etc.

4. Members enquired about the rationale behind bringing the Digital Media Ethics Code under the ambit of the Intermediary Guidelines and Digital Media Ethics Code Rules, 2021, compliance to the new rules by the social media intermediaries, end to end encryption feature in WhatsApp and scope and feasibility of traceability of messages in WhatsApp, new privacy policy announced by WhatsApp and its implication, etc. They also desired to know global position on breaking encryption and traceability, protection to social media platforms under safe harbor provision, legal and regulatory framework for emerging technologies such as Artificial Intelligence, Machine Learning and Internet of Things, etc. Members also sought clarification on loss of safe harbor protection to Twitter due to non-compliance of Intermediary Guidelines Rules.

5. The representatives of MeitY and MIB, thereafter responded to the queries raised by Members. The representatives of MeitY elaborated on issues related to Intermediary Guidelines and Digital Media Ethics Code Rules, 2021 including technical feasibility of traceability of first originator of encrypted messages, implications of loss of safe harbor provisions, efficacy of compulsory verification of accounts in curbing malicious content etc. The representatives of MIB presented their views on inclusion of Digital Media Ethics Code in the Intermediary Guidelines, bringing the OTT platforms under the fold of Intermediary Guidelines, take-down powers and emergency provisions contained in the Digital Media Ethics Code, their impact on freedom of expression and legal challenges to validity of Digital Media Ethics Code etc.

6. The Chairperson, then, thanked the representatives of MeitY and MIB for deposing before the Committee and directed that written replies to points on which information was not readily available may be furnished to the Committee.

The representatives of MeitY then withdrew

Verbatim proceedings of the sitting have been kept on record.

The Committee, then, adjourned.

**MINUTES OF THE TWENTY-EIGHTH SITTING OF THE STANDING COMMITTEE ON
INFORMATION TECHNOLOGY (2020-21)**

The Committee sat on Tuesday, the 27th July, 2021 from 1600 hours to 1845 hours in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

Dr. Shashi Tharoor – Chairperson

MEMBERS

Lok Sabha

1. Shri Karti P. Chidambaram
2. Ms. Mahua Moitra
3. Shri P. R. Natarajan
4. Shri Jayadev Galla
5. Dr. T. Sumathy (A) Thamizhachi Thangapandian
6. Smt. Sumalatha Ambareesh

Rajya Sabha

7. Shri Shaktisinh Gohil
8. Shri Suresh Gopi
9. Shri Md. Nadimul Haque
10. Shri Syed Nasir Hussain
11. Dr. Narendra Jadhav

SECRETARIAT

- | | | | |
|----|--------------------|---|---------------------|
| 1. | Shri Y.M. Kandpal | - | Joint Secretary |
| 2. | Shri H.Ram Prakash | - | Director |
| 3. | Dr. Sagarika Dash | - | Additional Director |

LIST OF WITNESSES

Non-Official

Sl. No.	Name	Designation
1.	Shri Kamal Haasan	Actor/ dancer/ film director/ screenwriter/ producer/ playback singer/ lyricist
2.	Sri Nitin Tej Ahuja,	CEO, Producers Guild of India
3.	Shri Siddharth Jain,	Secretary General, Indian Broadcasting & Digital Foundation (IBDF)
4.	Shri Pranav Bhatnagar	Senior Associate–Legal, Sony Pictures Networks India Private Limited

Official

Ministry of Information and Broadcasting

1.	Shri Amit Khare	Secretary
2.	Ms. Neerja Sekhar	Additional Secretary
3.	Ms. Dhanpreet Kaur	Director (Films)

Central Board of Film Certification

4.	Shri Prasoon Joshi	Chairman, CBFC
5.	Shri Ravinder Bhakar	Chief Executive Officer

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee convened to hear the views of individuals/stakeholders/organisations and the representatives of the Ministry of Information and Broadcasting (MIB) and the Central Board of Film Certification (CBFC) in connection with the examination of the subject 'Review of functioning of Central Board of Film Certification (CBFC)' in the context of the draft 'Cinematograph (Amendment) Bill, 2021'. He thereafter informed the Members about the nomination of three new Members in the Committee, namely, Smt. Sunita Duggal, Shri Ganesh Singh and Shri Parvesh Sahib Singh (*vice* Shri Sunny Deol) and welcomed them.

