

Foreword

It is difficult to pinpoint the exact time when the negative phenomenon of Paid News made its entry into the election arena. However, after the Lok Sabha elections 2009, a large number of well-meaning people who were concerned about free and fair elections, ethical journalism and the overall health of the democracy raised strong voices of protest against the practice of Paid News. Several of them including political leaders, senior journalists, media associations and civil society groups conveyed their anxiety to the Commission. There were discussions in Parliament, within the Government and in media circles about the damage caused by Paid News. In Commission's meetings with political parties there have been consistently requests for remedial action. The Commission also received recommendations from the Press Council of India.

Based on its mandate to hold free and fair elections and not to allow any vitiation of level playing field or violation of election laws, Election Commission of India initiated its first considered steps against Paid News in the General Elections in 2010. Since then, we have tried to strengthen these measures from election to election and taken up initiatives to keep all stakeholders including political parties, candidates, media practitioners and the public at large informed. Without doubt, tackling of Paid News in elections is still an evolving process and would require support of one and all.

Considering the complex nature of Paid News, this booklet seeks to provide a perspective on the problem as it relates to elections in India and ECI's ways of dealing with it so far.

(Akshay Rout)
Director General

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Introduction

Election Commission of India greatly appreciates the key role played by the media in nation building and in nurturing of democracy. Over the last six decades, the Indian media has been among the Commission's most powerful ally, its eyes and ears in the field and the most eager supporter of the Commission's constitutional mandate. During election time, media has played a significant role in dissemination of election related information, brings to notice various violations and generates political debate for benefit of voters. In recent times, the media has taken up several public causes with vigour. However, certain complexities have developed recently in relation to media's activities in the election area, which need to be addressed.

The phenomenon of Paid News, has assumed alarming proportion as a serious electoral malpractice, and has caused concern to the Commission in the context of conduct of free and fair elections. It circumvents election expenditure limits, disturbs level playing field and acts against the voters' right to correct information. Paid News has been defined by Press Council of India as - ***Any news or analysis appearing in any media (Print & Electronic) for a price in cash or kind as consideration.*** Political parties and media groups have been meeting the Commission and requesting for strong steps against Paid News. There was consensus among all political parties in their meeting with the Commission on 4th October 2010 and again on 9th March, 2011 that stringent measures should be taken against Paid News. The Commission, for the purpose of keeping the maximum vigilance on 'Paid News' and to prevent such mal-practice, has made various efforts so far and issued various guidelines and orders. Starting in June 2010, ECI has issued instructions to state and district officers to scrutinize, identify and report cases of Paid News through a carefully laid out mechanism and process.

The Commission in 2010 appointed Media Certification & Monitoring Committee (MCMC) at District level and State level for certification of advertisements (an existing function) and also to monitor media for Paid News and other violations. As per the existing arrangements, the District Committee scrutinizes all newspapers and electronic media in the District, in order to locate political advertisements in the garb of news coverage. It intimates the Returning Officer for issue of notices to candidates either for inclusion of actual expenditure on the published matter or for inclusion of notional expenditure based on DIPR/DAVP rates in their election expenses account irrespective of whether the candidate actually has paid or not paid any amount to the channel/newspaper. In case, no reply is received by District MCMC from the candidate within 48 hours of serving of notice, the decision of MCMC will be final.



District MCMC decides on the reply expeditiously and convey to the Candidate/Party its final decision. If decision of District MCMC is not acceptable to the candidate, he/she may appeal to State level MCMC within 48 hours of receipt of the decision, with information to the District MCMC. The State level MCMC examines all cases of Paid News on appeal against the decision of District level MCMC within 96 hours of receipt of appeal and cases that they may take up suo motu, in which it directs the concerned Returning Officer to issue notice to the candidate. The Candidate may appeal against the decision of State level MCMC to Election Commission of India within 48 hours of receiving of order from this Committee. The decision of the Commission is final.

In relation to the print and the electronic media, involved in Paid News, the Commission refers the decided cases of Paid News to Press Council of India and News Broadcasters Association respectively for taking necessary action.

Through enforcement of the measures against Paid News for the first time in the Bihar Assembly elections of 2010, Commission had served notices in 121 suspected cases. Out of these, 15 cases were finally decided as cases of Paid News. In the elections in 2011, there were 65 confirmed cases of Paid News in Kerala, 3 in Puduchery, 46 in Assam, 8 in West Bengal and 22 in Tamil Nadu. In the elections in 2012, cases decided as Paid News were 97 in Uttar Pradesh, 30 in Uttarakhand, 523 in Punjab, 9 in Goa, 414 in Gujarat and 104 in Himachal Pradesh. In 2013, in Karnataka assembly elections, 93 confirmed cases of paid news have been found. However, in Meghalaya, Nagaland & Tripura assembly elections, no cases of paid news were detected.

The Commission has proposed amendment in the Representation of the People Act, 1951, to provide therein that publishing and abetting the publishing of 'Paid News' for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III of Part-VII of the Representation of the People Act, 1951 with punishment of a minimum of two years imprisonment. The issue is pending with the Govt of India.

The Commission from time to time organizes workshops for media persons and political parties in various States to sensitize them for not indulging in this electoral malpractices.

This Compendium should help all stakeholders in understanding the problem of Paid News and the measures and mechanism to deal with the problem in the election arena.



Gist of Instructions

1. Certification of advertisements of political nature

(i) Supreme Court's Order dated 13th April 2004 relating to certification of advertisements of political nature on TV Channel and Cable Network.

The Supreme Court of India in SLP (C) No. 6679 of 2004 (Ministry of Information and Broadcasting Vs M/s Gemini TV Pvt Ltd and others) has passed the orders on 13th April 2004 that all the political advertisements proposed to be issued on TV Channels and Cable Networks by any registered political party/any group or organization/association/individual candidate shall be pre-certified by the designated certification committee at various levels to be constituted by the Election Commission of India. Consequent upon the Supreme Court judgment, the Election Commission issued an order vide its letter dated 15th April 2004 to the CEOs of all the States/UTs to constitute such committees. (Page No 7-16).

(ii) Certification of advertisement of political nature on TV Channels & Cable Network – Extension to Radio and Cinema Halls.

Election Commission of India consequent upon amendment in Code for Commercial advertisements on radio, has issued order that the Committees set to scrutinize political advertisements on TV channels/Cable Networks, will also deal with the political advertisements on Radio including the private FM Channels. (Page No 21-22). The Commission has widened the area of certification by including Cinema Halls besides TV Channels/Cables Networks and Radio including FM Channels. (Page No 56).

(iii) Certification of political advertisement in multiple languages and regional language of any National Party/State Party having headquarter in Delhi.

(a) In connection with the certification of advertisements, the Commission further clarified that if the Central Office of any of the National Parties or the State Parties with headquarter in Delhi seeks certification of same advertisement in multiple languages (Hindi/English and in regional languages), the advertisement material in each of the languages alongwith certified transcripts should be submitted to the committee in the office of the CEO, Delhi. If the Central Office of any of the National Parties or the State Parties with headquarters in Delhi wishes to seek certification of advertisement in any regional language (without there being any Hindi/English version of the advertisement), the application seeking



certification will have to be submitted to the committee in the office of the CEO of the State concerned (i.e. the State to which the regional language pertains). (Page No 23-26).

(b) In the cases where registered political parties/group/organization/association, not having their Headquarter in NCT of Delhi but wish to telecast/broadcast their advertisement in Delhi, certification of advertisement should be considered by the MCMC in the State, where the party is contesting election, in this case NCT of Delhi. (Page No 59)

(iv) Audio-visual displays of political advertisement in public place.

Audio-visual displays of political advertisement/campaign material in public places should require certification under the existing orders of the Commission to be done by the designated committee (Page No 59).

2. Paid News

With regard to Paid News, the Election Commission has accepted the definition given by Press Council of India. PCI has defined paid news as “any news or analysis appearing in any media (Print and Electronic) for a price in cash or kind as consideration. (Page No 34).

(i) Commission’s proposal for the amendment in the Representation of the People Act, 1951 to make Paid News an electoral offence.

The Commission has proposed to the Ministry of Law & Justice, Govt. of India for the amendment in the Representation of the People Act, 1951, to provide therein that publishing and abetting the publishing of ‘Paid News’ for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III of Part-VII of Representation of the People Act, 1951 with punishment of a minimum of two years imprisonment. The issue is pending with the Govt of India. (Page No 40-42).

(ii) Commission’s direction for the constitution of State level & District level Media Certification and Monitoring Committees (MCMC).

The Commission has directed CEOs of all the States/UTs to constitute District level & State level Media Certification & Monitoring Committees (MCMC) to monitor Paid News instances in media (Page No 30-31& 44)



(iii) Inclusion of notional expenditure of paid news into the candidate's election expenses account as per the standard rate cards of media houses.

In order to bring uniformity in dealing with Paid News and advertisements on TV/ cable TV network owned by political parties or their functionaries/officer bearers, the Commission directed the CEOs that six months before the due date of expiry of Lok Sabha or the State/UT Legislative Assembly, as the case may be, a list of television channels/radio channels/newspapers, broadcasting/ circulated in the State/UT and their standard rate cards shall be obtained by the CEOs and forwarded to the Commission. The Media Certification and Monitoring Committee (MCMC) at District level and State level will monitor all political advertisements in relation to candidates, either overt or covert, and will intimate the Returning Officer for issue of notices to candidates for inclusion of notional expenditure based on standard rate cards in their election expenses account, in case the candidate has not submitted the documents of actual expenses. (Page No 45-46).

(iv) Committee at ECI level to examine paid news references.

The Commission has also constituted a Committee at ECI level to examine references received from State level MCMC and to examine and recommend on references directly received in the Commission, which are not any State/UT specific, regarding Paid News. (Page No 47-48).

(v) Commission's comprehensive guidelines on Paid News dated 27.08.2012.

In order to monitor Paid News cases more effectively, the Commission has issued comprehensive guidelines to the CEOs of all the States/UTs, as per which the District level Committee scrutinizes all newspapers and electronic media in the District, in order to locate political advertisement in the garb of news coverage. As soon as, a suspected case of Paid News comes to the notice of committee, the candidate is served due notice which he has to reply within 48 hours of serving of notice by Returning Officer, failing which, the decision of the Committee shall be final. The appeal against the decision of District level MCMC can be made to State level MCMC within the 48 hours of the decision of District level MCMC, which shall be decided by State level MCMC within 96 hours of receipt of appeal. The candidate may appeal against the decision of State level MCMC to the Election Commission of India within 48 hours of receiving of order from this Committee. The decision of the Commission is final. (Page No 49-54).



(vi) Paid News reporting formats for Chief Electoral Officers.

The Commission has developed two formats for the CEOs, to report the Paid News cases to the Commission. CEOs have to submit weekly report in format, from the date of scrutiny of nominations and final detailed report in format 2 of all the confirmed cases of paid news just after the completion of elections. (Page No 64-65).

(vii) Press Council of India (PCI) and News Broadcasters Association (NBA) for action against print media and electronic media respectively, involved in Paid News.

On the basis of above reports the names of involved print media and electronic media are forwarded to Press Council of India (PCI) and News Broadcasters Association (NBA) respectively for necessary action. (Page No 54 & 57-58)

3. Social Media

(i) Instructions of the Commission with respect to use of Social Media in Election Campaigning

The Commission has issued detailed guidelines on social media on 25th October 2013, which mentions about furnishing details of social media accounts by the candidates during filing of nominations. The Commission also brought the political advertisements to be issued on Social Media sites under the purview of pre-certification. The Commission further instructed that candidates and political parties shall include all expenditure on campaigning, including expenditure on advertisements on social media, both for maintaining a correct account of expenditure and for submitting the statement of expenditure. (Page No 60-62)



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 509/75/2004/JS-I

Dated: 15th April, 2004

To

The Chief Electoral Officers
of all States / Union Territories.

Subject:- Supreme Court's Order dated 13th April 2013 relating to advertisements of political nature on TV Channel and cable networks.

Sir,

I am directed to enclose herewith a copy of the order dated 15th April 2004 passed by the Commission in pursuance of the Order dated 13th April, 2004, of the Hon'ble Supreme Court in SLP (C) No. 6679 of 2004 (Ministry of Information and Broadcasting Vs. M/s. Gemini TV Pvt. Ltd. and others).

2. It may be noted that the Commission has directed that for pre-viewing, scrutinizing and certifying advertisements to be telecast over TV channels and cable networks by any registered political party or by any group or organization / association, having headquarters in NCT of Delhi, the Chief Electoral Officer, Delhi is to constitute a Committee as directed in paragraph 6 (i) of the Order. Similarly, the Chief Electoral Officers of other States / Union Territories will constitute Committees for dealing with applications by political parties and other associations / groups with headquarters in their States / Union Territories, as per paragraph 6 (iii). Vide paragraph 6 (v) of the Order, the Returning Officer of every Parliamentary Constituency have been declared as Designated Officer for previewing, scrutinizing and certifying advertisements by individual candidates contesting election from the constituency concerned. For the candidates contesting the current general election to the Legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim and the bye-elections in some States, the Returning Officer of the Parliamentary Constituency comprising the Assembly Constituency concerned will entertain applications for certification of advertisements.

3. The Chief Electoral Officers of all States / Union Territories are also required to constitute further a Committee to attend to complaints / grievances in regard to the decision of the Committees / Designated Officers on the application for certification of advertisements.



4. Each application for certification is to be submitted before the Committee concerned or the Designated Officer concerned in a statement as per the format prescribed in Annexure-A appended to the Order. The certificate for telecast for an advertisement is to be given by the Committee / Designated Officer in the format as given in Annexure-B appended to the Order. The applicants are required to submit two copies of the proposed advertisements in electronic form alongwith an attested transcript thereof.

5. A proper record in a register should be maintained for all applications received for certification. Each application should be serially numbered and the serial numbers should also be indicated on the two copies in electronic form and the receiving officer should affix his signature on the electronic copy. After issue of certificate, one electronic copy of the advertisement as certified for telecast, should be retained by the Committee / Designated Officer.

