## UNIT- 9: REGULATORY ORGANISATION

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## 11.1. Learning objectives

After going through this unit you will be able to:

- explain the concepts of "ombudsman", "press ombudsman" and "Reader's Editor".
- discuss the appointment and recommendations of Press Commissions in India.
- outline the establishment, complaint procedure role of Press Council of India (PCI).

- name the journalistic principles and norms prescribed by the PCI.
- explain the proposed Broadcasting Authority Bill, 2006.

## 11.2. Introduction

In the previous unit we have discussed the ethical conduct in advertising, in advertising of medicine and also the code of conduct followed in public relations.

There are statutory provisions that prescribe the limits of media self-regulation, but at the same time media needs to be self-regulated for the faith and expectations reposed on it. An institutional mechanism is essential for its self-regulation. In this unit you are being introduced to "ombudsman", "press ombudsman" and "Reader's Editor" who work independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. You are also introduced to the little history about the appointment and recommendations of the First and Second Press Commissions in India. The recommendations led to the establishment of the Press Council of India (PCI) and the journalistic principles prescribed by the PCI. Finally, you are introduced to the Broadcasting Authority Bill, 2006 which prescribes the regulation of the airwaves which are public property and which in the national and public interest the airwaves needs to be regulated.

In the next unit or the last unit of this course, you will be acquainted with the concept of "self-regulation" and "media self-regulation". You will be then introduced very briefly to the existing code of practice or conduct for media personnel in different countries. You will also be introduced to the code of conduct/practice for media in detail of different organisations like the Editors' Guild of India, the All India Newspaper Editors' Conference (AINEC) and The Indian Newspaper Society (INS) and its objectives, administration and functions.

## 11.3. Ombudsman

The origin of the word ‘Ombudman’ is found in Old Norse and the word *umbuds man* means “representative”. An “ombudsman” is a government official, usually appointed by the government or by the parliament, charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens and addressing them, usually through mediating a settlement. The term arose from its use in Sweden in 1552, with the Parliamentary ombudsman instituted in 1809 to safeguard the rights of citizens by establishing a supervisory agency independent of the executive branch. The word *ombudsman* and its specific meaning has since 19th century been adopted in to English as well as other Scandinavian languages such as the Icelandic "umbodsmadur", the Norwegian "ombudsmann" and the Danish "ombudsmand".

An “ombudsman” doesn't necessarily have to be appointed by government, but there may be an “ombudsman” of a non-governmental organisation that may work only for its own members or for the general public. O*mbudsman* has also been instituted by governments in different countries and organisations such as the European Union. In some jurisdictions, the Ombudsman is referred to, at least officially, as the 'Parliamentary Commissioner', e.g., the Western Australian state ombudsman. In some countries, an Inspector General may have similar duties as or have overlapping duties with an ombudsman appointed by the legislature. Whether an “ombudsman” works only for the members of the organisation or for the general public, he/she does obviously not carry any special powers or sanction abilities. To make a complaint to an ombudsman is usually free of charge.

**Lokpal (Lokayukta) in India**

In India, Ombudsman is called as Lokpal or Lokayukta. An Administrative Reforms Commission (ARC) was set up on 5th January,

1966 under the Chairmanship of late Prime Minister Morarji Desai. It recommended a two-tier machinery, namely, Lokpal at the Centre and one Lokayukta each at the State level for the redressal of people's grievances. The central Government introduced the first Lokpal and Lokayuktas Bill in 1968 and lastly in 2005, which has also not so far been enacted. Lokayukta institution has come into existence in different years, in different States in India. The first Lokayukta institution was established in the State of Orissa in the year 1970. There after, this institution was established in different States in different years namely: Maharashtra (1972), Bihar (1974), Uttar Pradesh (1977), Madhya Pradesh (1981), Andhra Pradesh (1983), Himachal Pradesh (1983), Karnataka (1984), Assam (1986), Gujarat (1988), Delhi (1995), Punjab (1996), Kerala (1998), Chhattishgarh (2002), Uttaranchal (2002) and West Bengal (2003) and Haryana (2004). The Government of India has also designated several ombudsmen, called Chief Vigilance Officer or CVO, for the redressal of grievances and complaints from individuals in the banking, insurance and other sectors being serviced by both private and public bodies and corporations.

