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# **SPORTSCASTING – CHARTING A COURSE FOR SPORTS BROADCASTING REFORMS**

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## **ABSTRACT**

Since the advent of human civilisation sports have been an integral part of mankind. Sports provide a distraction from the misery and despair that the real world exudes. It evokes in humans a mix of positive emotions. As advancements in science and technology have been made, sports has become accessible to a much large viewer base. This is thanks to the evolution of sports broadcasting or simply, ‘SportsCasting’. Sports Broadcasting has evolved into a multi-billion dollar industry which is subject to a complex and ever changing legal framework. This paper delves into the intricacies of sports law in India, its ambiguities and unresolved issues, the ramifications that come as a consequence of these issues and the possible measures that can be put forward to refine the regulatory frameworks that govern sports broadcasting.

The paper commences by delving deep into the constitutional underpinnings of the sports broadcasting realm, and examining the various laws that compose the sportscasting regulations such as the Cable Television Networks (Regulations) Act, the National Sports Development Code, the Sports Broadcasting Signals Act and others. The paper then explores the various ambiguities and unresolved problems that these regulations have present within them and the consequences of these problems on the various private broadcasters and the general public. These include the vague language present in these laws, the problem of overspilling and the revenue loss suffered by private broadcasters due to the clause of mandatory sharing of the broadcast with Prasar Bharati. The paper then attempts to give possible solutions to these problems for the benefit of the general public and the private broadcasters who suffer revenue losses for no fault of their own. In conclusion, the paper offers a critical assessment of the current state of sports broadcasting laws, identifying areas for reform and modernization. It proposes strategies for enhancing the effectiveness of regulatory frameworks and ensuring the continued growth and prosperity of the sports broadcasting industry.

## INTRODUCTION

Sports have been an integral part of mankind since the beginning of human civilization. The popularity of sports comes from the fact that it is capable of evoking a myriad of emotions such as amusement, joy, excitement, anger, competitiveness, fear, struggle and so on. Not only can the sportsman, even the spectators as well can enjoy the cocktail of emotions in an enthralling way. That's been the reason that sports surpasses other forms of entertainment like cinema, theatre, music and others in terms of viewership.

The media, especially television, has had a significant influence on how modern sports are structured. On the one hand, television broadcasters and sports groups have developed a cooperative relationship that has allowed them both to further their commercial objectives. Thus, the commercialization of sports has benefited the objectives of every major player in the "sports-media-business complex," including the media corporations, advertising agencies, companies and sponsors, organisers of sporting events, sports associations, although not always sports enthusiasts, and even professional athletes.

Sportscasting serves as a crucial medium for the live coverage of sports events on television, radio, and other media, typically featuring sports commentators describing the events as they occur. It adds an extra layer of excitement and analysis to the game, enhancing the overall viewing experience for audiences worldwide.<sup>1</sup> The most celebrated sports events across the world are the FIFA World Cup, Cricket World Cup, Summer Olympic Games, UEFA Champions League, Tour de France, Indian Premier League, Super Bowl, Rugby World Cup (rugby union), and the FIA Formula One World Championship. According to FIFA *around 1.5 billion people* watched the 2022 World Cup final live on television. For instance FIFA mainly earns from five categories — television broadcasting rights; marketing rights; hospitality rights and ticket sales; licensing rights; and other revenue.

Television broadcasting rights is the largest contributor with an overall share of 56 per cent in the total earnings, followed by marketing rights at 29 per cent. As per the official FIFA website, during the 2022 Football World Cup, the revenue target for television broadcasting rights was

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<sup>1</sup> SPORTS BROADCASTING: SPORTS IN THE MEDIA - UDEMY BLOG, <https://blog.udemy.com/sports-broadcasting/> (last visited Nov 11, 2023).

\$2.64 billion. For marketing rights sales, the total budget was \$1.35 million. The licensing rights budget for the year was \$140 million.<sup>2</sup>

Across the world different countries have formulated their own laws for broadcasting of Sports. Some countries promulgated Anti-siphoning laws and regulations to prevent monopoly of paid television broadcasters from buying monopoly rights before free-to-air television to televise coverage of major sporting events of national importance. Australia and the United Kingdom have adopted such policy. Anti-siphoning was introduced in US in 1975 but was termed as unconstitutional.

