

PRESS RELEASE



**LOK SABHA SECRETARIAT
PARLIAMENT HOUSE
NEW DELHI**

THE FORTY-SEVENTH REPORT (SEVENTEENTH LOK SABHA) OF THE STANDING COMMITTEE ON COMMUNICATIONS AND INFORMATION TECHNOLOGY (2022-23) ON THE SUBJECT 'REVIEW OF FUNCTIONING OF CENTRAL BOARD OF FILM CERTIFICATION (CBFC)' RELATING TO THE MINISTRY OF INFORMATION AND BROADCASTING

1st August, 2023

The Standing Committee on Communications and Information Technology (2022-23) presented to Lok Sabha today, the 1st August, 2023, the Forty-seventh Report of the Committee on the subject 'Review of functioning of Central Board of Film Certification (CBFC)' relating to the Ministry of Information and Broadcasting. Some of the important Observations/Recommendations are as under:-

Subject	Observations/Recommendations
Better functioning of CBFC in achieving its mandate and objective – Recommended.	<u>Introductory</u> The Committee have noted 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 1 st 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)'. Since inception of CBFC it has witnessed a long and dynamic journey from being 'Board of film censors' to 'Central Board of Film Certification'. At the 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. With change in technology, governance, audience, and so on the Board has evolved. 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 was 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 found that CBFC under its current regime is pragmatic and believes in consultation with the stakeholders/film industry. Nonetheless, the Committee have opined that functioning of CBFC indeed necessitates certain changes to keep pace with the emerging technologies and changes in the film industry today particularly

	<p>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 the remotest part of the country warranting CBFC to function in tandem with the changes and fulfill their mandate. Accordingly, in the succeeding paragraphs of the Report, the Committee have made their Observations/Recommendations on various issues of Central Board of Film Certification. The Committee have hoped that these Recommendations would help in better functioning of CBFC and in achieving the mandate of CBFC and objective of film certification which <i>inter-alia</i> includes 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.</p> <p style="text-align: right;">(Recommendation No. 1)</p>
<p>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 Board – Desired.</p>	<p><u>Human Resource in CBFC</u></p> <p>The Committee have noted 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. 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. Over the 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 and hence no changes are proposed in the role, function and structure of CBFC. 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 have felt that it should be made obligatory to have one-third Members as Women in the CBFC Board and Advisory Panel. Further, with the growth of film industry and almost 3 fold increase in the number of feature films certification, the Ministry has conducted a detailed study of human resources of CBFC vis-à-vis workload. The Committee, have desired to be apprised about the outcome of the said study alongwith the measures taken for smooth functioning of the Organization. The Committee have also felt 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 have desired 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.</p> <p style="text-align: right;">(Recommendation No. 2)</p>
<p>To resolve the space constraints and related problems</p>	<p><u>Infrastructure of CBFC</u></p> <p>The Committee have been 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</p>

<p>witnessed by CBFC immediately – <i>Recommended.</i></p>	<p>theatre in the same premises. As far as Headquarter office of CBFC is concerned, it was stated that it also examines films for certification in the auditorium of Films Division located in the same premises. The Committee have noted 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. After merger of media units, the Films Division’s space and other space within the campus will also be available for CBFC. With these measures, the Committee have hoped that the space constraints and related problems witnessed by CBFC would be resolved and the theatres are used effectively. Nevertheless, the Committee have recommended the Ministry/CBFC to ensure that such constraints are addressed immediately so as to avoid its cascading effect on the functioning of CBFC.</p> <p style="text-align: right;">(Recommendation No. 3)</p>
<p>To adhere to time limit of certification process and even reduce it by streamlining the entire process – <i>Recommended.</i></p>	<p><u>Time limits for the certification process</u></p> <p>According to the Cinematograph (Certification) Rules, 1983 a time limit of 68 days for the film certification process i.e. from submission of complete application to issuing of certificate is prescribed. This 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 have been given to understand that all the films are certified within 68 days and CBFC did not have a backlog of more than a month’s time. Though by and large the time limit for certification process of 68 days is adhered to by CBFC, the Committee have recommended the Ministry/CBFC to adhere to time limit for certification process in letter and spirit in the light of the concerns raised by the stakeholders,. The Committee have called 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.</p> <p style="text-align: right;">(Recommendation No. 4)</p>
<p>To be considerate about the impact of the content of films on the public and on children and to increase objectivity in parameters for determining category while certifying films – <i>Desired.</i></p>	<p><u>Certification vis-à-vis Censorship</u></p> <p>The Committee have noted the contention as to 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. Most of the stakeholders from film industry voiced against any form of regulation and desired to have 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 have 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 have noted 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 that the creative freedom of filmmakers and rights of speech and expression should</p>

