



BROADCAST  
AUDIENCE  
RESEARCH  
COUNCIL  
INDIA

# CODE OF CONDUCT FOR REDRESSING VIEWERSHIP MALPRACTICES

March 2018

## Introduction

Broadcast Audience Research Council, India (“BARC”) is an industry body established to design, commission, supervise and own an accurate, reliable and timely television audience measurement rating system (“Ratings”) for India, which can be utilized by Broadcasters, Advertisers, and Advertising and Media agencies; (collectively referred to as “Subscribers”) who have entered End User License Agreement (“EULA”) with BARC. The Subscribers are required to adhere to the EULA, and policies of BARC (current and future as published on website from time to time) when subscribing to the Ratings.

Currently BARC is the world’s largest such television viewing measurement system, measuring urban and rural television viewing behaviour. BARC has a panel size of one lac individuals.

## Objective:

BARC is committed to provide a Rating system that is fair, transparent and free of any influences and malpractices. BARC and its stakeholders, the Indian Broadcasting Foundation (IBF), the Indian Society of Advertisers (ISA), and the Advertising Agencies Association of India (AAAI), have a zero-tolerance policy towards any attempts to influence the integrity of the Ratings.

BARC is required to supervise and maintain a reliable and transparent Rating system, which can be achieved only with the complete cooperation of and adherence to the terms of the EULA and policies of BARC by the Subscriber.

Panel households form the core of BARC’s Rating system. Panel Households means the persons in selected households within the Republic of India, who are used as the reference audience for BARC’s audio-visual audience measurement services, and whose house will be equipped with one or more ‘Meters’ (BARO Meters or any variant of that, as may be called).

To offer a level playing field to all the Subscribers, and to provide them with fair Ratings, BARC shall on an ongoing basis investigate any abnormal viewership data recorded by the



Meters installed by BARC at Panel Households. Further BARC shall make objective and system driven correction of abnormal spikes or falls in any Panel Household(s)'s viewership pattern.

BARC as an industry body is bound to ensure the Secrecy and Privacy of the Panel Homes under the guidelines issued by Ministry of Information and Broadcasting for Television Rating Agencies in India ("MIB Guidelines"). The guidelines mandate that secrecy and privacy of the panel homes must be maintained by BARC and in this context BARC can issue Voluntary Code of Conduct to be followed by all the stakeholders / subscribers /TV channels / parties obtaining services from BARC under EULA.

Hence the objective is to prohibit, discourage, prevent and eliminate malpractices related to and resulting in tampering with the Ratings.

## 1. Viewership Malpractice(s)

"Viewership Malpractice(s)" shall mean any activity or abstinence from any activity or a promise to do or abstain from doing any activity whether individually or in a group of persons; whether directly or indirectly; with an aim of manipulating or altering or tampering (i) the viewership pattern(s) and / or (ii) habits of a Panel Household(s), and /or (iii) the viewership data and / or (iv) any of the process leading to generation of Ratings , which does or may potentially result in altering the Ratings of any television channel or television programme or an advertisement or any saleable media content in any manner or in a manner which is in breach of a EULA or BARC policies and includes:

- a. Attempt to and/or obtain details of the Panel Households, like address, member names etc.
- b. Attempt to and/or bribe/influence a Panel Household to watch or not to watch a television programme or Channel;
- c. Attempt to and/or bribe any of the staff appointed by BARC or its agents or any other entity in possession of any data relating to Panel Households or Ratings.

## 2. Vigilance Team



Vigilance Team means an in-house team in charge of investigating Viewership Malpractices.

### 3. BARC Disciplinary Council

BARC has constituted a Disciplinary Council to address concerns related to Viewership Malpractices and recommend penalties.

The BARC Disciplinary Council shall be a six (6) Member body consisting of a Chairperson and 5 other Members. The Chairperson and the Members will be appointed by Board of Directors of BARC (“BARC Board”) by a majority decision.

### 4. Constitution of the BARC Disciplinary Council:

The BARC Disciplinary Council (BDC) will consist of following members:

- a. Chairperson - Retired Judge of the Supreme Court or of a High Court
- b. One Representatives from the Indian Broadcasting Foundation.
- c. One Representative from the Indian Society of Advertisers
- d. One Representative from the Advertising Agencies Association of India
- e. One person who is well versed in the field of technology, broadcasting and the working of BARC
- f. One person who has held a senior position not below the rank of Commissioner or equivalent in any Law Enforcement authorities such as Police / CBI.

### 5. Terms and Conditions of BDC:



- a. The Chairperson and other Members, excepting IBF, ISA, AAI Members (Stakeholder Members), shall hold office for a period of three (3) years. However, the term of IBF, ISA, AAI Members shall be of two (2) years.
- b. The process of appointment of new BDC Member shall be initiated by the BARC Board at least 60 days prior to the expiry of the term of the concerned BDC Member. Provided also that where a person nominated as a Member of the BDC is found unfit to hold office as Member of the BDC, the BARC Board may remove such person from being Member and thereupon, such Member shall forthwith cease to be a Member of the BDC.
- c. All Members including the Chairperson nominated in the BDC shall be eligible for re-nomination after expiry of his/her tenure of 2 years or 3 years as applicable.
- d. The Chairperson and any other Member may resign from the office by giving notice in writing to the BARC Board, and upon such resignation being accepted by the BARC Board, the Chairperson or the Member shall be deemed to have vacated his/her office.
- e. Any vacancy arising as above or otherwise shall be filled, as soon as may be, by nomination in the same manner in which the Member vacating office was nominated.