## THE CONSTITUTIONAL UNDERPINNINGS OF SPORTS LAW

On the subject of distribution of legislative powers between the Union and the States are defined primarily under the constitutional provisions in India under its articles 245 and 246. The division of responsibilities and authorities between the Union and State legislatures is outlined in the Seventh Schedule to the Indian Constitution. It is composed of three lists: the Union List, the State List, and the Concurrent List. Earlier, the Union list had a total of 97 subjects which now has been increased to 100 subjects over which the power of the Union parliament extends. Similarly, the State list had a total of 66 subjects which now has been cut down to 61 items for state legislation. The schedule also envisages a Concurrent list which embodied a total of 47 subjects which has been amended to 52 items on which both the Union parliament and the state legislatures are empowered to legislate. The provisions of the constitution gives precedence to the union legislation over that of the states. The subject of sports comes under the ambit of the State List of the Indian constitution.

“33. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements.”<sup>3</sup>

The organisation and administration of Sports are primarily under the State’s jurisdiction, while aspects related to education which can impact sports are concurrent subjects. Education appears in the concurrent list of the Constitution of India.

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<sup>2</sup> Haris, M. (2022) *How much FIFA earned during Qatar World Cup 2022; rights sales, tickets; check full revenue break-up*, News18. Available at: <https://www.news18.com/business/how-much-fifa-earned-during-qatar-world-cup-2022-rights-sales-tickets-check-full-revenue-break-up-6645073.html> (Accessed: 11 November 2023).

<sup>3</sup> India Const. art. 246. sch. 7, cl. 33.

## National Sports Development Code of 2011

The 2011 Indian National Sports Development Code (Code) is a compilation of all documents that the Government has released over the last few decades that cover a broad variety of topics relating to sports on a national and worldwide scale. The Code primarily regulates how "National Sports Federations" (NSFs), the formal name for national sports governing bodies, operate. It plays a pivotal role in establish the rules and regulations controlling the growth and management of sports in India is the National Sports Code of 2011. This extensive code was developed to support fairness, accountability, and openness in sports administration, which will help India's sporting potential develop and flourish. As per the Code, NSFs bear complete responsibility for overseeing, guiding, advancing, and endorsing the discipline for which the relevant International Federation has granted them recognition. Any organisation that wants to be recognised in the future as an NSF must also follow the Code. The Code is followed in granting such recognition. Additionally, the Code governs some of the Sports Authority of India's (SAI) NSF-related activities. While the Code does not directly apply to regional or state associations, it may indirectly impose certain responsibilities on them through the regulations governing NSFs. The Code specifies the requirements for NSF recognised eligibility, the application procedure, and the repercussions of non-compliance (withdrawal or suspension). It also covers the following other functional features of NSFs: national team selection, government funding, elections, and Long Term Development Plans (LTDP). It covers sports classification, cross-cultural interactions, age fraud and sexual harassment prevention, anti-doping compliance, and sports equipment acquisition.

*Entry 10: Foreign affairs, all matters which bring the Union into relation with any foreign country. Entry 13: Participation in international conferences, associations and other bodies and implementing of decisions made thereat.*<sup>4</sup>

The court recognized that international sporting events serve as crucial platforms for diplomatic interactions between nations. Several factors, including player safety concerns, apartheid, and perceived human rights violations, have influenced nations' decisions to participate or withdraw from international sporting events held in various countries. Consequently, Indian teams must obtain political and diplomatic clearances before participating in international tournaments and forums. The court emphasized that no state government possesses the

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<sup>4</sup> National Sports Development Code 2011, Ministry of Youth Affairs and Sports, 2011 (India)

authority or jurisdiction to engage in such activities, a privilege solely reserved for the Union Government.

