

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Media and Telecommunications Law  
Semester-I (Batch: 2019-20)

LL.M. End Semester Examination: November 2019

Date: 15<sup>th</sup> November, 2019

Duration: 3 hours

Max. Marks: 50

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

Part-A	Marks
<p>Q.1 Pepsi Company along with Pepsico (India) holdings Ltd. and Pepsi Foods Ltd., filed a suit against Hindustan Coca Cola. Along with the suit, Pepsi also filed an application for grant of ad- interim injunction seeking order to restrain Hindustan Coca Cola from using the word "POPP" which according to Pepsi is deceptively similar to that of their product "PEPSI" in the advertisements and commercials. Restraint order was also sought from infringing upon the copyright of Pepsi in the words "<i>Yen Dil Maange More</i>" in television commercials including copying the roller coaster commercial of the company. Pepsi in fact wanted a restraint order restraining Hindustan Coca Cola from telecasting the commercials or any other form of advertisements through print advertising or electronic media. According to Pepsi, the commercials infringed their trade mark and copyright and disparaged their product resulting in dilution of the goodwill and reputation of Pepsi.</p> <p>On the basis of the above stated fact, decide the following issues:</p> <p>(a) Whether Pepsi will succeed in its claim?</p> <p>(b) Is the commercial speech protected through the freedom of speech and expression under Article 19 (1) (a) of the Indian Constitution? Discuss with the help of relevant case laws.</p>	(2.5+2.5 =5)
<p>Q.2 (a) X was residing in Surya Nagar, Kottur, Saidapet Taluk, on the banks of Adyar River for more than 30 years and he is a licensed cable TV operator in that area, providing cable TV connection to the residents of Surya Nagar in the name of 'M/s Sree Venkat Cable Vision'.</p> <p>During the floods in 2015, the entire locality of Surya Nagar, Kottur Saidapet Taluk was submerged in floods and X and his family lost their house and livelihood. However, the Government of Tamil Nadu allotted houses at Ezhil Nagar-Shum Clearance Board Quarters at Perumbakkam to the entire residents of Surya Nagar. According to X, his entire livelihood is based only upon the provision of cable TV services to the residents of Surya Nagar and that he is holding a valid license for running such cable TV operations for the period between 25.02.2015 and 24.02.2017 and he had also invested a sum of Rs.7,00,000/- for installing necessary equipment</p>	(2.5+2.5 =5)

for the extension of cable connections to various residents in Perumbakkam & Ezhil Nagar.

Suddenly, X was threatened by the state officials to disconnect the cables on the ground that approval should be obtained from them. Hence, X submitted a representation to Y on 01.02.2016 seeking permission to provide Cable TV services to the residents of Ezhil Nagar, Housing Board, Perumbakkam by issuing a 'No Objection Certificate'. But Y refused to acknowledge the receipt of X's aforesaid communication. However, Y did not pass any order on his representation till date. On the basis of the above-stated facts, decide whether X has a remedy available under the Cable Television Network (Regulation) Act, 1995?

- (b) Critically evaluate the powers of the press council under the Press Council of India Act, 1978.

- Q.3 (a) Examine the role played by the Censor Board in controlling the public presentation of films as per the provisions of the Cinematograph Act, 1952. (05)

**OR**

- (a) The TDSAT was set up under Section 14 of the TRAI (Amendment) Act, 2000, as an independent adjudicatory body, to adjudicate disputes and dispose of appeals with a view to protect the interests of service providers and consumers of the telecom sector and to promote and ensure orderly growth of the telecom sector. Discuss the jurisdiction of the TDSAT. (05)
- (b) The Indian Telecommunication Sector saw an immense boost in view of certain regulatory changes, having its roots to the objectives and vision set out by the Government in NTP 99, that were introduced post liberalization. Explain any three regulatory changes. (03)

### PART – B

- Q.4 Intermediary liability is at the center of the debate over free expression, free speech, and an open Internet. The underlying policies form network regulation that governs the extent the websites, search engines, and Internet service providers that host user content are legally responsible for what their users post or upload. Levels of intermediary liability are commonly categorized as providing broad immunity, limited liability, or strict liability. Discuss in detail the current scenario regarding intermediary liability in India. Do you think whether the current regulatory system is adequate or inadequate? Support your answer with appropriate analysis and suggestions if required? (10)
- Q.5 Discuss the concept of the freedom of speech and expression in cyberspace. (05)
- Q.6 A network security company recruits new staff. As per the policy of the company, training has to be provided to the new staff so that necessary measures are undertaken as per the policies. Prepare a note on any three general categories of security attack, to orient the new staff about the mechanism. (03)

### PART – C

- Q.7 "It is sometimes asserted that no Judge will be influenced in his Judgment by anything said by the media and consequently that the need to prevent the publication of matter (10)

prejudicial to the hearing of a case only exists where the decision rests with laymen. This claim to judicial superiority over human frailty is one that I find some difficulty in accepting” – Lord Dilhorne

While addressing the Free Speech v Fair Trial debate, examine how trial by media is regulated in India and suggest reforms thereafter.

Q.8 Write Short note on the following: (Any one)

(04)

- (a) Regulating fake news without making free speech a casualty.
- (b) Sting Operations: Where to draw the line?

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