### 11.3.1. Press Ombudsman

An ombudsman need not be appointed by a legislature; they may work for a corporation, a newspaper, an NGO, as an organizational ombudsman; or for the general public in a city, appointed by a mayor, like the executive ombudsman. The ombudsman works independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. That the presence of an ombudsman fosters this relationship with positive benefit to the employer as well as to society at large seems to be supported both anecdotally by ombudsmen who believe that their activities strengthen trust and loyalty, and by more formal tests. The appointment of an ombudsman is a unilateral act by the newspaper or broadcast outlet that sends a strong signal to readers, listeners or viewers.

**Origin of Ombudsman:**

The idea of ombudsman is of Swedes origin. In Sweden the press ombudsman is not appointed by any newspaper organisation, but by all the newspapers organisations together. Ombudsman generally means an intermediary, investigating complaints by private citizens against government officials or agencies. However, at present private or voluntary organisations are also having ombudsman to decide public complaints made against themselves or their members. In India, the Lok Ayuktas in some states are called ombudsman. Though both the word and concept of ombudsman originated in Sweden, it was first adopted by the press in the USA. In 1967, an ombudsman was appointed for *Counter-Journal* and its sister publication *Louisville Times*, and thus for the first time in the world, newspaper ombudsman came into existence. At present there are about forty ombudsman in USA and Canada. The other countries that have this institution are Britain Sweden and Japan.

The idea of having resident ombudsmen in news organisations, although still taken up by only a tiny minority of publications and broadcasting channels, has been around for a little over 50 years. It originated, in the principal form in which it now exists, in the United States in the 1960s. It has existed in Japan, in a somewhat different form, for much longer than that. Most of those now practising as ombudsmen, in newspapers, television and radio channels around the world, owe a good deal to the American model.

In the Swedish print media "*press ombudsman nen*" is a person whose role is to determine whether the actions of a newspaper is in line with good journalistic practice. Complaints regarding the practices of print media can be reported by the general public to the "*press ombudsman nen*" who determines whether a complaint should be brought before the Swedish Press Council. The Press Council can determine whether the offending publication shall pay a fee for having breached good journalistic practice.

In Ireland, the Office of the Press Ombudsman is part of a new system of independent regulation for the printed media. The job of the

Ombudsman is to investigate complaints that breach a new Code of Practice which the press industry signed up to in 2007. Its aim is to provide the public with a quick, fair and free method of resolving any complaints they may have in relation to newspapers and periodicals that breach the Code. One can make a complaint to the Office of the Press Ombudsman about an article or about the behaviour of a journalist. For a complaint to be examined by the Office of the Press Ombudsman it must breach the Code of Practice for Newspapers and Periodicals, and the person making the complaint must show that they have been directly affected by, and involved in the article or behaviour in question. The Ombudsman's Office attempts to resolve the matter by making direct contact with the editor of the publication concerned. It outlines the complaint to the publication and seek to resolve the matter by a process of conciliation. If conciliation is not possible, the Ombudsman will examine the case and make a decision. He may refer significant or complex cases to the Press Council of Ireland.

**11.3.2. Press Ombudsman in India**

In India, there is no effort by professional bodies or other agencies to monitor whether the existing codes are being observed. Meanwhile, the *Times of India* set a new trend by appointing Juctice P. N. Bhagawati, former Chief Justice of India, as its internal ombudsman. But the paper does not publicise this fact in the paper. The *Nav Bharat Times*, a Hindi daily of the *Times of India* group also appointed Mr. T. N. Chaturvedi, former Comptroller and Auditor General of India, as its ombudsman.

Further, the World Association of Press Councils (WAPC), is an organisation that preaches universal acknowledgement of the need for a free and unrestricted flow of information beyond the boundaries. The media, in this regard, embraces the role of a public trust that is subjected to only one restriction – the internal or self regulation. The WAPC states in its Preamble to the Constitution (adopted in 1992) for the establishment of the body:

"AND WHEREAS the creation of such organs as independent Press Councils

and the institution of the office of press ombudsman are recognised as methods

whereby the freedom, the responsibility and the accountability of the press may

be maintained and enhanced."

This idea strongly puts forward the world view for the necessity of press ombudsman in print and electronic media across the world.

## 11.4. Readers' Editors

Freedom of the press is important. So is its social responsibility, which must begin with interaction with and accountability to readers. For a daily newspaper, this must happen on a daily basis. We have already discussed internal press ombudsman. Readers' Editor almost has the same responsibilities of an ombudsman. The key objectives of the appointment of a Readers' Editor are:

– to institutionalise the practice of self-regulation, accountability, and transparency;

– to create a new visible framework to improve accuracy, verification, and standards in the newspaper; and

– to strengthen bonds between the newspaper and its millions of print platform and online readers.