(The Non-official witnesses were then called in)

3. The Chairperson, in his opening remarks, welcomed the Non-official witnesses to the sitting of the Committee and drew their attention to the recent developments *viz.* new mandate given to the M/o I&B, abolition of the Film Certification Appellate Tribunal (FCAT), notification of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and the draft 'Cinematograph (Amendment) Bill, 2021' which had a direct/indirect bearing on the film industry, certification process and also on the role of statutory bodies like CBFC. Pointing out at rapidly changing landscape of cinema and the technology associated with it, he stated that it has necessitated a fresh

and holistic look into the functioning of CBFC in consonance with the present day needs and aspirations of the audience especially with the emergence of digital media and OTT platforms. He also flagged concern over the relevance of censorship today as certification of content has become a global phenomenon. He invited the views of the non-official witnesses on these and various other issues which *inter alia* included role of CBFC, censorship versus certification, regulatory framework for OTT platforms, international practices in vogue, 'Cinematograph (Amendment) Bill, 2021', abolition of the FCAT, new IT Rules, 2021, etc.

4. Thereafter, Shri Kamal Haasan, one of the non-official witnesses while drawing attention of the Committee to the Shyam Benegal Committee recommendations on the certification and guidelines desired that the same should be implemented. On the role of CBFC, he was of the view that the members of CBFC should not be members appointed by the Central Government instead the CBFC should be an independent self-regulatory body comprising of people appointed by the industry similar to a Broadcasting Content Complaints Council (BCCC) for the non-news television content. He advocated the idea that the contents of the film should be self-regulated just as in the case of television or OTT platforms and the certifying process of CBFC should be faceless and any unconstitutional interference with the right to speech and expression under article 19(1)(a) would only result in spate of litigations. He proposed that the provisions of Section 5E and 5F of Cinematographic Act 1952 should be repealed. While opposing the proposed amendment related to revisionary powers vesting with the Government in the new Amendment Bill, 2021, he was of the view that if the Central Government is aggrieved by a certification, it should subject itself before a judicial review to challenge the certification issue. He added that the retrospective nature of the proposed amendment is most sinister because if a film once certified loses its certification on account of any whimsical decision of a transient executive, the same shall snowball into multifarious legal issues, contractual violations and severe economic losses.

5. Thereafter, another non-official witnesses, Shri Siddharth Jain, Secretary General, IBDF and Shri Pranav Bhatnagar, Senior Associate–Legal, Sony Pictures Networks India Private Limited, both representing IBDF presented industry's perspective on the subject. Pointing to the fact that the line between linear television, digital OTT platforms or cinema halls is very quickly blurring, the Secretary General, IBDF did not support the idea of the age based classification. On the measures enumerated in the Cinematograph Act against piracy, he stated that since piracy is the biggest bane in the country, more draconian measures need to be taken against it. They supported the proposal to issue a certificate that is valid in perpetuity. With regard to the working of CBFC, they stated that it still remains in the little previous ages and therefore recommended some online measures. On the issue of revisionary powers, they reminded of the Supreme Court judgment in Union of India versus K.M. Shankarappa which was already in place.

6. Shri Nitin Tej Ahuja, CEO, IBF, on behalf of the Federation welcomed the idea of perpetual validity of the censor certificate as well the proposal that looks at tightening anti-piracy provisions. Besides, he also desired that certificate category needs to be broader and the current regime of U, UA, PG and Adult is restrictive and clarity is needed as to what all these categories would constitute for different age groups so that there is no confusion both at the end of content creators as also at the exhibitors' end when they have to actually check who is coming to the theatres. However, expressing concern over the proposed amendment to Section 6(1), he stated that it is not only bad in law but also at odds with constitutional guarantees which would create havoc in the film industry.

