

CONTENTS

1. Report of Committee of Experts Chaired by Shyam Benegal to recommend broad guidelines/procedure for Certification of films by the Central Board of Film Certification (CBFC) Phase – II P. 1-6
2. O.M. regarding extension of tenure of the Committee of Experts P. 7
3. Minutes of the Meeting of the Members of the Expert Committee constituted by Ministry of Information & Broadcasting Ministry with the Animal Welfare Board of India held on 30.5.2016 in Chennai P. 8-11
4. Minutes of Meeting of the Committee of Experts with the Secretary, Ministry of Health & Family Welfare held on 7th June, 2016. P. 12-14
5. Acknowledgement P. 15

**REPORT OF COMMITTEE OF EXPERTS
CHAIRIED BY SHYAM BENEGAL**

TO RECOMMEND

**BROAD GUIDELINES/PROCEDURE FOR
CERTIFICATION OF FILMS
BY THE CENTRAL BOARD OF FILM
CERTIFICATION (CBFC)
PHASE - II**

June, 2016
New Delhi

Meetings of the Committee

1. The members of the Committee held meetings with the Animal Welfare Board of India (AWBI) on 30 May, 2016 and with the Secretary, Ministry of Health and Family Welfare on 7 June, 2016 on the following issues: -

- i. Issues relating to clearances to be obtained from the Animal Welfare Board under the Prevention of Cruelty to Animals Act.
- ii. Issues relating to depiction of smoking in films wherein films are required to show a disclaimer in every scene that involves smoking, as per a directive from the Ministry of Health and Family Welfare.

Date & Venue of Meeting	Attended by
❖ . 30 May 2016 O/o Animal Welfare Board of India, Thiruvanmiyur, Chennai.	Shyam Benegal Piyush Pandey Bhawana Somaaya Rakeysh Omprakash Mehra K. Sanjay Murthy Maj. Gen. (Retd.) Dr. R. M. Kharb (Chairman, AWBI) Dr. S. Chinny Krishna (Vice-Chairman, AWBI) Doulat Jain (Member, AWBI) Md. Saleem Aslam (Ex-Member, AWBI) M. Ravi Kumar (Secretary, AWBI) S. Vinod Kumar (Assistant Secretary, AWBI) Mathialagan (Regional Officer, CBFC, Chennai)
❖ 7 June 2016 Chamber of Secretary, Ministry of Health and Family Welfare, NirmanBhavan, New Delhi	Shyam Benegal Piyush Pandey Rakeysh Omprakash Mehra K. Sanjay Murthy Bhanu Pratap Sharma (Secretary, M/o H&FW) C. K. Mishra (Additional Secretary, M/o H&FW) Anshu Sinha (Director (Films))

Current Process of Obtaining Clearance from AWBI

2.1 In consonance with the Prevention of Cruelty to Animals Act, 1960 and Performing Animals (Registration) Rules, 2001 and also Bombay High Court Judgement in WP No. 2490/2004, PETA Vs. UoI&Ors. Dated 22.08.2005, CBFC

requires the applicants to furnish a No Objection Certificate (NOC) from the AWBI for certification of films in which performing animals have been used. AWBI is a statutory and advisory body under the Ministry of Environment & Forests.

2.2 Sub Rule 3 (bb) of Rule 21 (3) introduced in 1997 of the Cinematograph (Certification) Rules, 1983 stipulates:

“Every such application shall be accompanied by

- *A declaration made in writing by the producer of the film declaring that no cruelty was caused to the animals used during shooting of the films produced in India”.*

2.3 Section 5 B of the Cinematograph Act, 1952 prescribes principles for guidance in certifying films. The guidelines issued thereunder, stipulates among other things, the following in respect of use of animals in films –

- *“Scenes showing cruelty to or abuse of, animals are not presented needlessly”.*

2.4 For issuing a NOC, AWBI screens the submitted application in two stages under “Performing Animal (Registration) Rules, 2001

Stage 1- Pre-shooting Permission:-

The applicant has to apply in a prescribed format, giving details of the story line, sequences where animals are to be used, complete justification for using animals, fitness certificate and relevance of using animal for obtaining pre-shoot permission.