A Readers' Editor is normally appointed to collect, consider, investigate, respond to and, where appropriate, to come to a conclusion about readers' comments, concerns, and complaints in a prompt and timely manner, from a position of independence within the paper. Readers' Editor is appointed to create new channels of communication with and greater responsiveness to readers, whether by email, telephone, the Internet, surface mail, or through the columns of the paper. He seeks the views and, where appropriate, the written comments, of journalists whose work is the focus of the readers' concerns. He is to take these

views into account while responding to the readers, and makes critical appraisals, if considered necessary, on an objective and fully-informed basis.

The Readers' Editor looks for ways of improving the paper's work and performance, in the broadest sense, by collating and analysing readers' concerns, ideas, and suggestions and by identifying the possible new or alternative courses of action and ways to develop the paper for the benefit of its readers and the paper itself. He may also write a regular column addressing one or several aspects of the readers' concerns, suggestions, and complaints. He can decide on the content independently and not by seeking prior approval by the Editor-in-Chief or others on the staff, except in respect of matters of fact and style.

The Readers' Editor may use his/her column as a platform and forum for readers' views. He/she may require the Editor-in-Chief of the newspaper to take steps to ensure the full and prompt co-operation of the staff with the Readers' Editor by providing assistance in responding to to readers' concerns and complaints. Similarly, the management and marketing departments of the newspaper insofar as their activities relate to readers' concerns about editorial content should extend similar cooperation.

In consultation with the Editor-in-Chief and/or his or her nominee, the Readers' Editor may decide whether and when a correction should be published and apologies may be tendered. In order to keep fully in touch with the workings of the paper, the Readers' Editor should have an established right of access to the Editor-in-Chief, to heads of department meetings, to planning and review meetings, to daily editorial and news conferences, and to other relevant forums. The Readers' Editor should be available to report, on an *ad hoc* basis, to the Editor-in-Chief and to these other groupings. The existence of the Readers' Editor, and how to contact him or her, should be advertised fairly prominently on a daily basis in the paper. If the terms of reference of a newspaper prescribes, a Readers' Editor may refer to an external ombudsman any substantial grievances or matters whereby the newspaper's journalistic integrity has been called into question.

Most of the newspapers in the west have Ombudsman or a Readers' Editor. *The Hindu*, the national daily in India acknowledged that it has been inspired to appoint a Readers' Editor by the exemplary practice and experience of *The Guardian*, U.K., over the past decade in a crucial area of newspaper performance. *The Hindu* has announced its appointment of the first Readers' Editor in its 127 year old history. The Readers' Editor *The Hindu* is an independent, full-time internal ombudsman.

**CHECK YOUR PROGRESS – A**

1. Who is an "ombudsman"?
2. How "ombudsman" is known in India?
3. Who is a "press ombudsman"?
4. The idea "ombudsman" originated first in Sweden. Which country adopted "press ombudsman" first?
5. Who is a Reader's Editor? Which is the first newspaper in India to appoint a Reader's Editor?

## 11.5. Press Commission

Press Commission is a regulatory body for printed newspapers and magazines, consisting of representatives of the major publishers. Press Commission is funded by newspapers and magazines. It has no legal powers, but all newspapers and magazines voluntarily contribute to the costs of, and adhere to the rulings of, the Commission, making the industry self-regulating. Press Commission helps in maintaining high standards of ethics in journalism. However, at times newspapers in different countries breached these standards, while some others were unsatisfied with the effectiveness of a Press Commission. Therefore, there have been discussions at different level whether a body with formal legal powers should be created to regulate the industry.

### 11.5.1 The First Press Commission in India

Pandit Jawaharlal Nehru while defending press freedom, warning of the danger its irresponsible exercise entails said: "If there is no responsibility and no obligation attached to it, freedom gradually withers away. This is true of a nation's freedom and it applies as much to the Press as to any other group, organisation or individual." In India, the First Press Commission was appointed on 23rd September, 1952 as a Commission of inquiry for the purpose of making an inquiry into the state of the press in India, its past, present and future lines of development. The First Press Commission that ended in 1954 was headed by Justice G. S. Rajadhyaksha and it took up several vital areas of the Indian press:

- The control, management and ownership and financial structure of newspapers, periodicals, news agencies and feature syndicates.
- The effect of holding companies, the distribution of advertisement, and other external influences on healthy journalism.
- The working of monopolies and chains and their effect on the presentation of accurate news and fair views.
- The method of recruitment and training of journalists.
- Newsprint supplies, and printing and composing machinery.
- Machinery for ensuing high standard of journalism, liaison between government and the press.
- The functioning of Press Advisory Committee and organisations of editors and working journalists.
- Freedom of the press and repeal or amendment of laws not in consonance with it.

