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Draft Keynote Address

by

V S Rama Devi
I take it as a great privilege to address this august assemblage of media experts, engineers and information managers. This seminar, in which you will hold discussions under the broader theme: "Legal and Regulatory Aspects of Satellite Broadcasting," is just timely. Asian Mass Communication Research and Information Centre deserves our thanks for organizing this seminar and I hope that the views expressed here would acquaint our policy-makers, persons concerned with the legal aspects of broadcasting, information managers and advertising professionals with the media policies of various countries.

In the context of India, I find that there exists a very limited legal or regulatory mechanism governing broadcasting. We are a free society. Article 19 of the Indian Constitution guarantees the right to freedom of speech and expression which naturally encompasses free flow of information and, therefore, covers broadcasting. We are greatly influenced by the Universal Declaration of Human Rights of 1948 which says: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

In fact, now only the broadcasting has come of age because through satellite a new vista has been opened for communicating directly with the people cutting across the narrow confines of national boundaries. I definitely view it as a very positive development. We in India have always believed in the concept of "one world." Our ancient wisdom aimed at looking at the world as a small nest.

We have hoped that the world may shrink to such a small extent that it may become like a small nest where everyone may be accommodated. By developing new communication strategies which include both, the software and the hardware part of it, we are bound to bridge the gulf that exists in the world today. A greater understanding can be built between peoples; more tolerance can be created in them and indeed a brave new world can be created by utilising opportunities which are being offered by the communication revolution that is taking place in our times. In the Human Development Report of 1993, which has people's participation as its special focus, one of the basic ideas underlined is that new forums of international cooperation should be evolved which should directly emphasize on the needs of the people rather than...
the preference of the States. In the field of communication we are already seeing that this idea is gaining ground. While through satellite broadcasting, we are witnessing a virtual cultural revolution in the world, we have to ensure that it follows proper path and develops on the right lines.

In November, 1993 a two-day international seminar on the theme 'Satellite and Cable Television: Opportunities and Challenge' was organized in New Delhi in which views were expressed that no country should sit back passively and let the foreign companies decide the kind of programs which should be broadcast by the developing countries. While creating more understanding between peoples is a desired goal, no country, however, would like any kind of cultural invasion which comes through satellite and is sponsored by multi-nationals and commercial interest of foreign companies. If culture is one aspect of the satellite broadcasting, commercialism is the other aspect of it. I am certainly not one of those who say that culture and commerce cannot exist together but, in my humble opinion if commerce starts dictating culture then our hope of creating a higher culture would be totally floundered.

With the new opportunities offered by satellite television there is a need to evolve proper regulatory and legislative measures to deal with various problems that are creeping in due to this phenomenon. The Indian Telegraphic Act of 1983 is very old and it cannot fully regulate the satellite television operations. At present, we do not have a comprehensive media policy which can take care of all aspects of broadcasting, much less the satellite broadcasting. A number of laws apply to the broadcasting and it would involve a painstaking search to prepare an exhaustive list of all the laws which have a bearing on broadcasting. Satellite television has, no doubt, opened new frontiers in international relations whether economic, political or cultural but it has also created problems of altogether new dimensions which may bother not only information managers, media experts but also even sociologists. The socialisation process is being influenced by the media in a big way and satellite television is a very powerful medium in this. It can change the course of a society and lead the people away from the cherished national goals. This would be a dangerous development and obviously, it necessitates the urgency to develop legal and regulatory aspects governing broadcasting.

India has more liberal approach with regard to its media policy and particularly the satellite-linked cable television networks. According to one estimate, we have in India today 25,000 cable operators. Some of them have even reached rural areas. Each of these operators has a minimum clientele of 250-500 households. According to another estimate, there are 30,000 cable operators each reaching 400 households on an average. We do not, however, have any official statistics available about the number of cable television operators. In the
absence of any official statistics, we may have to rely on private estimates and I think this is the right time when something should be done to evolve proper strategy to regulate satellite broadcasting because times to come the number of cable operators is going to increase tremendously.

