

No. 804/34/2016-BC-III
GOVERNMENT OF INDIA
MINISTRY OF INFORMATION & BROADCASTING
'A' WING, SHASTRI BHAWAN
NEW DELHI - 110001

Dated the 5th September, 2018

ORDER

Whereas it had come to the notice of the Ministry of Information & Broadcasting that CVR Health TV channel telecast a programme titled 'Healthy Nights' on 29.12.2016 and 30.12.2016 at 11:25 p.m.

Whereas in the said programme telecast on 29-12-2016 and 30-12-2016 the channel had shown various film songs abundant with scenes that objectified women as well as movie clips that contained intimate lovemaking scenes that were highly vulgar and unsuitable for telecast. The detailed transcription and description of the telecast on the above mentioned dates are given as under:

Date : 29-12-2016 at (23:25:52 - 25:27:18) A Tamil movie scene starts playing that starts with a man showering in a bathroom. He calls on his wife to fetch his towel as he showers and then as she comes in with the towel, he asks her to help him scrub his body. She shyly agrees, and then things start to get intense between the two as they shower together and start getting intimate.

(23:33:34) A South Indian film scene starts playing wherein a woman is standing opposite with her bare waist and navel facing towards the man's head she is massaging. Gradually the atmosphere changes as the man slowly leans towards her navel and breathes heavily. Her facial expression and body language clearly indicate her arousal with this gesture. He then stands up and kisses her.

(23:38:39 - 23:40:50) An intimate love making scene between actors Vidya Balan and Naserudin Shah from the 'A' certified feature film 'Dirty Picture' follows next.

(23:43:49 to 23:46:17) In this movie clip, the actors speak in Hindi dialect but it appears to be dubbed from a South Indian film. The scene in this clip is set in an outdoor surrounding where a man and a woman are having a date, and they end up getting intimate right in the park.

Date : 30-12-2016 at (23:25:15 - 23:27:34) Programme now plays a scene from a Tamil movie wherein a man invites a woman into his room. He tries to woo her with a cash load of money and then she thanks him, accepts it saying she will not forget his generosity. He proposes to the woman, who apparently is already impressed and smitten because of the money. They talk briefly and end up in bed together.

(23:30:27 to 23:32:15) Intimate scenes between actors Neha Dhupia and Yash Tonk in the 'A' Certified movie 'Julie' is shown.

(23:39:02 to 23:41:04) The scene in this movie clip shows a woman sweeping the floor as a man sitting on the couch behind her keep staring at her bare waist as she goes about working. He stands up, approaches her, says something to her (inaudible) and then hugs her. They start getting intimate reaching the sofa and the man gets on top of her also lifting her sari.

(23:44:20 to 23:47:06) A highly objectionable and explicitly intimate scene between a man and a woman can be seen in this film clip wherein the kissing scene has been stretched for extensive period. The pair lies down in bed as the man fondles her breast and lifts up her sari. Moments later, the woman can be seen wearing just a bra and underwear as they keep kissing intensely. The camera then gives a close up view from above where he can be seen kissing her upper body, fondling her fully formed womanly breasts even squeezing her nipples. There is a point where the woman's nipples are exposed for split second as the man keeps getting engrossed in the process. He can also be seen stroking her lower private area, even his head reaches her lower abdomen and then he moves on to her upper region. The scene in this video clip is extremely obscene and vulgar.

(23:50:16 to 23:53:01) An objectionable scene from a movie clip starts playing wherein a voluptuous woman in bed wearing a blouse pours liquor all over her upper body and at the same time she gives erotic expression, moaning, enticing the man sitting across the room on a couch and she signals him towards her. He comes over and then starts kissing her in the region where she had poured the drinks. As the two continues with their lovemaking with the woman moaning and making sounds of arousal, her bosoms are the point of focus in this particular scene. The scene in this video clip is also extremely obscene and vulgar.