## 6. Meetings of the BARC Disciplinary Council [BDC]:

- a. The BDC shall ordinarily meet once in a month or at any other frequency as required but the Chairperson may at any time call an extraordinary meeting, if he considers it necessary to do so.
- b. Meetings of the Board shall ordinarily be held at BARC's office in Mumbai.
- c. Meetings can be conducted by video conferencing or any other suitable method.

## 7. Quorum:

At every meeting of the BDC, four members including the Chairperson shall form a quorum.



8. President of the BDC:

Meetings of the BDC shall be presided over by the Chairperson or in his absence by a member elected by the members present from among themselves.

9. Decision to be decided by majority of Votes:

Every decision before the BDC shall be decided by majority of votes and in the case of equality of votes, the Chairperson or the member elected to preside shall have a second or casting vote.

10. Who can complain and Where?

- a. Subscribers, Panel Household members, any concerned agencies and any independent entity can register a complaint with BARC Vigilance Team.
- b. BARC shall maintain and publish on its website a procedure to lodge a complaint, and shall investigate such complaints as may be received by BARC.
- c. The complaint must relate to the alleged Viewership Malpractice.
- d. BARC can also initiate suo moto investigation into the activities of any Subscriber or TV channel where BARC reasonably believes that there may have been a Viewership Malpractice or violation of the EULA or violation of policies of BARC.

11. Investigation by BARC's Vigilance Team (Secretariat):

- a. Upon observing sustained abnormal viewership data recorded by the Barometers at Panel Households by the Vigilance Team or upon receipt of a complaint regarding Viewership Malpractice, the Vigilance Team shall examine the complaint and any information received in relation thereto and conduct a preliminary enquiry.
- b. Post preliminary enquiry, if Vigilance Team deem fit, it may issue a "Show Cause Notice" to the Subscriber(s)/ TV Channel(s) for providing information and/or such



details to ascertain the veracity of the Viewership Malpractice. The Vigilance Team shall give 7 working days to the Subscriber/ TV Channel(s) to revert with their clarifications and reply to the Show Cause Notice. The Subscriber / Channel(s) will be offered the opportunity to examine the Findings / Raw Data / Trend Graphs and any other relevant material on the basis of which the Show Cause Notice was issued, at BARC premises anytime within 5 working days of the receipt of notice by the Subscriber / Channel(s).

- c. Upon review of a reply, if any received, if the Vigilance Team is of the opinion that no prima facie case is made out against the TV Channel(s), it may close the complaint.
- d. Should a prima facie case be made out, the Vigilance Team shall initiate detailed investigation, including examining data collected by BARC, which reveals any abnormal change in the Ratings or viewership of a Subscriber/ TV Channel and issue a Report to the Disciplinary Council.

## 12. Procedure to be followed by the BARC Disciplinary Council [BDC]:

- a. The BDC shall review the Report submitted by the Vigilance Team and all supporting data and documents, and consider the explanation given by the relevant Subscriber(s)/ TV Channel, after which it may, at its discretion, seek further information from the relevant Subscriber(s)/ TV Channel.
- b. The BDC shall have the right to request the Vigilance Team to reassess any aspect of the complaint as it deems necessary and/or provide any such additional information as it may deem fit to assess the merits of the case.
- c. If the BDC after reviewing the Report submitted by the Vigilance Team and/or after considering the explanation provided by the relevant Subscriber(s)/TV Channel is of the opinion that no case is made out against the Subscriber(s)/TV Channel, it may close the complaint.



- d. However, If the BDC is satisfied that Viewership Malpractice has taken place, it shall by a written intimation, provide the Subscriber the option to be present for a personal hearing before the BDC. The relevant Subscriber / TV Channel(s) shall have a period of 7 working days to revert to the BDC if it wishes to be heard in person. If there is no revert from the relevant Subscriber / TV Channel(s), BDC shall proceed with the matter.
- e. Post the hearing if any, should the BDC be of the opinion that a case is made out, it will decide on the Actions to be taken against the relevant Subscriber/ TV Channel and communicate the same in writing (“Award / Order”).
- f. The Disciplinary Council can initiate any of the following Actions:
  - i. First Offense: Written warning to the relevant Subscriber and a penalty upto Rs.25 Lakh within 30 working days of receipt of the Written Warning by the relevant Subscriber;
  - ii. Second Offense: Written warning to the relevant Subscriber; Subscriber’s name to be published in the Watch List on the Website of BARC India and a penalty of Rs.50 Lakh within 30 working days of receipt of the Written Warning by the relevant Subscriber;
  - iii. Third Offense: Written warning to the relevant Subscriber; Subscriber’s name to be published in the Watch List on the Website of BARC India and one month’s suspension of relevant TV Channel, i.e. viewership data of the relevant TV Channel(s)’ from the subject Subscriber(s) shall not form a part of the Ratings for one month and a penalty of Rs.1 Crore within 30 working days of receipt of the Written Warning by the relevant Subscriber;
  - iv. Fourth Offense: Termination of the EULA with respect to relevant TV Channel, BARC shall be entitled to retain the License Fees accrued by BARC till such date of termination.





Provided that in case Subscriber(s) fails to comply with; any of the Award / Order under clause 12 (f) sub clause (i); (ii); (iii); (iv) passed by the Council; in the period stipulated under that Award / Order; the Council can take further action against the non compliance of any award / order / directions by way of

- i. Issuing First Warning Notice providing 15 days to comply with said Award / Order; failing which
- ii. Issuing Second Warning Notice providing further 15 days to comply with said Award / Order; failing which
- iii. Direct BARC to exercise its rights to suspend or terminate the EULA, as required

### Confidentiality:

All information relating to the complaint, respondent, minutes of meetings, all proceedings, hearings shall be kept confidential and Award/Order shall be documented.