7. The Chairperson and the Members of the Committee, thereafter, raised various queries relating to the amendments made in the Cinematograph (Amendment) Bill, 2021' which *inter-alia* included age based certification of films, issues of re-examination of films, powers of Central Governments to override decisions of CBFC, implementation of Shyam Bengal and Mukul Mudgal Committee Reports, etc. Members also raised their concerns regarding the 'Cinematograph (Amendment) Bill, 2021' and wondered if they were consulted before drafting of the Cinematograph (Amendment) Bill, 2021'. To this, they replied in negative and informed that other several associations like the Film & TV Directors' Association, the Screenwriters Association, etc., were also not consulted. To an another query from the Members regarding consultations held before abolition of the FCAT, the non-official witnesses replied in negative. With respect to changes in CBFC, one of the non-official witnesses stated that it should move in the direction for film certification and content certification with necessary steps put in. The Members also dwelt upon other issues like relevance of CBFC today, impact of intermediary guidelines in IT Rules, 2021, etc. During the deliberations, the general sentiment of the witnesses was that the Indian cinema and its content through OTT platforms today has been one of the most effective purveyors of India's soft power and has the potential to expand globally which requires creative freedom in order to reach worldwide.

8. The Chairperson, then, thanked the Non-official witnesses for deposing before the Committee.

*(The Non-official witnesses then withdrew and
the representatives of the Ministry and CBFC were called in)*

9. Thereafter, the Chairperson welcomed the representatives of the Ministry of Information and Broadcasting (MIB) and Central Board of Film Certification (CBFC) to the sitting of the Committee and drew their attention to the views/concerns of the film industry relating to the functioning of CBFC in the context of the amendments made in the draft 'Cinematograph (Amendment) Bill, 2021'. He pointed out various concerns of individuals/stakeholders/organizations over amendments made in the Bill, 2021 and reasons for keeping them out of consultation process before bringing out Cinematograph (Amendment) Bill, 2021 and abolition of FCAT. He also sought Ministry's response to another important issue raised by the PGI regarding re-certification and its impact on

producers. He also desired specific response of the Ministry on the role of CBFC in light of all the recent amendments, concerns related to OTT platforms, submission of Industry to reinstate FCAT, etc.

10. Responding to the queries of the Committee, the Chairperson, CBFC, stated that the role of the CBFC is to strike a balance between sensibility and societal sensitivity and they have been trying to do best and they do not see any need for intervention as there is a sufficient mechanism in CBFC. Besides, if this provision was to come in, it would create an unnecessary layer. To a query, about CBFC being consulted formally or informally before the new Bill, 2021 was drafted, he replied in negative. On the question of censorship vis-à-vis certification culture, he stated that it is a larger debate because India is a layered country and the way CBFC is functioning today, most of the times, barring a few cases related to country's sovereignty/security issues, there has been never a disagreement and most of times, the deletions or changes have been voluntary.

11. Subsequently, the Secretary, MIB explained the amendments proposed in the new draft Bill, 2021 and stated that the proposal to amend the Act is still at the consultation stage and no final view has been taken on the draft 'Cinematograph (Amendment) Bill, 2021'. On the amendment related to revisionary powers of the Central Government, he clarified that the Government will not review the film and instead may ask CBFC to do so. Thus, the Government is not taking the power but unfortunately, the impression has been made otherwise. He also responded to other queries of the Members related to amendments proposed in the Bill.

12. The Chairperson, then, thanked the representatives of Ministry of Information and Broadcasting and CBFC for deposing before the Committee and desired that written replies to the queries unanswered may be furnished at the earliest.

The witnesses then withdrew.

A copy of verbatim record of the proceedings was kept on record.'

The Committee, then, adjourned.