Whereas, the anchor in this programme gave love and relationship advice, after which each time, several movie clips and songs ranging from Bollywood to South Indian film industry were shown subsequently. The programme did not however provide the titles of the movie. Most of the clip contents were extremely objectionable as it extensively showed physically intimate love making scenes that leaned a lot more towards soft core pornography. It also looked as though most of the clips aired by the channel were 'A' certified movies including Hindi feature films 'Julie' and 'Dirty Picture'. In almost all the movie scenes and songs in the programme, women had been objectified focusing mainly on their physical assets. It is pertinent to mention that one of the movie clips distinctively went over board by showing uncut and explicit scenes of intimacy wherein a man and a woman were kissing each other throughout; wearing just an underwear and bra, the woman's well-endowed breasts were fondled during which her nipples were revealed for a split second and her lower genital areas as well was stroked by the man.

Whereas the programme was obscene, vulgar which denigrated women and was also not suitable to be shown on TV for unrestricted public exhibition. Thus the channel appeared to violate Rule 6(1)(a), (d), (k), (o) and Rule 6(5) of the Programme Code prescribed under the Cable Television Network (Regulation) Act, 1995 and the rules framed thereunder.

Whereas, a Show Cause Notice (SCN) dated 30.03.2017 was issued to the channel for telecasting the objectionable content on 29.12.2016 and 30.12.2016 in the programme 'Healthy Nights' daily at 11:25 PM.

Whereas, responding to the Ministry's SCN, CVR Health Channel vide its letter dated 10th April 2017, submitted following comments:

- i) The CVR Health Channel has stated that the programme on the aforesaid dates was telecast at 11:25 PM at a time when largest numbers of children are supposed to be sleeping and only adult would watch the same. Further it was not aware that telecasting a programme like this at late night would amount to violation of provisions of Cable Television Network Rules.
- ii) That they were carried away by the view of leading newspapers and lawyers and thought that airing of adult content was not a deliberate act, but it was only unintentional and the same may kindly be condoned.
- iii) They came across a report in a leading newspaper, wherein it has been stated that Television viewing public clearly wanted adult fare. The channel has further stated that a Telegraph conducted mode survey of 104 television viewers (52 men and 52 women) in Mumbai between the age group of 25 years and 50 years. The survey precisely suggested that public wanted adult fare. Nearly 65% of those polled said that adult film should be shown on TV. Further, 75% of those who said 'yes' to adult film said these should be shown after 11:00 PM. Some of the leading advocates in India are also of the opinion that freedom of expression is guaranteed by Article 19A of the Indian Constitution and that total restriction on airing of adult content does not violate one's freedom of expression. Their suggestion is that it might have been alright if some cut-off time such as 10:00 PM has been set.

Whereas CVR Health Channel on the one hand tried to justify its stand and on the other, it tried to give assurance that they will be more careful while telecasting programmes in future.

Whereas, the matter was placed before IMC for its consideration and recommendations on 18.04.2018. Following the principles of natural justice, the channel was afforded an opportunity for personal hearing to present their case. The representatives explained that on receipt of the notice from the Ministry they realized that the content that was shown in the programme 'Healthy Nights' should not have been aired by them and they stopped the clippings immediately. Although they regretfully admitted that it was, in fact, a mistake of the producer, the content of the programme focussed on health. The IMC noted with concern that health has just become an excuse and the channels tend to offer nonsense in the garb of health-related programmes and hence, stressed on the need that the channel should be careful in such matters. The representatives pointed out that they have already submitted their explanation and have expressed their apology for telecasting the said programme and assured to be careful in future.

