



Assess the role and significance of TRAI with the special reference of censorship

Keywords: New Media, Digital Media, Telecom Regulatory Authority of India (TRAI), Censorship, Regulatory Body, Regulation, TRAI act, Cyber Security, OTT platform, Social Media.

Abstract

In India the rapid growth of ‘New Media’ (NM) has been both “sustainable and inclusive” but it poses formidable challenges for the existing regulatory framework for NM. Such a regulatory framework requires transformative reforms to strengthen the ‘New Media’ sphere. However, the ‘New Media (NM) development discourse in India has undergone huge transformative changes in the wake of digitisation and the great impact of COVID-19 pandemic. This has changed the entire picture of the ‘media world’ and now this is not only used by the government or public but also it is for the conceptualization of human freedom that is only possible by the means of democracy like new media. In this very writing attempt has been made to understand the role and significance of the “Telecom Regulatory Authority of India” (TRAI) with regard to the ‘New Media’ sphere. This paper is an attempt to unravel the current regulatory framework, ‘censorship discourse’ in digital media, progressive policies of the government, and a way forward, by an

analytical examination of the TRAI Act. In response to rapid changes in modern technology, we must also acknowledge the various challenges that we confront as far as 'new media' is concerned.

In this study, we conducted a research survey with more than 130 questionnaires that comprised both closed and open sets of questions along with open field interactions with experts and further it will extend to the online survey. However, In India new media paradigms differ hugely on account of myriad political, societal, cultural and economic norms. Therefore, there is hardly any universal notion of new media due to changing context, that we need to keep in mind while dealing with the relevancy of the regulatory body. There are mixed trends from media industry stakeholders as well as the general public in terms of censorship for online content and the removal of content for violating some sentiment or sensibility. What remains to be seen is whether such regulations will include any form of censorship and whether they will have an impact on the existing censorship norms, which need to be revisited to strike a balance between creative freedom and the general interests of the society. The issue of 'digital media censorship' has both pros and cons. Therefore, it is impossible to say that censorship is bad or good. However, the most significant thing is how the majority of citizens of a particular country feel about this issue.

Preface

People want to have reliable protection from false information, to stay secure on the Internet, and to protect our children from harmful content. But we can do it by ourselves. It is not necessary to prohibit visits to specific new media platforms or sites at the government level. Each person can decide which website to visit, which news to read, and which privacy tools to use to surf the net. In the 21st century, all forms of obtaining information should be available and allowed to citizens. And to protect our children, it is better to use internal blockers of certain sites that will restrict access to undesirable content. It may not be accurate to conclude that digital media platforms are completely unregulated or free from any form of censorship, solely on the ground that there is no regulatory framework specifically setting out the manner of censorship.

In terms of the IT Act, while the intent of the provisions is to ensure that sexually explicit and obscene content is not published online, its extension and applicability to OTT media platforms is arguably a form of censorship. Given the increasing viewership of content on new media platforms and the corresponding impact on

revenues, not only for owners of digital platforms, but also telecom operators providing internet data services, a regulatory framework for the operation of the OTT platforms does seem to be on the horizon. Moreover, If they qualify as intermediaries under the IT Act, they will also be required to comply with the intermediaries guidelines.

Background of TRAI

The regulation of telecom services in India finds its genesis in the Indian Telegraph Act, 1885, which grants the Union Government exclusive privilege to establish telegraph services. The Government also has the power to grant licenses to other operators to carry on those services. Until the mid-nineties, the Government exercised a monopoly over this sector, with the Department of Telecommunications (DoT) being responsible for administering telecom services throughout the country. Also, International telecom services were offered by Videsh Sanchar Nigam Ltd. (VSNL), a Government-owned company. The National Telecom Policy, announced by the Government in 1994 (NTP, 1994), sought to change this position by allowing for the participation of private entities. Over the years, TRAI's mission has been to create and nurture conditions for growth of telecom in the country in a manner and at a pace which will enable India to play a leading role in the emerging global information society.