## TRACING THE TRAJECTORY OF SPORTS BROADCASTING LAWS

The Ministry of Information and Broadcasting was set up after independence of India and Broadcasting is one of its wings to reach out to the masses. Prasar Bharati was established under the Prasar Bharati Act 1990, it is the public broadcaster which telecasts all events of "national importance" that have broadcast rights owned by a pay television service. Following that, the Information and Broadcasting Ministry combined the two state-owned broadcasters, All India Radio and Doordarshan, into one holding company, Prasar Bharati, which would be regulated under the Prasar Bharati (Broadcasting Corporation of India) Act 1990.<sup>5</sup>

**1. Cable Television Networks (Regulation) Act, 1995<sup>6</sup>** regulates telecast of content on private satellite TV channels which are simultaneously transmitted/re-transmitted through cable television network. The Programme and Advertisement Codes are prescribed in the Cable Television Networks Rules, 1994 framed there under and private FM Radio channels and Community Radio Stations as per the GOPA guidelines and AIR Broadcast Code. Every broadcaster has to abide by the Programme and Advertisement Code prescribed under the Cable Television Networks (Regulation) Act, 1995 and Rules framed thereunder. The Cable Television Networks Rules, 1994 have been amended and has been replaced by Cable Television Networks (Amendment) Rules, 202 which provides a statutory mechanism for redress of grievances/complaints of citizens, relating to broadcast of content by means of television channels.

**2. The Telecom Regulatory Authority of India (TRAI)** gives its recommendations from time to time on Telecommunication and Broadcasting sectors on request from the Government or suo moto.

**3. THE SPORTS BROADCASTING SIGNALS (MANDATORY SHARING WITH PRASAR BHARATI) ACT, 2007<sup>7</sup>** provides for a mandatory sharing of sports broadcasting

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<sup>5</sup> ABOUT BROADCASTING | MINISTRY OF INFORMATION AND BROADCASTING ..., <https://mib.gov.in/about-broadcasting> (last visited Nov 17, 2023).

<sup>6</sup> Cable Television Networks (Regulation) Act, 1995, No. 07, Acts of Parliament, 1995 (India).

<sup>7</sup> The Sports Broadcasting Signals (Mandatory sharing With Prasar Bharati) Act, 2007, No.11, Acts of Parliament, 2007

signals of national importance. The Act provides that-

(1) No content rights owner or broadcasting service provider can broadcast live sporting events in India without sharing the signal with Prasar Bharati, allowing them to re-transmit it on their terrestrial and Direct-to-Home networks.

(2) When it comes to television and radio coverage, the content rights owner or holder and Prasar Bharati split the advertising revenue in a minimum of 75:25 and 50:50, respectively. A portion of the money that Prasar Bharati receives can be designated by the Central Government to be used for the broadcasting of additional sporting events..

(3) The aforementioned Act also stipulates penalties. The Central Government may impose including suspension or revocation of licence, permission or registration, for violation of various terms and conditions as specified under section 3 of the Act, subject to the condition that amount of a pecuniary penalty shall not exceed one crore rupees: Without providing the service provider with a reasonable opportunity, no penalty may be levied.

(4) Youth Affairs and Sports, Ministry of Law and Justice and Prasar Bharati declares the sporting events/games of national importance under the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 which are notified in the Gazette of India.

### **ANALYSIS OF THE SPORTS BROADCASTING SIGNALS ACT, 2007<sup>8</sup>**

1. The objective behind formulating the Act is that a citizen of India can watch sporting events of national importance on Doordarshan on all terrestrial networks, DTH networks and other platforms where it is mandatory to broadcast these channels free of cost. This gives them accessibility and affordability. Otherwise people watch these sporting events on highly priced sports channels when they do not have either DD FreeDish or Doordarshan's terrestrial network.
2. The Cable Television Networks Act, requiring cable companies to carry two Doordarshan channels, led to an uneven playing field for sports events. Subscribers were reluctant to

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<sup>8</sup> Iasparliament (2018) *Amendment to the sports broadcasting signals act: Current affairs, ias parliament current affairs*. Available at: <https://www.iasparliament.com/current-affairs/amendment-to-the-sports-broadcasting-signals-act> (Accessed: 17 November 2023).

pay for events on Doordarshan, and pay TV companies exploited the clause by charging subscribers for free-to-air channels.