Stage 2 - No Objection Certificate (NOC):-

After obtaining the pre-shoot permission, the applicant has to adhere to the conditions/guidelines and after completion of the shooting of the film, the producer has to send two CDs of the film to AWBI for viewing.

Based upon the screening report, AWBI either issues or denies a NOC to the applicant.

2.5 The AWBI has at present an office only at Chennai which puts the producers from other parts of the country to hardship and difficulty in getting the NOC. The Committee was of the view that there is a need to bring about further clarity and

simplification of the process to allow film producers the operational flexibility that is critically required in any film project. Besides, a better and comprehensive definition of “performing animals” is needed.

Current Process of Complying with the Norms Related to Anti-Smoking Disclaimers and Health Spots

3.1 Central Board of Film Certification (CBFC) is implementing Ministry of Health & Family Welfare Notification GSR 708(E) Cigarettes and other Tobacco, Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Amendment Rules, 2012 where smoking scenes are depicted in movies. Rule 8(1) of the said notification, inter alia, imposes the following conditions:

All new Indian or foreign films and television programmes displaying tobacco products or their use shall have:-

- (a) *A strong editorial justification explaining the necessity of the display of the tobacco products or their use in the film, to the Central Board of Film Certification;*
- (b) *Anti-tobacco spots of minimum 30 seconds duration each at the beginning and middle of the films and television programmes;*
- (c) *Anti-tobacco health warning as a prominent static message at the bottom of the screen during the period of display of the tobacco products or their use in the film and television programme;*
- (d) *An audio-visual disclaimer on the ill-effects of tobacco use of minimum twenty seconds duration each in the beginning and middle of the film and television programme;*

Provided, that such health spots and disclaimer shall be made available to the Central Board of Film Certification by the Ministry of Health and Family Welfare.

Provided, further that no film displaying tobacco products or their use shall be certified for public exhibition by the Central Board of Film Certification unless the conditions specified in clauses (a) to (d) of sub-rule (1) are fulfilled.

3.2 Section 5 B of the Cinematograph Act, 1952 prescribes principles for guidance in certifying films. The guidelines issued thereunder, stipulates among other things, the following in respect of depiction of smoking in films –

- *Scenes tending to encourage, justify or glamorise consumption of tobacco or smoking are not shown.*

3.3 The static warnings that appear during every smoking scene apart from the disclaimers and anti-tobacco health spots being shown mandatorily in the beginning and interval of every film, disturbs the smooth viewing of the film. In present times depiction of smoking has become less fashionable due to awareness generated about its harmful impacts through various programmes and regulations as well.

RECOMMENDATIONS

The Committee deliberated on the issues regarding these two subjects keeping in mind the brief given by the Central Government. Based there on following recommendations are made:

NOC FROM THE ANIMAL WELFARE BOARD OF INDIA (AWBI)

4.1 The Committee is of the view that there should be "licensed suppliers" of Performing Animals (PA) who are qualified in handling various animals and taking care of them as per requirement of the law, whose services can be hired by the Producers. Such a mechanism would be of great benefit to all stakeholders who need to engage such services. This type of facilitation is available internationally and could be supported by AWBI for adoption.

4.2 The Committee is of the view that as an interim measure to cut down the time consumed, a directory of "certified (approved) personnel" of AWBI including veterinary personnel on the list of AWBI in different parts of the country may be published, enabling producers to intimate them the time of their shooting and, who would then be present at the time of shooting the performing animal scenes. Based on the report of such certified (approved) personnel, AWBI could issue the NOC. An appropriate fee for the services rendered by such AWBI empanelled experts could also be finalised by AWBI enabling the applicant / producers to remit the same directly to AWBI while availing the services of such empanelled persons.

4.3 There are numerous instances where animals in normal settings during the course of shooting are interpreted as "performing animals" requiring an NOC from AWBI. In order to have some clarity on this, Committee is of the view that "performing animal", in case of films may be defined as an animal which is written into the script of the movie, and is required to perform an act which it would not normally do. Such a clarification will allow automatic clearance for scenes of cows, goats, etc. apart from birds which often appear when picturising scenes in villages, small towns etc. However, it is to be kept in mind whether it is a genuine natural shot or staged for filming which would involve the hiring, transportation, etc. of the animal/s. The Committee suggests that in such situations, a self-declaration by the producers to this effect be submitted at the time of application to CBFC in lieu of an NOC from the AWBI.

