

# Modern day media regulations

**Javed Jabbar**

Whereas change in the sectors of telecommunication, information technology and media is rapid, multi-faceted and complex, the process of creating appropriate legal and regulatory frameworks for these sectors in Pakistan is slow, obscure, non-transparent and un-coordinated. While the nature of technology and the law require that law be a few steps behind technology, in this case, the gap between reality and regulation is large and alarming.

An absence of legislation and regulation may, in some instances, be seen as benign neglect. A decision to refrain from establishing statutes can be seen as an enlightened way to avoid setting up road blocks but obstruct innovation and expansion, in order to avoid inhibiting the creativity of new technology or curbing the spontaneity of market forces.

However, the present situation in Pakistan is more akin to narrow-minded negligence with wide, negative repercussions rather than a calculated abstention from interference. The government these days has such dominant majority in Parliament that it has been possible to amend the Constitution twice in a single year (and that too within a few hours). But the opportunity to enact progressive and comprehensive legislation which is flexible and sensitive to new developments has so far been wasted.

The absence of legislation and of regulation is compounded by the absence of policy which could have compensated for the missing sense of vision. The functioning of the government reflects ad hocism, and the patch-work does not add up to form a composite whole.

In respect of the mass media, the existing situation is marked by a vacuum as well as an excess. After over 25 years of stringent, and 10 years of a moderate legal provisions to regulate the Press there is at present a legal void. Because the previous Ordinance lapsed in 1997 and has not been re-promulgated or re-enacted. The Government and the representative bodies of press proprietors and newspaper editors have yet to agree upon the draft of the law to create a Press Council. Yet government control over certifying circulation of journals and advertising by Government-controlled bodies continues to remain complete and unchanged.

After the enactment of an ostensibly comprehensive law in 1996 to re-organise the telecommunication sector, there appears to be a lack of coherence and communication be-

tween the regulatory body set up under this law, and the Government-controlled corporation that operates the telecommunication system in the public sector.

At the executive policy making and senior management levels of the public sector a general awareness certainly exists about the need for an effective response to the challenges posed by the changes in the information technology sector. A kind of momentum has been building over the past decade but this remains sporadic and fragmented.

An apt manifestation of this segmented approach is that even in today there is no focal policy centre in the Federal Government to oversee and coordinate the convergence taking place in the telecommunication and information technology (IT) sectors, and the media. The Pakistan Computer Bureau functions under the Cabinet Division and is charged with the computerisation of the government system rather than origination and implementation of an IT policy. The Ministry of Communications supervises the telecommunication sector which is further overseen by the Pakistan Telecommunication Authority, and the operational work conducted by the Pakistan Telecommunications Corporation.

The Ministry of Science and Technology which should be the single focal point has no specific institutional role in the IT sector despite the fact that the R&D bodies under its purview, specially the National Institute of Electronics, should be deployed vigorously in this field. The Ministry of Information and Media Development is preoccupied with propaganda-mongering and is content with cosmetic steps rather than authentic innovations in the policy and operation of Radio and TV. Despite the existence of other organisations such as the National Software Export Board and the Information Technology Commission, the issues and opportunities created by convergence float in cyber space like isolated bits instead of being focused under a comprehensive vision.

The delay in dealing effectively with these issues has a serious negative impact on the country's ability to maintain and increase the pace of development in almost all sectors, be it commerce or industry, agriculture or research and development, produc-

tivity, and competitiveness.

Media scholars, legal luminaries, specialists in telecommunications and information technology including this writer gathered together at an international workshop in Bangkok from 15th to 17th April, 1998, to exchange data and define shared perceptions on the subject of "media regulations for new times." The event was organised by the Asian Media Information and Communication Centre, Singapore, with the support of the Faculty of Communication Arts, Chulalongkorn University in Bangkok and the Swedish International Development Agency. Countries represented at the event included the United Kingdom, Japan, Thailand, Malaysia, Singapore, India, Pakistan, Sri Lanka, Vietnam and Cambodia. Notwithstanding the contrast between these countries in the sectors under review, certain common perceptions were clear and after extensive debate were codified as follows in the conclusions drawn:

## Freedom of information should be an essential aspect of the relationship between governments, media and the citizens

"The arrival of the newer services such as the Internet, digital and interactive TV, as a result of convergence has opened a wide debate about how media should be regulated.

"In view of the crucial role of media in fostering democratic structures and development of the Asian region, the newer services should be considered as an important opportunity for the development of the media and any action which stimulates access to the new technologies should be encouraged. A characteristic of Asia being a diversity of languages and cultures, the rich possibilities offered by these technologies should be harnessed to enrich these cultures.

"If regulation is considered to be necessary, it should conform to the fundamental principles of freedom of speech and the rule of law. When regulation is enacted full accountability of the implementation and enforcement of those regulations must be established.

"Freedom of information should be an essential aspect of the relationship between governments, media and the citizens. New technologies, such as the World Wide Web can allow public information more widely and at a lower cost. Government should desist from perceiving these technologies as a threat but instead treat them as powerful tools of good governance.

"While the newer technologies may offer an increased range of services, pluralism remains essential.

Thus, pluralism must be maintained in the ownership of media and to provide for greater diversity of content.

"The fast pace of technological developments throw up a complex gamut of regulatory challenges to society. This can best be addressed by self regulation which should therefore be considered as the preferred model for regulation.

### Radio and TV

"Given the crucial importance of these media in reaching the poor and the illiterate, and their transitional impacts measures should be taken to:

- expand audience choices
- enhance open competition and transparency in the licensing process
- strengthen professionalism and ethical standards in broadcasting
- promote greater regional cooperation in the sector
- build regional consensus on content regulation
- encourage technologies which facilitate a more efficient use of scarce resources such as the broadcast spectrum.

### The Internet

"In formulating an Internet policy, governments should set clear priorities, which should be as follows:

- Laws and policies should facilitate and encourage the development of the technological infrastructure and institutions related to the Internet.

• Attempts should be made to promote the local hosting of information.

The following note was added by this writer:

"In place of the current trend whereby, for example, in order to access data about one's own country, the electronic route goes from a computer in Pakistan to a computer in the USA where the data is "hosted" or "stored". Then the data is "returned" to Pakistan. This trend is due to factors such as the quality and reliability of power supply to systems in the USA and to lower rates, neither of which factors are presently available in Pakistan.

The conclusions also stated that: "Steps should be taken to develop national and regional networks of high band-width; to train programmes and users and to encourage the spread of local languages on the Net alongside English.

• A holistic and flexible approach towards regulation must be developed based on a mature understanding of the issues involved in a rapidly changing environment.

• Efforts should be made to clear obstacles to commerce given the importance of trade and commercial communications in the global market."