6. All Chief Electoral Officers may take immediate action for acquiring, by hiring or purchase, necessary equipments / infrastructure, such as television, VCR, VCD, etc. that may be required for the purpose of previewing and scrutinizing of advertisements by the Committees and Designated Officer in their State / Union Territory. Any purchase made are to be in accordance with the rates and procedures approved by the State Governments for similar items.

7. The Commission's order may be given wide publicity and this may be specifically brought to the notice of all District Election Officers / District Magistrates, Returning Officers, TV Channels, cable operators and political parties in the State / Union Territory.

8. Kindly acknowledge receipt.

Yours faithfully,

Sd/-

(K.F. WILFRED)
SECRETARY



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.509/75/2004/JS-I

Dated : 15th April, 2004

ORDER

1. Whereas, Section 6 of the Cable Television (Regulation) Act, 1995, provides that no person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code; and

2. Whereas, Sub- rule (3) of Rule 7 of the Cable Television Network (Regulations) Rules, 1994 laying down the advertising code in terms of the abovementioned Section 6 provides that “no advertisement shall be permitted, the objects whereof, are wholly or mainly of a religious or political nature; advertisements must not be directed towards any religious or political end”; and

3. Whereas, the High Court of Andhra Pradesh, by its judgement and order dated 23-03-2004 in WPMP No.5214/2004 (Gemini TV Pvt. Ltd. Vs. Election Commission of India and others), suspended the above mentioned provisions of Rule 7(3) of the Cable Television Network (Regulation) Rules, 1994; and

4. Whereas the Hon'ble Supreme court, by its interim order dated 2-4-2004, in SLP (Civil) No.6679/2004 (Ministry of Information & Broadcasting Vs M/s Gemini TV and Others), in substitution of the order under challenge, had directed as below:-

- (i) **No cable operator or TV channel shall telecast any advertisement, which does not conform to the law of the country and which offends the morality, decency and susceptibility of views or which is shocking, disgusting and revolting;**
- (ii) **The telecast shall be monitored by the Election Commissioner of India;**
- (iii) **The question as to whether the expenditure incurred by the candidate on inserting such advertisement should or should not be included, shall be considered on 5th April, 2004; and**
- (iv) **The modalities whether such advertisements are in conformity with law, shall be laid down by the Election Commissioner of India.**



5. Whereas, The Hon'ble Supreme Court of India by its further order dated 13th April, 2004, in SLP (Civil) No.6679/2004, has directed as follows:

“ --- Before we pass the order, it will be worthwhile to notice certain provisions of the Cable Television Networks (Regulation) Act, 1995 [for short, “the Act”], as amended from time to time, and the Rules framed there under. The object of the Act is to regulate the operation of the cable television network in the country. Section 6 of the Act provides that no person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code. Section 11 of the Act provides that if any authorized officer has reason to believe that the provisions of the Act have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network. Section 12 of the Act provides for confiscation of the equipment in the event of any violation of the provisions of the Act. Similarly, Section 13 of the Act also provides for seizure or confiscation of the equipment and punishment. Section 16 further provides for punishment for contravention of the provisions of the Act. Section 19 lays down that an authorized officer, if he thinks necessary or expedient so to do in the public interest, may, by order, prohibit any cable operator from transmitting or re-transmitting any advertisement which is not in conformity with the prescribed programme code and advertisement code and it is likely to promote enmity on grounds of religion, race, language, caste or community or any other grounds whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religion, racial, linguistic or regional groups or castes or communities or which is likely to disturb public tranquility. Section 22 of the Act empowers the Central Government to frame Rules to carry out the provisions of Act. The Central Government in exercise of the powers conferred on it by Section 22 of the Act is empowered to make Rules which are known as The Cable Television Networks Rules, 1994 [for short, “the Rules”]. Rule 7 of the Rules provides that where an advertisement is carried in the cable service it shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers. Sub-rule (2), inter alia, provides that no advertisement shall be permitted which derides any race, caste, colour, creed and nationality, is against any provision of the Constitution of India and tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way. Sub-rule (3) further provides that no advertisement shall be permitted the objects whereof are wholly or mainly of religious or political



nature, advertisements must not be directed towards any religious or political end. It is in this background, we now propose to pass the following order:

Every registered National and State, political party and every contesting candidate proposing to issue advertisement on television channel and/or cable network will have to apply to the Election Commission/Designated Officer (as designated by the Election Commission) not later than three days prior to the date of the proposed commencement of the telecast of such advertisement. In case of any other person or unregistered political parties, they will have to apply not later than seven days prior to the date of the telecast. Such application shall be accompanied by two copies of the proposed advertisement in electronic form along with a duly attested transcript thereof. In case of first phase of elections, the application shall be disposed of within two days of its receipt and until decision thereon is taken, our order dated 2nd April, 2004, shall apply. In case of subsequent phase of election, the application shall be disposed of within three days of its receipt and until the decision thereon is taken, our order dated 2nd April, 2004, shall apply. While disposing of such applications, it will be open to the Election Commission/Designated Officer to direct deletion/modification of any part of the advertisement.

The application for certification shall contain following details:

- (a) The cost of production of the advertisement;**
- (b) The approximate cost of proposed telecast of such advertisement on a television channel or cable network with the break-up of number of insertions and rate proposed to be charged for each such insertion;**
- (c) It shall also contain a statement whether the advertisement inserted is for the benefit of the prospects of the election of a candidate(s)/parties;**
- (d) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate; and**
- (e) A statement that all the payments shall be made by way of cheque or demand draft.**



We find that Section 2(a) of the Act defines “authorized officer”, within his local limits of jurisdiction, as (a) District Magistrate; (b) Sub-divisional Magistrate; or (c) Commissioner of Police. Similarly, Section 28-A of the Representation of People Act, 1951 provides that the Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer appointed under this part and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of results of such election and, accordingly, such officer shall during that period, be subject to the control, superintendence and discipline of the Election Commission.

Since it is not physically possible for the Election Commission to have a pre-censorship of all the advertisements on various cable networks and television channels, it has become necessary to authorize the Election Commission to delegate its powers in this behalf to the respective District Magistrates of all the States or Union Territories, not below the rank of a Sub-divisional Magistrate or a member of the State Provincial Civil Service. This may be done by a general order issued by the Election Commission. These officers shall act under the control, superintendence and discipline of the Election Commission. The Election Commission in its turn may delegate its powers to the Chief Electoral Officer of each State or the Union Territories, as the case may be.

The Chief Electoral Officer of each State or Union Territory may appoint a committee for entertaining complaints or grievances of any political party or candidate or any other person in regard to the decision to grant or to refuse certification of an advertisement. The committee so appointed shall communicate its decision to the Election Commission.

The committee so constituted will function under the overall superintendence, direction and control of the Election Commission of India.

The decision given by the committee shall be binding and complied with by the political parties, candidates, or any other person applying for advertisements in electronic media subject to what has been state above.

The comments and observations for deletion or modification, as the case may be, made, shall be binding and complied with by the concerned political party



or contesting candidate or any other person within twenty four hours from the receipt of such communication and the advertisement so modified will be re-submitted for review and certification.

We may clarify that provisions of Section 126 of the Representation of People Act, 1951, shall apply to the advertisement covered by this order.

If any political party, candidate or any other person is aggrieved by the decision taken either by the committee or by the Designated Officer/Election Commission it will be open for them to approach only this court for clarification or appropriate orders and no other court, tribunal or authority shall entertain any petition in regard to the complaint against such advertisement. This order shall come into force with effect from 16th April, 2004 and shall continue to be in force till 10th May, 2004.

This order is being issued in exercise of the powers under Article 142 of the Constitution of India and it shall bind all the political parties, candidates, persons, group of persons or Trusts who propose to insert the advertisement in the electronic media, including cable network and/or television channels as well as cable operators.

It will be open to the Election Commission to requisition such staff as may be necessary for monitoring the telecast of such advertisements. Where the Election Commission is satisfied that there is a violation of this order or any provisions of the Act, it will issue an order to the violator to forthwith stop such violations and it will also be open to direct seizure of the equipments. Every order shall be promptly complied with by the person(s) on whom such order is served.

The funds to meet the cost of monitoring the advertisements should be made available to the Election Commission by the Union of India. Adequate publicity of this order shall be given by the Union of India on the electronic media and through print media.

This order is in continuation of the order passed by this Court on 2nd April, 2004 and shall remain in operation as an interim measure till 10th May, 2004.

Subject to the aforesaid order, the judgement of the High Court of Andhra Pradesh dated 23rd March 2004 shall remain stayed. This order is passed



not in derogation of but in addition to the powers of the Central Government in regard to the breach of the provisions of the Act.”

6. Now therefore, in pursuance of the aforesaid directions of the Hon’ble Supreme Court, the Election Commission, hereby directs as follows: -

- (i) The Chief Electoral Officer Delhi is hereby directed to constitute a Committee comprising the following persons to deal with the applications by the political parties and organizations mentioned in para (ii) herein below: -
 - a) The Joint Chief Electoral Officer – Chairperson.
 - b) Returning Officer of any Parliamentary Constituency in Delhi.
 - c) One expert being an officer not below the rank of Class- I officer to be requisitioned from the Ministry of Information & Broadcasting.
- (ii) The above Committee will entertain applications for certification of any advertisement to be inserted in a television channel or cable network by the following:-
 - a) All registered political parties having their headquarters in NCT of Delhi.
 - b) All groups or organizations or associations or persons having their headquarters in NCT of Delhi.
- (iii) The Chief Electoral Officer of every other State/Union Territory is hereby directed to constitute the following Committee to deal with applications by political parties and organizations mentioned in para (iv) below: -
 - (a) The Additional/Joint Chief Electoral Officer - Chairperson.
 - (b) Returning Officer of any Parliamentary constituency located in the capital of the State.
 - (c) One expert being an officer not below the rank of Class- I officer to be requisitioned from the Ministry of Information & Broadcasting.
- (iv) The Committee constituted in para (iii) above will entertain applications for certification for advertisement on television channel and cable network by the following:-
 - (a) All registered political parties having their headquarters in that State/Union Territory,
 - (b) All organisations or group of persons or associations having their registered offices in that State/Union Territory.
- (v) The Returning Officer of every Parliamentary constituency in the country are hereby declared as Designated Officers for the purpose of entertaining



application for certification of an advertisement proposed to be issued on cable network or television channel by an individual candidate contesting the election from the Parliamentary constituency of which such Designated Officer is the Returning Officer and candidates contesting in the Assembly constituencies falling within that Parliamentary constituency. The said Returning Officer may co-opt any of the Assistant Returning Officers, not below the rank of a Sub-divisional Magistrate belonging to the State Provincial Civil Service to assist him in the task of certification of applications.

7. The Chief Electoral Officer of every State/Union Territory will constitute the following Committee to entertain complaints/grievances of any political party or candidate or any other person in regard to the decision to grant or refuse certification of an advertisement:-

- (i) The Chief Electoral Officer - Chairperson.
- (ii) Any Observer appointed by the Election Commission of India
- (iii) One expert to be co-opted by the Committee other than the one mentioned in paras 6 (i) and 6 (iii) above.

8. The applications for certification of any advertisements by every registered political parties and every contesting candidates shall be made to the Committees mentioned in paras 6 (i) and 6 (iii) above or the Designated Officer as mentioned in para 6 (iv) above, as the case may be, not later than

3 (three) days prior to the date of the commencement of the telecast of such advertisements. In the case of first phase of elections such applications shall be disposed of within 2 (two) days of its receipt and until decision thereon is taken, the order of the Supreme Court dated 2-4-2004 shall apply.

9. Where an application for certification of advertisement is by any other person or unregistered political parties, it will have to be made not later than 7 (seven) days prior to the date of telecast.

10. Every such application, in the format prescribed at **Annexure A**, shall be accompanied by the following:

- (i) Two copies of the proposed advertisement in the electronic form along with a duly attested transcript thereof.
- (ii) The application for certification shall contain following details: -
 - (a) The cost of production of the advertisement;



- (b) The approximate cost of proposed telecast of such advertisement on a television channel or cable network with the break-up of number of insertions and rate proposed to be charged for each such insertion;
- (c) It shall also contain a statement whether the advertisement inserted is for the benefit of the prospects of the election of a candidate(s)/parties;
- (d) If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of the political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate;
- (e) A statement that all the payment shall be made by way of cheque or demand draft.

11. While taking a decision on the applications for certification of an advertisement, it will be open for the Committees constituted in para 6 (i) and 6 (iii) above or the Designated Officer as in para 6 (v) above or the review Committee as constituted in para 7 above to direct deletion/modification of any part of the advertisement. Every such order making comments and observation for deletion and modification shall be binding and be complied by the concerned political party or contesting candidate or any other person within 24 hours from the receipt of such communication. The advertisement so modified will be re-submitted for review and certification.

12. Where the Committees constituted in para 6 (i) and 6 (iii) above or the Designated Officer or the review Committee as constituted in para 7 above as the case may be, is satisfied that the advertisement meets the requirements of the law and in accordance with the directions of the Supreme Court as inserted in paras 4 and 5 above, it should issue a certificate to the effect of the advertisement concerned is fit for telecast. The format for the certificate is at **Annexure B**.

13. The directions contained in the order dated 13th April 2004 by Supreme Court shall be strictly complied with by everyone concerned and will remain in operation till 10th May 2004 and it shall bind all the political parties, candidates, persons, group of persons or Trusts who propose to insert the advertisements in the electronic media, including the cable networks and/or television channels as well as cable operators.

By Order,
Sd/-

(K.F. WILFRED)
SECRETARY



APPLICATION FOR CERTIFICATION OF ADVERTISEMENT

I.