DEPICTION OF SMOKING IN FILMS

5.1 The Committee is of the view that a meaningful static disclaimer in the beginning of the film with standard visual background approved by the Ministry of Health may be shown for a minimum time period along with an audio backing it. This should be made in all Indian languages and made applicable to all Media Platforms. However, periodicity of scenes depicting smoking should be avoided keeping in view the legislations in this regard.

5.2 The Committee suggests that as an option, Producers of that film can make a short film conveying an anti-smoking message by the same actor who is depicted as smoking in the film..

5.3 The Committee is also of the view that the Film Industry should produce small films on anti-tobacco/smoking with popular actors on their own for screening in cinemas halls and on TV Channels. These may replace the present films in the Theatres and TV Channels shown after obtaining clearance from the Ministry of Health & Family Welfare.

(SHYAM BENEGAL)
CHAIRPERSON

(KAMAL HASSAN)
MEMBER

(RAKEYSH OM PRAKASH MEHRA)
MEMBER

(PIYUSH PANDEY)
MEMBER

(BHAWANA SOMAAYA)
MEMBER

(GOUTAM GHOSE)
MEMBER

(NINA LATH GUPTA)
MEMBER

(K. SANJAY MURTHY)
MEMBER CONVENOR

__June, 2016
New Delhi.

F. No. : 11017/1/2016-DO(FC)
Government of India
Ministry of Information and Broadcasting

ShastriBhavan, New Delhi.
Dated the 10th May, 2016.

OFFICE MEMORANDUM

Subject: Constitution of Committee of Experts to recommend broad guidelines/procedures for certification of films by CBFC- Extension of Tenure.

In continuation to this ministry's O.M. No. 34016/3/2015-DO(FC) Pt.II dated 1/1/2016 and OM of even number dated 7/3/2016 regarding constitution of Committee of Experts to recommend broad guidelines / procedure for certification of films by CBFC it is stated that the competent authority has approved extension of the tenure of the Committee for submission of remaining part of the report till 20./6/2016.

(S. Naganathan)
Under Secretary to the Government of India
Tele.: 2338 2487

1. Mr.ShyamBenegal
2. Mr.RakeyshOmprakashMehra
3. Ms. Nina Lath Gupta, MD, NFDC
4. Ms.BhawanaSomaaya
5. Mr.PiyushPandey
6. Mr. Kamal Hassan
7. Mr.GoutamGhose
8. Mr. K. Sanjay Murthy, Joint Secretary (Films)

Copy to:

1. PS to HMIB/HMOSIB
2. PPS to Secretary (I&B)
3. PS to JS (Films)
4. Director General, films Division, Mumbai
5. MD, NFDC, Mumbai
6. Director (Films)
7. CEO, CBFC, Mumbai

Minutes of the Meeting of the Members of the Expert Committee constituted by Ministry of Information & Broadcasting Ministry with the Animal Welfare Board of India held on 30.5.2016 in Chennai:

The Experts Committee (EC) constituted by Ministry of Information & Broadcasting headed by ShriShyamBenegal met Chairman AWBI and members of the Performing Animals Sub Committee of the Animal Welfare Board of India (AWBI) on 30.5.2016 at Chennai. The list of participants is annexed.

The Chairman of Animal Welfare Board of India (AWBI) welcomed ShriShyamBenegal and other members of the Committee. After a brief introduction on the work done by AWBI, a detailed presentation on the procedure of certification of films involving animals and functioning of the Performing Animals Sub-Committee (PASC) was given. It was stated that the entire process and procedure for granting NOC by AWBI was transparent in view of the fact that all the details relating to the procedure have been uploaded on the Board's website and also on account of their holding meetings on every Wednesday to examine proposals. The permissions were disposed of in less than two weeks if all documents were in order. AWBI has also been issuing periodical advice to all concerned to deal with them directly and not through any intermediary.