But the cooperation with the Commission from the press and other agencies was minimal. It is the point of view of the public that dominated the Report and it is within this framework that the Commission deals with the overriding social aspect, the true nature of the freedom of the press, the need for restraint and regulation, the healthy growth of the press, the place of small newspapers, the working of news agencies or the meaning of editorial freedom. Even the recommendations on collective bargaining

and service conditions had to be viewed within the framework of public interest. The Commission's recommendations were aimed at the development of a public service oriented press. A major recommendation was the appointment of a Press Registrar to maintain accurate data on the press, and its working.

The Commission, however, pointed out that the well-established newspapers had, on the whole, maintained a high standard of journalism. They had avoided "cheap sensationalism and unwarranted intrusion into private lives." But it remarked that "whatever the law relating to the Press may be, there would still be a large quantum of objectionable journalism which, though not falling within the purview of the law, would still require to be checked." It was of the view that the best way of maintaining professional standards of journalism would be to bring into existence a body of people principally connected with the industry whose responsibility it would be to arbitrate on doubtful points and to censure any one guilty of infraction of the code of journalistic ethics.

### 11.5.2. Recommendations of the First Press Commission

The Commission recommended:

1. The setting up of a Press Council with the following objectives:
    (i) to safeguard the freedom of the press
    (ii) to ensure by the Press the maintenance of high standards of public taste and to foster the rights and responsibilities of citizenship, and
    (iii) to encourage sense of responsibility and public service among all those engaged in the profession of journalism.
2. The establishment of the Council on a statutory basis in order to give it the legal authority to make inquiries.
3. The appointment of men as members who command general confidence and respect of the profession.
4. That there should be 25 members excluding the Chairman in the Council and the Chairman should be a retired Judge of a High Court. He is to be nominated by the Chief Justice of India.

### 11.5.3. Second Press Commission and its Recommendations

The Second Press Commission was set up in May 1978 and the Report was submitted in 1982. It was, in brief, was set up to "inquire into the growth and status of the Indian press since the last Press Commission reported and suggest how it how it should develop in future." The Report of the Second Press Commission recommended:

1. The amendment of Press Council Act to enable the council to review the quality and adequacy of training facilities for journalists and for monitoring the performance of newspapers.
2. The inclusion of "respect for privacy" as mentioned in the Press Council Act, 1978.
3. That the editor is to the responsibility for all matter published in his newspaper, including advertisement.
4. That the Council should examine the violation of the code of ethics governing advertisements.
5. The establishment of a Commission to promote the development of the press in directions that facilitates its growth, particularly of the Indian-language newspapers irrespective of circulation and also small and medium size publications in terms of circulation.

**CHECK YOUR PROGRESS – B**

1. In which year was a Press Commission appointed in India?
   (a) 1951 (b) 1952 (c) 1953 (d) 1954
2. Who headed the First Press Commission in India?
3. The inclusion of "Respect to Privacy" by press was recommended by the Second Press Commission (1978) by amending which Act?
4. Which Press Commission recommended the establishment of a Press Council in India?

Press Council is a mechanism for the Press to regulate itself. The idea is rooted in the concept that in a democratic society the press needs at once to be free and responsible. If the Press is to function effectively as the watchdog of public interest, it must have a secure freedom of expression, unfettered and unhindered by any authority, organised bodies or individuals. But, this claim to press freedom has legitimacy only if it is exercised with a due sense of responsibility. The Press must, therefore, scrupulously adhere to the accepted norms of journalistic ethics and maintain high standards of professional conduct. Where the norms are breached and the freedom is defiled by unprofessional conduct, a way must exist to check and control it. But, the control by Government or official authorities may prove detrimental to this freedom. Therefore, the best way is to let the peers of the profession, assisted by a few learned persons to regulate it through a properly structured representative impartial machinery. Hence, the Press Council was established.