- (i) Name and full address of the applicant
- (ii) Whether the advertisement is by a political party / contesting candidate / any other person / group of persons / association/ organization / Trust (give the name)
 - (iii) (a) In case of political party, the status of the party (whether recognized National/ State / unrecognized party)
 - (b) In case of a candidate, name of the Parliamentary / Assembly Constituency from where contesting
- (iv) Address of Headquarters of political party / group or body of persons / association/ organization / Trust
- (v) Channels / cable networks on which the advertisement is proposed to be telecast
- (vi) (a) Is the advertisement for the benefit of prospects of election of any candidate (s)
- (b) If so, give the name(s) of such candidate(s) with full address and name (s) of constituency (ies)
- (vii) Date of submission of the advertisement
- (viii) Language (s) used in the advertisement (advertisement is to be submitted with two copies in electronic form alongwith a duly attested transcript)
- (ix) Title of advertisement
- (x) Cost of production of the advertisement
- (xi) Approximate cost of proposed telecast with the breakup of number of insertions and rate proposed for each such insertion
- (xii) Total expenditure involved (in Rupees)



II.

I, Shri / Smt. _____, S/o / D/o / W/o _____, (full address) _____ undertake that all payments related to the production and telecast of this advertisement will be made by way of cheque / demand draft.

Place:

Signature of the applicant

Date:

III.

(Applicable for advertisement by a person / persons, other than a political party or a candidate)

I, Shri / Smt. _____, S/o / D/o / W/o _____, (full address) _____, hereby state and affirm that the advertisement(s) submitted herewith is not for the benefit of any political party or any candidate and that this advertisement(s) has / have not been sponsored / commissioned or paid for by any political party or a candidate.

Place:

Signature of applicant

Date:



Annexure – B

CERTIFICATION OF ADVERTISEMENT FOR TELECAST

I.

- (i) Name and address of the applicant / political party / candidate / person / group of persons / association/ organization/ Trust
- (ii) Title of advertisement
- (iii) Duration of advertisement
- (iv) Language(s) used in advertisement
- (v) Date of submission of advertisement
- (vi) Date of certification for telecast

II.

Certified that the above advertisement is fit for telecast as per the guidelines prescribed by the Hon'ble Supreme Court of India.

Signature of chairperson/
members of committee /
Designated Officer

Place:

Date:



Election Commissioner's Letter No. 509/75/2004-JS-I, dated 22.07.2004 addressed to the Chief Electoral Officers of all States and Union Territories

Subject: - Commission's Order dated 15.4.2004 relating to advertisements of political nature on TV Channel and cable networks - Reg.

I am directed to refer to the Commission's letter of even number dated 15.4.2004 and to the Order of the same date enclosed therewith, on the subject cited. The said order was issued in pursuance of the interim order passed by the Hon'ble Supreme Court on 13.4.2004 in SLP(C) NO. 6679/04. The Hon'ble Supreme Court, vide its Order dated 5.7.2004 has directed that its Order dated 13.4.2004 will remain in operation until further orders. A copy of the order, dated 5.7.2004 is enclosed.

2. Accordingly, the Commission's Order No.509/75/2004-JS.I dated 15.4.2004 will remain in operation until further instructions. The directions in the said Order should be strictly followed in future elections until further instructions in this regard.
3. Kindly acknowledge receipt.



Election Commissioner's Letter No. 509/75/2004/J S-I/Vol .II/RCC Dated: 21st November, 2008 addressed to the Chief Electoral Officers of all States and Union Territories.

Subject: - Advertisement of political nature on Radio — regarding.

The Ministry of Information & Broadcasting vide letter No. 1/04/2004-BC/1V dated 20th November, 08, has informed that the Code for Commercial Advertising has been amended to provide for advertisements by political parties/candidates/persons in the form of spots and jingles on Radio also. Consequent upon this, the Commission has issued orders to the effect that the committees set up in the office of the Chief Electoral Officers to scrutinize political advertisements on TV channels/Cable Networks, will also deal with applications for pre-broadcast scrutiny of advertisements by political parties/candidates/other persons in connections with General Elections to the House of the People and State Legislative Assemblies during the period the Model Code of Conduct is in force in connection with such elections. A copy of the order is enclosed.

A copy of the order may be furnished to each of the political parties having headquarters in your State/UT, including State units of all recognized political parties. This may also be given vide publicity for information of other authorities concerned and the general public.

Please acknowledge receipt of this letter.

Copy alongwith copy of the Order referred to above, to all recognized National and State political parties for information.

Election Commission's Letter No. 509/75/2004/JS-I/Vol.II/RCC Date: 21st November, 2008 addressed to the Chief Electoral Officers of all States and Union Territories

ORDER

Subject:- The Commission's Order dated 15th April, 2004, regarding advertisement on political nature on T.V. Channels & Cable T.V. Networks — Extension to Radio.

1. The Commission vide its order No. 509/75/2004/JS-1 Dated: 15th April, 2004 in pursuance of the order dated 13-04-2004 of the Hon'ble Supreme Court in SLP (Civil) No. 6679/2004 (Ministry of I&B Vs M/s Gemini TV and Others), issued directions regarding advertisements of political nature on TV. Channels & Cable T.V. Networks.



2. The Ministry of Information & Broadcasting has, vide their letter No. 1/04/2004-BC.IV dated 20th November, 2008, informed that clause-II (4) of the Code for Commercial Advertising on all India Radio, has been amended by adding *the* following proviso :-

“But advertisements in the form of spots and jingles on payment of prescribed fees, from political parties/candidates/any other person shall be accepted only in respect of General Elections to Lok Sabha/General Election to the State Assemblies/General Election to Local bodies during the period when the Model Code of Conduct is in force. Such advertisements shall be subject to pre-broadcast scrutiny by the Election Commission of India/authorities under the Election Commission of India in respect of elections to Lok Sabha and the State Assemblies and State Election Commissions in the case of Local bodies.”

3. In view of the above, the Commission has directed that its order dated 15th April, 2004, regarding advertisements of political nature on TV, Channels & Cable T.V. Networks shall apply to advertisements on Radio also, including the Private FM Channels, during the period Model Code of Conduct is in operation in connection with general election to the House of the People or to the Legislative Assembly of any State / UT. Accordingly, for broadcasting any advertisement of political nature on Radio, application for certification for broadcast shall be submitted to the Committee set up in the office of the Chief Electoral Officer of the State concerned for pre-broadcast scrutiny and certification permitting broadcast of the advertisement. The application shall be submitted in the same format as the one prescribed vide the order dated 15-4-2004 for advertisement on TV Channel/Cable/Networks, alongwith the Tape/CD and an attested transcript of the proposed advertisement. The format for certification of advertisement shall also be the same as that prescribed in the order dated 15-4-2004. The reference to ‘telecast’ in these formats shall be read to include broadcast’ for the purposes of advertisements on Radio.
4. It is clarified that all other directions and the conditions specified in the order dated 15th April, 2004, and the subsequent instructions on the subject shall apply in the cast of advertisements of political nature on Radio.



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001.

No. 509/75/2004-JS-I/RCC/Vol.II

Dated: 18th March, 2009

To,
The Chief Electoral Officer of
All States/Union Territories.

Subject: Advertisement of political nature on TV channels and cable networks and on Radio - clarification.

Sir/Madam,

Please refer to the Commission's order No. 509/75/2004/JS-I, dated 15th April, 2004, regarding scrutinizing of applications for certification for telecast on TV channels and cable networks. By its subsequent order dated 21st November, 2008, the directions in the said order have been made applicable for advertisement on Radio during the period of general election.

2. As per the above-referred order dated 15th April, 2004, the committee set up in the office of the Chief Electoral Officer, Delhi, is to deal with applications of all political parties having headquarters in Delhi. All the 7 National parties and a few State parties have office in Delhi. It is possible that the State units of these parties may also sponsor applications for focusing on individual States. In such cases, it is clarified that the applications from State units of the National parties may be submitted to the committee in the States concerned. However, the applications from the central office of the National and State parties with headquarters in Delhi will continue to be scrutinized by the committee in Delhi. In the case of State parties, applications from the units of the parties in States other than where they have their headquarters shall also be dealt with by the committee in the States concerned where the State units are submitting applications.

3. It is also clarified that applications from individual candidates for advertisements, both on TV and Radio, shall be made to the committee headed by the Returning Officer of the constituency concerned.

4. The Commission has also directed that when the certificate for telecast/broadcast is issued by the committee, an authenticated copy of the transcript as approved by the committee should also be handed over to the applicant, and at the



same time, the committee should retain a copy of the approved transcript and an electronic copy of the material certified for telecast/broadcast.

5. These instructions may be brought to the notice of all concerned, and also to the political parties based in your State, including the State units of recognized political parties.

Yours faithfully,

(R.K. SRIVASTAVA)
SECRETARY

Copy to the President, Secretary of all recognized National and State Political parties.



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.3/ER/2009/SDR

Dated : 19th March, 2009

To

The Chief Electoral Officer of
All States/Union Territories.

Subject: Advertisement of political nature on TV channels, cable network and Radio.

In continuation of the letter of even number, dated 18th March, 2009, the Commission gives the following further clarifications in the matter of applications for certification of political advertisements on TV channels/cable networks/Radio:

- (i) If the Central Office of any of the National Parties or the State Parties with headquarters in Delhi seeks certification of same advertisement in multiple languages (Hindi/English and in regional languages), the advertisement material in each of the languages alongwith certified transcripts should be submitted to the committee in the office of the CEO, Delhi. In addition, in such cases, the applicant should also submit a duly sworn affidavit stating, as is done in the Courts, that the regional language version of the advertisement is a true translation of the advertisement in Hindi/English and the applicant will be responsible for any mistake therein.
- (ii) If the Central Office of any of the National Parties or the State Parties with headquarters in Delhi wishes to seek certification of advertisement in any regional language (without there being any Hindi/English version of the advertisement), the application seeking certification will have to be submitted to the committee in the office of the CEO of the State concerned (i.e. the State to which the regional language pertains).
- (iii) Any advertisement certified for telecast/broadcast by the committee in the office of the CEO, Delhi, on application from the Central Office of the National Parties and the State Parties with headquarters in Delhi, will be valid for telecast/broadcast throughout India in all States and UTs. No separate certification would be required in such cases from the committees in other States. However, the parties should submit a copy of the certificate obtained



from the committee in Delhi to the Chief Electoral Officer of the State in which such advertisements are proposed to be telecast/broadcast. The copy should be submitted with a declaration that the same is a true copy of the certificate issued from the committee in Delhi and this should be submitted to the CEO in the State concerned before the advertisement is telecast/broadcast.

2. The above clarifications may be brought to the notice of all authorities in the State. A copy of this should be given to the screening committee functioning for this purpose in the office of the CEO.

Yours faithfully,

(K.F. Wilfred)
Secretary

Copy to: All recognized National parties and Samajwadi Party, J&K National Panthers Party, Janata Dal (Secular) and Janata Dal (United), Lok Jan Shakti Party and All India Forward Bloc.



ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi 110 001

No.491/Media/2010

Dated: 8th June 2010

To
Chief Electoral Officers
of all States and Union Territories

Sub: Measures to check 'Paid News' during elections i.e. advertising in the garb of news in Media

Sir/Madam,

I am directed to invite your attention to the subject cited and to state that the recent phenomenon of 'Paid News', which is assuming alarming proportion as a serious electoral malpractice, has been causing concern to the Commission in the context of conduct of free and fair elections. Several political parties and media groups have also conveyed their similar concerns to the Commission. There has been dialogue of several stakeholders with the Commission at different platforms and there is near unanimity to take necessary steps to put a halt to such malpractice which puts undue influence on the free will of the voters, encourages the role of money power in a covert manner and disturbs level playing field in elections. The practice of paid news has to be seen as an attempt to circumvent the provisions of Sections 77 and 123 (6) of R.P. Act 1951 which prescribe accounting and ceiling of election expenses and make exceeding such prescribed limits a corrupt practice in elections.

2. The Commission has directed that maximum vigilance may be observed by making use of the existing provisions of law so that the incidence of 'Paid News' or surrogate advertisements in Print and Electronic media in the context of elections is arrested. The cases of 'Paid News' generally manifest in the forms of news articles/reports published about a particular candidate or a party eulogising them, or similar news articles/reports denigrating the opponents, both intended at unduly influencing the voters. The same or similar type of news articles/reportings (with cosmetic modifications) appearing in more than one newspaper periodical would amount to further corroboration as circumstantial evidence that such news publication could result from collusion of the candidate/party with the editors, publishers, financiers of the newspaper etc. Such collusion would, however, have generally no transactional evidence of payment of consideration in cash or kind.



3. Legal provisions under Sec.127A of the R.P. Act, 1951 make it mandatory for the publisher of an election advertisement, pamphlet, etc., to print the name and address of the publisher as well as printer and failure to do so attracts penalty of imprisonment up to two years and/or fine of Rs.2000/-. Section 171 H of the IPC prohibits incurring of expenditure on, inter alia, advertisement without the authority of the contesting candidate. The Commission's detailed instruction No. 3/9/2007/JS-II dated 16th October, 2007 in this behalf may be seen (copy enclosed). The said instruction covers the declared or specified release as advertisement inserted in the newspaper, etc., and disclosure of amount paid for such advertisements, but in the case of 'Paid news'/surrogate news, such payment is seldom disclosed as the matter is camouflaged as news though serving the purpose of advertisement only. For the purpose of Sec.127A (1) of the R.P.Act, 1951, "election pamphlet or poster' means any printed pamphlet, hand-bills or **o t h e r d o c u m e n t** distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates ". Thus, 'Paid News' would also fall in the category of 'other document' liable to be included in 'election pamphlet & poster' and action taken accordingly. Hence, an obvious case of news reporting in the print media dedicated/giving advantage to a particular candidate or the party while ignoring/causing prejudice to other candidates and parties would require investigation.

4. The Commission directs that for the purposes of above investigation, district level committees may be constituted by the DEOs in each district as soon as election is announced to do vigorous scrutiny of all newspapers, published or having circulation in the district in order to locate political advertisement in the garb of news coverage appearing within the election period. DEOs should closely monitor advertisements released in print media in any form including surrogate advertising in the form of news, and serve notices to candidates/political parties where called for, so that the expenses incurred thereon are duly reflected in the account of the concerned candidate/party.

