



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 means** 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 Committee (BDC) will consist of following members:

- a. Chairperson - Retired Judge of the Supreme Court or of a High Court
- b. One Representative 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 identification of abnormal viewership data recorded by the Bar-o-meters at Panel Households or upon receipt of a complaint regarding Viewership Malpractice, the Vigilance Team ("VT") will carry out an investigation and prepare an Investigation Report ("IR"). The IR would contain all the information collated during the investigation, including to the viewership data and other material, which could be in physical or electronic format.
- b. If the VT *prima facie* finds Viewership Malpractice to have taken place, the VT will issue a Show Cause Notice along with the IR ("SCN") to the Subscriber(s)/ TV Channel(s) on the official email ("Official Email") address provided by the Subscriber(s)/ TV Channel(s) in the EULA.



- c. The Subscriber(s)/ TV Channel(s) shall have 10 (ten) calendar days from the date of receipt of the SCN by the Subscriber/ TV Channel(s) to seek electronic copies of any other relevant material and reply to the SCN within the period stipulated above.

Provided that the additional material sought by the Subscriber(s)/ TV Channel(s) is in accordance with the Policy Guidelines for Television Ratings in India, as notified by the Ministry of Information and Broadcasting, Government of India at the relevant period of time.

- d. Upon review of the reply of the Subscriber(s)/ TV Channel(s), if any received, if the VT is of the opinion that no prima facie case is made out against the Subscriber(s)/ TV Channel(s), it may close the complaint and submit a closure report to the BARC Disciplinary Council (“BDC”) for its approval.

i. If the BDC approves the closure report filed by the VT, it shall inform the Subscriber(s)/ TV Channel(s) of the same on the Official Email.

ii. If, however, the VT is of the opinion that the matter requires consideration by the BDC, the VT shall submit the SCN and the reply received from the Subscriber(s)/ TV Channel(s), to the BDC.

12. Procedure to be followed by the BDC:

- a. Upon perusing the SCN and the reply thereto of the Subscriber(s)/ TV Channel(s), it will be open to the BDC to seek further information from the VT and/ or Subscriber / TV Channel(s) and / or proceed further in the matter.

- b. If the BDC, after reviewing the SCN submitted by the VT 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(s), it may close the complaint and inform the Subscriber(s)/ TV Channel(s) of its decision on its Official Email.



- c. However, if the BDC is of the prima facie opinion that Viewership Malpractice has taken place, the BDC shall issue a written communication on the Official Email of the Subscriber(s)/ TV Channel(s) and provide the Subscriber(s)/ TV Channel(s) an opportunity to be present for a personal hearing before the BDC on a particular date, venue and time. The Subscriber(s) / TV Channel(s) shall have a period of 7 (seven) calendar days to respond to the BDC if it wishes to be heard in person. However, BDC shall proceed with the matter with the SCN before it, if there is no reply received on the written communication from the relevant Subscriber(s)/ TV Channel(s).

13. Procedure for hearing

In view of the need for expeditious disposal of complaints and instances of Viewership Malpractice, the following procedure shall be adopted -

- a. The Subscriber(s)/ TV Channel(s) will not be allowed to cross-examine any of the Panel Households in order to comply with the Policy Guidelines for Television Ratings in India, as notified by the Ministry of Information and Broadcasting, Government of India and in particular clauses 5.4.1. which is reproduced as under:

“Secrecy and privacy of the panel homes must be maintained. In this context the industry body will issue a voluntary code of conduct to be followed by all stakeholders, including penal provisions for breach of the code.”

- b. It will be open to a member of the BDC to participate in the proceedings via video conference.
- c. The BDC will make efforts to arrive at a decision by consensus, failing which the majority view shall prevail.



- d. Post the hearing, if the BDC be of the opinion that a case is made out against the Subscriber(s)/TV Channel(s), it will decide on the course of action, to be taken against the relevant Subscriber/ TV Channel as stipulated in Clause 14 herein below and communicate the same in writing (“Award / Order”) on the Official Email.
- e. The quorum shall pass the award/order and it shall be signed by the Chairman. The signed Award/Order shall be pronounced with or without the same members that formed the quorum.

14. Scheme of sanctions

The Disciplinary Council can initiate any of the following actions:

- a. First Offense: Written warning to the relevant Subscriber or a penalty upto Rs.25 Lakh, or both, to be complied within 30 (thirty) calendar days of receipt of the BDC’s Order by the relevant Subscriber/ TV Channel;
- b. 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 upto Rs.50 Lakh to be complied within 30 (thirty) calendar days of receipt of the Written Warning by the relevant Subscriber;
- c. Third Offense: Written warning to the relevant Subscriber(s)/TV Channel(s); Subscriber(s)/TV Channel(s) name to be published in the Watch List on the Website of BARC India and one month’s suspension of relevant Subscriber(s)/TV Channel(s), i.e. viewership data of the relevant Subscriber(s)/TV Channel(s)’ from the subject Subscriber(s)/TV Channel(s) shall not form a part of the Ratings for one month and a penalty upto Rs.1 Crore to be complied within 30 (thirty) calendar days of receipt of the Written Warning by the relevant Subscriber(s)/TV Channel(s);



- d. Fourth Offense: Termination of the EULA with respect to relevant Subscriber(s)/TV Channel(s), BARC shall be entitled to retain the License Fees accrued by BARC till such date of termination.

Provided that in case Subscriber(s)/TV Channel(s) fail to comply with; the Award / Order passed by the BDC within the period stipulated under that Award / Order, the BDC can take further action against the non-compliance of the Award / Order by way of:

- a. Issuing First Warning Notice to the Subscriber(s)/TV Channel(s) providing 15 (fifteen) calendar days to comply with said Award / Order; failing which;
- b. Issuing Second Warning Notice to the Subscriber(s)/TV Channel(s) providing further 15 (fifteen) calendar days to comply with said Award / Order; failing which;
- c. Direct BARC to suspend or terminate the EULA, as required.

Confidentiality:

All information relating to the complaint, minutes of meetings, all proceedings, hearings, award/order shall be kept confidential subject to compliance/enforcement of these guidelines.