Central Question

- Assess the role and significance of TRAI, Is there any 'censorship' requirements in New Media?

Related Questions

- Why digital media censorship?
- How far has it been successful in protecting public interests?
- Various challenges of New Media?
- Finding Solutions.

Objective of the study

- The primary objective of the study is to understand the relevancy of Telecom Regulatory Authority of India (TRAI) to outline the current regulatory framework for New Media.

- The related aim is to do the analysis of ‘censorship discourse’ in digital media.

Hypothesis

Hypothesis 1 : A permanent regulatory framework can be made for monitoring purposes of the new media to ensure the standard quality and authenticity;

Hypothesis 2: New media houses may be considered a separate part of TRAI.

Methodology

The study is empirical and descriptive in nature. Feedback, responses and views of senior telecom professionals of India are considered.

Sampling Method

Convenient sampling method was used to select the sample.

Sampling Size

In the concerned study, a questionnaire was distributed to 280 respondents, but finally 130 completely filled questionnaires were received.

Sampling Unit

Employees of telecom Industry of India, Media students from Film City, Noida and Research scholars from University of Delhi.

Tools for Data Collection

Data has been collected through primary and secondary sources.

Results and Discussion

In this survey, 57.1 per cent liked the content of Online Media. And 21.4 per cent people preferred chatting, while 14.3 per cent liked web series and 7.1 per cent

preferred

movies.

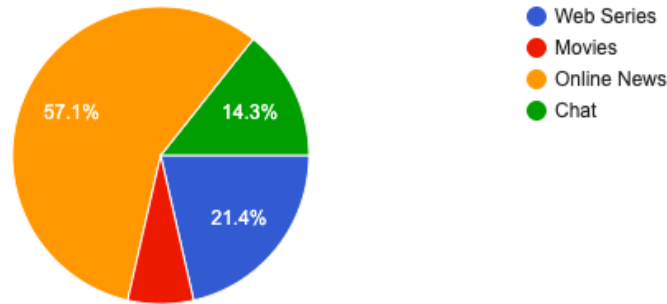


Figure: Content that people like the most

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Significantly, The inclusion of online news portals in the order was also seen as concerning, and part of continuing government moves to bring online news under its control. On November 11, 2020, a law was passed stating that digital news platforms could not have more than 26% foreign investment. Social media sites such as Facebook and Twitter will also be subject to regulation, though it is unclear how this will be enforced. The government said details of the law would be announced this week.

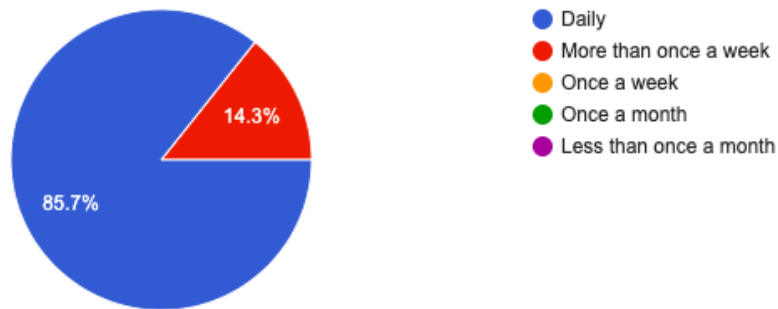


Figure: Status of Social Media visits

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As per the survey, 85.7 per cent preferred social media daily and 14.1 per cent people preferred social media more than once a week.