5. Similarly, the District Committee should also keep a watch on the election news/features, etc. on the electronic media in the district. When there is disproportionate coverage to the speech/activities of a candidate on television/radio channels, which is likely to influence the voters and yield electoral benefit to a particular candidate, and the same coverage appears in several channels, then the candidate should be served with notices by the DEOs to explain her/his stand as to why the coverage should not be treated as advertisement, and matter should be reported to the Commission.



6. The Commission has already issued Order No. 509/75/2004/J.S.-I dated 15th April, 2004 consequent upon order of the Hon'ble Supreme Court of India in SLP (C) No. 6679/2004, (Ministry of Information and Broadcasting vs. M/s Gemini TV Pvt.Ltd and Others) providing for the constitution of a committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties, before it is inserted in the electronic media. The aforesaid phenomenon of Paid News by- passes the scrutiny of the Committee despite being a political advertisement in spirit and also evades accounting in the expenses book of the candidates. CEOs may strengthen these Committees so as to also scrutinize the news reports in electronic media, which bear the character of political advertisement, though without being declared to be so. Notices to candidates/parties may be issued by the CEOs on the basis of recommendation of such Committees.

7. The Commission should be kept informed of all cases where notices as aforesaid are issued to parties/candidates.

8. The receipt of this letter may be acknowledged and the Commission informed of the action taken.

Yours faithfully,

(Tapas Kumar)
Principal Secretary



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi — 110001

No. 491/Media Policy/2010

Dated: 23 September, 2010

To

The Chief Electoral Officers of All States and UTs

Subject: Measures to check Paid News during elections i.e. advertising in the garb of news in media

,

In continuation of the Commission's letter No. 491/Media/2009, dated 8th June 2010, on the subject cited, I forward herewith a copy of the report of the Press Council of India No. PR/2/1011 dated 30th July 2010.

2. The following parts of the Report are for particular attention and necessary action:
 - (a) The Press Council of India has defined paid news as "any news or analysis appearing in any media (Print and Electronic) for a price in cash or kind as consideration".
 - (b) The Council has highlighted its own guidelines of 1996 at page 8 to 10 of the Report enclosed with the letter. Para 1 of the guidelines refers that "newspapers are not expected to indulge in unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. While reporting on actual campaign, a newspaper may not leave out any important point raised by a candidate and make an attack on his or her opponent." Similarly, para 5 specifically refers that "Press is not expected to indulge in canvassing of a particular candidate / party. If it does, it shall allow the right of reply to the other candidate party." Thus, any departure from the above guidelines should make a case for prima facie investigation of paid news.
3. Others parts of the Report are for information. Specific action, if any, is being taken by the Commission.



4. As regards the constitution of the district level committee for scrutiny of Paid News during election periods, the same shall be composed of following officers:
 - (i) DEO/Dy DEO
 - (ii) DPRO
 - (iii) Central Govt. MB Ministry official (if, any in the district)
 - (iv) Independent citizen/Journalist as may be recommended by PCI

5. The above may be taken note of as additional guidelines in continuation of the instructions issued vide letter dated 8th June 2010 and action may be taken accordingly.

Yours faithfully,

(Tapas Kumar)
Principal Secretary



Press Council of India Report on Paid News

(Received from Press Council of India Vide Letter No. 17/7/09-10 Dated 16 August 2010)

Dated: 30/07/2010

The phenomenon of “paid news” has acquired serious dimensions. Today it goes beyond the corruption of individual journalists and media companies and has become pervasive, structured and highly organized. In the process, it is undermining democracy in India. This has anguished the leading sections of the society, including political leaders, thinkers, journalists and media owners. They all have expressed their unhappiness and concern about the pernicious influence of such malpractices.

Several veteran journalists, including the late Shri Prabhash Joshi, Shri Ajit Bhattacharjea, Shri B.G. Verghese and Shri Kuldip Nayar, wanted the Press Council of India to apply its mind on the issue and come up with suggestions on how the phenomenon of “paid news” could be curbed. Various journalists’ associations, including the Andhra Pradesh Union of Working Journalists and the Delhi Union of Journalists have examined the phenomenon, conducted surveys and organized discussions on the topic. The Editors’ Guild of India also discussed the phenomenon and expressed concern at this growing tendency. On June 8, 2010, the Election Commission of India issued detailed guidelines to Chief Electoral Officers of all states and Union territories on measures to check “paid news” before elections, that is, advertising in the garb of news.

The phenomenon of “political paid news” became particularly noticeable during the 2009 general elections and thereafter during the elections to the assemblies of various states. The phenomenon acquired a new and even more destructive dimension by redefining political “news” or “reporting” on candidates standing for election – many such “news reports” would be published or broadcast perhaps only after financial transactions had taken place, almost always in a clandestine manner. It is widely believed that many media companies, irrespective of the volume of their businesses and their profitability, were “selling” news space after arriving at an “understanding” with politicians and representatives of corporate entities that were advertisers. Space in publications and airtime were occupied by advertisements that were disguised as “news”.

News is meant to be objective, fair and neutral – this is what sets apart such information and opinion from advertisements that are paid for by corporate entities, governments, organizations or individuals. What happens when the distinction between news and advertisements start blurring, when advertisements double up as



news that have been paid for, or when “news” is published in favour of a particular politician by selling editorial spaces?

In such situations, a section of the reader or the viewer can hardly distinguish between news reports and advertisements/advertorials. Marketing executives use the services of journalists – willingly or otherwise – to gain access to political personalities. So-called “rate cards” or “packages” are distributed that often include “rates” for publication of “news” items that not merely praise particular candidates but also criticize their political opponents. Candidates who do not go along with such practices on the part of media organizations may be denied coverage. Sections of the media in India have willy-nilly become participants and players in such practices that contribute to the growing use of money power in politics which undermines democratic processes and norms – while hypocritically pretending to occupy a high moral ground. This has not merely undermined democracy in India but also tarnished the country’s reputation.

Identical articles with photographs and headlines have appeared in competing publications carrying by-lines of different authors around the same time. On the same page of specific newspapers, articles have been printed praising competing candidates claiming that both are likely to win the same elections. Nowhere is there any indication that the publication of such “news” reports has entailed financial transactions or has been sponsored by certain individuals or political parties. When confronted with circumstantial evidence that substantiate allegations of “paid news”, the standard reaction of individuals accused of corrupt practices is to pretend that nothing untoward has happened since the evidence is circumstantial in nature. The typical response of representatives of political parties as well as media organizations, is to flatly deny these allegations. In private, however, these very same people acknowledge that the cancer of “paid news” has spread deep into the country’s body politic and needs to be removed.

Realising the dangers of “paid news” to democracy as well as the right to freedom of expression enshrined in Article 19 of the Constitution of India, on June 9, 2009, the Press Council of India appointed a Sub-Committee comprising Shri Paranjoy Guha Thakurta and Shri Kalimekolam Sreenivas Reddy “to examine the phenomenon of paid news observed during the last Lok Sabha elections...based on inputs received from the members and others.” The two members met a cross-section of society in New Delhi, Mumbai and Hyderabad and also went through many letters and representations that were sent to the Council. The report of the Sub-Committee was discussed in detail by the Press Council in its two meetings held in Indore and New Delhi on 31 March, 2010 and 26 April, 2010 respectively. Members gave a number of suggestions and thereafter, the Press Council of India Chairman appointed a Drafting Committee to prepare a final report for the consideration of the Council. The Chairman appointed a 12-member Committee consisting: S/Shri H N Cama, Lalit Mangotra, U C Sharma, Y C Halan, K. Sreenivas Reddy, Kalyan



Barooah, S. N. Sinha, Anil Jugal Kishore Agarwal, Kundn R L Vyas, Paranjay Guha Thakurta, P Javadekar, and Keshav Rao.

The Drafting Committee considered the views expressed during various meetings of the Press Council and has drafted a report for the consideration of the Council.

Introduction

Paid News can be defined as “Any news or analysis appearing in any media (Print & Electronic) for a price in cash or kind as consideration”

Paid news is a complex phenomenon and has acquired different forms over the last six decades. It ranges from accepting gifts on various occasions, foreign and domestic junkets, various monetary and non-monetary benefits, besides direct payment of money. Another form of paid news that has been brought to the notice of the Press Council of India by the Securities and Exchange Board of India (SEBI) is in the form of “private treaties” between media companies and corporate entities. Private treaty is a formal agreement between the media company and another non-media company in which the latter transfers certain shares of the company to the former in lieu of advertisement space and favourably coverage.

Since the phenomenon of paid news is old, complex and deep rooted in the system and seems to be spreading its cancerous roots rapidly as observed after the 2009 elections, the Drafting Committee feels that the Press Council of India should initially focus only on the paid news observed during the last Lok Sabha elections (2009). This decision stems from the decision of the Press Council as conveyed by the Secretary to the Council members.

Election-time paid news

The election-time paid news phenomenon has three dimensions. One, the reader or the viewer does not get a correct picture of the personality or performance of the candidate in whose favour or against he decides to cast his vote. This destroys the very essence of the democracy. Two, contesting candidates perhaps do not show it in their election expense account thereby violating the Conduct of Election Rules, 1961 framed by the Election Commission of India under the Representation of the People Act, 1951. Third, those newspapers and television channels which received money in cash but did not disclose it in their official statements of accounts, have violated the Companies Act 1956 as well as the Income Tax Act 1961 besides other laws.

The payment and receipt of election-time paid news is a clandestine operation and has become widespread and organised as advertising agencies, public relations firms, politicians, journalists, managers and owners of some media companies are believed to be involved in it. It, therefore, is not easy to find clinching evidence that



pins responsibility on individuals, parties and organisations. However, a number of persons including members of the Sub-Committee setup by the Council have collected a large volume of circumstantial evidence that is with the Press Council, which indicates that monetary consideration was exchanged for favourable coverage, reporting and telecasting.

Separating Management from Editorial

Going through the observations of persons with whom the Sub-Committee interacted and the evidence provided by them and the discussions in the Press Council it is felt that election-time paid news deals are done between the candidates or political parties or their agents and media. It was felt that there should be a clear distinction drawn between the managements and editorial staff in media companies and that the independence of the editor should be maintained and safeguarded.

Role of Press Council

The Press Council of India was set up by Parliament as a statutory, quasi judicial body “for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India.” However, it has been entrusted with only limited powers to admonish, reprimand and pass strictures. It cannot penalise the errant or those found guilty of malpractices. Besides, the Council’s mandate does not extend beyond the print medium. A proposal to amend Section 15(4) of the Press Council Act, 1978, to make the directions of the Council binding has been pending for a long time. It should be taken up on a priority basis.

Representation of the People Act, 1951

The Union and state elections are regulated by the provisions of the Representation of the People Act, 1951. The main purpose of this Act is to ensure free and fair elections in the country. Therefore, since election-time “paid news” undermines free and fair elections, it is recommended that Section 123 of the Representation of the People Act, 1951, should be suitably amended so as to declare any payment for the publication of news as a corrupt practice or an “electoral malpractice” and should be made a punishable offence.

Press Council of India

The Press Council of India should constitute a body of media professionals with wide representation at the national/state/district levels to investigate (either *suo moto* or on receipt of complaints of instances of “paid news” and the recommendations of such a body – after going through an appellate mechanism -- should be binding on the Election Commission of India and other government authorities.

The guidelines of the Press Council of India that news should be clearly demarcated from advertisements by printing disclaimers, should be strictly



enforced by all publications. As far as news is concerned, it must always carry a credit line and should be set in a typeface that would distinguish it from advertisements. The guidelines of the Council, as decided in 1996, are reproduced hereunder and efforts should be made to ensure that these are followed by all media organizations.

i) General Election is a very important feature of our democracy and it is imperative that the media transmits to the electorate fair and objective reports of the election campaign by the contesting parties. Freedom of the Press depends to a large measure on the Press itself behaving with a sense of responsibility. It is, therefore, necessary to ensure that the media adheres to this principle of fair and objective reporting of the election campaign.

The Press Council has, therefore, formulated the following guidelines to the media for observance during elections:

- 1. It will be the duty of the Press to give objective reports about elections and the candidates. The newspapers are not expected to indulge in unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. In practice, two or three closely contesting candidates attract all the media attention. While reporting on the actual campaign, a newspaper may not leave out any important point raised by a candidate and make an attack on his or her opponent.***
- 2. Election campaign along communal or caste lines is banned under the election rules. Hence, the Press should eschew reports which tend to promote feelings of enmity or hatred between people on the ground of religion, race, caste, community or language.***
- 3. The Press should refrain from publishing false or critical statements in regard to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any candidate or his candidature, to prejudice the prospects of that candidate in the elections. The Press shall not publish unverified allegations against any candidate/party.***
- 4. The Press shall not accept any kind of inducement, financial or otherwise, to project a candidate/party. It shall not accept hospitality or other facilities offered to them by or on behalf of any candidate/party.***
- 5. The Press is not expected to indulge in canvassing of a particular candidate/party. If it does, it shall allow the right of reply to the other candidate/party.***
- 6. The Press shall not accept/publish any advertisement at the cost of public exchequer regarding achievements of a party/government in power.***



7. The Press shall observe all the directions/orders/instructions of the Election Commission/Returning Officers or Chief Electoral Officer issued from time to time.

ii) Guidelines on 'Pre-poll' and 'Exit-polls' Survey-1996

The Press Council of India having considered the question of desirability or otherwise of publication of findings of pre-poll surveys and the purpose served by them, is of the view that the newspapers should not allow their forum to be used for distortions and manipulations of the elections and should not allow themselves to be exploited by the interested parties.