A need for such a mechanism has been felt for a long time both by the authorities as well as the Press itself all over the world, and a search for it resulted in the setting up of the first Press Council known as the Court of Honour for the Press in Sweden in 1916. The idea gained quick acceptance in other Scandinavian countries, and later in other parts of Europe, Canada, Asia, Australia and New Zealand. Today, the Press Councils or similar other media bodies are in place in more than four dozen nations.

### 11.6.1. Press Council of India (PCI)

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present Council functions under the Press Council Act 1978. It is a statutory, quasi judicial body which acts as a watchdog of the press. It adjudicates the complaints

against and by the press for violation of ethics and for the violation of the freedom of the press respectively.

**Composition of the Press Council of India:**

The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The Chairman is nominated by a Committee consisting of Chairman of Council of States (Rajya Sabha), the Speaker of the House of the People (Lok Sabha), and a person elected from amongst the Members of the Press Council. The Council consists of 28 other members of whom 20 represent the press and are nominated by the press organisations/news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and managers of newspaper, 5 members are nominated from the two houses of Parliament and 3 represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India. The members serve on the Council for a term of three years.

**Funding of the Press Council of India:**

The Council is funded by the revenue collected by it as fee levied on the registered newspapers in the country on the basis of their circulation. No fee is levied on newspapers with a circulation of less than 5000 copies. The deficit is made good by way of grant by the Central Government, through the Ministry of Information and Broadcasting.

**Functions and Powers of Press Council of India:**

It is one of the most important bodies that sustain democracy as it has the supreme power in regards to the media ensuring that freedom of speech is maintained. The Press Council deliberates on the complaints received either by the press or against the press. It may either warn or

censure the errant journalists on finding them guilty. The Council is empowered to make observation in respect of conduct of any authority including the Government. If it is considered necessary, it can warn, admonish or censure the newspaper, news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist. The Press Council of India is protected by the constitution and its actions may not be questioned unless it is proved to be in violation of the constitution. This has made it an exceedingly powerful a body. Even though a substantial part of its funds is augmented from the Government, it has full functional autonomy and is independent of Government control in the discharge of its statutory responsibilities.

### 11.6.2. PCI: Complaint Procedure

If anyone has a complaint against a newspaper, for any publication which he/she finds objectionable and which affects him/her personally, or for the non-publication of a material, he/she should first take it up with the editor or other representative of the publication concerned. If the complaint is not resolved to satisfaction, he/she may refer it to the Press Council of India. The complain must be specific and in writing and should be filed/lodged within two months of the publication of impugned news item in case of dailies and weeklies and four months in all other cases, along with the original/photostat copy of the impugned clipping (English translation if the matter is in vernacular). The aggrieved person must state in what manner the publication/non-publication of the matter is objectionable within the meaning of the Press Council Act, 1978 and must enclose a copy of letter to the editor, pointing out why you consider the matter is considered objectionable. His reply thereto or published rejoinder, if any, may also be attached to it. Declaration stating that the matter is not pending in any court of law is also required to be filed.

If a newspaper or journalist is aggrieved by any action of any authority that may impinge on the freedom of the press, he can also file a

complaint with the Council. The aggrieved newspaper or journalist may inform the Council about the possible reason for the action of the authorities against him, i.e., if it is as a reprisal measure taken by the authorities due to critical writings or as a result of the policy that may affect the freedom of the press (supporting documents, with English translation, if they are in vernacular, should be filed). Declaration regarding the non-pendency of the matter in any court of law is also necessary.

On receipt of a complaint made to it or otherwise, if the Council is *prima facie* satisfied that the matter discloses sufficient ground for inquiry, it issues show cause notice to the newspaper(s)/respondents and then considers the matter through its Inquiry Committee on the basis of written and oral evidence tendered before it. If, on inquiry, the Council has reason to believe that the respondent newspaper has violated journalistic norms, the Council, keeping in view the gravity of the misconduct committed by the newspaper, warns, admonishes or censures the newspaper or disapproves the conduct of the editor or the journalist as the case may be. It may also direct the respondent newspaper to publish the contradiction of the complainant or a gist of the Council's decision in its forthcoming issue.

Similarly, when the Council upholds the complaint of the aggrieved newspaper/journalist the Council directs the concerned government to take appropriate steps to redress the grievance of the complainant. The Council may, if it considers it necessary, make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority, including the Government.

### 11.6.3. PCI and Principles of Media

Every profession functions by certain norms of conduct evolved by years of practice with the objective to improve its standards, to prevent its abuse and above all to contribute to the society and social development.

