



Perspectives on Media Regulation: Lessons from the UK

While a combination of statutory regulation and self regulation is at work in the UK, India will find it very hard to improve the standard of its media industry through self regulation alone. This was the opinion which was expressed by various panellists in a conference titled "Perspectives on Media Regulation: Lessons from the UK" organized by the Observer Research Foundation on 5th February, 2014. Speakers included Dr Vijayalakshmi Gupta, Mr John Lloyd, Dr David Levy, Mr Chaitanya Kalbag and Mr Rohit Bansal. The discussion was moderated by Mrs. Maya Mirchandani, Anchor and Foreign Affairs Editor at NDTV.

Speaking on the issue, Dr Vijayalakshmi Gupta, Member of the Telecom Regulatory Authority of India (TRAI) said that an independent media had an important role to play as a guardian of democracy. Yet, freedom of speech and expression cannot exist in a vacuum and have to be balanced with other rights. Expressing concern on the phenomenon of paid news, she said that it had emerged as a serious issue which doubly jeopardized the freedom of speech and expression on one hand and free and fair elections on the other. According to her, the non-media corporates often want to use the power of the media to influence public opinion. There is also an indirect or surrogate control of media houses by political parties. In such a scenario, the independence of the editorial staff is essential and there should be an 'arm's length' relationship between the editorial staff and the owner.

Expressing dismay over the self regulatory standards of the media industry in the country, Dr Gupta said that the existing standards were weak and usually the punishment imposed is very mild. There is therefore the need of an independent media regulator in the country. However, the problems of the media in India cannot be solved just by regulation. The very fact that the media industry remains a profit-making venture presents various dilemmas whose solutions have yet to be found.

Dr David Levy, Director of the Reuters Institute for the study of Journalism, gave an overview of the regulatory mechanism operating in the UK. According to him, people are increasingly 'finding' a variety of news on social media that is sourced from the mainstream media. Quoting a survey report from Edelman Public Relations Firm, he said that the UK had a variable degree of media outlets and the public trust in them varies accordingly. The office of communications or Ofcom in the UK is an example of a statutory regulator that exercises both negative regulation (through consumer protection guidelines) and positive regulation (through the promotion of quality content). To address the interest of the consumer, there is a broadcasting code in place which media houses have to comply with.

Speaking on the issue of regulatory independence, Dr Levy emphasized that there is always a trade-off between independence and effectiveness. While statutory regulators are effective, their ability to remain independent depends on a variety of factors such as constitutional provisions, fixed budgets, appointment procedures etc. In addition, statutory solutions are not desired in every context. On the other hand, while self regulation scores high on the independence quotient, there remains a big question mark on its effectiveness and enforceability. It was felt that self regulation is only a viable option when there is willingness to follow through within the industry itself. The culture of independence is more important than the legal guarantees which are very context dependent. The problems regarding the media industry can only be solved when commercial success is desired on a level playing field rather than through a race to the bottom as is happening today.

Mr John Lloyd, Director of Journalism at the Reuters Institute for the Study of Journalism, pointed out that the Leveson Inquiry report was relevant mainly to the UK but not just the UK. Commenting on the News

International phone hacking scandal, he said that the law of the land was not mobilized with respect to the press in the UK which led to the proliferation of such unethical practices for sourcing stories. Before the Leveson Inquiry, the press never investigated themselves and the huge amount of power that they held was unaccounted for. In his view, the government is not the only source of power which should be investigated; other power centres like corporate houses and the media too should be kept in check. He expressed his belief that the government will be separated from broadcasting as more and more broadcasters come into the picture.

According to him, privacy is important for human development and should be adequately protected. It was disappointing that courts are mostly lenient towards journalism and one can face an investigation without regard for one's privacy. In his view, the fall of British tabloid journalism was brought about because it increasingly sought details of celebrity private lives through criminal means. Concluding his remarks, he added that people had to hold power to account and that is the best kind of regulation rather than self or statutory regulation.

Mr. Chaitanya Kalbag, Member, Editors Guild of India, introduced the audience to the pressing concerns regarding the media industry in the country. Criticizing Section 66A of the Information Technology (Amendment) Act, 2008, he said that the whole act was based on an archaic 1935 law in the UK which was not being followed anymore there, but has been imported and applied in India and is being followed till today. Questioning the wisdom of the lawmakers, he asked whether the Indian government had really ever tried framing laws responsive to the needs and evolution of Indians as citizens. Sounding alarm at the extent of interference in the industry, he said that there should be complete transparency regarding media ownership. Expressing apprehension over the self-regulation route suggested to improve the standard of media in the country, he said that the threshold for entering the media industry is very low. In addition, only a handful of broadcasters are members of self-regulatory bodies and even those bodies are ineffective. In his opinion, regulation itself is a big can of worms which can cure the malady but cannot prevent it.

In terms of professional journalism, the lack of proper training and the non-existence of any idea of media ethics are lamentable. Trial by media is not a fair trial and the enormous power of such media trials to influence judgements in a single judge system is very dangerous. Thus self regulation in India will only work when the journalistic fraternity gets ready to put its neck on the block.

Mr. Rohit Bansal, Visiting Fellow, Observer Research Foundation, also expressed a lack of belief in the power of self regulation due to the multiplicity of authorities existing in the country. In his view, media owner's freedom and media freedom have become synonymous where the former tries to hide behind the latter whenever there is a conflict of interest. In his opinion, due to the kind of coalition politics prevailing at the centre, the governments in the future are going to be weak animals that will be eager to control the media. In such a scenario, it is important to ask what questions the future regulations will need to answer.

(This report was prepared by Anshul Pandey, Research Intern at the Observer Research Foundation)