- 1 The Press Council, therefore, advises that in view of the crucial position occupied by the electoral process in a representative democracy like ours, the media should be on guard against their precious forum being used for distortions and manipulations of the elections. This has become necessary to emphasize today since the print media is sought to be increasingly exploited by the interested individuals and groups to misguide and mislead the unwary voters by subtle and not so subtle propaganda on casteist, religious and ethnic basis as well as by the use of sophisticated means like the alleged pre-poll surveys. While the communal and seditious propaganda is not difficult to detect in many cases, the interested use of the pre-poll survey, sometimes deliberately planted is not so easy to uncover. The Press Council therefore, suggests that whenever the newspapers publish pre-poll surveys, they should take care to preface them conspicuously by indicating the institutions which have carried such surveys, the individuals and organisations which have commissioned the surveys, the size and nature of sample selected, the method of selection of the sample for the findings and the possible margin of error in the findings.**
- 2. Further in the event of staggered poll dates, the media is seen to carry exit-poll surveys of the polls already held. This is likely to influence the voters where the polling is yet to commence. With a view to ensure that the electoral process is kept pure and the voters' minds are not influenced by any external factors, it is necessary that the media does not publish the exit-poll surveys till the last poll is held.**
- 3. The Press Council, therefore, requests the Press to abide by the following guideline in respect of the exit polls:**

Guideline:

No newspaper shall publish exit-poll surveys, however, genuine they may be, till the last of the polls is over.



Election Commission of India

The Election Commission of India should set up a special cell to receive complaints about “paid news” in the run-up to the conduct of elections and initiate a process through which expeditious action could be taken on the basis of such complaints. The Election Commission of India should nominate independent journalists/citizens in consultation with the Press Council of India who would accompany the election observers deputed by the Election Commission of India to various states and districts. These nominated journalists/citizens could report on instances of “paid news” to the Press Council of India and the Election Commission of India.

Self-regulation

Self-regulation is the best option to check the “paid news” phenomenon. However, self-regulation only offers partial solutions to the problem since there would always be offenders who would refuse to abide by voluntary codes of conduct and ethical norms that are not legally mandated.

There should be a debate among all concerned stakeholders on whether a directive of the Supreme Court of India that enjoins television channels to stop broadcasting campaign-related information on candidates and political parties 48 hours before elections take place can and should be extended to the print medium since such a restriction does not apply to this section of the media at present.

Education

The Council suggests that efforts should be made to educate the voters to differentiate between the doctored reporting and the balanced and just reporting. This can be done by the Ministry of Information and Broadcasting with the help of Press Council of India and various associations of journalists and newspaper owners. Local press clubs should also be associated with the conduct of seminars and workshops in different cities to educate readers and viewers. The Press Council of India, representative of political parties, associations of newspaper owners, television broadcasters and journalists unions and associations can provide resource-persons for such seminars and workshops. The process of educating voters and citizens should begin before elections take place, soon after the dates of elections are announced.

I & B Ministry

The Union Information & Broadcasting Ministry should conduct national conferences, workshops, seminars and awareness-generating campaigns involving, among others, the Press Council of India, the Election Commission of India, representatives of editors, journalists associations and unions, political parties and media owners to deliberate on the issue and arrive at workable solutions to curb the “paid news” phenomenon in particular.



The Union I&B Minister should hold separate meetings with national associations of newspaper owners, editors and journalists to discuss the “paid news” phenomenon and how it should be curbed. A meeting of all political parties should also be organised to make them understand that if the phenomenon of “paid news” is not checked no political party would benefit. Similarly owners of media companies should be made to understand that money illegally obtained for “paid news” is not just myopic but would eventually lead to loss of credibility among readers and viewers and would, hence, be detrimental to the interests of the media.

Parliament

A small committee of Members of Parliament from both Houses should hold a hearing for suggesting changes in Representation of the People Act, 1951, to prevent the practice of paying for news coverage in newspapers and television channels and declaring it as an “electoral malpractice” or an act of corruption and be made a punishable offence.

All these initiatives, if sincerely implemented, may not entirely stop such malpractices in the Indian media but could reduce their incidence to a considerable extent.

Recommendations

It is recommended that recommendations as under should be implemented by the Government.

- 1) Representation of the People Act 1951 be amended to make incidence of paid news a punishable electoral malpractice,
- 2) The Press Council of India must be fully empowered to adjudicate the complaints of “paid news’ and give final judgement in the matter.
- 3) Press Council Act be amended to make its recommendations binding and electronic media be brought under its purview, and
- 4) Press Council of India should be reconstituted to include representatives from electronic and other media.

Footnote:-

The Council decided that the report of the Sub-Committee may remain on record of the Council as reference document.

It also decided that the issue of strengthening the Working Journalists Act be taken up separately.



By Special Messenger

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi — 110 001

No. 3/1/2011/SDR

Dated: 3rd February, 2011

To
The Secretary,
Ministry of Law & Justice,
Legislative Department,
Shastri Bhawan,
New Delhi.

Subject: - Proposals for amendment of Representation of the People Act and Conduct of Elections Rules 1961.

Sir,

This is in continuation of the proposals for amendment of the law sent by the Commission from time to time, The Commission desires that amendments are required on the following issues also

- (i) Amendment of Section 125A of 1951 Act, regarding complaints about filing of false affidavits by the candidates;
- (ii) "Paid News" being added in the category of corrupt practice or electoral offences;
- (iii) Raising the ceiling of election expenditure;

Amendment of Section 125A:

Section 125A provides for penalty for filing false affidavits by candidates before the R.O. in connection with filing of nomination paper. This section provides for a punishment of imprisonment upto six months or fine, or both. Filing of false information before a public servant is also an offence under Section 177 of IPC, punishable with imprisonment upto six months or with fine of one thousand rupees. The RP Act does not specifically mention about the authorities by whom, and before whom, a complaint regarding false affidavit is to be lodged. Under Section 195 of Cr. PC, Court will take cognizance of offence under Section 177 (filing of false



information) only on the complaint in writing of the public servant concerned or some public servant to whom he is administratively subordinate. In view of these provisions, the Commission issued a circular letter on 2-6-2004 (copy enclosed), directing that if any complaint is filed before the R.O. regarding false affidavits filed by any candidate, the RO, on being *prima facie*, satisfied about merit in the complaint, should file petition before the Magistrate Court for prosecution of the candidate concerned.

2.2 In a petition in the Allahabad High Court, Lucknow Bench, (writ petition No.3969 of 2005- Dr. Subramanian Swamy Vs. Election Commission of India & ors.) the High Court while dismissing the petition, made an observation that after the election the R.O. becomes *functus officio* for the purpose of that election. In the case of some complaints regarding false affidavits, the candidate concerned have relied upon the said observation of the High Court and the R.Os. have also accepted the contention of the candidates thus resulting in summary closure of the complaints.

2.3 The Commission recommends that a sub-section may be added under Section 125A to the effect that any complaint regarding false statement in the affidavits filed by the candidates in connection with nomination paper shall be filed by the complainant with the supporting evidence before the R.O. concerned within a period of 30 days from the date of declaration of the election, and that it shall be the responsibility of the RO to take proper follow-up action. It may be recalled here the Commission had, in the set of proposals sent in 2004, made a proposal for increasing the punishment for filing false affidavits to a minimum of two years' imprisonment.

Paid News:

3.1 The Press Council of India, in its report regarding paid news cases in last year's elections had recommended that paid news may be made a corrupt practice. A copy of the report is enclosed.

3.2 The Commission is of the view that "paid news" plays a very vitiating role in the context of free and fair elections. The public, in general, attaches greater value in news report as distinguished from advertisements by political parties and candidates. Paid news is masquerading as news and publishes advertisements in the garb of news items, totally misleading the electors. To make matters worse, the whole exercise involves use of unaccounted money and underreporting of election expenses in the accounts of election expenses of the candidate indulging in the malpractice. The Commission sees "paid news" as a deceit on adversely affected contesting candidates and the electorate. This needs to be dealt with firmly.



3.3 The Commission, therefore, recommends that provision should be made in the Representation of the People Act, 1951, to include publishing and abetting of publishing of “paid news” for furthering the prospects of election of any candidate or for prejudicially affecting the prospects of election of any candidate as an electoral offence under Chapter III of Part VII of the 1951 Act, with exemplary punishment of a minimum of two years’ imprisonment.

Ceiling of election expenses:

4.1 The present ceiling of election expenses is Rs.25 lakhs for Lok Sabha constituency and Rs.10 lakhs for Assembly Constituency. The ceiling is slightly less in the case of some smaller States. This ceiling was fixed in the year 2003. In a meeting held by the Commission with the recognized parties on 4th October, 2010, many of the parties had expressed the view that the ceiling should be increased.

4.2 Now that more than 7 years have passed since the limits were revised, the Commission is of the view that it is time for further revision of the ceiling amount, The number of electors at the time of the last revision of the expenditure limit 2003 was about 646,5 million. As per the final rolls of 2010, the electorate strength was more than 730 million. After the final publication of the rolls w.r.t. 1-1-2011 as the qualifying date, the electorate strength is expected to cross 740 million. Thus the electorate strength has increased by nearly 100 million since 2003. Moreover, the price index also has gone up by 1.6 times during this period.

4.3 The Commission, therefore, proposes that the expenditure ceiling provided under Rule 90 of the Conduct of Elections Rules, 1961, may be increased corresponding to the increase in cost inflation index. The proposed ceiling amounts for various States are shown in the statement enclosed with this letter.

Yours faithfully,

(K. F. WILFRED)
SECRETARY



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.3/ER/2004-JS-II

Dated: 2nd June 2004

To

The Chief Electoral Officers of all States and Union Territories

Subject:- Commission's order dated 27.03. 2003 regarding right to information of the electors about the background of candidates.

Sir,

I am directed to invite reference to the provisions of rule 4A of the Conduct of elections Rules 1961 and *the* Commission's order cited above. In pursuance of the said rule 4A each candidate has to file an affidavit in Form 26 appended to the Conduct of Elections Rules 1961 and as per the Commission's order dated 27.03.2003, the candidates have to file a further affidavit about pending cases, their assets (including that of their dependents), their liabilities including dues to Govt. Departments. etc. and about their educational qualifications, in the format prescribed by the Commission.

The Commission has received complaints that in many cases, the candidates do not give the correct information in *the* affidavits, especially in the part relating to the assets. In this context, it may be noted that Section 125A of the Representation of the People Act, 1951 deals with penal provisions for furnishing false information in the affidavit filed in terms of Section 33A and Section 177 of Indian Penal Code contains penal provision for furnishing false information to a public servant in general. Under Section **195** of the Code of Criminal Procedure, 1973, no Court shall take cognizance of any offence punishable under section 177 of the Indian Penal Code, except on the complaint in writing of the public servant concerned or of some Other public servant to whom he is administratively subordinate.

In order to deal with cases of filing false information, the Commission has directed that where any complaint regarding furnishing of false information by any candidate is submitted by anyone, supported by some documentary evidence, the Returning Officers concerned should initiate action to prosecute the candidates concerned by filing formal complaints before the appropriate authority.

Kindly acknowledge receipt.

Yours faithfully,

Sd/-

(S.R. KAR)

Under Secretary



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi

No. 491/ Media/ 2009

Dated: 18th March 2011

To
The Chief Electoral Officers of
All States/ UTs

(Kind attention : Assam, Kerala, Puducherry, Tamil Nadu and West Bengal)

Sub: Measures to check “Paid News” during elections i.e. advertisement in the garb of news in Media.

Sir,

I am directed to refer to the Commission’s letters no. 491/Media/ 2009 dated 8th June 2010 and 23rd September, 2010 respectively, on the subject cited and to say that one officer of Indian Information Service (ISS) posted in the State/UT representing separate media department of Government of India in addition to the member provided at (c) below be made member of the State Level Committee to dispose of the cases related to appeals against orders of District level Media Certification & Monitoring Committee (MCMC) on “Paid News”.

As such, the State Level Committee (to deal with applications by political parties and organizations for certification for advertisement on television channel and cable network) will now be called State level MCMC with the following composition: -

- (a) The Additional/Joint Chief Electoral Officer- Chairperson
- (b) Returning Officer of any Parliamentary Constituency located in the capital of the State.
- (c) One expert being an officer to be requisitioned from the Ministry of Information & Broadcasting.
- (d) Officer of Indian Information Service, (at the level of US/ DS) posted in the State/ UT, representing media Department of Government of India as separate from the expert at (c) above.

Yours faithfully,

Sd/-
(YASHVIR SINGH)
DIRECTOR



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Media/2011 (Advt)

Dated: 16th August, 2011

To

The Chief Electoral Officers of
all States and UTs.

Sub : Guidelines for dealing with candidates' advertisements on TV/Cable channels owned by political parties or their functionaries/office bearers during elections.

Sir/Madam,

I am directed to say that the Commission has received various references regarding Paid News and advertisements on TV/Cable Channels network owned by political parties or their functionaries/office bearers. The complaints were filed by different political parties, journalists and other individuals. In order to bring uniformity in dealing with such instances, the Commission has directed to issue the following guidelines: -

Six months before the due date of expiry of Lok Sabha or the State/UT Legislative Assembly, as the case may be, a list of television channels/radio channels/newspapers, broadcasting/ circulated in the State/UT and their standard rate cards shall be obtained by the CEOs and forwarded to the Commission.

The Media Certification and Monitoring Committee (MCMC) at District level and State level will monitor all political advertisements in relation to candidates, either overt or covert, and will intimate the Returning Officer for issue of notices to candidates for inclusion of notional expenditure based on standard rate cards in their election expenses account, even if, they actually do not pay any amount to the channel/newspaper, that is otherwise the case with "Paid News". This will also include publicity by or on behalf of candidate by Star Campaigner (s) or others, to impact his electoral prospects. A copy of the notice will also be marked to Election Expenditure Observer.

In case of bye-election to Parliamentary or Assembly constituency, the standard rate card will be obtained by the District Election Officer concerned immediately on announcement of the bye-election and Media Certification and Monitoring Committee (MCMC) will take due action immediately afterwards.



Like in the case of “Paid News”, the Chief Electoral Officer and District Election Officers will brief political parties and media houses about the above guidelines before the commencement of the election campaign.

In case of any technical doubt relating to the application of the standard rate card, the matter would be referred to the DAVP, Ministry of I&B, Govt. of India for advice.

These instructions should be read together with the Commission’s earlier circulars on “Paid News” dated 8th June 2010, 23rd September 2010 and 18th March, 2011.

This may be brought to the knowledge of all concerned immediately.