3. The Supreme Court ruled that Doordarshan could only air feeds on its terrestrial network and its own DTH platform, Free Dish, limiting access to borrowed feeds to homes. The government recently reversed this ruling, allowing cable subscribers to access live broadcasts. Private broadcasters, particularly in cricket, may be unsatisfied with this proposal, as it allows the government to arbitrarily select sporting events of "national importance," potentially affecting their revenue.
4. The Supreme Court prohibited Prasar Bharati from airing live broadcast signals of sporting events of national importance, such as the ICC Cricket World Cup or India cricket matches, on pay TV platforms like cable and direct-to-home (DTH). This decision is a huge relief to sports media rights holders like Star India.

## **JUDICIAL PRECEDENTS IN SPORTSCASTING**

The Government within its legislative powers formulated all the Sports Broadcasting Laws in national interest. However, the private players in Broadcasting were kind of marginalised with these bonafide decisions. With huge investments riding on them in acquiring the sports Broadcasting rights and mandatory sharing with the Public Broadcaster Prasar Bharati the Private channels were put in a spot. They approached the judiciary seeking relief in the legal tussle. The legal framework in this country has always welcomed and allowed the much required transformation in the sports broadcasting scenario with several landmark judgements. The public interest aspect was taken in to consideration by the courts so as to balance it with economics of sports broadcasting.

### **1. Star Sports India Pvt Ltd vs Prasar Bharti & Ors.**

The appeal raised the issue regarding the scope of obligations of a Television Broadcasting Organisation under the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 (hereinafter referred to as "Sports Act"). Under Section 3 of the Sports Act, a Television Broadcasting Organisation is prohibited from carrying the live television broadcast of a sporting event of national importance on cable or Direct-to- Home (DTH) networks in India, unless it simultaneously shares the live broadcasting signals, without its advertisements,

with Prasara Bharati to enable it to retransmit the same on its terrestrial and DTH network. The Supreme Court upheld a Delhi High Court order against Star Sports India Private Limited in a dispute over mandatory sharing of feeds for national sporting events on cable or DTH networks in India. Star Sports argued that advertisements inserted by the broadcaster were not prohibited under Section 3. The court ruled that Star India must remove all commercial content, even if it includes ICC-included content and Star Sports must ensure that it does not earn revenue from it before sharing the feed with Prasara Bharati.<sup>9</sup>

2. Another important case is of STAR India Private Ltd. v. Akuate Internet Services and Ors. In the aforementioned instance, STAR India Private Limited filed a lawsuit in 2012 against Idea Cellular, Onmobile, and Cricbuzz. In defence of STAR India, the BCCI claimed that, as the match's organiser, it was entitled to grant any channel the broadcast rights to the cricket matches. The mobile rights and activation rights were vested in STAR India, according to the contract agreement inked by the BCCI and STAR India. The transmission of such news falls under the public domain, according to the court's ruling in favour of the defendants. The High Court of Delhi granted an interim injunction to Star India Ltd, allowing them to continue broadcasting match events without a license. However, the court later set aside the injunction, stating that Star India Ltd and BCCI were seeking "quasi property rights" for broadcasting match events. The apex court ruled that the defendants could continue providing services without paying for broadcasting rights licenses.<sup>10</sup>
3. Technology has advanced to the point where broadcasting is now available online and via live streaming in addition to radio, newspapers, and television. The main issue is when laws don't change to reflect advancements in technology. The proliferation of the internet has led to an increase in issues with broadcasting's statutory licencing. The main issues here were whether internet broadcasting was legal and what Section 31D of the Copyright Act of 1957 covered. The Hon'ble Bombay High Court has declared in Tips Industries v. Wynk Music<sup>8</sup> that Section 31D only takes into account broadcasting on television and radio, not online.

The court further noted that copyrighted works have been exploited through online

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<sup>9</sup> Star Sports India Pvt Ltd vs Prasara Bharti & Ors, (2016) 11 SCC 433.