	<p>be protected, the Committee have felt 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.</p> <p>Furthermore, during deliberations on the issue of certification, the Member, CBFC submitted before the Committee that there are cultural nuances to every country. The Committee, therefore, have felt 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. The Committee have opined 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 have also felt that it will be grossly wrong to be heavy handed and to have over regulation. Hence the Ministry/CBFC/Film industry has to strike a balance between freedom of speech/creativity/artistic expression and at the same time be sensitive about the cultural diversity of the country and the impact of content of the film. The Committee, therefore, have desired and hoped the Ministry/CBFC along with the Film fraternity will make all endeavours to achieve this balance. Besides, in the light of paradigm shift in how content is created and consumed today, the Committee have urged the Ministry to holistically examine the type of certification model required for the Country and apprise the Committee accordingly. The Committee have also recommended 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.</p> <p style="text-align: right;">(Recommendation No. 6)</p>
<p>Amendment w.r.t. 'Validity of the Certificate' – Welcomed.</p>	<p><u>Validity of Certificate</u></p> <p>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 have noted 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 have noted that almost all stakeholders have welcomed and concurred with the amendment proposed regarding validity of certificates in the 'Cinematograph (Amendment) Bill, 2021'. The Committee have welcomed the move of the Ministry in initiating this amendment.</p> <p style="text-align: right;">(Recommendation No. 7)</p>

<p>Exception mechanism of Revisionary power to be given to the Government should not become a general rule – Recommended.</p>	<p><u>Revisionary power of the Government</u></p> <p>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 is 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. Regarding this proposed amendment in ‘ The Cinematograph (Amendment) Bill, 2021’, the Chairperson, CBFC had 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 proposed 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. While noting that ‘The Cinematograph (Amendment) Bill, 2023’ has been introduced in Rajya Sabha on 20th July, 2023 the Committee have hoped that the Ministry have taken into consideration all the concerns raised during deliberations on the subject.</p> <p style="text-align: right;">(Recommendation No. 8)</p>
<p>All the issues affecting the functioning of CBFC, as expressed in Reports of Mukul Mudgal Committee and Shyam Benegal, be considered while revising the ‘Cinematograph (Amendment) Bill’ – Urged.</p>	<p><u>Act/ Rules/Guidelines related to functioning of CFBC</u></p> <p>The Committee have noted 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 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 were 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 address the concerns of</p>

	<p>the film industry and to make them active partners in the regulatory ecosystem.</p> <p>The Committee have also noted that the recommendations of the two Committees, viz. Mukul Mudgal Committee and Shyam Benegal Committee, are yet to be implemented in toto. Having expressed disapproval in the delay by the Ministry in taking concrete action on these two Reports for more than 6 years, the Committee have strongly urged the Ministry to implement the recommendations depending on the feasibility and ensure avoidance of such excessive delays in future. The Committee have also desired to be informed whether the concerns expressed by the Committee on the subject were considered in 'The Cinematograph (Amendment) Bill, 2023' introduced in the House.</p> <p style="text-align: right;">(Recommendation No. 10)</p>
<p>Decisions to abolish a body like FCAT, which meant for grievance redressal, should be done after thorough discussions with the respective stakeholders – Recommended.</p>	<p><u>Film Certification Appellate Tribunal (FCAT)</u></p> <p>The Committee have noted that with the 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 have seen merit in the Government's justification in abolishing FCAT. Nonetheless, the Committee have taken into cognizance the submissions of the stakeholders that such experts Appellate Tribunal not only enables</p>

	<p>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 have felt 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, have recommended the Ministry to have extensive/wider consultation so as to have negligible grievances and court cases after implementation of such decision. The Committee have desired 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.</p> <p style="text-align: right;">(Recommendation No. 11)</p>
<p>To fix a time line and expedite redressal of pending vigilance cases and grievances of Producers/Directors/other Stakeholders of the Film industry and to have single window/platform and a help line number for complaint registration – Urged.</p>	<p><u>Grievance Redressal Mechanism</u></p> <p>The Committee have noted 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.</p> <p>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, the 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 the 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 have urged 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</p>

	<p>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.</p> <p style="text-align: right;">(Recommendation No. 12)</p>
<p>The efforts of Ministry for sensitizing film makers about the accessibility standards for persons with disabilities should have tangible outcomes – Urged.</p>	<p><u>Initiatives for person with special needs</u></p> <p>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 persons with special needs by using Audio Description and closed captioning in films. However, the Committee have noted 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. Expressing concern about the shoddy implementation of accessibility standards for persons with disabilities the Committee have urged the Ministry to ensure that their efforts for sensitizing film makers about the accessibility standards has tangible outcomes.</p> <p style="text-align: right;">(Recommendation No. 13)</p>
<p>To adopt a balanced approach while bringing any Act/ Guideline/ Policy changes by ensuring protection to the artistic freedom and creativity – Recommended.</p>	<p><u>International practices</u></p> <p>The Committee have noted 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. The Committee have noted that the Ministry are making efforts to collaborate and learn from global best practices especially in the field of technology and artificial intelligence. Noting that a comparison between regulations adopted by various countries may need to account for politico-administrative, socio-cultural, legal, and demographic factors and as these factors varied from country to country, the Committee have felt 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 have expected 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 have recommended the Ministry to take comprehensive, concerted efforts on all the issues affecting the functioning of CBFC and inform the Committee about the action taken.</p> <p style="text-align: right;">(Recommendation No. 14)</p>