**STANDING COMMITTEE ON INFORMATION TECHNOLOGY
(2021-22)**

MINUTES OF THE THIRD SITTING OF THE COMMITTEE

The Committee sat on Wednesday, the 17th November, 2021 from 1100 hours to 1305 hours in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

Dr. Shashi Tharoor- Chairperson

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Smt. Sunita Duggal
4. Dr. Sukanta Majumdar
5. Ms. Mahua Moitra
6. Shri Santosh Pandey
7. Shri Sanjay Seth
8. Smt. Sumalatha Ambareesh

Rajya Sabha

9. Dr. Anil Agrawal
10. Shri John Brittas
11. Shri Suresh Gopi
12. Shri Jawhar Sircar

Secretariat

- | | | | |
|----|-----------------------|---|---------------------|
| 1. | Shri Y. M. Kandpal | - | Joint Secretary |
| 2. | Dr. Sagarika Dash | - | Additional Director |
| 3. | Shri Shangreiso Zimik | - | Deputy Secretary |

List of Witnesses

Ministry of Information and Broadcasting

Sl. No.	Name	Designation
1.	Shri Apurva Chandra	Secretary
2.	Ms Neerja Sekhar	Additional Secretary
3.	Ms Dhanpreet Kaur	Director (Films)

Central Board of Film Certification

1.	Shri Prasoon Joshi	Chairman
2.	Shri Tushar Karmakar	Regional Officer, CBFC, Mumbai

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee convened to consider and adopt four draft Action Taken Reports on Demands for Grants (2021-22) relating to the Ministries/Departments under their jurisdiction and to take evidence of the representatives of the Ministry of Information and Broadcasting on the subject 'Review of functioning of Central Board of Film Certification (CBFC)' with special emphasis on Mukul Mudgal and Shyam Benegal Committee Reports.

3. The Committee, then, took up the following draft Action Taken Reports for consideration and adoption.

- (i) Draft Action Taken Report on Demands for Grants (2021-22) of the Ministry of Communications (Department of Posts);
- (ii) Draft Action Taken Report on Demands for Grants (2021-22) of the Ministry of Communications (Department of Telecommunications);
- (iii) Draft Action Taken Report on Demands for Grants (2021-22) of the Ministry of Electronics and Information Technology; and
- (iv) Draft Action Taken Report on Demands for Grants (2021-22) of the Ministry of Information and Broadcasting

4. After due deliberations, the Committee adopted the draft Action Taken Reports at Sl. Nos. (ii) and (iii) without any modifications and draft Action Taken Reports at Sl. No. (i) and (iv) with slight modifications. The Committee also authorized the Chairperson to finalize the draft Action Taken Reports and present the Reports to the House during the next Session of Parliament.

5. Before the Committee took up the next agenda, Hon'ble Chairperson drew the attention of the Members to the widespread coverage of the observations/recommendations in the Report 'Suspension of Telecom Services/Internet and its impact' considered and adopted by the Committee the previous day i.e. on 16th November and also the deliberations held by the Committee with Ministry of Electronics and Information Technology on the Subject 'Review of functioning of Unique Identification Authority of India (UIDAI)' in various newspapers. He cautioned the Members that this was in clear violation of Rule 275 (2) & (3) of Rules of Procedure and Conduct of Business in Lok Sabha and Direction 72(2) of Directions by the Speaker Lok Sabha. He requested Members to strictly adhere to the Rules and Directions and also to maintain strict confidentiality of the proceedings of the Committee which otherwise constitutes a breach of privilege of the Committee.

(The witnesses were, then, called in)

6. The Chairperson welcomed the representatives of the Ministry of Information and Broadcasting and Central Board of Film Certification to the sitting of the Committee and asked them to brief the Committee on the implementation status of the Benegal and Mudgal Committee Reports and the public comments received on the Draft Bill.

7. The representatives of the Ministry and CBFC gave a power point presentation covering various aspects such as the constitutional provisions for regulation of films, Cinematograph Act 1952, Certification Rules 1983 and Guidelines, the Cinematograph Amendment Bill, 2019 and Draft Cinematograph Amendment Bill, 2021, overview of the recommendations of the Mudgal and Benegal Committees, recommendations already implemented and recommendations requiring amendment or issue of executive orders, varying recommendations on similar issues and the way forward.

8. The representatives of the Ministry and CBFC further explained that the Cinematograph Act, 1952 had become obsolete which necessitated an overhaul in the form of the new Draft Bill, 2021. The changing scenario required a revisit of the categories of certification which needed to be age specific and the implementation of the same continues to pose a challenge. They further submitted that they have to take a final view of the voluminous comments received on the Bill and propose to have further consultations with the film bodies before presenting the Bill to the Parliament.