Chairman of the Expert Committee, ShriShyamBenegal thanked the Chairman, AWBI and his colleagues for hosting his Committee for this interaction and highlighted the need to bring about further clarity and simplification of the process to allow film producers the operational flexibility which was critically required in any film project.

After detailed deliberations the following were the key suggestions that emerged from the EC:-

(i) There should be "licensed suppliers" of Performing Animals (PA) who are qualified in handling various animals and taking care of them as per requirement of the law, whose services can be hired by the producers. Such a mechanism would be of great benefit to all stakeholders who need to engage such services. This type of facilitation is available internationally and could be supported by AWBI for adoption.

AWBI officials explained that the existing Rules do not have this provision however it is a good suggestion and can be adopted after making such provisions in the Performing Animals Rules.

(ii) Till such time the above becomes operational, a directory of "certified (approved) personnel" of AWBI including veterinary personnel on the list of AWBI in different parts of the country needs to be published, enabling producers to intimate them the time of their shooting and, who would then be present at the time of shooting the performing animal scenes. Based on the report of such certified (approved) personnel, AWBI could issue the NOC. This would drastically cut down the time consumed in the process as AWBI would be in a position to issue NOC based on the report of such empanelled persons.

(iii) AWBI officials however explained that the perception of EC of the time taken as being excessive was not borne out by the facts. All applications received till the day before the weekly meeting date (normally every Wednesday), were taken up, considered and recommended for approval by the PASC every Wednesday and the Minutes of the meeting are sent to the Chairman for his formal approval by Thursday and put up on the AWBI website by Friday and individual letters are sent to the respective Regional Offices of the CBFC with a copy to the applicants by Speed Post.

(iv) It was suggested by the EC that the issue regarding payment of an appropriate fee for the services rendered by such AWBI empanelled experts could also be finalised by AWBI enabling the applicant / producers to remit the same directly to AWBI while availing the services of such empanelled persons. This was agreed by AWBI officials.

(v) The EC felt that there is a need for greater clarity on the definition of "performing animal" as there are numerous instances where animals in normal settings during the course of shooting are interpreted as "performing animals" requiring an NOC from AWBI.

The AWBI stated that the definition of performing animals was as set out in the Prevention of Cruelty to Animals Act and the Performing Animal Rules 2001 and that

the AWBI has no power to change this unless the Performing Animals Rules are modified by Govt. of India. However, the AWBI officials emphasized that where animals were genuinely in natural settings, no problem was envisaged. It however further stated that, in most cases other than birds, the so called “natural settings” involved the hiring, transportation and filming of animals as they are so scripted in to the movie itself which must be borne in mind. The Board (AWBI) has always taken a view that when animals which are not hired by the producers but through accident or otherwise come in to the frame of the film, they are not considered as performing animal and we do not seek ownership or fitness certificates for these animals, moreover, these animals do not remain at the shooting spot.

(vi) It was also suggested by the EC for consideration whether "performing animal" in case of films needs to be defined as an animal which is written into the script of the movie, and is required to perform an act which it would not normally do. Such a clarification will allow automatic clearance for scenes of cows, goats, etc. which often appear when picturising scenes in villages, small towns etc. The AWBI accepts this view of EC but once again depending on whether this was a genuine natural shot or staged for filming which would involve the hiring, transportation etc of the animal/s.

(vii) It was, therefore, suggested by the EC that in such situations, a self-declaration by the producers to this effect submitted at the time of application to CBFC should be accepted by CBFC in lieu of an NOC from the AWBI. The AWBI requested the EC to keep in mind the difference between the genuine “natural shots” and those staged ones, as mentioned earlier.

(viii) The Committee agreed that animals prohibited under the Wild Life Act should not be used for any shooting.

(ix) It was also noted that the Vice-Chairman of AWBI would study the practices adopted in UK during his visit to that country and also the best practices adopted in the major film-making countries of the world that could facilitate AWBI in acting upon the suggestions given by the Expert Committee as mentioned above.

Meeting ended with thanks to the AWBI for hosting the Committee.