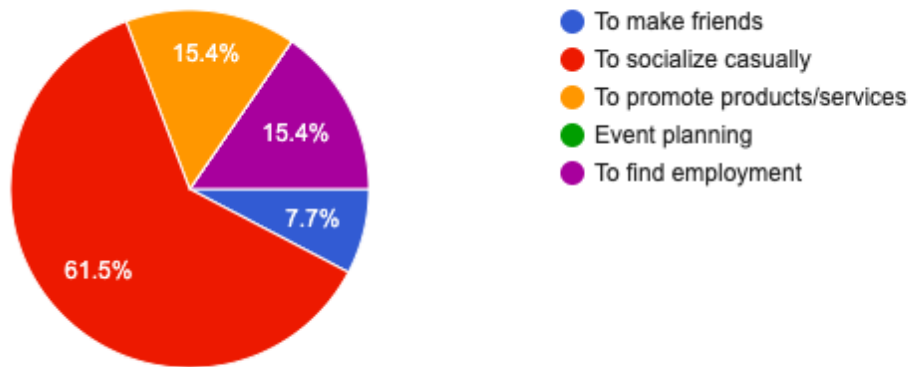


Figure : Objective of using social media websites

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In this survey, 61.5 per cent people used social media having objective of socialize casually, 15.4 per cent used social media to find the employment related news. For the promotion of products and services 15.4 per cent people using social media. 7.7 per cent people using social media for making new friends.

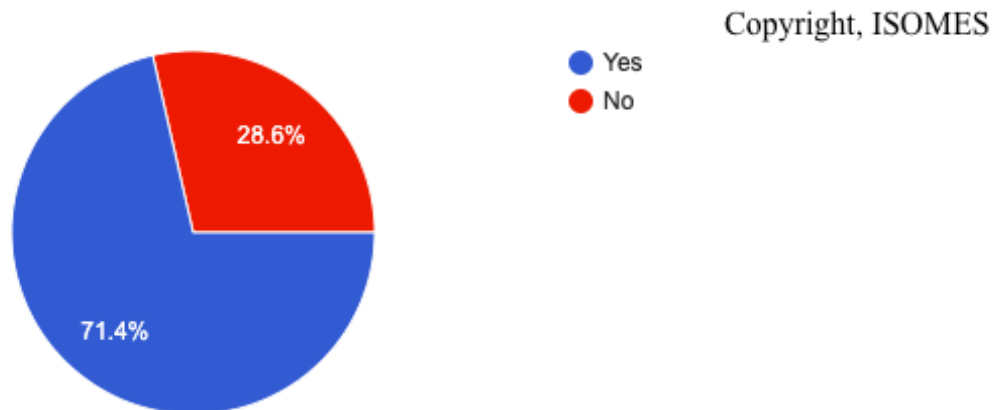


Figure: 71 % people are favouring of having Censorship on digital media.

However, 71.4 per cent people are in favour of having censorship on digital media, At the same time 28.6 per cent are against it. And 100 per cent people are

favouring the modification of telecom regulatory framework, the study said.

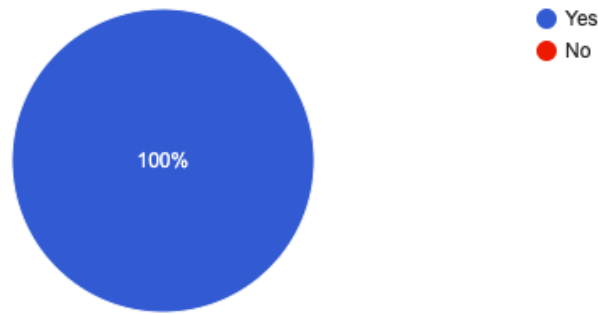


Figure: Need for modifying the TRAI.

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While 69.2 per cent people are thinking that TRAI is adequately empowered. 30.3 per cent people are thinking that TRAI is not empowered yet, the research said.

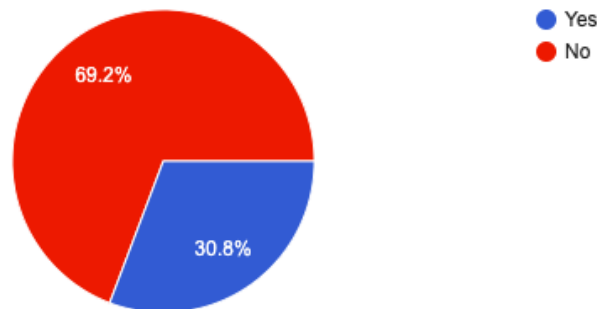


Figure: Status of TRAI empowerment.

