



EDITORIAL ANALYSIS

Time: 10 min

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Regulating OTT by Draft Broadcasting Services (Regulation) Bill

Syllabus: GS2/ Government Policies & Interventions

In Context

- The Ministry of Information and Broadcasting (MIB) recently released the **Draft Broadcasting Services (Regulation) Bill, 2023**.

Highlights of the draft Broadcasting Services (Regulation) Bill

- **Aim:** To bring a consolidated legal framework for the broadcasting sector and extend it to OTT content, digital news, and current affairs as well.
- **Single legislative framework:** The Bill essentially provides regulatory provisions for various broadcasting services under a single legislative framework.
 - It seeks to **replace the Cable Television Networks (Regulation) Act of 1995** and other policy guidelines currently governing the broadcasting sector in India.
 - Moreover, the Bill extends its regulatory purview to encompass broadcasting OTT content, digital news and current affairs currently regulated through the IT Act, 2000.
 - It also includes provisions for **emerging broadcasting technologies**.
- **It introduces: 'Content evaluation committees'** for self-regulation and
 - **'Broadcast Advisory Council'** to "advise the central government on programme code and advertisement code violations,".
- **Provisions for people with disabilities:** It promotes the use of subtitles, audio descriptors, and sign language.
 - The Bill has a provision for appointing a "Disability Grievance officer".
- **Provision of comprehensive definitions:** The Bill provides comprehensive **definitions for contemporary broadcasting terms** along with other important technical terms to be defined in the statute for the first time.

- **Statutory penalties:** The Bill provides statutory penalties like advisory, warning, censure, or monetary penalties, for operators and broadcasters.
 - Provision for imprisonment and fines is also there, but only for very serious offences, such as obtaining registration with a false affidavit.
- **Infrastructure sharing:** It also has provisions for infrastructure sharing among broadcasting network operators and carriage of platform services.

Significance

- **Modernising the broadcasting sector:** This pivotal legislation modernises our broadcasting sector's regulatory framework, replacing outdated Acts, Rules, and Guidelines with a unified, future-focused approach.
 - It adapts to the dynamic world of OTT, Digital Media, DTH, IPTV, and more, promoting technological advancement and service evolution
- **Efficient relocation and alterations:** The Bill streamlines the '**Right of Way**' section to address relocation and alterations more efficiently, and establishes a structured dispute resolution mechanism.
- **Fair monetary 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.
- **Inclusivity:** The Bill aims to make broadcasting more inclusive and accessible to people with disabilities.

Challenges & criticisms

- **Promoting linear representation:** The proposed Broadcasting Services (Regulation) Bill could amplify the erasure or the selective representation of Indian minority communities from the popular imagination and normalise a universal unifocal identity of India.
 - For example, **Consider the following provision:**
 - "Where **any authorised officer**, thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any programme or channel if, it is not in conformity with the prescribed programme code and advertisement code 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."
- **Questions over "authorised officer":**
 - Hiring an "authorised officer" working under the government's directions clearly may not be separated from political as well as personal influence.

- **Application of same rules for different media:**
 - While “OTT” broadcasting services provide access to a range of content on its platform to several of its subscribers, viewers retain the autonomy to not consume a programme if they wish to do so.
 - This, in principle, is a direct contradiction to the nature of cable TV or radio services, wherein consumers cannot choose to stop the airing of a programme (even if they may be able to switch channels).
 - Applying stringent rules and codes to “OTT” broadcasting services may increase the financial and compliance burden for such broadcasters, and negatively impact user experience, choice, and even costs borne by the users.
- **Selective targeting:**
 - It has also been alleged that the **rules will be more misused than for real regulation.**
 - There are instances when the government tried to curb certain anti-government agendas while ignoring populist fake news.

Way ahead

- **Global regulations:**
 - A survey of OTT regulation in different countries suggests that **most of them are yet to come up with a clear statute-backed framework.**
 - Few of them such as **Singapore and Australia** stand out.
 - **In Singapore**, the Infocomm Media Development Authority is the common regulator for different media.
 - Aside from instituting a statutory framework and promoting industry self-regulation, its approach to media regulation **emphasises on promoting media literacy through public education.**
- **Regulation of media & Role of civil society:**
 - The media should practice better self-regulation.
 - If the government starts regulating the media, the complete purpose would be defeated.
 - An informed, cultivated, and interested civil society can be the best watchdog over politics and the media.

Daily Mains Question

[Q] What is the significance of regulating the Broadcasting Services in India? Examine the key provisions of the draft Broadcasting Services (Regulation) Bill, 2023.

