

## iCe Hotline

January 23, 2006

### DELHI HIGH COURT RULES ON SYNDICATION ARRANGEMENTS IN THE PRINT MEDIA SECTOR

The Delhi High Court on January 19, 2006 passed judgment that the "Guidelines for Syndication Arrangements by Newspapers" ("Guidelines") issued by the Ministry of Information and Broadcasting ("MIB") was against the freedom of speech and expression guaranteed as a Fundamental Right [Article 19 1(a)] under the Constitution.

The aforesaid Guidelines restrict the publication of syndicated articles and features by foreign writers and journalists in various newspapers and magazines in India, to 20% of the total printed area of the newspaper.

While observing that freedom of press need not be tested on nationality, Justice Vikramjit Sen said the government in a circular could not restrict the publication of syndicated articles and features of the foreign publications in Indian newspapers, magazines and periodicals.

"The impugned circular to restrict the publication of foreign syndicated articles to 20 per cent in the publications in India is struck down as it is contrary to Article 19 of the Constitution," said the order .

Syndication arrangements are typically arrangements with foreign publications (content provider) to secure materials like photographs, cartoons, crossword puzzles, articles, features etc for publication in the Indian newspaper.

The MIB first permitted all registered newspapers to enter into syndication arrangements with foreign publications, under the automatic approval route of the MIB, from June 2003. Prior to June 2003 all syndication arrangements had to be with the prior approval of the MIB. As per the MIB circular of June 2003, only 7.5% of the printed space (excluding advertising space) was permitted for publishing of syndicated material.

The current June 2005 Guideline, which limits the printing of syndicated material to 20% of the printed space, provides the following conditions also for compliance: -

- The syndicated material should not include full copy of the editorial page or the front page of the foreign publication,
- The masthead of the content provider's publication should not be utilized in the Indian publication,
- Credit to the content provider should necessarily be given prominently as a byline in the Indian publication,
- The material procured under syndication arrangement should already have been published in the content provider's publication.

### OUTCOME OF THE DELHI HC ORDER

The freedom of expression argument and the courts interpretation is an interesting development. The Indian press has always been very protective of its freedom and though this is not the first time that the freedom of expression of the press has been brought up in court, it is important as it involves foreign press in India. As per the Constitution of India, the fundamental right to freedom of expression is subject to reasonable restrictions that can be applied by the State. If this order goes in appeal it will be interesting to see what role these restrictions would play in the final outcome.

- Sushma George & Vivek Kathpalia

Source: Business Standard article dated January 20, 2006

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