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In the study, 50 % people said that TRAI needs autonomy in “functional and operational”. 28.1 per cent people say TRAI needs autonomy in Decision-Making, 14.3 per cent responded that it needs autonomy in the financial area, and 7.1 per cent people have said that it needs autonomy in recruitment and remuneration, the study said.

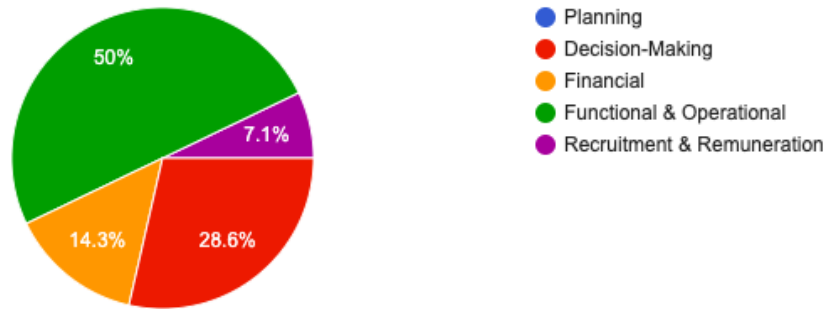
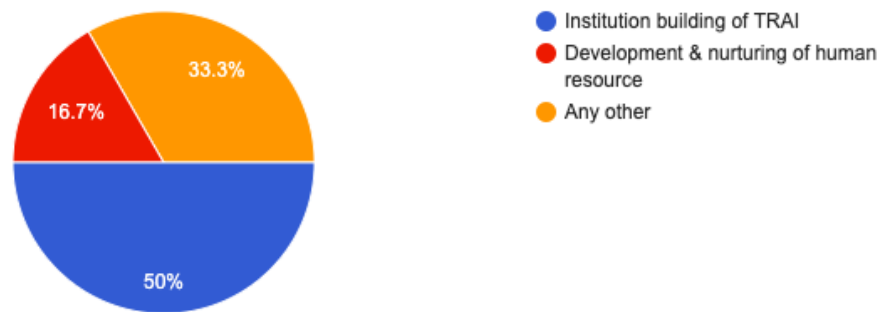


Figure: Major areas that TRAI needs Autonomy.

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Further, 50 per cent people responded that because of the 3 years tenure of TRAI chairman, its institutional building was affected. And 16.7 per cent people are thinking that because of long tenure, development of human resources is getting affected, and 33.3 per cent people are not satisfied with the same statement.



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In the context of cyber security, 42.9 per cent people are neutral on the question of cyber security framework. 21.4% people are not satisfied with the same regard. 21.4 per cent people are somewhat satisfied, and 14.3 per cent responded very dissatisfied, the study highlighted.

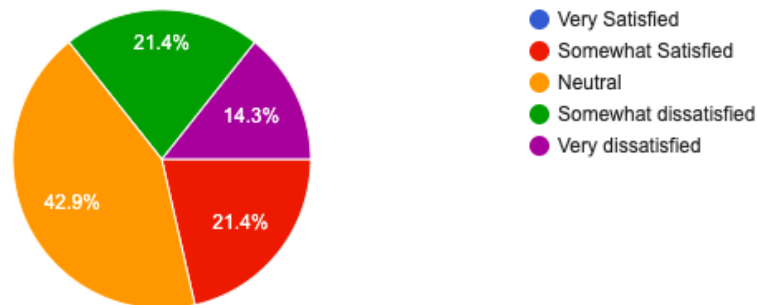


Figure: Satisfaction level with regard to cyber security framework.

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78.6 per cent people like to watch YouTube, 21.4 per cent people preferred twitter, and 50 per cent responded Facebook, the study remarked.