There was a time when journalism was a mission. Soon it became a profession and is now run as a full-fledged business activity like any other enterprise. Journalism has expanded its role and activities and has also grown in power. Codification of its work ethics and principles is therefore an imperative need. The Press Council of India (PCI), in keeping with its mandate to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards, has on the basis of its adjudications of cases from time to time, built up a code of journalistic norms. Though these codes have emerged out of cases relating to print media, the fundamental principles evolved in the process are equally relevant to radio and television journalism. The 2005 edition of "Norms of Journalistic Conduct" released by the PCI updates the Norms evolved since 1996 on the basis of adjudications and other pronouncements and cover to a large extent almost every aspect of compulsions and compunctions in journalistic practice. An effort has been made in this edition not only to divide the norms covering similar situation under one heading for easy referencing, but also to provide a comprehensive access to subject specific guidelines. These norms and principles of journalistic conduct are designed to serve public interest and to be of immense benefit to journalists, lawyers, judges and general public alike.

The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. There should be a pre-publication verification on the receipt of a report or article of public interest and benefit containing imputations or comments against a citizen. The editor should check with due care and attention its factual accuracy apart from other authentic sources. A newspaper should not publish anything which is manifestly defamatory or libelous against any individual or organisation unless after due care and checking, they have sufficient reason to believe that it is true and its publication will be for public good. There are certain parameters of the right of the press to comment on the acts and conduct of public officials. They cannot maintain a suit for damages for acts and conduct relevant to the discharge of their official

duties unless the official establishes that the publication was made with reckless disregard for truth. However, judiciary, which is protected by the power to punish for contempt of court, and the Parliament and legislatures, as their privileges are protected by Articles 105 and 194 respectively, of the *Constitution of India*, represent exception to this rule. The Official Secrets Act 1923 or any similar enactment or provision having the force of law equally bind the press or media though there is no law empowering the state or its officials to prohibit, or to impose a prior restraint upon the press/media. The following restrictions can be noted:

- The press shall not intrude upon or invade the privacy of an individual unless outweighed by genuine overriding public interest.
- The Press shall not tape-record anyone's conversation without that person's knowledge or consent except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reason.
- Newspapers should avoid suggestive guilt by association. They should not name or identify the family or relatives or associates of a person convicted or accused of a crime, when they are totally innocent.
- The caste identification of a person or a particular class should also be avoided.
- When any factual error or mistake is detected or confirmed, the newspaper should publish the correction promptly with due prominence and with apology.
- The newspaper should promptly and prominently publish a contradiction/reply/clarification/rejoinder sent to the editor by a person affected by the impugned publication in the form of a letter or note. However, if the editor doubts the truth or factual accuracy of the contradiction/ reply/ clarification or rejoinder, he can add separately at the end a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession.

- Newspapers/journalists shall not publish anything which is obscene, vulgar or offensive to public good taste.
- Newspapers shall not display vulgar advertisements depicting a woman in nude or lewd posture.
- Newspapers/journalists shall not present acts of violence, armed robberies, and terrorist activities in a manner that glorifies the perpetrators' acts, in the eyes of the public.

Newspapers must take care in publishing –

- news, views or comments relating to communal or religious disputes/clashes. They shall be published only after proper verification of facts and presented with restraint in a manner which is conducive to maintaining an atmosphere congenial to communal harmony, amity and peace.

Newspapers should avoid –

- sensational, provocative and alarming headlines.

Newspapers shall exercise –

- as matter of self-regulation, due restraint and caution in presenting any news, comment or information which may endanger or harm the paramount interests of the State and society, or the rights of individuals.

Article 19(2) of the *Constitution of India* has guaranteed the freedom of speech and expression, but a journalist must not pass off the writings of another man as his own without crediting the source. Using or passing off the writings or ideas of another as one's own, without crediting the source, is an offence against the ethics of journalism.

**Principles of Investigative Reporting:**

The investigative reporter should, as a rule, base his story on facts investigated, detected and verified by himself - and not on hearsay or on derivative evidence collected by a third party. The authentic sources are to be checked by the reporter himself. The investigative journalist should strike and maintain in his report a proper balance between openness on the one hand and secrecy on the other, placing the public good above

everything. If information is received from a confidential source, the confidence should be respected. The journalist cannot be compelled by the Press Council to disclose such source. But there are some exceptions as well.

