

# Navigating the Waves: Legislative Efforts Shaping the Broadcast Sector in the Digital Age

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## ABSTRACT

The broadcast sector stands at a pivotal juncture, with technological advancements rapidly reshaping the landscape of content delivery and consumption. Legislative efforts play a crucial role in navigating this transition, ensuring equitable access, promoting diversity, and safeguarding against monopolistic practices. This research paper delves into the legislative initiatives impacting the broadcast sector, examining their efficacy, challenges, and implications for stakeholders.

**KEYWORDS:** Broadcast sector, Technology, Transition, Monopolistic practices, Challenges

**Objectives:** This research paper aims to:

- Analyze key legislative efforts impacting the broadcast sector globally.
- Assess the effectiveness of these legislative measures in achieving their intended goals.
- Identify challenges and gaps in existing regulatory frameworks.
- Explore potential future directions for legislative interventions in the broadcast sector.

## INTRODUCTION

The broadcast sector has witnessed significant transformation over the past few decades, driven by the advent of digital technologies and the internet. Traditional models of content distribution are being challenged by streaming services, online platforms, and social media. In response to these changes, legislators around the world have introduced a myriad of laws and regulations aimed at adapting to the evolving landscape while preserving core principles such as freedom of expression, cultural diversity, and consumer protection.

### What does the Broadcasting Services (Regulation) Bill, 2023 do?

First, it extends the regulatory scope of government to cover over-the-top (OTT) Content, digital news, and current affairs. It also has expansive and almost all-encompassing definitions for stakeholders. It requires Broadcasters and Broadcasting Network Operators to “register with or give intimation to the government before providing their services.”

In the Regulatory sphere, the bill first requires Broadcasters and Broadcasting Network Operators to appoint a grievance officer who will listen to any complaints. If the complainant is not satisfied with the decision of the grievance officer, an appeal could be made to a Self-Regulatory organization in which the Broadcaster should be a part of. For example, if there is a complaint against Netflix's content, a complaint would be first raised, with Netflix and if dissatisfied with Netflix's response, one can appeal to this Self-

Regulatory organization which will constitute people represented by organizations like Netflix, Prime Video, Zee5 etc. In the TV news and Digital news sphere, this kind of structure already exists with organisations like News Broadcasters & Digital Association and the DIGIPUB News Media Foundation. The Bill requires that every Broadcaster and Broadcasting network operator to constitute Content Evaluation Committees whose certification is necessary for the broadcast of the content or programmes and the Central Government does have the power to prescribe the programmes for which the certification is not required.

The concerns with respect to this bill are twofold. First, the promotion of self-censorship of broadcasting networks due to the persistent government oversight, and second, the potential for restrictions on online free speech of individuals and independent media.

Due to the fact that the Self-Regulatory Organisations' decisions are subject to a Board Advisory Council which does not have any real independent members, by appointment- there is a consistent and overarching oversight on OTT or other such Broadcast platforms. Therefore, instead of producing the content which could irk the government and have it not transmitted due to an order by the government on the recommendation of the government appointed Committee, the Broadcasters would rather not produce such content. A law regulating an industry is appropriate, but such regulations having serious repercussions for freedom of speech and expression, and even freedom of trade, is not.

Secondly, the regulation on individual news publishers is concerning since the compliances that have been prescribed in the bill, including a compliance to the Programming Code, is essentially an extra burden on the individual creators who have resorted to internet-based content creation due to the low entry barriers it provides. While one should hope that as the bill passes through the democratic processes of law making, it will shed these provisions that has serious potential to damage free speech, it is also important to keep a note of the legislations that seek to or have the effect on free speech and raise concerns.

This Bill currently is past the consultation process and to understand the process of how to send over any concerns regarding the bill to the Ministry, you can visit [letuschill.in](http://letuschill.in), an initiative by the Internet Freedom Foundation.

## **ANALYSIS & DISCUSSIONS**

The Broadcasting Services Regulation Bill 2023, which has been put up for public consultation by the ministry of information and broadcasting (MIB), has major ramifications for the broadcasting sector since the government is looking to bring diverse platforms and technologies under a single regulatory framework.

With the government aiming to make India a global content production hub, experts point out that the proposed law could impact the content creation process as OTT platforms, like TV channels, will be bound by a programme code. Till now, OTT platforms had the freedom to create the kind of content that they wanted. ET decodes the bill.

The Broadcasting Services Regulation Bill, 2023, which seeks to replace the three-decade-old Cable Television Networks Regulation Act of 1995 (CTN Act), seeks to broaden the MIB's regulatory framework by including over-the-top (OTT) and digital news platforms along with TV channels and FM radio besides distribution platforms like cable TV, direct to home (DTH), Internet Protocol Television (IPTV), and headend in the sky (HITS).

Currently, the MIB regulates cable TV operators and TV channels through the CTN Act. Additionally, it administers Part III of Information Technology (Intermediary Guidelines and Digital Media Ethics Code)

Rules, 2021, which regulates OTT and digital news content. However, the proposed legislation will not cover social media intermediaries as specified under the Information Technology Act of 2000.