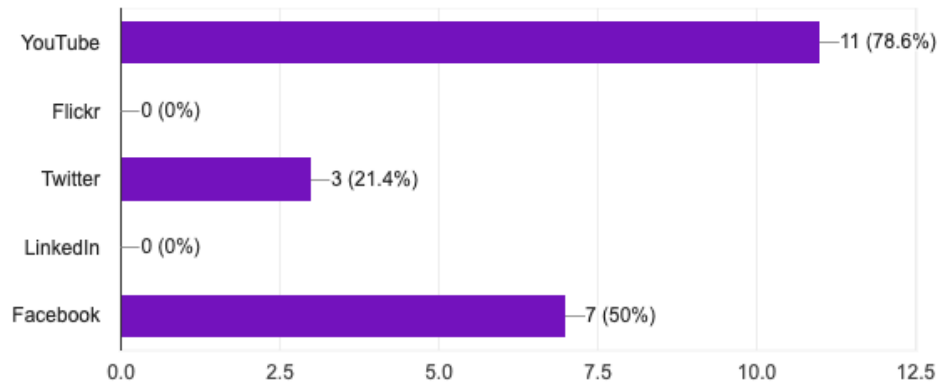


Figure: Top two websites for digital content

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In this survey total 130 people participated, most of them belongs to urban areas. 73.3 per cent people are male and 26.7 per cent female from different streams. In the context of age group 86.7 per cent people belongs to 19-29 and 13.3 per cent people are 52 and above.

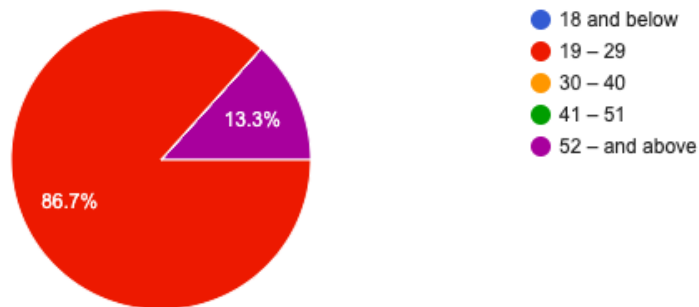


Figure: Classification of age group.

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Literature review and pilot study

Hardan and Shatnawi (2013) discuss the methodology used to benchmark the performances of service providers in order to create a loyal customer base as well as to retain it, and they claim customer service is one of the factors that influences the revenue growth of the telecom industry.

Alexeyev (2005) demonstrates the impacts of market liberalization and privatization on Chinese Telecommunications, from which they give an insight into

the current state of the Chinese Telecom industry. India has also taken the privatization path in the telecommunications sector and the market is now mainly dominated by private companies with two state-run operators only. Telecommunications has been and will continue to be an important foundation for innovative new industries that use telecommunications as a primary technological enabler and foundation.

The significance of regulatory body and policy changes are stressed upon in order to adapt to the future and maintain the growth rate of the telecom industry in both the countries. The transfer of state-owned telecommunications assets to the private sector has been the linchpin of telecommunications reform in many developing economies during the 1990s.

Several authors, for instance, Battistoni et. al. (2006) recommended that regulators should continually assess not only the kind of rules different regulatory bodies require but also “if competition is already established, whether fewer rules might make sense. They note that “regulations are hard to remove or reduce, but doing so may be necessary to stimulate growth and innovation.” According to Battistoni. adopting a sunset clause forces governments to review on a regular basis “how well regulations fulfill their purpose”, it attributed.

While Bepko and Charlene Pleger (2002) attributed that among the areas which need to be addressed in service quality research is the nature of consumer expectations across the range of intangibility. Pratibha A. Dabholkar (1995) concluded that customer satisfaction and service quality are both important tools for creating competitive advantage.

However, there is a lack of consensus on whether the two are separate constructs and how they should be measured. Another author named Wolfe (2003) analyzed regulatory transparency in developing countries and the WTO and concluded that the only way any country can be an effective participant in the WTO, as it evolves in response to globalization is to have an open and transparent public administration based on a broad consultative process.