**Some exceptions:**

There are some exceptions to these restrictions.

- Newspapers may, in the public interest, make reasonable criticism of a judicial act or the judgment of a court for public good, they shall not cast scurrilous aspersions on, or impute improper motives or personal bias to the judge.
- They shall not scandalise the court or the judiciary as a whole or make personal allegations of lack of ability or integrity against a judge.

**CHECK YOUR PROGRESS – C**

1. What is a Press Council?
2. Who heads the Press Council of India (PCI)?
3. In which year was the first Press Council set up in India?
   (a) 1966 (b) 1967 (c) 1977 (d) 1978
4. Which of the following organisation does not have a nominee in the Press Council of India
   (a) Sahitya Academy (b)University Grants Commission
   (c) Sangeet Natak Academy (d) Bar Council of India

5. Within how many days a person can bring a complaint before the PCI against the publication of an objectionable news in a newspaper ?

   ?

## 11.7. Broadcasting Services Regulation Bill, 2006

The policy makers in India at different points of time felt that the airwaves are public property and it was felt necessary to regulate the use of such airwaves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner. In view of this the Government has issued guidelines from time to time, with the approval of the Union Cabinet, for regulating the Broadcasting Services and it is felt necessary to give a statutory effect to these guidelines with retrospective effect.

**Purpose of the Broadcasting Services Regulation Bill:**

The Broadcasting Services Regulation Bill, 2006 is a Bill to promote, facilitate and develop in an orderly manner the carriage and content of broadcasting, to provide for regulation of broadcasting services in India for offering a variety of entertainment, news, views and information in a fair, objective and competitive manner and to provide for regulation of content for public viewing and matters connected therewith. The Bill proposes to provide for the establishment of an independent authority to be known as the Broadcast Regulatory Authority of India for the purpose of regulating and facilitating development of broadcasting services in India.

**Licensing, public interest and powers for the Central Government under the Bill:**

The Bill prescribes that broadcasting services shall not be without license. After the commencement of this Act no person shall provide any broadcasting service, or broadcast any program or channel, without obtaining a license for such service or permission for such program or registration of such channel, in accordance with the policy guidelines

prescribed under this Act for regulating such broadcasting service, program or channel.

The Bill prescribes some powers for the Central Government in public interest. The Central Government may at any time, if it appears necessary or expedient to do so in public interest, in respect of any broadcasting service, which is considered prejudicial to friendly relations with a foreign country, public order, communal harmony or security of the State, direct the Licensing Authority to suspend or revoke its license or direct the service provider to stop broadcasting its service or transmit in its broadcasting service such announcements in such manner as may be considered necessary, and the service provider shall immediately comply with all or any such directions.

The Broadcast Regulatory Authority of India established under this proposed Bill shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued. The Authority shall consist of one Chairperson and not more than six whole-time Members, to be appointed by the Central Government. The head office of the Authority shall be New Delhi.

The Authority shall have the power to notify the terms and conditions of licenses for various categories of service providers, in accordance with the policy guidelines prescribed by the Government. It can recommend to the Central Government, guidelines or norms or amendments of prescribed guidelines or norms, in the light of its experience in the discharge of its functions, as well as on such other issues as may be referred to it by the Government. It has the power to grant registration to TV and Radio channels as provided under Section 4 of the Bill. It has the power to lay-down the standards of quality of service to be provided by the service providers and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of broadcasting service. The Authority shall formulate and determine conditions for fair, equitable and non discriminatory access to broadcasting services.

**Mandatory Provisions for Cable TV Operators under the Bill:**

The Bill makes it mandatory for every cable operator that it shall carry Lok Sabha and Rajya Sabha channels and at least two Doordarshan terrestrial channels and one regional language channel of a state in the prime band. The Prasar Bharati (Broadcasting Corporation of India) established under Section 3(1) of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 may, by notification in the Official Gazette, specify the additional number and name of every Doordarshan channel to be re-transmitted by the cable operators in their cable service and the manner of reception and transmission of such channels.

**Offences and Punishments under the Bill:**

The Broadcasting Services Regulation Bill, 2006, to regulate private broadcasting also provides for punishment like revocation of licence and fines to those who violate the proposed broadcast guidelines, including the new Content Code under preparation. A person who in contravention of the provisions of this Act, provides, distributes or receives any broadcasting service which is not licensed or broadcasts a channel which is not registered or a programme which is not permitted or abets or assists transmission or distribution of such service or content, as the case may be, in any manner shall be guilty of committing an offence of illegal broadcasting, and on conviction, shall be punishable with imprisonment which may extend up to three years, or with fine which may extend up to rupees twenty five Lakhs or both, and for subsequent offence and conviction such imprisonment may extend to five years or fine up to rupees fifty Lakhs, or with both.

