



July 18, 2024

Shri Rahul Gandhi,
Leader of Opposition, Lok Sabha,
10, Janpath,
New Delhi - 110011

Subject: Editors Guild of India's concerns on recent legislative measures to control media- print, broadcast, and digital

Dear Shri Gandhi,

We are writing to you on behalf of the Editors Guild of India, the apex body representing senior editors in the country. Since our inception in 1978, the Editors Guild has been steadfast in its mission to uphold and protect the freedom of the press, a cornerstone of our democracy.

In recent years, however, this fundamental freedom has come under increasing threat due to several legislative measures passed by the government. Over the past few years, several legislative steps have been taken to regulate and control media, in the online space, broadcast, print, as well as via telecom sector. Some of these have already been enacted in the parliament, while others were introduced as bills. In some cases, these regulatory system has been in the form of Rules under already existing Acts, specifically the IT Rule 2021, as well the subsequent amendment in 2023, under the IT Act 2000.

Our general concern in all these legislative measures is that they were taken without adequate stakeholder consultation and parliamentary scrutiny in the drafting and passing of these laws. They carry provisions that are vague and overbroad, which could be misused to restrict legitimate journalistic activities. These provisions give sweeping powers to a wide array of government authorities and agencies to take actions that can have potential chilling effect on journalism and press freedom due to increased government control and punitive measures. There are inadequate safeguards for press independence and freedom of expression.

Even though some of them have been enacted in the Parliament, we are highlighting these concerns with an urgent request for driving renewed parliamentary debate and stakeholder consultation on these critical issues affecting press freedom, as well as to safeguard press freedom in any new legislative measure that will have a potential to control media.

The following summary highlights our major concerns with respect to the recent laws impacting the online space, broadcast space, telecom, and print media:

Digital Personal Data Protection Act, 2023:

Notified in 2023, this Act aims to regulate the processing of personal data to ensure the privacy of individuals. However, its provisions raise significant concerns regarding press freedom.

1. **Lack of exemptions for journalistic activities:** The Act does not provide specific exemptions for processing personal data for journalistic purposes, contrary to previous iterations and international norms. This poses a severe impediment to basic journalistic functions such as research, investigation, and publishing.
2. **Consent requirements:** The mandatory consent requirement for data processing allows individuals to refuse consent, thereby obstructing journalistic inquiries. Obtaining consent in many scenarios, especially in investigative journalism, is often impractical.
3. **Onerous obligations:** Provisions like purpose specification, consent withdrawal, and data erasure are impractical for journalistic work.
4. **Government powers:** The Act grants the government broad powers to exempt its agencies from its provisions and to demand information from data fiduciaries, potentially compromising source confidentiality.
5. **Impact on RTI:** The Act could weaken the Right to Information Act by expanding the grounds for rejecting RTI applications.
6. **Surveillance concerns:** The Act lacks necessary surveillance reforms and creates a framework enabling the surveillance of citizens, including journalists.
7. **Censorship powers:** The Act allows the government to censor content on vague grounds of "interest of the general public."

Broadcasting Services Regulation Bill, 2023:

Introduced in 2023, this Bill seeks to regulate broadcasting services in India. The proposed regulatory framework, however, presents multiple challenges to press freedom.

1. **Overbearing regulatory structure:** The creation of content evaluation committees could lead to government control over content. The establishment of a Broadcast Advisory Council headed by a bureaucrat, with powers to monitor and block content, raises concerns about potential censorship.
2. **Vague grounds for content restriction:** The Bill allows the government to regulate or prohibit transmissions on ambiguous grounds.
3. **Excessive rule-making powers:** Provisions allow extensive delegation of rule-making, creating uncertainty.
4. **Intrusive powers:** Authorizes inspection, interception, monitoring, and seizure of broadcasting equipment.
5. **Censorship concerns:** Grants powers to order content deletion or modification and to take channels off-air.

6. **Burdensome compliance:** Imposes mandatory content classification and access control measures.
7. **Punitive measures:-** Imposes heavy monetary penalties for non-compliance.

Press & Registration of Periodicals Act, 2023:

Notified in 2023, this Act aims to update the regulatory framework for the registration of periodicals. Its provisions, however, threaten press independence.

1. **Expanded regulatory powers:** Allows delegation of Press Registrar's powers to other agencies, potentially including law enforcement.
2. **Restrictions on publishing:** Provisions to deny or cancel registration for those convicted of "unlawful activity" or acts against state security could be misused against critics, especially since these laws have been used unjustifiably against journalists in recent past
3. **Intrusive authority:** Grants powers to the Press Registrar to enter press premises, inspect records, and question staff.
4. **Ambiguous rule-making:** Grants broad powers to the central government to frame rules for news publishing, raising concerns about arbitrary regulations.

IT Rules 2021, and subsequent amendments to it in 2023

Besides these laws and bills, we would also like to draw your attention to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, or the IT Rules 2021, which were made under the IT Act 2000 in February 2021. The Rules mandated a three tiered structure grievance redressal system for digital news media outlets to comply with. The first two tiers were self-regulatory, but the third one was in the form of an Inter-Ministerial Group, headed by a bureaucrat, with powers to delete, modify, and block content published by digital news media. The Guild had raised concerns when the Rules were instituted that this would be akin to censorship. Over these past few years, there have been several instances where such powers were used by the government to order take down of content that was at times critical of government policies and actions.

Later, in 2023, an amendment was notified in these Rules on April 6, 2023, giving the government the power to constitute a "fact-checking unit" with sweeping authority to determine what is "fake or false or misleading" regarding any business of the Central Government and instruct intermediaries not to host such content. This absolute power lacked a governing mechanism for oversight, judicial review, or adherence to Supreme Court guidelines on content blocking, effectively leading to censorship. The Guild has challenged this amendment in the Bombay High Court, and the fact checking unit itself has been stayed by the Supreme Court

The Editors Guild of India urges your good self to raise these pressing issues in Parliament and advocate for amendments that ensure the protection of press freedom and the right to information. We believe that a free and independent press is vital for the health of our democracy, and it is imperative that these legislative measures are revisited to safeguard these fundamental principles.

We look forward to your support in this crucial matter.

We would be happy to meet you with a delegation of our members to discuss these issues in greater details.

Sincerely,



Anant Nath
President



Ruben Banerjee
General Secretary



K Ve Prasad
Treasurer