9. Members then raised queries on the Draft Cinematograph (Amendment) Bill, 2021 which *inter alia* included the mandate of the Mudgal and Benegal Committees, relevance of censorship, protection of artistic expression and creative freedom in the certification process, validity of certificates, certification standards for OTT platforms, quantum deletion of scenes, time frame for examination and certification, challenges faced in enforcing the certification in cinema halls, representation of women in the Advisory Panels, revisionary powers of Central Government in the Draft Bill, abolition of the Film Certification Appellate Tribunal, etc. which were replied to by the representatives. The Members also desired to know whether the Ministry propose to bring about an altogether new Cinematograph Act that is in tune with the present times or amend the Act of 1952 in piecemeal. The representatives of Ministry and Chairperson, CBFC presented their views on the issue.

10. The Chairperson, then, thanked the representatives of Ministry of Information and Broadcasting and Central Board of Film Certification for deposing before the Committee.

The witnesses, then withdrew.

Verbatim Proceedings of the sitting have been kept on record.

The Committee, then, adjourned.

**STANDING COMMITTEE ON COMMUNICATIONS AND INFORMATION
TECHNOLOGY
(2022-23)**

MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE

The Committee sat on Wednesday, the 26th July, 2023 from 1000 hours to 1055 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Prataprao Jadhav

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Shri Nishikant Dubey
4. Shri Santosh Pandey
5. Shri Sanjay Seth
6. Dr. T. Sumathy (A) Thamizhachi Thangapandian
7. Smt. Raksha Nikhil Khadse
8. Dr. Sukanta Majumdar
9. Ms. Mahua Moitra
10. Shri P.R. Natarajan
11. Shri Shatrughan Prasad Sinha
12. Dr. M. K. Vishnu Prasad
13. Shri Jayadev Galla

Rajya Sabha

14. Dr. Anil Aggarwal
15. Dr. John Brittas
16. Shri Syed Nasir Hussain
17. Shri Kartikeya Sharma
18. Shri Jawahar Sircar
19. Shri Lahar Singh Siroya
20. Shri Jaggesh
21. Shri Praful Patel

SECRETARIAT

- | | | |
|------------------------|---|------------------|
| 1. Shri Satpal Gulati | - | Joint Secretary |
| 2. Smt. A. Jyothirmayi | - | Director |
| 3. Shri Nishant Mehra | - | Deputy Secretary |

2. At the outset, the Chairperson welcomed the Members to the Sitting of the Committee convened to consider and adopt two Draft subject Reports relating to the Ministries/Departments under their jurisdiction.

3. The Committee, then, took up the following draft Reports for consideration and adoption.

(v) Draft Report on “Citizens’ data security and privacy” related to Ministry of Electronics and Information Technology.

(vi) Draft Report on “Review of functioning of Central Board of Film Certification (CBFC)” related to Ministry of Information and Broadcasting.

4. After due deliberations, the Committee adopted the draft Report on “Review of functioning of Central Board of Film Certification (CBFC)” with modifications.

5. As regards the draft Report on “Citizens’ data security and privacy” , some Members pointed out the Rule 331 H of the Rules of Procedure and Conduct of Business in Lok Sabha which *inter alia* states that the Committee shall consider only such Bills introduced in either of the Houses as are referred to them by the Chairman, Rajya Sabha or the Speaker, as the case may be and stated that the Draft Personal Data Protection Bill, 2023 had not been referred to the Committee. They also placed on record their disagreement with the Report which examined the Clauses of the said Bill. Some Members insisted that a division of votes may be conducted to determine the majority which was eventually not implemented. Further, some Members left the Sitting saying that a Whip had been issued to them to attend the House and some others left saying that the Report cannot be submitted to the Parliament as the Bill had not been referred to the Committee. One of the Members stated that he was submitting a dissent Note and the same was to be appended to the Report.

6. At the end of the Sitting, the Chairperson said that the Report was adopted. The remaining Members of the Committee authorized the Chairperson to finalize the draft Reports arising out of factual verification, if any, and present the Reports to the House during the current Session of Parliament.

The Committee, then, adjourned.