<sup>10</sup> STAR India Private Ltd v Akuate Internet Services and Ors, (2012) Del 3344.



broadcasting under section 31D of the Copyright Act.<sup>11</sup>

4. *In ESPN Software Private India Ltd. v. Tudu Enterprise and Ors.* Case the defendants violated broadcasting reproduction regulations and did so without signing any legal contracts with the plaintiff or the distributor while exploiting the plaintiff's broadcasting networking routes to show events to its subscribers. To determine whether the defendants' actions during transmission across the plaintiff's network channels were illegal, an appeal was chosen. The court was to determine whether or not the defendant's unauthorised transmission of Plaintiff's network channels was warranted. The licenced cable operators of the Plaintiff utilised decryptors or decryption devices that had unique numbers granted to them by the Plaintiff. Additionally, the plaintiff's illegally distributed sports feeds are unlawfully captured by unauthorised cable operators. Because the defendants in this case had not entered into any licencing arrangements with the plaintiff's distribution businesses and would not be permitted to distribute programmes among their cable operators, broadcasting of these programmes was prohibited under Section 37(3) of the Copyright Act.<sup>12</sup>
5. Another important case which had a huge impact on sports broadcasting was BCCI vs Zee telefilms. BCCI terminated broadcasting contract agreements with Zee telefilms, causing the aggrieved party to seek the Supreme Court's decision. The majority of judges ruled that BCCI does not fall under the ambit of the "State" under Article 12 of the Constitution, while a minority, , argued that it should be included. The case of Surinder Singh Barmi vs. the BCCI has significantly influenced sports law in India. The BCCI argued that it doesn't fall under the state's jurisdiction and should not represent India as a representative. The Competition Commission criticized these representations. In 2005, the Apex court ruled that BCCI, while not fall under state jurisdiction, is answerable to judicial review due to its public functions. Sports federations can be sued for irregularities.<sup>13</sup>

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<sup>11</sup> *Broadcasting and live performances in sporting events* (2023) S.S. Rana & Co. Available at: [https://ssrana.in/articles/broadcasting-and-live-performances-in-sporting-events/?utm\\_source=mondaq&utm\\_medium=syndication&utm\\_term=Media-Telecoms-IT-Entertainment&utm\\_con](https://ssrana.in/articles/broadcasting-and-live-performances-in-sporting-events/?utm_source=mondaq&utm_medium=syndication&utm_term=Media-Telecoms-IT-Entertainment&utm_con) (Accessed: 18 November 2023).

<sup>12</sup> *ESPN Software Private India Ltd. v. Tudu Enterprise and Ors* (2011), MANU/DE/1061/2011.

<sup>13</sup> *BCCI vs Zee telefilms Ltd* (2005), 2 Mad Lj 653.

6. *The Bengal Cricket Association & Anr. v. The Secretary, Ministry of Information & Broadcasting* is also worth mentioning. Due to the public interest in sports and the fact that most people at the time could not use private cable connections, this case has established a precedent for how sports should be presented on public television. The incident occurred in 1993 when an international ODI cricket competition was arranged by the "Cricket Association of Bengal" in honour of its "diamond jubilee." Doordarshan placed the lowest bid in the auction for the rights to air the aforementioned ODI, and the bidding was cancelled. The commercial company "Trans World International," which had submitted the offer, received the telecasting rights when the CAB rejected the bid of Doordarshan the national channel. Prior to economic liberalisation, Doordarshan held complete control on the broadcasting of all events, including sports, and sports broadcasting was airfree. The DD used to get paid by the government to make the necessary arrangements so that these shows could be televised. Doordarshan petitioned the Supreme Court in opposition to the CAB. The Supreme Court ruled that although the CAB had the right to contract with private news channels to sell the broadcasting rights, it is important to remember that the frequencies and airwaves used for broadcasting are public property and cannot be monopolised by businesses. Since the air frequencies belong to the vested public interest, the Court ordered the Government of India to guarantee that the regulations for telecasting such competitions are followed.<sup>14</sup>
7. *Prasar Bharati & Ors. v. Citizen, Consumer and Civic Action Group & Anr.*