Yours faithfully,

(Yashvir Singh)
Director



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Paid News/2012/Media

Dated: 15th March, 2012

ORDER

The Commission has been receiving complaints and references of 'Paid News' from amongst others, CEOs of States/UTs, where elections to Legislative Assemblies or bye-elections to Parliamentary / Assembly Constituencies were held. Complaints have also been received from political parties, journalists and common citizens, in this regard.

The Commission vide its letters No.491/Media/2009, dated 8th June, 2010 and No.491/Media Policy/2010 dated 23rd September, 2010 had directed constitution of District level Media Certification and Monitoring Committees (MCMCs) in all States/UTs. Further, vide letter dated 18th March 2011, the CEOs of all the States/UTs were directed to set up State-level MCMCs also. In continuation, the Commission vide its order dated 16th June, 2011 had constituted a Committee at the Election Commission of India. The same Committee is strengthened, with a view to examine complaints/references of 'Paid News' received from State CEOs/MCMCs with the following composition:-

1. Additional Director General (News), News Services Division: AIR, New Delhi
2. Additional Director General, DAVP, New Delhi
3. Principal Secretary/Secretary (in-charge of Election Expenditure)
4. Principal Secretary (Legal)
5. Principal Secretary (in-charge of the State/UT from where reference in received)
6. Principal Secretary (in-charge of CC & BE Division)
7. Director/Principal Secretary/Dy. Secretary (Media Division)
-Convener

Members at SI No.1 and SI No.2 are based on nominations by concerned ministries/ Departments.



The role of the aforesaid Committee would be as follows:-

1. To examine references received from State level Media Certification and Monitoring Committees (MCMCs).
2. To examine and recommend on references directly received in the Commission, which are not any State/UT specific, regarding 'Paid News'.
3. To support policy formulation at ECI on issues like a) Paid News b) Issues relating to usage of electronic and print media for campaigning proposed by parties and candidates, c) Do's and Don't to be followed by both print and electronic media etc.
4. Any other matter referred to the Commission by CEOs, Union/State Governments, in which media monitoring is requested.

By order

Sd/-
(Yashvir Singh)
Director



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Paid News/2012/Media

Dated: 27th August, 2012

To

Chief Electoral Officer of all the States/UTs

Subject:- **Measures to check 'Paid News' during elections i.e. advertisement in garb of news in Media and related matters – revised guidelines – regarding.**

Sir/Madam,

I am directed to invite your attention to the subject cited and to state that the Commission has issued order No. 509/75/2004/JS-1 dated 15th April, 2004 consequent upon order of the Hon'ble Supreme Court of India in SLP © No. 6679/2004. (Ministry of Information and Broadcasting vs. M/s Gemini TV Pvt. Ltd and Others) requiring the constitution of a committee for previewing, scrutinizing and verifying all advertisements by individual contesting candidates or political parties, before it is inserted in the electronic media. The Commission issued further guidelines vide its letters of even no. dated 8th June 2010, 23rd September 2010, 18th March 2011 and 16th August 2011, to constitute Media Certification and Monitoring Committee (MCMC) in **each district during election period** to take up the additional task of keeping a check on the cases of Paid News.

In modification of orders on 'Paid News' dated 8th June 2010 and thereafter, I am directed to state the following:

1. District Level Media certification and Monitoring Committee (MCMC)

1.1 The District level MCMC shall be formed in each district with the following members:

- (a) DEO/RO (of Parliamentary Constituency) (b) ARO (not below SDM)
- (c) Central Govt. I & B Ministry official (if any in the district)
- (d) Independent Citizen/Journalist as may be recommended by PCI
- (e) DPRO/District Information Officer/equivalent – Member Secretary

1.1.1 For the purpose of the certification of advertisements as per aforesaid Supreme Court order, Returning Officer of the parliamentary constituency/District



Election Officer and an ARO (not below SDM) shall be the members of the MCMC. However, for the scrutiny of the cases of 'Paid News' etc, District MCMC shall have three additional members as given at 'c', 'd' and 'e'.

1.1.2 If Central govt. I &B Ministry Official is not posted in the district, District Election Officer can appoint preferably a Central Govt. Officer or a senior State Govt. Officer posted in the district.

1.1.2 If PCI is not providing names to be included in the MCMC, DEO may himself appoint either an independent senior citizen or journalist, who is willing and as who, in the opinion of the DEO, is eligible in terms of background and record of neutrality.

1.1.3 The Member Secretary (DPRO/DIO or equivalent) should be from the Provincial State Civil Services.

1.2 The committee shall have two distinct sets of functions:

- (i) **Certification of Advertisements** for which two specific members of MCMC i.e. RO & ARO shall have to consider and decide on such advertisements for certification.
- (ii) **Examining complaints/issues of Paid News** etc by all members through a monitoring arrangement.

1.3 The MCMC shall, besides discharging the functions of Certification of Advertisement and checking of Paid News, would also assist in enforcement of media related regulations under the RP Act. Hence the Committee's functions shall include:

1.3.1 MCMC shall scan all media (e.g. newspapers, print media, electronic media, cable network, internet, mobile network etc) for :

- a. suspected cases of paid news (it shall also actively consider paid news cases referred to it by the Expenditure Observers. It shall intimate the Returning Officer for issue of notices to candidates for inclusion of actual expenditure on the published matter or **notional expenditure** based on DIPR rates in their election expenses account (in absence of DIPR rates, DAVP rates may be used), either based on or irrespective of whether the candidate actually has paid or not paid any amount to the channel/newspaper. A copy of the notice shall also be marked to Expenditure Observer)



- b. monitoring of political advertisements in electronic media (for checking if the telecast/broadcast has been done only after certification by the Committee).
 - c. monitoring political advertisements in other media, in relation to candidates, either overt or covert, from Expenditure monitoring angle (this will also include publicity or advertisement or appeal by, or on behalf of candidate, or by Star Campaigner(s) or others, to impact candidate's electoral prospects)
 - d. advertisements in print media (MCMC shall check if the advertisement is with the consent or knowledge of candidate: in which case it will be accounted for in the election expenses of the candidate(s); however, if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of Section 171H of IPC).
 - e. checking if the name and address of the publisher and printer is carried on any election pamphlet, poster, hand bill and other document as required under Section 127A of R.P.A 1951 (If any printed material does not bear on its face the names and addresses of the printer or the publisher, MCMC shall bring it to the notice of the RO for further necessary action; For the purpose of section 127 of RPA 1951, **'Paid News' would also fall in the category of other document'**).
- 1.3.2 It shall submit a daily report to Accounting team with copy to RO and Expenditure Observer in respect of each candidate in the prescribed format (as per annexure 12 of the prescribed Expenditure Guidelines) w.r.t. expenditure incurred by the candidate on election advertising or actual expenditure incurred for publishing the 'News' that is substantiated by necessary documents furnished by the candidate or notional expenditure as computed by the Committee in the assessed cases of Paid News.

1.3.3 The MCMC shall create a suitable mechanism for monitoring media and shall be equipped with adequate manpower and infrastructure for the same.

2. State level MCMC

2.1 The State level MCMC shall comprise of the following officers:

- (a) The Chief Electoral Officer, Chairman



- (b) Any Observer appointed by the Election Commission of India
- (c) One expert to be co-opted by the Committee.
- (d) Officer of Indian Information Service (IIS), (at the level of US/DS) posted in the State/UT, representing a media Department of Government of India as separate from the expert at (c) above.
- (e) Independent citizen or journalist as nominated by PCI (if any)
- (f) Addl/Jt CEO in charge of Media (Member Secretary)

2.1.1 If PCI is not providing names to be included in the Committee, CEO may himself appoint either an independent senior citizen or journalist, who is willing and who, in the opinion of the CEO, is eligible in terms of background and record of neutrality.

2.2 The State level MCMC shall perform two sets of functions:

- (i) Deciding appeal from both District and Addl/Jt CEO Committees on **Certification of advertisement** as per the aforesaid Commission order dated 15th April 2004.
- (ii) **Examining all cases of Paid News** on appeal against the decision of District MCMC or cases that they may take up suo motu, in which case it shall direct the concerned ROs to issue notices to the candidates.

2.2.1 The **appeal on certification** of advertisements need to be handled by members at (a), (b) and (c) in the manner specified in the aforesaid order dated 15th April 2004, while the members at (d), (e) & (f) are added to deal with Paid News cases.

2.2.2 It is clarified that as regards the certification, the appeal both from District and Addl/Jt CEO Committee will lie only with and will be disposed of by the State Level MCMC headed by CEO as per Commission's order dated 15th April, 2004 and no reference in this regard needs to be made to the Commission.

3. Addl/Joint CEO's Committee on Certification : The Committee chaired by Addl/Jt CEO for **Certification of advertisement**, constituted as per the Commission's 15th April 2004 order shall continue to function as stated in the aforesaid order and shall have no jurisdiction over cases of 'Paid News'.



4. Appeal against decision of State level MCMC on Paid News

4.1 Any appeal against the decision of the State level MCMC in matter of Paid News will be made to the Election Commission of India. The State level MCMC can also make a reference to the Commission for advice, if it deems it necessary. Wherever complaints on Paid News cases are made to the Commission directly, the Commission shall forward cases to the State level MCMC for initial consideration.

5. **Paid News Guidelines** : With regard to Paid News, following guidelines may be followed:

5.1 Six months before the due date of normal expiry of Lok Sabha or the State/ UT Legislative Assembly, as the case may be, a list of television channels/ radio channels/newspapers, broadcast/ circulated in the State/UT and their standard rate cards shall be obtained by the CEOs and provided to all District level MCMCs for fixing the rates of advertisements.

5.2 In case of bye-election to Parliamentary or Assembly constituency, the standard rate card shall be obtained by the District Election Officer concerned immediately on announcement of the bye-election.

5.3 In case of any doubt relating to the application of the standard rate card arising, the matter shall be referred to the DIPR or DAVP, Ministry of I&B, Gov. of India for advice.

5.4 The CEO and DEOs will brief Political Parties and Media Houses about the above guidelines before the commencement of the election campaign. Media shall be asked to exercise self-regulation in this regard. Wide publicity may be given to this order to make the general public also aware about these guidelines. The thrust of the briefing will be on the need for self-regulation.

5.5 The cases of suspected Paid News or advertisement or appeal shall have to be considered within strict timelines as follows:

5.5.1 On reference from District MCMC, RO shall give notice to the candidates within 96 hrs of publication/broadcast/telecass/receipt of complaint to explain/disclose the expenditure incurred for publishing the 'news' or similar matter, or state why expenditure should not be computed as per standard rate and added to the candidate's expenditure. The same timeline will apply when State level MCMC takes up cases suo motu or on the basis of complaints.



- 5.5.2 District /State level MCMC shall decide on the reply expeditiously and convey to the Candidate/Party its final decision. In case no reply is received by District MCMC from the candidate within 48 hrs of serving of notice, the decision of MCMC will be final.
- 5.5.3 If decision of District level MCMC is not acceptable to the candidate, he/she may appeal to State level MCMC within 48 hrs of receipt of decision, with information to the District MCMC.
- 5.5.4 The State level MCMC shall dispose of the case within 96 hrs of receipt of appeal and convey the decision to the Candidate with a copy to District level MCMC.
- 5.5.5 The Candidate may appeal against the decision of State level MCMC to ECI within 48 hrs of receiving of order from this Committee. The decision of ECI shall be final.
- 5.6 The entire process shall ordinarily be completed within Election period.
6. It has been observed that in certain cases, notices on paid news has been issued in large numbers while further action on the same remain pending. MCMCs may ensure that due deliberation takes place on each case and only cases that appear to be suspected cases of 'Paid News' are referred to the RO for issue of notice to the candidate. While seeing that frivolous cases are not taken up, MCMC should ensure that there is no laxity on checking actual 'Paid News'.
7. Where the suspected cases of Paid News are decided as a "Paid News" either at District level/CEO level/Commission level, as the case may be, the actual/notional expenditure shall be treated as part of election expenses of the Candidate concerned, with due intimation to him/her or his/her agent.
8. Where the District/State level Committee or ECI decides that it is a Paid News case, such cases shall be conveyed to Press Council of India for further action in relation to the media concerned.

Yours faithfully,

(Rahul Sharma)
Under Secretary



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Paid News/2012/Media

Dated: 9th October, 2012

To

Chief Electoral Officer of all the States/UTs

Subject: - Measures to check 'Paid News' during elections i.e. advertisement in grab of news in Media and related matters – revised guidelines – regarding.

Sir/Madam,

In continuation of the Commission's letter dt. 27th August 2012 on the subject cited I am directed to say that the para 5.5.2 of the said letter, with partial modification may now be read as "The candidate shall reply to the notice received from District/State level MCMC within 48 hrs of receiving of notice. If no reply is received from the candidate within stipulated time, the decision of MCMC will be final. District/State level MCMC shall decide on the reply expeditiously, preferably with in 48 hrs of receiving of reply and convey to the candidate/party its final decision".

Yours faithfully,

(Rahul Sharma)
Under Secretary



By Speed Post

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/Paid News/2012/Media

Dated:15th October, 2012

To

Chief Electoral Officer of all the States/UTs

Subject - Measures to check 'Paid News' during elections i.e. advertisement in grab of news in Media and related matters – revised guidelines – regarding.

Sir/Madam,

I am directed to refer to the Commission's letter dated 27th August 2012 and to say that the certification of the advertisements as referred to the Commission's order dated 21st November 2008 (copy enclosed), will also include those to be displayed in **Cinema Halls**, besides, TV Channels/Cable Networks and Radio including Private FM Channels, as already instructed.

Yours faithfully,

(Rahul Sharma)
Under Secretary



By Special Messenger/E-mail/Fax

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/PN/Media/2013

Dated: 12th February, 2013

To,

Ms. Annie Joseph,
Secretary General,
News Broadcasters Association,
Juris House, Ground Floor,
22- Inder Enclave, Pashchim Vihar,
New Delhi – 110087.

Subject: Measures to check 'Paid News' during elections i.e. advertisement in garb of news in Media – regarding.

