

THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995

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THE CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995¹

AN

ACT

to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows.

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Cable Television Networks (Regulation) Act, 1995.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 29th day of September, 1994.

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

2[(a) 'authorised officer' means, within his local limits of jurisdiction;—

(i) a District Magistrate, or

(ii) a Sub-divisional Magistrate, or

¹ Act No. 7 of 1995. Act as enactment date on 25 March 1995. Published in Gazette of India Extraordinary Part II Section I, dated 25 March 1995.

² Inserted by the Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000. CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 139 139

³ Clause (a) relettered as clause (aa) by Act 36 of 2000 with effect from 1.9.2000.

(iii) a Commissioner of Police,

and includes any other officer notified in the Official Ga-zette, by the Central Government or the State Government, to be an authorised officer for such local limits of jurisdiction as may be determined by that Government;]

3[(aa)] 'cable operator' means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

(b) 'cable service' means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals;

(c) 'cable television network' means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(d) 'company' means a company as defined in section 3 of the Companies Act, 1956; (1 of 1956).

(e) 'person' means—

(i) an individual who is a citizen of India; 140 TELECOM BROADCASTING AND CABLE LAWS

- (ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;
- (iii) a company in which not less than fifty-one per cent of the paid-up share capital is held by the citizens of India;
- (f) 'prescribed' means prescribed by rules made under this Act;
- (g) 'programme' means any television broadcast and includes—
 - (i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;
 - (ii) any audio or visual or audio-visual live performance or presentation, and the expression 'programming service' shall be construed accordingly;
- (h) 'registering authority' means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Act;
- (i) 'subscriber' means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

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CHAPTER II

REGULATION OF CABLE TELEVISION NETWORK

3. Cable television network not to be operated except after registration.—No person shall operate a cable television network unless he is registered as a cable operator under this Act:

Provided that a person operating a cable television network, immediately before the commencement of this Act, may continue to do so for a period of ninety days from such commencement; and if he has made an application for registration as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

4. Registration as cable operator.—(1) Any person who is operating or is desirous of operating a cable television network may apply for registration as a cable operator to the registering authority.

(2) An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

(3) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration:

Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to

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4 Inserted by Act No. 2 of 2003, section 2 with effect from 31.12.2002.

grant registration to him if it is satisfied that he does not fulfil the conditions specified in clause (e) of section 2.

4[4A. Transmission of programmes through addressable system, etc.—(1) Where the Central Government is satisfied that it is necessary in the public interest to do so, it may, by notification in the Official Gazette, make it obligatory for every cable operator to transmit or retransmit programme of any pay channel through an addressable system with effect from such date as may be specified in the notification and different dates may be specified for different States, cities, towns or areas, as the case may be.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, specify one or more free-to-air channels to be included in the package of channels forming basic service tier and any or more such channels may be specified, in the notification, *genre-wise* for providing a programme mix of entertainment, information, education and such other programmes.

(3) The Central Government may specify in the notification referred to in sub-section (2), the number of free-to-air channels to be included in the package of channels forming basic service tier for the purposes of that sub-section and different numbers may be specified for different States, cities, towns or areas, as the case may be. CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 143 143

(4) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, specify the maximum amount which a cable operator may demand from the subscriber for receiving the programmes transmitted in the basic service tier provided by such cable operator.

(5) Notwithstanding anything contained in sub-section (4), the Central Government may, for the purposes of that sub-section, specify in the notification referred to in that sub-section different maximum amounts for different States, cities, towns or areas, as the case may be.

(6) Notwithstanding anything contained in this section, programmes of basic service tier shall be receivable by any subscriber on the receiver set of a type existing immediately before the commencement of the Cable Television Networks (Regulation) Amendment Act, 2002 without any addressable system attached with such receiver set in any manner.

(7) Every cable operator shall publicise, in the prescribed manner, to the subscribers the subscription rates and the periodic intervals at which such subscriptions are payable for receiving each pay channel provided by such cable operator.

(8) The cable operator shall not require any subscriber to have a receiver set of a particular type to receive signals of cable television network: 144 TELECOM BROADCASTING AND CABLE LAWS 144

Provided that the subscriber shall use an addressable system to be attached to his receiver set for receiving programmes transmitted on pay channel.