Scope of the Study

- Control unwanted online contents;
- Influence on public opinion: Today, digital media is one of the main builders of public opinion. It can spread information that improves the lives of

citizens or, on the contrary, it can remind citizens of various failures by the state to fulfill its promises and build prosperity for the people;

- Check all published facts : Censorship can serve as a way to provide verification of facts that the media presents. Without censorship, verification will often be skipped or not done to the proper level;

Through this research study, Suggestions and recommendations are given to Government of India and TRAI for the betterment and future growth of telecommunication in India, thereby contributing more to India's GDP growth.

Major Objective and Significance of TRAI

One of the important objectives of TRAI is to safeguard consumer interests and create consumer awareness. Moreover, Increasing tele-density and access to telecom in the country at affordable prices, Protecting the interest of consumers and addressing general consumer concerns relating to availability, pricing and QoS and other matters, Providing a fair and transparent policy environment which promotes a level playing field and facilitates fair competition, and Establishing an interconnection regime that allows fair, transparent, prompt and equitable interconnection are the major objectives of TRAI.

In pursuance of its objectives, TRAI has, from time to time, issued a number of regulations, orders and directives to provide the required direction for the market's evolution from a Government-owned monopoly to a multi-operator, multi-service, open and competitive market. Towards this objective, TRAI organizes consumer outreach programs in different parts of the country. In the current situation of CoronaVirus Pandemic, it was decided to conduct such programs via online platforms where consumers can join while sitting at their home, shop, or office.

Given the importance of reaching out to consumers all over the country, TRAI has a public interface with telecom subscribers through its website and through Consumer Outreach Programmes conducted across the country. TRAI has instituted a system for registration of consumer organizations as Consumer Advocacy Groups (CAGs). They act as interlocutors between consumers, Telecom Service Providers & TRAI and assist TRAI in increasing consumer's awareness of their rights and service related issues through educational and publicity material

including media campaign in the print and electronic media. Significantly, TCCCP Regulations being complaint based regulation, there was a need to put in place an additional complaint mechanism which is easy to use by the consumer.

In order to make subscriber verification system more secure and robust, it is important that the entire process should be completely (end-to-end) technology driven, digital and paperless. Aadhaar linked e-KYC service, provided by the Unique Identification Authority of India (UIDAI) is a fool-proof mechanism to verify the identity of the person electronically, instantaneously from the source itself. In this regard, E-KYC verification will not only reduce the risk of identity fraud and document forgery but it will also make the entire process of subscriber verification paperless.

Menace of cyber security

The concept of security has itself undergone changes in the last few decades. “It has assumed proportions; external as well as internal“. “It is important to understand that terrorism is terrorism and there cannot be a distinction based on caste, creed and religion”. Thus, there is a dire need to set priorities and expressed hope that the threat of cybersecurity.

India needs to strengthen its defence against rising cyber-attacks and also formulate a ‘national strategy’ for reducing the risk of cybercrimes. In other words, the government has taken major cybersecurity-related initiatives focusing more on central monitoring threat analysis and in promoting research and development in cybersecurity. As per he examined, ‘cyber-security’ is the collective responsibility of all and invited suggestions from the stakeholders to counter the cyber threat worldwide.

According to the Ministry of home affairs, The Indian Cybercrime Coordination Centre to act as a nodal point in the fight against Cyber Crime. It will identify the research problems and needs of law enforcement agencies and take up R&D activities in developing new technologies and forensic tools in collaborations with academia and research institutes within India and abroad. “The Indian Cybercrime Coordination Centre will coordinate all activities related to the implementation of Mutual Legal Assistance Treaties with other countries over Cyber Crimes”, The Ministry attributed.

According to a research by Cybercrime Ventures reveals that the cost of cybercrime damage could reach \$6 trillion annually by 2021. And this rapid increase in damage is due to the fact that more and more agencies – companies are shifting towards digital assets for their businesses. So hackers now have more causes to attack companies including top governmental agencies.. Thus, it is becomes a great matter of concern for policy makers in India.