Madam

I am directed to invite your attention to the recent phenomenon of 'Paid News', which has emerged as a serious electoral malpractice. Paid News has been defined as "Any news or analysis appearing in any media (Print & Electronic) for a price in cash or kind as consideration". This has been causing concern to the Commission in the context of conduct of free and fair elections. Several political parties and media groups including large section of broadcast media have also conveyed their similar concerns to the Commission. There has been dialogue by several stakeholders with the Commission at different platforms and there is unanimity to take necessary steps to put a halt to such mal-practice which puts undue influence on the voters, encourages the role of money power and disturbs level playing field in elections. The Commission has taken various measures to check this mal-practice. A comprehensive guideline on paid news dated 27th August, 2012 issued by the Commission is also enclosed herewith for your ready reference.

It is also very essential to prevent media houses (both print & electronic) from indulging in this electoral mal-practice. Press Council of India (PCI) is also a key stakeholder with the Commission and playing vital role in keeping a check on print media. In the established cases of paid news, the Commission takes appropriate action with regard to the candidates and forwards the name of involved print media houses to PCI for necessary action.



The Commission has considered that cases of Paid News involving the broadcasting media can be similarly referred to your Association, once the same is confirmed by our screening Committees, for further necessary action. This is in view of absence of any other authority like PCI with relation to broadcasting media.

With the support of NBA, the Commission hopes to curb paid news instances in broadcast media. An early response from you would be appreciated, before we proceed further in the matter.

Yours faithfully

(Padma Angmo)
Deputy Secretary



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

RAHUL SHARMA
UNDER SECRETARY

E-mail- rahulsharma.eci@gmail.com
Tel/Fax – 011-23052070

No. 491/Media Policy/2013

Dated:10th October 2013

To,

The Chief Electoral Officer
NCT of Delhi
Delhi

Subject:- Clarification regarding advertisements of political nature .

Sir,

I am directed to refer your letter dated 09.10.2013 on the subject cited and to furnish following para wise reply of your queries:

Clarification on item no.1 & 2

Audio – visual displays of political advertisement/campaign material in public places should require certification under the existing orders of the Commission to be done by the designated committee.

Clarification on item no.3

In the cases where registered parties/group/organization/association, not having their Headquarter in NCT of Delhi but wish to telecast/broadcast their advertisement in Delhi, certification of the advertisement should be considered by the MCMC in the State, where the party is contesting election, in this case NCT of Delhi.

Clarification regarding the other issues related to your letter will be conveyed to you soon.

Yours faithfully,

(Rahul Sharma)



ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 491/SM/2013/Communication

Dated: 25th October, 2013

To,

1. Chief Electoral Officers
of all States and Union Territories
2. Presidents/General Secretaries
of All National/State recognized Political Parties.

Sub: Instructions of the Commission with respect to use of Social Media in Election Campaigning.

Sir,

The Commission's attention was drawn to use of social media for election campaigning and also certain violations of the Electoral Law in the social media, which need to be regulated in the interest of transparency and level playing field in the elections.

Social media refers to the means of interactions among people in which they create, share, and/or exchange information and ideas in virtual communities and networks. It differentiates from traditional/industrial media in many aspects such as quality, reach, frequency, usability, immediacy, and permanence. The prevalence of Web and social media has increased over the years and there have been demands from the political and social groups to regulate the social media during elections as other media is regulated.

There are broadly five different types of social media:

- a) collaborative projects (for example, Wikipedia)
- b) blogs and micro blogs (for example, Twitter)
- c) content communities (for example, YouTube)
- d) social networking sites (for example, Facebook)
- e) virtual game-worlds (e.g., Apps)

Legal provisions relating to election campaigning apply to social media in the same manner in which they apply to any other form of election campaigning using any other media. Since social media is a relatively new form of media, it appears necessary to clarify to all concerned by the following instructions:-



A. Information to be given by candidates about their social media accounts.

Candidates are required to file affidavits in Form-26 at the time of filing of nominations. Detailed instructions and the format in which the affidavits have to be filled were issued vide the Commission's letter No. 3/4/2012/SDR dated 24, August, 2012. Para 3 of this Form requires that email ID of the candidate, if any, should be communicated to the Commission in this Form. The Commission finds it necessary that authentic social media accounts of candidates should also be informed to the Commission. This information should be furnished in the said Para 3 as follows:-

“My contact telephone no.(s) is/are.....,
my email ID (if any) is,
and my social media accounts (if any) are.....”

B. Pre-Certification of Political Advertisements

In pursuance of the Hon'ble Supreme Court of India's Order in SLP (Civil) N. 6679/2004, dated 13 April,2004, the Commission issued detailed instructions on this subject vide its order no. 509/75/2004/JS-1/4572 dated 15.04.2004. In this order, it was stated that every registered/national and State political party and every contesting candidate proposing to issue advertisements on television channels and/or on cable network will have to apply to Election Commission of India/designated officer for pre-certification of all political advertisements on electronic media before the publication. The order was further modified and consolidated vide Commission's order dated 27.08.2012, wherein Media Certification and Monitoring Committees at district and State levels were given the responsibilities of pre-certification of such advertisement along with other functions viz acting against Paid News etc. Since social media websites are also electronic media by definition, therefore, these instructions of the Commission contained in its order No.509/75/2004/JS-1/4572 dated 15.04.2004 shall also apply mutatis mutandis to websites including social media websites and shall fall under the purview of pre-certification. You are, therefore, requested to ensure that no political advertisements are released to any internet based media/websites, including social media websites, by political parties/candidates without pre-certification from competent authorities in the same format and following the same procedures as referred in the aforesaid orders.

C. Expenditure on campaigning through internet including social media websites.

According to Section 77, sub section (1), of Representation of the People Act, 1951, every candidate is required to keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his



election agent between the date on which he has filed nomination and the date of declaration of the result thereof, both dates inclusive. The Hon'ble Supreme Court of India had directed in Common Cause Vs. Union of India in 2005 that political parties should also submit a statement of expenditure of elections to the ECI and such statements are required to be submitted within 75 days of assembly elections and 90 days of Lok Sabha elections. It is obvious that expenditure on election campaign through any advertisement in social media is a part of all expenditure in connection with the elections.

For the sake of removing any ambiguity, it is hereby directed that candidates and political parties shall include all expenditure on campaigning, including expenditure on advertisements on social media, both for maintaining a correct account of expenditure and for submitting the statement of expenditure. This, among other things, shall include payments made to internet companies and websites for carrying advertisements and also campaign related operational expenditure on making of creative development of content, operational expenditure on salaries and wages paid to the team of workers employed by such candidates and political parties to maintain their social media accounts, etc.

D. Application of Model Code of Conduct to content on internet including social media.

The Commission has a model code of conduct in place during the elections in respect of political parties and candidates which remains in force from the date the elections are announced by the Commission till the completion of elections. It is clarified that the provisions of model code of conduct and related instructions of the Commission issued from time to time shall also apply to the content being posted on the internet, including social media websites, by candidates and political parties.

E. As far as the content posted by persons other than candidates and political parties is concerned, the Commission is considering the matter in consultation with the Ministry of Communication and Information Technology on practical ways to deal with the issue, in so far as they relate to, or can be reasonably connected with, the election campaigning of political parties and candidates.

These instructions may please be brought to the notice of all concerned including candidates, political parties, media and election observers for immediate necessary action.

Yours faithfully,
Sd/-

(Rahul Sharma)

(Under Secretary)

Tel. 011-23052070

Email: rahulsharma.eci@gmail.com



ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi 110001

No. 491/Paid News/2014

Dated : 7th February 2014

To

The Chief Electoral Officers of all States/UTs,

Sub: Certification of political advertisements during election by Media Certification and Monitoring Committee – Clarifications.

Sir/Madam,

I am directed to refer to the subject cited and to clarify the following issues in connection with Certification of political advertisements during elections:-

1. Audio-visual displays of political advertisements/campaign material in public place should require certification under the existing orders of the Commission to be done by the designated Committee.
2. In the cases where registered parties/group/organization/association, do not have their Headquarter in the state where they wish to telecast/broadcast their advertisement, certification of the advertisement should be considered by the MCMC in the State, where the party is contesting election and proposes to use the campaign material.
3. In respect of Commission's Order dated 15th April 2004 (copy enclosed) passed by the Commission in pursuance of the Order dated 13th April 2004 of the Hon'ble Supreme Court which has directed that no cable operator of TV channel shall telecast any advertisement, which does not conform to the law of the country and which offends the morality, decency and susceptibility of view or which is shocking, disgusting and revolting. Moreover, no advertisement shall be permitted which derides any race, caste, colour, creed and nationality, is against any provision of the Constitution of India and tends to incite the people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way.

The Certification Committee (MCMC) may take action in all cases keeping the above position in mind. However, it should also be brought to the notice of all candidates/political parties seeking certification that their advertisements should comply also with the Model Code of Conduct.

4. The Committee while issuing certificate to the applicant may also include the following disclaimer – The responsibility for the factuality and correctness of claims and allegations made in the advertisement lies wholly with publisher/advertiser. The certification committee is no way answerable or liable for any damage or loss or injury, civil or criminal on account of such publication.
5. With regard to the Commission's letter dated 15th April 2004, regarding scrutinizing of applications for certification for telecast on TV channels and cable networks, the Commission has decided that the Committees constituted to deal with the application for pre-certification of political advertisement, shall dispose of all such applications and inform the decision to the applicant within 24 hours of receipt of application, preferably on the same day, if application is received before 12 noon unless there are compulsive reasons not to do so.
6. In respect of Commission's letter dated 27th August 2012, para 1.1.1 may be read as-

“for the purpose of certification of advertisements as per aforesaid Supreme Court order, Returning Officer of the parliamentary constituency and an ARO (not below SDM) shall be the members of the MCMC.”

Yours faithfully,
(Rahul Sharma)
Under Secretary



ANNEXURE

Complaints with/ cases referred to District MCMCs by State MCMC/Exp Observers etc	Cases decided by District MCMC as suspected News & recom. for notice to candidate	Cases/ complaint not found to be paid news	Cases in which Notices issued by RO to candidate	Cases in which candidates accepted to have spent the amount and showed it in their accounts	Cases in which candidate did not reply to notice within stipulated time	Cases in which candidate refused to accept and gave explanation	Cases decided by District MCMC as NOT PAID NEWS after considering explanation/ reply to notice	Cases decided by District MCMC as PAID NEWS (after considering arguments/ reply to notice/or after reply not recd)	Appeal by Candidate to State MCMC on final decision of District MCMC within stipulated time	Cases decided as paid news by State MCMC	Cases decided as not paid news by State MCMC	Confirmed cases of paid news (5) + (9) – (12)
1	2	3	4	5	6	7	8	9	10	11	12	13

Reporting Format of Suspected Paid News/Confirmed paid news

(May be submitted on last day of every week)

Note:

- (1) = (2) + (3)
 - (2) should generally be same as (4) [Sometimes single notice is issued to a candidate for multiple cases of 'paid news' related to him, the number of notices in (4) should indicate the no of cases in which notices are issued and not the number of candidates who have been issued notices]
 - (4) = (5) + (6) + (7)
- If in some cases, candidate doesn't reply to the notice within stipulated time (6), the decision of District MCMC shall be final and further action taken by RO regarding inclusion of the expenses in the account of the candidate.
- Similarly, if Candidate doesn't appeal against the decision of District MCMC (9) to State MCMC (10) within stipulated time, it is assumed that he has accepted District MCMC decision and the amount shall be shown in his account
- (6) + (7) = (8) + (9)
 - (10) = (11) + (12)
 - (1) = (3) + (5) + (6) + (8) + (9)
- (2) Total cases of confirmed paid news = (5) + (9) – (12)**



Sl. No.	Name of the candidate and party affiliation to whom notice issued in paid news case	Title of the news items	Name of Newspaper/ broadcast media and date of publication and page no. of the newspaper/ timing of programme, where item appears	Cost of said news item as per DIPR/DAVP rates that was accounted



Status of Paid News Cases during General Election of Bihar-2010

SI No.	Name of State/UT	No. of Paid News Cases
1.	Bihar	15

Status of Paid News Cases during General Election in 2011

SI No.	Name of State/UT	No. of cases, in which notices to the candidate issued	No. of confirmed cases of Paid News
1.	Kerala	65	65
2.	Puducherry	3	3
3.	Assam	42	27
4.	West Bengal	15	8
5.	Tamil Nadu	11	22

Status of Paid News Cases during General Election in 2012

SI No.	Name of State/UT	No. of cases, in which notices to the candidate issued	No. of confirmed cases of Paid News
1.	Uttar Pradesh	97	97
2.	Uttarakhand	60	30
3.	Punjab	339	523
4.	Goa	63	9
5.	Manipur	Nil	Nil
6.	Gujarat	495	414
7.	Himachal Pradesh	190	104

Status of Paid News Cases during General Election in 2013

SI No.	Name of State/UT	No. of cases, in which notices to the candidate issued	No. of confirmed cases of Paid News
1.	Tripura	Nil	Nil
2.	Meghalaya	Nil	Nil
3.	Nagaland	Nil	Nil
4.	Karnataka	93	93
5.	Mizoram	Nil	Nil
6.	Chhattisgarh	35	32
7.	Rajasthan	110	81
8.	Madhya Pradesh	279	165
9.	NCT of Delhi	80	25



FAQ on Paid News

Q. What does Paid News mean?

A. Paid News has been defined by PCI as – “Any news or analysis appearing in any media (Print & Electronic) for a price in cash or kind as consideration”. The Commission has generally accepted the definition given by PCI.

Q. What is difference between advertisement and news?

A. PCI guidelines say – news should be clearly demarcated from advertisements by printing disclaimers, should be strictly enforced by all publications. As far as news is concerned, it must always carry a credit line and should be set in typeface that would distinguish it from advertisements. Besides, advertisement is meant to promote, while news is meant to inform.

Q. What made ECI to check Paid News?

A. Commission experienced the problem of Paid News on the ground during the electoral process. Political parties and media groups had approached the Commission requesting for strong steps against Paid News. Parliament also discussed the issue. There was consensus among all political parties in their meeting with the Commission on 4th October 2010 and again on 9th March, 2011 that stringent measures should be taken against Paid News.