The rights to broadcast the renowned Indo-Pak series its network were purchased by the private television network "ten sports." Prasar Bharti and the ten sports could not agree on the airing of the matches on the public broadcasting channel "Doordarshan." When the case came before the Madras High Court, the judge ruled that Ten Sports had to give Doordarshan access to its broadcast feed. However, Ten Sports' logo would continue to flash on Doordarshan for the specified purpose, and Ten Sports would get payment for sharing its broadcasting feeds. However, the advertisements and the rest things would remain the same as what is broadcasted by the Ten Sports in the same manner. Doordarshan faced challenges in the Indian market due to commercial broadcasting companies securing most rights for major sports events. For safeguarding the national

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<sup>14</sup> *The Bengal Cricket Association & Anr. v. The Secretary, Ministry of Information & Broadcasting*, (1995) SCC (2) 161.

interest government passed The Sports Broadcasting Signal Act, 2007, limiting private content rights holders from broadcasting national-importance sports events unless shared.<sup>15</sup>

### Broadcasting laws across the world

1. For instance, the European Union's Audio-visual Media Services Directive ("AVMSD") lays forth a number of important guidelines for the European media environment, including those pertaining to television and other audio-visual media services. According to Article 14 of the AVMS Directive, each Member State may take action in compliance with EU law to prevent broadcasters operating under its authority from having the exclusive right to broadcast events that state considers to be of "major importance" for society in a way that would prevent a "substantial proportion" of the populace from having access to live or delayed coverage of these events on free-to-air television. Here, too, the public interest supersedes the broadcaster's interest as the Member States are required by Article 14 to notify the EC of any restrictions they wish to apply.
2. In the United Kingdom, The Secretary of State for Culture, Media, and Sport has listed the designated events that are deemed to be of national interest in the Code on Sports and Other Listed and Designated Events. Pay television providers are prohibited from obtaining the exclusive rights to all or any portion of the live television coverage of events that are specified, nor from broadcasting those events exclusively without the Office of Communications' prior approval. The public's primary interest is maintained at the forefront here as well.<sup>16</sup>
3. Australia has anti-siphoning rules that control media firms' access to major athletic events. The Australian Parliament passed the Broadcasting Services Act 1992 in 1992, at a period of increased paid-subscription media in the nation. This act essentially granted free-to-air broadcasters the first option to broadcast certain sporting events. The anti-siphoning list is a list of occasions that, in the view of the responsible Minister, should be broadcast free to the general public. In order to enforce this so-called "freedom," pay TV providers are prohibited by the Broadcasting Services Act 1992 from obtaining anti-

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<sup>15</sup> Prasar Bharati & Ors. v. Citizen, Consumer and Civic Action Group & Anr, (2006) 5 CompLJ 74 Mad.

<sup>16</sup> Philip Abraham, R. (2023) *Sports broadcasting issue in India: Mandatory sharing with Prasar Bharati*, SSRN. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4364038](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4364038) (Accessed: 17 November 2023).

siphoning events unless a network of commercial television broadcasters or a national broadcaster is granted the right to televise the events. This restriction ends a predetermined amount of time before to the event.