Thus, Several facts signify that India is among the top hosting countries for online frauds, second only to the United State. The other three countries most targeted by phishing are Canada, the US and the Netherlands. To cycle/fix the growing cyber threats, the world could rely on identity management software that uses top-notch authentication methods to secure the accounts of all registered users. While India underlined the need to take forward inter-alia people-to-people cooperation, cooperation in science and technology and innovation in order to get rid about the same. Even before the Cambridge Analytica scandal it had become apparent what a major role social media was already playing in public life. Politicians use New Media to communicate directly with the electorate.

Amendments to the TRAI Act

In the twenty years of its existence, the TRAI Act has gone through some key amendments. The law, as originally enacted, conferred TRAI with the quasi-judicial function to adjudicate upon telecom disputes. This position was modified by the TRAI (Amendment) Act, 2000, which divided the functions of the original TRAI between TRAI and the newly created Telecom Disputes Settlement and Appellate Tribunal (TDSAT). Following this amendment, TRAI was vested with recommendatory and regulatory functions, while dispute settlement functions were handed over to TDSAT.

Under the amended Act, a clear distinction has been made between TRAI's recommendatory functions and its regulatory ones, as provided under Section 11(1) of the TRAI Act. It also mandated the Government to seek the recommendations of TRAI in respect of certain specified matters, namely the need and timing for introduction of new service providers and the terms and conditions of licences issued to a service provider, the document said.

Trends in Internet services

The Internet services landscape in India has witnessed tremendous changes since 15th August 1995 when Internet services were first launched in the country. In

1995, VSNL became the first commercial Internet Service Provider (ISP) offering public Internet services in India. In its very first annual report for the year 1998-99, TRAI acknowledged the role of the Internet as a “versatile and powerful tool to access and exchange information globally”.

It was also around that time that the Government decided to set up of the National Task Force on Information Technology and Software Development, whose terms of reference included suggesting measures for achieving a massive expansion in the use of the Internet by all sections of society, especially in business and education, and development of Indian content on the Internet.

In the last twenty years, TRAI has played a critical and formative role in shaping the regulatory and policy framework governing the telecom sector in India. The same is also true with regard to the broadcasting and cable services sector in the thirteen years since TRAI acquired jurisdiction over regulating these sectors.

Current approach of government regulation

On November 11, 2020, India’s government has ordered that all online news, social media and video streaming platforms such as Netflix and Amazon Prime are to be subject to state regulation, raising fears of increased censorship of digital media. The Ministry of Information and Broadcasting, which regulates and censors print newspapers, television, films and theatre, will also have jurisdiction, under the new order, over digital news and entertainment platforms in India.

Moreover, Online news and entertainment have up to now been overseen by the Ministry of Technology, which does not interfere with or regulate content. Streaming platforms were pushed to come up with a code for self-censorship, but all versions were rejected.

Importantly, The inclusion of online news portals in the order was also seen as concerning, and part of continuing government moves to bring online news under its control. In October, 2020, a law was passed stating that digital news platforms could not have more than 26% foreign investment. Social media sites such as Facebook and Twitter will also be subject to regulation, though it is unclear how this will be enforced. The government said details of the law would be announced

soon. However, In August 2019, the Union Cabinet approved 26 per cent FDI under government route for uploading or streaming of news and current affairs through digital media, on the lines of print media.

Moreover, on November 07, 2023 the information and ministry has issued a intermediary guidelines for online platforms such as Online news portals, social media, Amazon prime and Netflix etc to maintain their code of ethics.

Meanwhile, On the occasion of National Press Day 2020, Minister for Information and Broadcasting Prakash Javadekar told

that a free press was critical to democracy. “Freedom of press is the soul of democracy. It is very significant but any freedom comes with responsibility. So, there has to be responsible freedom and no sensationalism by the press,”. He pointed out that there was no regulatory body for the OTT platforms and that the government was receiving suggestions on how to regulate its content.