A comprehensive definition of broadcasting was provided by the Prasad Bharti (Broadcasting Corporation of India) Act, 1990 which says:

"Broadcasting means the dissemination of any form of communication like science, signals, writing, pictures, images and sounds of all kinds by transmission of electromagnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations and all its grammatical variations and cognate expressions shall be construed accordingly."

It is more comprehensive because it takes care of the transmission of 'electromagnetic waves through space or through cables'. The Prasad Bharti Act also aimed at creating a Broadcasting Corporation and the parameters within which this corporation was supposed to function, in fact, provide a pointer which should govern our broadcasting policies. Under Section 12 (2) it was stated that the Broadcasting Corporation envisaged under the Act would be functioning and be guided by such objectives as: upholding the unity and integrity of the country and the values enshrined in the Constitution, safeguarding the citizen's rights to be informed freely, paying special attention to the fields of education, literacy, agriculture, environment, etc., providing adequate coverage to the diverse cultures, informing and stimulating the national consciousness in regard to the status and problems of women, promoting social justice, safeguarding the rights of the working classes, serving the rural and weaker sections, providing suitable programmes keeping in view the special needs of the minorities and tribal communities, taking special steps to protect the interests of children, the blind, the aged and the handicapped, and other vulnerable sections of the people, promoting national integration, providing comprehensive broadcast coverage through the choice of appropriate technology, promoting research and development activities in order to ensure that radio and television broadcasting technology are constantly updated, expanding broadcasting facilities by establishing additional channels of transmission at various levels, etc. I have only presented a summary of the objectives contained in the Act.
broadcasting and telecasting of programmes over the AIR and Doordarshan. This Code mentions that the broadcast of All India Radio by individuals will not permit:

1. Criticism of friendly countries;
2. Attack on religion or communities;
3. Incitement to violence or anything against maintenance of law and order;
4. Anything amounting to contempt of court;
5. Aspersions against the integrity of the President, Governors and Judiciary;
6. Attack on a political party by name;
7. Hostile criticism of any State or the Centre.

There are norms and limitations on advertisements on video cassettes and these norms apply to those video cassettes as well which are meant for home-viewing. All films including video cassettes intended for public exhibition in India are required to be certified by the Central Board of Film Certification. While examining films for certification, the Board is guided by the guidelines issued by the Government. Advertisements included in the films are also dealt with by the same guidelines. Whenever any addition or alteration to a certified film is to be made, prior approval of the Board is required under the Cinematograph (Certification) Rules, 1983. Public exhibition of an uncertified film with unauthorised additions or alterations is an offence under the Cinematograph Act, 1952.

The Cable Television Networks (Regulation) Bill, 1993 is, in fact, a major initiative in the direction of providing legal aspects to cable broadcasting. On August 8 this year, the Government introduced this Bill in the Rajya Sabha. The Bill aims at regulating the operation of cable television networks in the entire country so as to bring uniformity in their operation. The vast potential of new technology is intended to be utilised for the dissemination of information and entertainment. It has been clearly recognized in the Bill that there has been a haphazard mushrooming of cable television networks all over the country during the last few years as a result of the availability of signals of foreign television networks via satellites. This has been perceived as a 'cultural invasion' in many quarters since the programmes available on these satellite channels are predominately western and totally alien to our culture and way of life. Since there is no regulation of these cable television networks, a lot of undesirable programmes and advertisements are becoming available to the viewers without any kind of censorship.

The Bill also perceives the difficulties of the subscribers of cable television networks, the programmers and the cable operators who are not aware of their rights, responsibilities and obligations in respect of the quality of service, technical as well as content-wise, use of material protected by copyright, exhibition of uncertified films,
The Bill provides that the cable television network shall not be operated unless it is registered under the Act. A registering authority has been envisaged in the Bill and for registration a fee may be prescribed. The Bill makes provision for the programme code and the advertisement code. Though no such programme code and advertisement code has been appended to the Bill but such codes will be formulated under the rules which would be framed later under the Act. The Bill makes provision for the maintenance of a register in which a record of the programmes transmitted or re-transmitted would be kept. It has been made mandatory for every cable operator to transmit at least one Doordarshan channel of his choice through the cable service. The Bill also takes care of the equipment used in the cable television network operations. It has been provided in the Bill that every cable operator shall ensure that the cable television network does not interfere with any authorised telecommunication systems. There is a provision in the Bill about seizure and confiscation of the equipment used for cable television network if it is found that any particular person operating the cable network is contravening the provisions relating to the registration. Whoever will contravene the provisions of the Act shall be punished for the first offence with imprisonment for a term which may extend to two years or with a fine which may extend to 1,000 rupees or both and for every subsequent offence with imprisonment for a term which may extend to five years and with a fine which may extend to 5,000 rupees.