(9) Every cable operator shall submit a report to the Central Government in the prescribed form and manner containing the information regarding—

(i) the number of total subscribers;

(ii) subscription rates;

(iii) number of subscribers receiving programmes transmitted in basic service tier or particular programme or set of programmes transmitted on pay channel;

in respect of cable services provided by such cable operator through a cable television network, and such report shall be submitted periodically at such intervals as may be prescribed and shall also contain the rate of amount, if any, payable by the cable operator to any broadcaster.

Explanation.—For the purposes of this section,—

(a) 'addressable system' means an electronic device or more than one electronic devices put in an integrated system through which signals of cable television network can be sent in encrypted or unencrypted form, which can be decoded by the device or devices at the premises of the subscriber within the limits of authorisation made, on the CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 145 145

choice and request of such subscriber, by the cable operator to the subscriber;

(b) 'basic service tier' means a package of free-to-air channels provided by a cable operator, for a single price to the subscribers of the area in which his cable television network is providing service and such channels are receivable for viewing by the subscribers on the receiver set of a type existing immediately before the commencement of the Cable Television Networks (Regulation) Amendment Act, 2002 without any addressable system attached to such receiver set in any manner;

(c) 'channel' means a set of frequencies used for transmission of a programme;

(d) 'encrypted', in respect of a signal of cable television network, means the changing of such signal in a systematic way so that the signal would be unintelligible without a suitable receiving equipment and the expression 'unencrypted' shall be construed accordingly;

(e) 'free-to-air channel', in respect of a cable television network, means a channel, the reception of which would not require the use of any addressable system to be attached with the receiver set of a subscriber;

(f) 'pay channel', in respect of a cable television network, means a channel the reception of which by the subscriber

5 Proviso omitted by the Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000. Prior to its omission, proviso read as under:

'Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.'

6 Proviso omitted by the Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000. Prior to its omission, proviso read as under:

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder. would require the use of an addressable system to be attached to his receiver set.'

5. Programme code.—No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code:

5[* * * *]

6. Advertisement code.—No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code:

6[* * * *]

7. Maintenance of register.—Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes. CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 147 147

7 Substituted by the Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000. Prior to its substitution read as under:

'8. *Compulsory transmission of two Doordarshan channels.*—(1) Every cable operator using a dish antenna or Television Receive only shall, from the commencement of this Act, re-transmit at least two Doordarshan channels of his choice through the cable service.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channel.'

8 Inserted by the Cable Television Networks (Regulation) Amendment Act, 2002, with effect from 31.12.2002.

7 [8. Compulsory transmission of Doordarshan channels—(1) Every cable operator shall, from the commencement of the Cable Television Networks (Regulation) Amendment Act, 2000, re-transmit at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band, in satellite mode on frequencies other than those carrying terrestrial frequencies.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.]

9. Use of standard equipment in cable television network.—No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986, use any equipment in his cable television network unless such equipment conforms to the said Indian standard:

8[*Provided* that the equipment required for the purposes of section 4A shall be installed by cable operator in his cable television 148 TELECOM BROADCASTING AND CABLE LAWS 148

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9 ASubstituted by the Cable Television Networks (Regulation) Amendment Act, 2000 with effect from 1.9.2000. Prior to its substitution, sub-section (1) read as under:

'(1) If any officer, not below the rank of a Group 'A' officer of the Central Government author-ised in this behalf by the Government (hereinafter referred to as the authorised officer), has rea-son to believe that the provisions of section 3 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.'

10 Inserted by the Cable Television Networks (Regulation) Amendment Act, 2002, with effect from 31.12.2002.

network within six months from the date, specified in the notifica-tion issued under sub-section (1) of that section, in accordance with the provisions of the said Act for said purposes.]

10. Cable television network not to interfere with any tele-communication system.—Every cable operator shall ensure that the cable television network being operated by him does not inter-fere, in any way, with the functioning of the authorised telecom-munication systems.

CHAPTER III

SEIZURE AND CONFISCATION OF CERTAIN EQUIPMENT

11. Power to seize equipment used for operating the cable tele-vision network.—

9[(1) If any authorized officer has reason to be-lieve that the provisions of section 3, 10 [4A], 5, 6 or 8 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the ca-ble television network.]

