

Phoenix reps Arnab vs India Today writ, plus other anti-Republic claim by TOI [READ PETITION • UDPATE-1]



30 May 2017 : We understand that law firm **Phoenix Legal** is defending journalist Arnab Goswami's freshly launched news channel Republic TV in the Delhi high court, against news channel TV Today's writ that alleges that Republic is violating telecom law to gain unprecedented television ratings (TRP).

LPJ & Partners is acting for TV Today, which is the India Today Group's English and Hindi television news channel. TV Today has alleged that Republic violates the Telecom Regulatory Authority of India (TRAI) rule that makes it mandatory for a TV channel to list itself at a single location on the Electronic Programme Guide (EPG) of various multi-system operators (MSO).

The case is expected to be heard before Justice Sanjeev Sachdeva, with it having been listed for hearing today.

We have not been able to confirm the lead lawyers or counsel instructed at either law firm at the time of going to press.

Update 19:03: The matter was part-heard today and listed for a continued hearing tomorrow. Senior counsel Abhishek Manu Singhvi appeared for TV Today. Senior counsel Ramji Srinivasan was instructed by Phoenix for Republic. DSK Legal acted for the Broadcast Audience Research Council (BARC), which is a co-respondent, instructing senior counsel Sandeep Sethi.

On EPG listings, TV channels are grouped together based on their genre, so that TV viewers see a channel only once while surfing the listings, in a scenario where they are linearly zapping through the listings. But if the same channel is registered in several locations in the EPG, then even in such linear surfing viewers may end up spending time on the same channel repeatedly, giving rise to an

increased TRP for channel with more than one entry, without a level playing field for the channels that are registered at single locations, explained India Today in an article on 15 May covering the News Broadcaster's Association (NBA) complaint before the Telecom Regulatory Authority of India (TRAI).

Since TRPs are a product of the time spent by a viewer on a channel and the number of times the viewer hits the same channel, by buying several locations on the EPG a channel can artificially influence the TRP, added the India Today report.

This is the malpractice, which the writ claims Goswami's Republic has been committing since it launched on 6 May 2017, and that it is a violation of Section 18 of the TRAI's 2017 regulations.

TV Today had also made the Broadcast Audience Research Council (BARC) a respondent to the writ, in order to prevent it from releasing the TRP data that it releases every Thursday, as it claims such release would prejudice the interests of other channels that are playing fair, by influencing the public and the advertisers with wrong data about TRP and market share.

Already, according to the ratings given by Chrome Data Analytics & Media for May, Republic had a 60 per cent market share, which the writ claimed was a "gross abuse" of the system by Republic.

The other respondent to the writ is TRAI which failed to issue notice to Republic despite the NBA's 12 May complaint against Republic to TRAI, highlighting the malpractice. TV Today alleges that this failure on the part of TRAI has encouraged other news channels to also follow Republic in indulging in the malpractice.

Outlier Media – the holding company of Republic – is the fourth respondent to the writ.

TV Today states in the writ:

Proper listing of channels in the EPG helps subscribers in selecting the channel for the purpose of viewing. If the channels are listed on the basis of Television Rating Point (TRP) then it may cause change in the position of the channels from time to time based on the television rating point which will create annoyance to the subscribers who generally remembers the position of the channel in the EPG under a genre.

A barrage of legal attention

Goswami's young media venture has faced a raft of legal complaints in its short life so far.

On 23 May 2017, according to Livelaw, Goswami's former employer Bennett Coleman had filed a Delhi high court for intellectual property infringement, claiming that Goswami had aired audio recordings of phone conversations relating to Shashi Tharoor and his late wife Sunanda Pushkar and relating to Bihar ex-chief minister Lalu Prasad Yadav and Shahbuddin, to which Times Now claimed "exclusive right over the said audio conversations as they form an integral part of the data base created by the plaintiff".

High court Justice Manmohan served notice on Outlier Media.

Interestingly, according to public court filings we have seen, Phoenix Legal had filed caveats on 5 April in the Delhi high court, acting for Goswami and former Times Now journalist Prema Sridevi, who had been anticipating proceedings by their former employer Bennett Coleman, which would have prevented Bennett Coleman from filing ex parte against them.

Around 18 April, as reported by Mint and others, Bennett Coleman had sent a legal notice to Goswami about his use of the catchphrase 'the national wants to know', which Goswami had prominently used for his previous prime time News Hour show on Times Now.

[**TV Today writ petition vs Arnab Goswami \(PDF\)**](#)