Participants: Members of the Expert Committee of CBFC, M/o Information & Broadcasting in AWBI:

AWBI

1. Maj. Gen. (Retd.) Dr. R.M. Kharb, AVSM, AWBI
2. Dr. S. Chinny Krishna, Vice Chairman, AWBI
3. Shri Doulat Jain, Member, AWBI
4. Shri Md. Saleem Aslam, Ex-Member, AWBI
5. Shri M. Ravi Kumar, Secretary, AWBI
6. Shri S. Vinod Kumar, Assistant Secretary, AWBI
7. Shri Mathialagan, Regional Officer, CBFC, Chennai

Expert Committee

1. Shri Shyam Benegal, Chairman, Committee of Experts
2. Shri Piyush Pandey, Member
3. Ms. Bhawana Somaaya, Member
4. Shri Rakeysh Omprakash Mehra, Member
5. Shri K. Sanjay Murthy, Joint Secretary, M/o Information & Broadcasting

Minutes of the Meeting of the Committee of Experts with the Secretary, Ministry of Health & Family Welfare held on 7th June, 2016 at 4:00 PM in the Chamber of Secretary, Ministry of Health & Family Welfare, Nirman Bhavan, New Delhi

The Members of the Committee of Experts headed by Shri Shyam Benegal constituted by the Ministry of Information and Broadcasting met Secretary, Ministry of Health & Family Welfare on 7.6.2016. List of participants is at Annexure.

2. Shri Bhanu Pratap Sharma, Secretary, Ministry of Health & Family Welfare welcomed Shri Benegal and other Members of the Committee. Shri K. Sanjay Murthy, Joint Secretary (Films) & Member Convenor of the Committee briefed him about Terms of Reference of the Committee. Shri Shyam Benegal explained the concerns of the Film Industry and the viewers as well on the static warnings that appear during every smoking scene apart from the disclaimers and anti-tobacco health spots being shown mandatorily in the beginning and interval of every film, which disturbs the smooth viewing of the film.

3. Shri B.P. Sharma, mentioned about the legislations in this regard and of the pending matter before the courts for adjudication. Shri C.K. Mishra, Additional Secretary, M/o Health & Family Welfare stated that most of the court cases except one had been finalized. He also mentioned that the proposal from Shri Mukesh Bhatt for production of small films on anti-tobacco on their own for screening in cinema halls and on TV channels had been received and that the Ministry had already conveyed to him to provide such films enabling the Ministry to take a decision.

4. Shri Rakesh Omprakash Mehra suggested that a short film conveying anti-smoking message by the same actor who is depicted as smoking in the film could be made to explain the harmful effect of smoking. Other Members however opined that this could be optional and not mandatory.

5. It was also discussed that compared to the past when depiction of smoking scenes was fashionable, in present times such depiction is no more fashionable. This is also due to the awareness that smoking is not only injurious to health but is also prohibited at public places.

6. It was proposed by the Members of the Committee that a meaningful static disclaimer in the beginning of the film with standard visual background approved by the Ministry of Health may be shown for a minimum time period along with an appropriate audio backing it. This would be made in all Indian languages and made applicable to all Media Platforms.

7. Secretary and the Additional Secretary, Health stated that the request will be examined with an open mind. Keeping with the spirit of the legislation, efforts will be made to work out a viable alternative.

8. Meeting ended with thanks to Secretary, Ministry of Health and Family Welfare for meeting the Members of the Committee.

List of Participants:

1. Shri Bhanu Pratap Sharma, Secretary, Ministry of Health and Family Welfare.
2. Shri C.K. Mishra, Additional Secretary, Ministry of Health & Family Welfare.
3. Shri Shyam Benegal, Chairperson
4. Shri Rakeysh Omprakash Mehra - Member.
5. Shri Piyush Pandey – Member.
6. Shri K. Sanjay Murthy, Joint Secretary (Films)
7. Smt. Anshu Sinha, Director (Films).

ACKNOWLEDGEMENT

1. Ministry of Health and Family Welfare
2. Animal Welfare Board of India
3. National Commission for Protection of Child Rights (NCPCR)
4. National Commission for Women (NCW)
5. British Board of Film Classification
6. National Film Development Corporation