(2) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 149 149

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jurisdiction such seizure has been made, has been obtained for such retention.

12. Confiscation.—The equipment seized under sub-section (1) of section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.

13. Seizure or confiscation of equipment not to interfere with other punishment.—No seizure or confiscation of equipment re-ferred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable un-der the provisions of this Act.

14. Giving of opportunity to the cable operator of seized equipment.—(1) No order adjudicating confiscation of the equip-ment referred to in section 12 shall be made unless the cable opera-tor has been given a notice in writing informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writ-ing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter:

Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment

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11 Section 16 renumbered as sub-section (1) by the Cable Television Networks (Regulation) Amendment Act, 2002.

shall be returned after the expiry of that period to the cable opera-tor from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, so far as may be, apply to every proceeding referred to in sub-section (1).

15. Appeal.—(1) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such court.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.

(3) No further appeal shall lie against the order of the court made under sub-section (2).

CHAPTER IV

OFFENCES AND PENALTIES

16. Punishment for contravention of provisions of this Act.—11[1] Whoever contravenes any of the provisions of this Act shall be punishable,— CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 151 151

12 Inserted by Act of 2003, section 5, with effect from 31.12.2002.

(a) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both;

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

12[(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the contravention of section 4A shall be a cognizable offence under this section.]

17. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the 152 TELECOM BROADCASTING AND CABLE LAWS 152

13 Substituted for 'by such officer, not below the rank of a Group 'A' officer of the Central Government, as the State Government may, by notification in the Official Gazette, specify in this behalf' by Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000.

14 Substituted for 'an officer, not below the rank of a Group 'A' officer of the Central Government authorised by the State Government in this behalf' by Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000.'

15 Substituted for 'any particular programme if it is' by Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000.'

consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) 'Company' means any body corporate and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

18. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made **13**[by any authorized officer.].

CHAPTER V

MISCELLANEOUS

19. Power to prohibit transmission of certain programmes in public interest.—

Where **14** [any authorized officer] , thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or re-transmitting

15[any programme or channel if, it is not in conformity with the CABLE TELEVISION NETWORKS (REGULATION) ACT, 1995 153 153

16 Inserted by Cable Television Networks (Regulation) Amendment Act, 2000, with effect from 1.9.2000.

prescribed programme code referred to in section 5 and advertisement code referred to in section 6 or if it is] likely to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquillity.

20. Power to prohibit operation of cable television network in public interest.—

16[1] Where the Central Government thinks it necessary or expedient so to do in public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

21. Application of other laws not barred.—The provisions of this Act shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940, (23 of 1940.) the Pharmacy Act, 1948, (8 of 1948.) the Emblems and Names (Prevention of Improper Use) Act, 1950, (12 of 1950.) the Drugs (Control) Act, 1950, (12 of 1950.) the Cinematograph Act, 1952, (37 of 1952.) the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, (21 of 1954.) the Prevention of Food Adulteration Act, 1954, (37 of 1954.) the Prize Competitions Act, 1955, (42 of 1955.) the Copyright Act, 1957, (14 of 1957) the Trade and Merchandise Marks Act, 1958, (43 of 1958) the 154 TELECOM BROADCASTING AND CABLE LAWS 154

17 Inserted by Cable Television Networks (Regulation) Amendment Act, 2002, with effect from 31.12.2002.

Indecent Representation of Women (Prohibition) Act, 1986 (60 of 1986.) and the Consumer Protection Act, 1986. (68 of 1986).

22. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the pro-visions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the fol-lowing matters, namely,—

(a) the form of application and the fee payable under sub-section (2) of section 4;

17 [(aa) the manner of publicising the subscription rates and the pe-riodical intervals at which such subscriptions are payable under sub-section (7) of section 4A;

(aaa) the form and manner of submitting report under sub-section (9) of section 4A and the interval at which such re-port shall be submitted periodically under that sub-section;]

(b) the programme code under section 5;

(c) the advertisement code under section 6;

(d) the form of register to be maintained by a cable operator under section 7;

(e) any other matter which is required to be, or may be, pre-scribed. CABLE TELEVISION

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(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23.Repeal and savings.—(1) The Cable Television Networks (Regulation) Ordinance, 1995 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provision of this Act.