Q. What are the adverse effects of Paid News?

1. In the election arena, Paid News misleads the public, causes undue influence on voters and affects their Right to Information.
2. It seeks to circumvent election expenditure laws/ceiling, through covert expenditure.
3. It disturbs the level playing field among political parties & candidates.

Q. How to keep a check on Paid News?

1. Self regulation by media and political functionaries.
2. Strict use of existing mechanisms to curb the menace in the electoral field.
3. Sensitize people and stakeholders on the subject.

Q. Step taken by the ECI to make Paid News an electoral offence?

A. The Commission has proposed Amendment in the R P Act 1951, to provide therein that publishing and abetting the publishing of ‘Paid News’ for furthering the prospect of election of any candidate or for prejudicially affecting the prospect of election of any candidate be made an electoral offence under chapter-III



of Part-VII of the R P Act, 1951 with punishment of a minimum of two years imprisonment.

Q. What mechanism has been developed by the ECI to curb Paid News?

A. The Commission has appointed Media Certification & Monitoring Committee (MCMC) at District level and State level to monitor media for Paid News. They scrutinise all newspapers and electronic media, in order to locate political advertisement in the garb of news coverage and take necessary action against the concerned candidates.

Q. What is District level MCMC and its functions?

A. District MCMC examines complaints/issue of Paid News through a monitoring arrangement. It scan all media e.g. print media, electronic media, cable network, etc. In the suspected cases of Paid News, it intimates the Returning Officer for issue of notices to candidates for inclusion of actual expenditure on the published matter in their election expenses account or notional expenditure based on DIPR/DAVP rates in their election expenses account irrespective of whether the candidate actually has paid or not paid any amount to the channel/newspaper according to his/her own statement. District MCMC decides on the reply in a time-bound manner from the candidate and convey to the candidate/party its final decision.

Q. What is State level MCMC and its function?

A. State level Media Certification and Monitoring Committee (MCMC) examines all cases of Paid News on appeal against the decision of District level MCMC and cases that they may take up suo motu, in which it directs the concerned Returning Officer to issue notice to the candidate. The State level MCMC shall dispose of the case within 96 hrs of receipt of appeal and convey the decision to the Candidate with a copy to District level MCMC.

Q. Where appeal can be made against the decision of State level MCMC?

A. The candidate may appeal against the decision District level MCMC to State level MCMC and against the decision of State level MCMC to Election Commission of India. The decision of the Commission is final.

Q. What is time frame for making appeal against the decision of District level and State level MCMCs?

A. If the decision of District level MCMC is not acceptable to the candidate, he/she may appeal to State level MCMC within 48 hrs of receipt of decision, with information to the District level MCMC. The candidate may also appeal against the decision of State Level MCMC to Election Commission within 48 hrs of receiving of order from this Committee. The decision of the Commission is final.

Q. What is the action against media house in the decided cases of Paid News?



A. Once the cases are decided as Paid News, the Commission refers the cases of print media and electronic media to PCI and National Broadcasting Standards Authority (NBSA) respectively for taking necessary action in the matter.

Q. What are the criteria to adjudge paid news?

A. There can only be illustrations but no clinching or exhaustive list available from any authenticated source. Some of the illustrations are:

- a. Identical articles with photographs and headlines appearing in competing publications either carrying by-lines of different authors around the same time or without any author's name.
- b. On the same page of specific newspapers, articles praising competing candidates claiming that both are likely to win the same elections.
- c. News item stating that one candidate is getting the support of each and every section of society eugolising him and that he would win elections from the constituency.
- d. Small events involving a candidate being given exaggerated/repeated coverage and/or the opponents' news are not covered at all.
- e. PCI case decision on Paid News and previous decisions by MCMC of ECI can also serve as sources of guidance.



FAQ on Certification of Advertisements and MCMC

Q. What is certification of advertisement?

- A.** Clearance of political advertisement by a committee before being telecast on television channels and cable networks and social media sites by any registered political party or by any group of organization/association or by any contesting candidate during elections.

Q. What are the types of Committees for certification and their functions?

- A.** 1. For certification of political advertisements from individual candidate, the Committee comprises:
- (i) Returning Officer (of Parliamentary Constituency)
 - (ii) Assistant Returning Officer (not below Sub Divisional Magistrate)

This Committee entertains application for certification of an advertisement proposed to be issued on cable network or television channel by an individual candidate contesting election from the Parliamentary Constituency concerned or candidate contesting in Assembly Constituency falling within that Parliamentary Constituency.

The above two officials are already the members of the District level MCMC along with some other members who do not have a role in such certification.

2. State level Media Certification Committee with following composition:

- (i) The Addl/Joint CEO – Chairperson
- (ii) Returning Officer of any Parliamentary Constituency located in the capital of State.
- (iii) One expert being an officer not below the rank of Class –I officer to be requisitioned from Ministry of I&B.

This Committee entertains the applications for certification received from all recognized and registered political parties having their headquarter in that State/UT, organizations, associations having their registered office in that State/UT.

3. The State level Appellate Committee with the following members:

- (i) The Chief Electoral Officer – Chairperson
- (ii) Any Observer appointed by the Election Commission of India
- (iii) One expert to be co-opted by the Committee.

The State Level Appellate Committee entertains complaints/grievances/appeal of any political party or candidate or any other person in regard to decision to grant or refuse certification by Constituency level Committee and State level Committee headed by Addl/Jt CEO Committees.

4. Delhi based Committee with the following composition –

- (i) The Joint Chief Electoral Officer – Chairperson



- (ii) Returning Officer of any Parliamentary Constituency in Delhi
- (iii) One expert being an officer not below the rank of Class –I officer to be requisitioned from Ministry of I&B.

This committee entertains the application for certification received from all recognized and registered political parties having their headquarters in NCT of Delhi, organisations or associations having their headquarters in NCT of Delhi .

Q. Time limits for application for certification?

- A. For recognized National and State party, registered and unregistered party and every contesting candidate, not later than three days prior to the date of the proposed commencement of the telecast of the advertisement. In case of any other organization/association, it should be not later than seven days prior to the date of the telecast.

Q. What are the documents required to be attached with application for certification?

- A. The application should be accompanied by two copies of the proposed advertisement in electronic form alongwith duly attested transcript thereof. Apart from this the application for certification shall also contain following details :

1. Cost of production of advertisement.
2. The approximate cost of proposed telecast of such advertisement on a television channel or cable network with the break-up of number of insertions and rate proposed to be charged for each such insertion.
3. Statement whether the advertisement inserted is for the benefit of the prospects of election of a candidate(s)/parties.
4. If the advertisement is issued by any person other than a political party or a candidate, that person shall state on oath that it is not for the benefit of any political party or a candidate and that the said advertisement has not been sponsored or commissioned or paid for by any political party or a candidate
5. A statement that all the payment shall be made by cheque or demand draft.

Q. What is a District level MCMC and what are its duties?

- A. (i) Composition of District level MCMC-
 - (a) DEO/RO (of parliamentary Constituency)
 - (b) ARO (not below SDM)
 - (c) Central Govt. I & B Ministry official (if any in the district)
 - (d) Independent Citizen/Journalist as may be recommended by PCI
 - (e) DPRO/District Information Officer/equivalent – Member Secretary



(ii) Duties:

1. Scan the political advertisements in electronic media for checking if the telecast/broadcast has been done only after certification by the Committee.
2. Monitoring the political advertisements in other media, in relation to candidates either overt or covert from expenditure monitoring angle this will also include publicity or advertisement or appeal by or on behalf of candidate, or by Star Campaigner(s) or others to impact candidate's electoral prospects.
3. Monitoring, if any advertisement in print media is published with the consent or knowledge of candidate in which case it will be accounted for in the election expenses of the candidate(s). However if the advertisement is not with the authority from the candidate, then action may be taken for prosecution of the publisher for violation of 171H of IPC.
4. Checking, if the name and address of the publisher and the printer is printed on any election pamphlet, poster handbill and other documents as required under section 127A of the RP Act 1951.
5. Submission of daily report to Expenditure Accounting team with a copy to RO and Expenditure Observer in respect of each candidate in the prescribed format w.r.t expenditure incurred by the candidate on election advertising or actual expenditure incurred for publishing the news.

Q. Does the Media Certification Committee at Constituency/district or State level has the right to refuse to give certification of an advertisement, if does not find fit to be telecast?

A. Yes, the above Committee has the right to refuse to give certification of an advertisement, if does not find fit to be telecast.

Q. Which Committee will certify advertisement of National Party in regional language?

A. If any National Party or State Party with Headquarters in Delhi wishes to seek certification of advertisement in any regional language, the application has to be submitted to the State Level Committee of the State concerned (to which the regional language pertains).

Q. In the case of same advertisement of a National Party in multiple languages, which Committee will certify it?

A. If a National Party seeks certification of the same advertisement in Hindi/English and in regional languages, the advertisement material in each of the languages along with certified transcript of each should be submitted to the Committee in Delhi along with an affidavit affirming that the regional language versions are



true translation of the advertisement in Hindi/English and that the applicant will be responsible for any mistake therein. The certificate issued by the committee in Delhi will be sufficient for the advertisements in regional languages. The party should submit a copy of the certificate issued from Delhi to the Chief Electoral Officer of the other State concerned along with the declaration that the copy of certificate is a true copy of the original issued by the committee in Delhi.

- Q. Where appeal can be made against the order of above Committee.**
- A.** Any political party or candidate can make an appeal against the order of above Committee to State level Appellate Committee.
- Q. Who will entertain the appeal against the order of State level Appellate Committee?**
- A.** Supreme Court.
- Q. Whether the decisions of the above Committees are legally binding?**
- A.** Yes, Supreme Court Vide there order dt. 13th April, 2004 authorized the Commission to constitute the Committees for the certification of political advertisements.



Recommendation on Paid News

(As received from PCI vide letter no. 17/16/10-11-PCI dated 29.10.2012)

1. The election time paid news phenomenon has three dimensions. One the reader or the viewer does not get a correct picture of the personality or performance of the candidate in whose favour or against he decides to cast his vote. This destroys the very essence of the democracy. Two, contesting candidate perhaps do not show it in their election expense account thereby violating the Conduct of Election Rules, 1961, framed by the Election Commission of India under the Representation of the People Act, 1951. Third, those newspapers and television channels which received money in cash but did not disclose it in their official statements of accounts have violated the Companies Act, 1956, as well as the Income Tax Act, 1961, besides other laws.
2. It was felt that there should be a clear distinction drawn between the managements and editorial staff in media companies and that the independence of the editor should be maintained and safeguarded.
3. The Election Commission of India should set up a special cell to receive complaints about 'paid news' in the run-up to the conduct of elections and initiate a process through which expeditious action could be taken on the basis of such complaints.
4. There should be a debate among all concerned stakeholders on whether a directive of the Supreme Court of India that enjoins television channels to stop broadcasting campaign-related information on candidates and political parties 48 hours before elections take place should be extended to the print medium since such a restriction does not apply to this section of the media at present.
5. The Council suggests that efforts should be made to educate the voters to differentiate between the doctored reporting and the balanced and just reporting.
6. The Union Information & Broadcasting Ministry should conduct awareness-generating campaigns involving all stakeholders to deliberate on the issue and arrive at workable solutions to curb the 'paid news' phenomenon in particular.



7. A small Committee of Members of Parliament from both Houses should hold a hearing for suggesting changes in Representation of the People Act, 1951.

RECOMMENDATIONS

- i) Representation of the People Act, 1951, be amended to make incidence of paid news a punishable electoral malpractice.
- ii) The Press Council of India must be fully empowered to adjudicate the complaints of 'paid news' and give final judgment in the matter.
- iii) Press Council Act be amended to make its recommendations binding and electronic media be brought under its purview, and
- iv) Press Council of India should be re-constituted to include representatives from electronic and other media.

While reiterating these observation and recommendations the Council felt that in the instant case the complainant had not been able to establish the charge that he had leveled against the respondent. It decided accordingly.

PCI enquiry committee observations on Bihar assembly election cases (2010)

"The Phenomenon of "paid news" is a serious matter as it influences the functioning of a free press. The media acts as a repository of public trust for conveying correct and true information to the people. However, when paid information is presented as news content, it could mislead the public and thereby hamper their judgment to form a correct opinion. The phenomenon of 'paid news can cause double jeopardy to the Indian democracy by adversely impacting the free functioning of the media and on the free and fair election process. Thus, there is an urgent need to protect public's right to correct and unbiased information. Following due consultation with all stakeholders the Council had defined Paid News as "Any news or analysis appearing in any media (Print & Electronic) for a price in cash or kind as consideration".

The Election Commission of India on the recommendation of the Press Council of India has taken several steps to curb paid news. It has expanded the ambit of Section 127 A (3) (b) of RP Act which defines 'election pamphlets or posters' to include "Paid News" under the definition of "other document". Thus if the advertisement is with the consent of the candidate, it has to be accounted for in his/her election expense. Despite sincere efforts by various stakeholders, the phenomenon continues and unless urgent steps are taken, the ultimate loser will be the people of India."



Illustrations - case for suspected paid news

- Identical articles with photographs and headlines appearing in competing publications carrying by-lines of different authors around the same time.
- On the same page of specific newspapers, articles praising competing candidates claiming that both are likely to win the same elections.
- News item stating that one candidate is getting the support of each and every section of society and that he would win elections from the constituency.
- News items favouring a candidate, not carrying any byline.
- Newspaper publishing a banner headline stating that a party/candidate is ready to create history in the state/constituency but not carrying any news item related to this headline.
- News item saying that the good work done by a Party/Candidate had marginalised the electoral prospects of the other party/candidate in the state with each and every sentence of the news item in favour of the party/candidate.
- There are instances of fixed size news items, each say of a length of 125-150 words with a double-column photo. News items are seldom written in such a rigid format and size whereas advertisements are most often.
- In specific newspapers, multiple font types and multiple drop case styles were noticed within the same page of a single newspaper. This happened because just about everything - the layouts, fonts, printouts, photographs - was provided by candidates who had paid for slots in the pages of the newspaper.