4. In the US, sports leagues are usually run in accordance with internal regulations and guidelines outlined in documents that serve as league organisers, such as bylaws and constitutions. These contracts frequently create a board of governors made up of team owners or their representatives, who are in charge of creating and overseeing league regulations and governance. In addition, the league commissioner—who functions as the league's chief executive officer and oversees daily operations—is normally appointed by the board of governors. While each league has a different organisational structure, most league fundamental papers provide the commissioner considerable authority to oversee all league operations and, for the most part, enforce league laws. In general, professional sports leagues operating in the United States are not subject to state or federal regulations. Instead, they grant leagues a great deal of autonomy to establish their own laws and govern their own operations. Naturally, professional sports leagues are subject to state and federal rules pertaining to their commercial operations. Sports leagues, for example, are subject to labour, antitrust, and sports gambling regulations, among other laws.
5. In some cases under Chinese law sports broadcasts is accepted as a copyright subject matter, Chinese statute law does not recognise them as such. This means that sports businesses, like leagues or their licensees, must use Chinese anti-unfair competition laws to combat piracy. Sports broadcasts is not acknowledged explicitly and the rationale behind it is that broadcast content needs to be protected by copyright in China. Not unexpectedly, since a game, race, or similar event isn't written, it doesn't qualify as a copyright work under Chinese law. There is now just one possibility left for protection: a "work of cinematography." Because cinematography is viewed as original, it is protected as a copyright work with streaming and other rights. In contrast, "video recording," a lower category, is not considered original and is only partially protected by neighbouring rights. For something to be protected, it must be a cinematographic work that is being broadcast.<sup>17</sup>

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<sup>17</sup> Alderson, M. and Mathew Alderson (2021) *Sports broadcast and music video copyright in China*, Harris Sliwoski LLP (Formerly Harris Bricken). Available at: <https://harris-sliwoski.com/chinalawblog/sports-broadcasts-and-music-video-copyrights-in-china> (Accessed: 17 November 2023).

## Impediments to Effective Sports Broadcasting Governance

The target audience of Prasar Bharati under section 3(1) of the Sports Act are the less fortunate sections of society who rely on terrestrial or DTH networks which gives them a cost free access to all events of National importance whereas the Private Broadcasting channels cater to people who can afford to watch the premium services. However, the premium HD channels are exorbitantly priced and burns a hole in the pocket of the consumer. Despite this noble cause, there are many ambiguities and unresolved issues that are present in the current sports broadcasting laws.

As per Section 5 and 6 of the Sports Broadcasting Act it is the duty of the central government to lay down the criteria for the formulation of guidelines so as to classify events of national importance. Despite this, no such criteria has been laid down and the same has been left entirely to the discretion of the officials in the central government. Furthermore, a major question is raised that whether all matches played by the national team are of national importance even if many such matches have miniscule viewership. Another ambiguity is that Paragraph 5.1.1 includes all cricket matches played by India and the semi-finals and finals of all other international competitions. A question is raised here that are the matches with all countries considered of national importance even if they receive no viewership. Are these matches still important enough to curtail the rights of the broadcasters? Further, the classification of matches as events of national importance should not be left to the discretion of an authority. Even if interest is a valid criterion for the classification of events of national importance, if the national team is not part of the semi-finals and the finals of any tournament, in no world should said tournament be considered of national importance. Such a broad and vague ambit is a violation of the freedom and contractual rights of the private broadcasters.<sup>18</sup>

The purpose of the Sports Broadcasting Act is that any event of national importance ought to be available to maximum number of viewers in the country. In India, the channels provided by Prasar Bharati are available to a majority of the viewers, it is important that there be provisions for the sharing of events of national importance with said viewers. However, if a private

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<sup>18</sup> Mudgal, M., Singhania, V. and Mehrotra, A. (2016) 'Sports Broadcasting', in *Law & sports in India: Developments, issues and challenges: Introducing chapters on the IPL probe report and the Commonwealth Games, 2010*. Gurgaon, Haryana, India: LexisNexis, pp. 201–209.

broadcaster were to provide footage of the event free of charge to the same population, would the act still apply?

The ambiguous system for "sharing" the feed exists only in India. In other nations, the rights to those sporting events are either exclusively obtained by the national broadcaster or a free-to-air broadcaster; in the latter case, the broadcaster is also subject to regulations and must only air those events on free-to-air channels. However, in India right now, the idea of "sharing" the feed has simply served to further confuse the involved parties. At the end of the day, this has resulted in needless retransmissions over two channels, which has cost the company money in split revenue and other onerous contractual responsibilities. The existing laws make it mandatory to share free-to-air broadcast of national sports events, aiming to reach a larger audience. However, private broadcasters argue against this, as they earn revenue from broadcasting of popular events in sports by investing a large sum.<sup>19</sup>

Prasar Bharati is profiting from existing laws, but the question remains whether mandated sharing with Prasar Bharti increases viewership and public interest and even if it does should it come at the cost of revenue losses to private broadcasters. Also, only 4.6 million households have access to Prasar Bharti's terrestrial networks, while the rest can access DTH or cable networks.