Current challenges and way forward

Awareness of some of the main challenges faced by the sector and regulatory framework of today, ranging from convergence to the persisting issue of the digital divide, is therefore necessary to be better equipped to handle these challenges in future. The convergence of telecom, media broadcasting and Internet services is widely recognised to be a landmark development in technology and service innovation. At the same time, it has given rise to many policy challenges with countries across the globe still mulling over the optimum strategy to adapt.

Convergence refers to the trend of delivering the same communications services – voice, video and data – over multiple communications platforms. With the adoption of IP based next generation networks, the proliferation of converged services is only growing and at a cost much lower than traditional legacy networks. These networks hold promise for the delivery of varied services spanning from media to communications, computing and Financial technologies.

From a regulatory standpoint, convergence raises important issues of its implications on competition and the nature of regulation in future. In fact, one of

TRAI's objectives is "Preparing the grounds for smooth transition to an era of convergence of services and technologies". NTP, 2012 also put an increased focus on convergence. Issues of convergence will therefore continue to become even more relevant in the coming years.

Given that several Over-the-top (OTT) content players provide communication services akin to voice services, telecom service providers argue that there is a need to regulate the two entities similarly. In the above context, TRAI also released a consultation paper on the regulatory framework for OTT services in April, 2015, inviting public opinion on the subject matter. TRAI has also issued related consultation papers on 'net-neutrality' and 'Internet telephony' in recent years.

The move towards digital services, particularly digital Financial services, has also created the need for more cooperation between the Authority and other sectoral regulators. TRAI's open consultation process is one such avenue for ensuring effective area of cooperation with other agencies. For example, recognising the potential for delivery of digital financial services, TRAI has released several consultation papers, to which the Reserve Bank of India (RBI) has provided its inputs. Going forward, this works in the alignment of regulatory approaches of various sectoral regulators will gain even more significance.

One of the core recommendations is the creation of a "statutory building code", which describes mandatory safety and quality requirements for digital platforms. In addition to that, digital media has the burden of compliance with the Information Technology Act which does not apply to newspapers and news channels. In general view, digital media is already regulated and if the government is looking for an additional layer then this is not a healthy sign and no democracy has this kind of a thing. That in itself should give us reason to be cautious.

Conclusion

According to this study, The regulatory framework for New Media has undergone massive transformative changes in the wake of digitalization and the impact of "Novel Coronavirus". From work to entertainment, education to social events, massive activities are shifting online as the offline alternatives are impractical.

Hence, Such regulatory framework requires transformative reforms to strengthen the 'New Media' sphere. The study also finds that most of the urban population are using digital content on a daily basis for gaining information, knowledge, promotions, event planning and much more. Thus, A permanent regulatory framework can be made for monitoring purposes of the new media to ensure the standard quality and authenticity, the study said. In this age, it's a dire need to regulate and monitor digital content in a very appropriate manner as it is a tool of the 'freedom of speech and expression'.

In this study, Most of the people are favouring the modification of telecom regulatory framework. However, The recent recommendations of the TRAI stating that OTT players like Facebook, WhatsApp, Google, Viber, Telegram, etc, do not need to be brought under any form of regulatory framework, will in no way stop the government from drafting intermediary guidelines and data protection laws aimed at governing them. It is relevant because the intermediary guidelines would make it mandatory for apps like WhatsApp to trace the origin of messages if they create law and order problems. Significantly, TRAI recommendations only relate to an aspect of regulatory framework which deals with licensing, payment of any statutory charges to the government, and provision for legal interception.

Following the study, there were no pre-regulatory guidelines that were applicable to OTT content. That is, guidelines that need to be complied with before content is aired. Nor is there any legal requirement of obtaining any sort of licence or censor board permit. On September 14, 2020, the TRAI had submitted its recommendations regarding OTTs which ruled out bringing them under any form of regulatory framework, stating that market forces should be allowed to respond to the situation. The regulator also rejected the need for any regulatory interventions in respect of issues related with privacy and security of OTT services at the moment, remarked that market developments need to be monitored and if required an intervention can be made at an appropriate time.

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