The MIB has said that the broadcasting sector has undergone a sea change because of the advent of new technologies and platforms like DTH, IPTV, and OTT, and hence the regulation should keep pace with the changes in the ecosystem. The ministry has argued that the proposed legislation will provide a consolidated legal framework for the entire broadcasting sector, particularly since there are different rules and regulations for different services and platforms.

New technology is revolutionizing broadcasting markets. As the cost of bandwidth processing and delivery fall, information-intensive services that once bore little economic relationship to each other are now increasingly related as substitutes or complements. Television, newspapers, telecoms and the internet compete ever more fiercely for audience attention. At the same time, digital encoding makes it possible to charge prices for content that had previously been broadcast for free. This is creating new markets where none existed before. How should public policy respond? Will competition lead to better services, higher quality and more consumer choice - or to a proliferation of low-quality channels? Will it lead to dominance of the market by a few powerful media conglomerates? Using the insights of modern microeconomics, this book provides a state-of-the-art analysis of these and other issues by investigating the power of regulation to shape and control broadcasting markets.

Proposed Broadcasting Services (Regulation) Bill, 2023: threat to free speech and media independence  
Government oversight risks stifling online free speech as broadcasting networks self-censor, threatening media independence 20, Feb 2024 | A Legal Researcher.

The Indian government had extended the deadline for receiving public comments on the Draft Broadcasting Services (Regulation) Bill, 2023 to January 15, 2024. Broadcasting Services (Regulation) Bill, 2023 The Bill seeks to replace the Cable Television Network (Regulation) Act, 1995 [Cable Act]. This article deals with the provisions of the bill and what it means for the broadcasting industry- including digital news outlets and Over the Top platforms like Netflix etc. and for the larger free speech discourse. Several media organisations, including Editors Guild of India (EGI) and Citizens for Justice and Peace (CJP) sent their detailed comments (read criticisms) on the Bill.

The Cable Act has, so far, been the main law on content for broadcasting and cable networks but the recent advancements such as internet-based content on personal devices has made it necessary for a more updated legislation to be in place.

The Bill comprises of Six Chapters, 48 Sections and three Schedules.

### Key Highlights:

- 1. Consolidation and Modernization:** It addresses a long standing need of consolidating and updating the regulatory provisions for various broadcasting services under a single legislative framework. This move streamlines the regulatory process, making it more efficient and contemporary. It extends its regulatory purview to encompass broadcasting over-the-top (OTT) content and digital news and current affairs currently regulated through IT Act, 2000 and regulations made there under.
- 2. Contemporary Definitions and Future-Ready Provisions:** To keep pace with the evolving technologies and services, the bill introduces comprehensive definitions for contemporary broadcasting terms and incorporates provisions for emerging broadcasting technologies.

3. **Strengthens the Self Regulation Regime:** It enhances self-regulation with the introduction of ‘Content evaluation committees’ and evolves the existing Inter-Departmental Committee into a more participative and broader ‘Broadcast Advisory Council’.
4. **Differentiated Programme Code and Advertisement Code:** It allows for a differentiated approach to Programme and Advertisement Codes across various services and require self-classification by broadcasters and robust access control measures for restricted content.
5. **Accessibility for Persons with Disabilities:** The bill addresses the specific needs of persons with disabilities by providing for enabling provisions for issue of comprehensive accessibility guidelines.
6. **Statutory Penalties and Fines:** The draft Bill introduces statutory penalties such as: advisory, warning, censure, or monetary penalties, for operators and broadcasters. Provision for imprisonment and/or fines remains, but only for very serious offenses, ensuring a balanced approach to regulation.
7. **Equitable Penalties:** Monetary penalties and fines are linked to the financial capacity of the entity, taking into account their investment and turnover to ensure fairness and equity.
8. **Infrastructure Sharing, Platform Services and Right of Way:** The bill also includes provisions for infrastructure sharing among broadcasting network operators and carriage of platform services. Further, it streamlines the Right of Way section to address relocation and alterations more efficiently, and establishes a structured dispute resolution mechanism.

The Ministry of Information and Broadcasting is committed to ushering in a new era of transparency, Self Regulation, and future-ready broadcasting services in the country with the Draft Broadcasting Services (Regulation) Bill, 2023.

## CONCLUSION

Legislative efforts play a critical role in shaping the future of the broadcast sector, balancing the interests of various stakeholders and adapting to technological disruptions. By examining key legislative areas and their impact, this research paper seeks to provide insights into the challenges and opportunities facing policymakers in the digital age. Effective regulation can foster innovation, diversity, and accessibility, ensuring that the broadcast sector continues to serve the public interest in a rapidly evolving media landscape.

## REFERENCES

1. [https://economictimes.indiatimes.com//industry/media/entertainment/media/broadcasting-regulation-bill-and-its-impact-on-content-world/articleshow/105571742.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com//industry/media/entertainment/media/broadcasting-regulation-bill-and-its-impact-on-content-world/articleshow/105571742.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)
2. Ministry of Information and Broadcasting Proposes Broadcasting Services (Regulation) Bill, 2023.
3. <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1976200>
4. Challenges and opportunities for news media and journalism in an increasingly digital, mobile, and social media environment by Rasmus Kleis Nielsen Alessio Cornia Antonis Kalogeropoulos
5. Public Service Broadcasting in the Digital World
6. A broad overview of broadcasting legislation in india.