Under the Bill the Government has the power to prohibit the operation of cable network in public interest. The most interesting feature of this Bill is that the provisions of this Bill are in addition to and not in derogation of the Drugs and Cosmetics Act, 1940, the Pharmacy Act, 1940, the Emblems and Names (Prevention of Improper Use) Act, 1950, the Drugs (Control) Act, 1952, the Cinematograph Act, 1952, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, the Prevention of Food Adulteration Act, 1954, the Prize Competitions Act, 1955, the Copyright Act, 1957, the Trade and Merchandise Marks Act, 1958, the Indecent Representation of Women (Prohibition) Act, 1986 and the Consumer Protection Act, 1986.

This impressive list of laws mentioned in Clause 21 of the Bill is only indicative. For example, the Commission of Sati (Prevention) Act which was passed by the Government in 1987 to provide for the prevention of the commission of sati and its glorification has not been mentioned in it. The Commission of Sati (Prevention) Act makes the glorification of sati an
offence. Naturally, therefore, any programme which glorifies sati cannot be broadcast on cable network.

In the Monsoon Session of the Parliament, this Bill was referred to the Department-related Standing Committee. The Committee had examined various provisions contained in the Bill and made important recommendations after hearing the viewpoints of the representatives of the various cable television network associations, individuals and others. The Committee also sought clarifications from the representatives of the Ministry of Information and Broadcasting on various clauses of the Bill. This Committee has, in fact, made very important recommendations with regard to some of the provisions of the Bill, all of which, of course, cannot be mentioned here for want of time. But I would particularly refer to the recommendations of the Committee relating to Clause 5 and 6 of the Bill which provide that a cable operator shall not transmit or re-transmit through a cable service any programme or advertisement unless it is in conformity with the prescribed programme/advertisement code which will be notified by the Government under Clause 22 of the Bill. The Committee was of the opinion that the cable operators show most of the times the programme available from foreign television networks via satellites and have no control over them. As such it would be difficult for them to ensure that these programmes and advertisements were in conformity with the programme/advertisement code. The Committee, therefore, felt that before holding the cable operators guilty of violation of the code prior knowledge of the programme being violative of the code should be established. So far as the programme shown through pre-recorded cassettes on VCR is concerned, the Committee was of the view that the producers and the distributors of the cassettes should also be made equally responsible along with the cable operators for adhering to the programme/advertisement code.

I have highlighted, in brief, that at present in India we have very feeble regulatory aspects which govern broadcasting. Though we are very liberal with regard to exercising any control over satellite broadcasting, we do need to evolve some kind of regulatory mechanism which may prevent, on the one hand, cultural onslaught on our nation and on the other hand protect consumers from unscrupulous elements. The idea of having programme and advertisement codes as envisaged under Clause 5 and 6 of the Cable Television Networks (Regulation) Bill is indeed laudable, and I hope the suggestions which would be emerging out of the deliberations of this seminar would assist the policy-makers in finalising the programme and advertisement codes. While finalising these two codes, I would urge upon the policy-makers to refer to section 12(2) of the Prasar Bharti (Broadcasting Corporation of India) Act, 1990, which enumerates the objectives which shall be followed by the Broadcasting Corporation of India.

I am sure that open sky for television will lead to better understanding of each other and would strengthen democracy and pluralism in the world. But this area does need proper legal and regulatory framework and I am sure that this seminar will address
itself towards that objective.

Instead of all the criticism that western programmes are destroying our culture, why don't we offer to the western world the good points of our culture through apt programmes. For example, we can emphasize on the warmth which is provided by well-entrenched family system which provides social security to the handicapped and needy members of the family. The Western world would be and is really interested in knowing about our social institutions and our developmental activities in our developing countries.

Thank you.