Whereas, having regard to the material on record, preview of the CD, the written and oral submissions of the channel and totality of the circumstances, IMC concluded that channel has committed a clear violation of the prescribed programme code as its content bordered on pornography and indecency and

hence, it needed to be given exemplary punishment for this lapse. **Therefore, the IMC recommended that the CVR Health TV channel may be taken off air for three days.**

Whereas, the competent authority, after previewing the C.D. of the programme, taking into account the facts of the case, the written and oral submission by the channel, having regard to the recommendations of the IMC and after careful consideration of the case on the whole, has come to the conclusion that the channel had indeed shown irresponsibility in discharge of their obligations towards ensuring full compliance to the Programme Code. Due care and responsibility was expected of the channel. Thus, CVR Health channel had violated the Programme Code under Rule 6 (1) (a), (d), (k), (o) & Rule 6(5) of Cable Television Networks (Regulation) Act, 1995 and the rules framed thereunder by telecasting the programme titled 'Healthy Nights'.

Whereas, as per para 5.2 of the Guidelines for Uplinking from India, one of the basic conditions/obligations of the company permitted to uplink registered channels is that the company shall comply with the Programme Code prescribed under the Cable Television Networks (Regulation) Act, 1995 and rules framed thereunder;

Whereas, as per para 8.2 of the said uplinking guidelines, the Central Government has the power to impose penalties for violation of any of the terms and conditions or other provisions of the said guidelines;

Whereas, as per para 8.1 of the said guidelines, in the event of a channel found to have been/being used for transmitting any objectionable/unauthorized content inconsistent with public interest, the Central Government has the power to revoke the permission granted;

Whereas, in case of violation of Programme Code this Ministry has powers to suspend the permission of uplinking granted to a company for a period of 30 days in the event of first violation as per para 8.2.1, for 90 days in the event of second violation as per para 8.2.2 and revocation of permission of the company and prohibition of broadcast up to the remaining period of permission in the event of third violation as per para 8.2.3 of the said uplinking guidelines;

Whereas, sub-section (2) of Section 20 of the Cable Television Networks (Regulation) Act, 1995 provides that where the Central Government thinks it necessary or expedient so to do in the interest of the (i) sovereignty or integrity of India; or (ii) security of India; or (iii) friendly relations of India with any foreign State; or (iv) public order, decency or morality, it may, by order, regulate or prohibit the transmission or re-transmission of any channel or programme;

Whereas, sub-section (3) of Section 20 of the Cable Television Networks (Regulation) Act, 1995 provides that where the Central Government considers that any programme of any channel is not in conformity with the prescribed programme code referred to in section 5 or the prescribed advertisement code referred to in section 6, it may by order regulate or prohibit the transmission or re-transmission of such programme;

And Whereas, the Competent Authority has decided to impose a penalty of prohibition of transmission/re-transmission of CVR Health channel on any platform throughout the Territory of India for a period of three days;

Now, Therefore, the Central Government in exercise of the powers conferred by sub section (2) & (3) of Section 20 of the Cable Television Networks (Regulation) Act, 1995 and under paras 8.1 & 8.2 of the guidelines for uplinking from India, **orders to prohibit the transmission or re-transmission of CVR Health channel for three days on any platform throughout India with effect from 00:01 hrs on 8th September, 2018 till 00:01 hrs on 11th September, 2018.**

This issues with the approval of the Competent Authority.


[AMIT KATOCH]
Director (BC)
Tele.23386394

Managing Director,
M/s. Image Broadcasting India Pvt. Limited,
Plot No.573J, Road No.82,
Jubilee Hills Cooperative House Building Society,
Hyderabad - 500033

(With the direction to send compliance report immediately after the commencement of the above period followed by a final report on expiry of the said prohibition period on e-mail id sobcii-moib@nic)

Copy to: Managing Director, M/s. Indiasign Private Limited, A-49, Hartron Complex, Electronics City, Sector 18, Gurgaon – 122015 (Haryana)

With the request to stop uplinking of CVR Health channel for three (3) days with effect from 00:01 hrs on 8th September, 2018 till 00:01 hrs on 11th September, 2018. The receipt and compliance of this order may also be confirmed to this Ministry at the earliest via fax on 022-23383539 and on e-mail id sobcii-moib@nic.in as well.


[AMIT KATOCH]
Director (BC)