## 11.8. Let us sum up

An “ombudsman” is a government official, usually appointed by the government or by the parliament, charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens and addressing them, usually through mediating a settlement. An “ombudsman” doesn't necessarily have to be appointed by government, but there may be an “ombudsman” of a non-governmental organisation that may work only for its own members or for the general public. A press ombudsman works independently within news organisations as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other. Readers’ Editor almost has the same responsibilities of an ombudsman. The key objectives of appointment of a Readers’ Editor are to institutionalise the practice of self-regulation, accountability and transparency.

In India, the First Press Commission was appointed on 23rd September, 1952 as a Commission of inquiry for the purpose of making an inquiry into the state of the press in India, its past, present and future lines of development. The First Press Commission that ended in 1954. It recommended the establishment of a Press Council in India (PCI). The Second Press Commission was set up in May 1978 and the Report was submitted in 1982.

Press Council is a mechanism for the Press to regulate itself. The Press Council of India was first set up in the year 1966. The Press Council of India was first set up in the year 1966 by the Parliament. The present Council functions under the Press Council Act 1978. PCI follows a complain procedure. If anyone has a complaint against a newspaper for publication of an objectionable material, one may first take it up with the editor or other representative of the publication concerned. If the complaint is not resolved to satisfaction, he/she may refer it to the PCI. The PCI also has set certain principles and norms for the media. The fundamental norms as prescribed by the PCI is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner.

The policy makers in India at different points of time felt that the airwaves are public property and it is felt necessary to regulate the use of

such airwaves in national and public interest. The proposed Broadcasting Services Regulation Bill, 2006 is a Bill to promote, facilitate and develop in an orderly manner the carriage and content of broadcasting. It is a Bill to provide for regulation of broadcasting services in India for offering a variety of entertainment, news, views and information in a fair, objective and competitive manner.

## 11.9. Answers to check your progress

**A**

**1.** An "ombudsman" is a government official, usually appointed by the government or by the parliament, charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens and addressing them, usually through mediating a settlement.

**2.** Lok Ayukta

**3.** Any organisation may appoint an organizational ombudsman. The press ombudsman works independently within news organisation(s) as the interface between readers, listeners and viewers on the one hand, and journalists and editors on the other.

**4.** USA

**5.** Readers' Editor almost has the same responsibilities of an ombudsman. The key objectives of appointment of a Readers' Editor are to institutionalise the practice of self-regulation, accountability, and transparency; to create a new visible framework to improve accuracy, verification, and standards in the newspaper; and to strengthen bonds between the newspaper and its millions of print platform and online readers.

The Hindu is the first newspaper in India to appoint a Reader's Editor.

**B**

**1.** 1952

**2.** Justice G. S. Rajadhyaksha

**3.** Press Council Act, 1978

**4.** First Press Commission (1952-1954)

**C**

**1.** Press Council is a mechanism for the Press to regulate itself. The best way is to regulate the press to let the peers of the profession, assisted by a few learned persons to regulate it through a properly structured representative impartial machinery. Hence, the Press Council.

**2.** The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India.

**3.** (a) 1966

**4.** (c) Sangeet Natak Academy

**5.** The complain should be filed/lodged within two months of the publication of impugned news item in case of dailies and weeklies and four months in all other kind of news publications.

## 11.10. Further Readings


- **S. Kundra:** ***Media Laws and Indian Constitution***
- **Jan R. Hakemulder, Fay A.C. de Jonge, P. P. Singh:** ***Media, Ethics and Laws***
- **Durga Das Basu:** ***Law of the Press***

## 11.11. Possible questions

1. What is the difference between “ombudsman” and “press ombudsman”. Write briefly about the history of press ombudsman and also its development in India.
2. Write briefly about the role of Reader’s Editor to institutionalise the practice of self-regulation, accountability and transparency press.
3. Write briefly about the recommendations of the two press commissions in India?
4. What is the importance of a Press Council? Write a note on the Press Council of India.
5. Write a brief note on the complain procedure before the Press Council of India.
6. Write a note on the principles and norms set out by the Press Council of India for self-regulation of the press in India.