Overspill is another major problem when it comes to sports broadcasting. It is the phenomenon when there is a reception of a satellite signal in a territory where the signal is not intended to be received. This issue is caused due to satellite broadcasting. The satellite broadcast's area where the signal can be received is sometimes greater than the area covered in the broadcasters license. This allows anyone with the requisite equipment to receive the broadcast. Broadcasters can suffer revenue losses due to the problem of overspill.<sup>20</sup>

### Measures for Bolstering the Existing Framework

1. The ambiguities that have been created due to the vague language of the Sports Broadcasting Act needs to be resolved at the earliest. A codified system and procedure

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<sup>19</sup> Philip Abraham, R. (2023) *Sports broadcasting issue in India: Mandatory sharing with Prasar Bharati*, SSRN. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4364038](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4364038) (Accessed: 17 November 2023).

<sup>20</sup> Mudgal, M., Singhanian, V. and Mehrotra, A. (2016) 'Sports Broadcasting', in *Law & sports in India: Developments, issues and challenges: Introducing chapters on the IPL probe report and the Commonwealth Games, 2010*. Gurgaon, Haryana, India: LexisNexis, pp. 211–213.

for the classification of events of national importance should be laid down in order to completely eliminate any ambiguity or vagueness and help companies be certain about their rights in relation to such events. Such classification should not be left at the discretion of an authority and should instead be based on fixed criteria. Said criteria and guidelines should be wide enough to include events that may occur in the future. Furthermore, for the enumeration of the events of national importance, an annual review should be conducted. Taking into perspective certain international regulations, if a private broadcaster reaches a major percentage of the prospective audience then they should not be required to share the feed with Prasar Bharati. In order to resolve the issue of overspill, it is necessary that the signals being broadcasted be encrypted so as to prevent their access by unlicensed territories.

2. The government should balance investor interests with the public's interests to ensure fair play. The solution to this lies with the Government by identifying and segregating events of national importance and events which are organised for commercial purposes only. Or else, by restricting the target audience who can avail this free to air service like free ration supply to people below poverty line can be cited as an example. In either case, the Government has to set a benchmark refraining from creating laws which affects the commercial aspect of Sports Broadcasting as the Revenue generated by commercialisation of Sports have increased manifolds in the last decades.
3. There is also need to strictly regulate the rates of subscription charged by the private Broadcasters which tends to be on a higher side and intends to churn profit from the consumer if left without any control.
4. One of the major concern is that private broadcasters are interested in obtaining the rights of only profitable and popular sports and they abstain from telecasting other sports which are equally important. Here, the role of Prasar Bharati becomes important as it airs all sporting events of National importance without any prejudice. If all the sport telecasting rights are given to private players it can be detrimental to the growth of other sports.
5. When speculating about the future, one must take into account plausible variables that might change the course of current events. According to numerous assessments, piracy has become a significant problem for the owners of sports rights, and

consequently for leagues and teams. Strict piracy laws and copyright infringement laws are the need of the hour.

## **CONCLUSION**

Sports broadcasting is an essential field which provides entertainment to billions of people and has emerged as an effective medium for the generation of vast amounts of revenue, employment and cultural exchange. Thus, it is necessary for the regulatory framework that governs this field to be free from any ambiguity and problems which may cause individuals and corporations alike to suffer heavy losses. This paper is an attempt at the extensive examination of the intricate realm of sportscasting laws, providing a comprehensive overview of the various rules, regulations and laws of Indian Sports Broadcasting and the myriad of problems that befall said framework and the various parties that participate in this realm. The paper proposes several strategies and measures in order to enhance the effectiveness of the same and hopes that by the implementation of these measures, the legal framework of 'SportsCasting' can be refined, so that the sports industry can continue to thrive and prosper.