

## National Commission for Protection of Child Rights

### NCPCR's Inquiry into the Complaints of Child Rights Violations involved NDTV Imagine's Programme: Pati, Patni Aur Woh – Observations and Recommendations

#### 1. Background

The Reality Show: 'Pati Patni aur Woh' as telecast by the NDTV Imagine Ltd. from 28<sup>th</sup> September 2009 is based on the international format 'Baby Borrowers' which is owned and produced by BBC Worldwide Ltd. The 'Baby Borrowers' has been aired in the countries like US, UK, Germany and Belgium to deal essentially with 'teenage pregnancies'<sup>1</sup> and with the objective of making potential 'would be parents' learn about the ideal way of handling children. In the Indian reality show: 'Pati Patni aur Woh', celebrity couples were given exposure to parenthood with the use of borrowed babies/ infants (many below one year of age). The shooting was done between 20<sup>th</sup> August and 16<sup>th</sup> September'2009.

After watching the promos on the television, concerned citizens and civil society groups approached the National Commission for Protection of Child Rights (hereinafter 'NCPCR' or 'Commission') through emails and letters, expressing their horror and concern about using such small children in this programme/reality show. An immediate intervention was demanded with requests to get the program stopped. Responding to the same, the NCPCR took up the matter with the Ministry of Information and Broadcasting (appropriate authority) under the proviso of Section 13(1)(j) of the Commissions for Protection of Child Right (CPCR) Act,2005, vide its letter No.8866/SB/2009/272 dated 22.9.2009, addressed to the Director(Broadcasting).

The Programme/Reality Show was aired for public viewing from 28.9.2009. The first two episodes being in very bad taste in terms of 'child rights', (Para 4 (i) may be referred for details), the Commission issued a notice to the Executive Director, NDTV Imagine on 30.9.2009 to stop the telecast of the programme/reality show immediately and to submit a compliance report in this regard, as the manner in which infants and very young children of tender age are being shown in the programme/reality show amounts to denigration of such children and violation of their right to dignity. This action was initiated by the Commission for discharging its role under Section 13(1)(k) of the Commissions for Protection of Child Rights(CPCR) Act,2005. On the receipt of this Notice, a lawyer representative of the NDTV Imagine met the dealing Member of the Commission in the presence of its Registrar on 01.10.2009. He requested that the Channel be heard in the matter before further action is initiated by the Commission. The representative of NDTV was assured by the Member and the Registrar that the Channel will be given an opportunity to be heard. Despite this assurance, the TV Channel chose to move to the Hon'ble High Court of Delhi on 5<sup>th</sup> September,2009 against the Notice of the Commission dated 30.12.2009 with the Writ Petition no. W.P.(C)-12142/2009 and the Civil Miscellaneous Petition No. 12335/2009 (NDTV

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<sup>1</sup> This was articulated by the Creative Director, Ms. Sonia Choudhry of BBC during the course of the enquiry conducted by NCPCR.

Imagine Limited and Another Vs Union of India and Another). In the writ petition, the NDTV Imagine prayed before the Hon'ble High Court to pass ex-parte interim and ad-interim orders to stay the impugned Order passed by the Commission. It also filed an application seeking exemption from filing certified copies and typed copies of the annexure filed with the writ petition.

Hearing the Matter, the Hon'ble High Court passed an Interim Order on 6th October 2009, providing an interim stay on the impugned Order passed by the Commission on 30<sup>th</sup> September 2009. However, in the same Order, the Hon'ble High Court clarified that the Commission (Respondent No.2) is entitled to continue with the enquiry and to file a petition under Section 15, if deemed appropriate before the next date of hearing, i.e., 18<sup>th</sup> December 2009.

## 2. The Enquiry Process:

(i) As part of enquiry into the violation of child rights involved in the TV Programme "Pati, Patni aur Woh" telecast by NDTV Imagine, the Commission watched the DVD received from NDTV Imagine and issued summons for hearing at NCPCR Office to Ms. Shailja Kejriwal, Executive Vice-President, NDTV Imagine Limited; Shri Roshan Dutt, Head of Production, BBCW Channel Pvt. Limited and Baby Shaurya's parents- Shri Deepak Aswal and Mrs. Prianca Aswal. There was also the creative Director of BBC (Ms. Sonia Choudhry) present during the hearing who answered most of the questions, accompanied by Advocate Shri Ravi Suryavanshi, Ms. Rohma Hameed and Ms. Nuha Nagpal. Others who attended the Hearing on 15th October 2009 meeting were- Ms. Radhika Gautam, Advocate, Mr. Anil Kumar, Photographer and Mr. Abraj Shukla, Shift Manager (Technical) from the Electronic Media Monitoring Centre of the Ministry of Information and Broadcasting.

(ii) The Commission constituted an Expert Panel of four Child Psychologists, namely:

- Dr. (Mrs.) Manju Mehta, Professor & Clinical Psychologist, AIIMS;
- Dr. Jitendra Nagpal, Sr. Psychiatrist, VIMHANS;
- Ms. Shailja Sen, Clinical Psychologist and Family Therapist; and
- Dr. Rajiv Seth, Pediatrician.

(iii) These experts were asked to provide their opinion on the following:

- a) the risk involved in the program for the infants and young children in terms of their psychological and other developmental factors;
- b) the information that mandatorily needs to be shared with the parents about the consequences, both physical, mental and psychological that such a production could have on infants and young children involved;
- c) the protocols that need to be followed in the production of such shows, which would protect infants and young children from any and all risk, including but not limited to psychological and developmental aspects as well and

- d) any other aspects/issues which could throw more light on the subject and deemed to be useful for the Commission to formulate its stand/recommendations/guidelines in this regard.
- (iv) The enquiry panel consisted of Dr. (Mrs.) Manju Mehta, Professor & Clinical Psychologist, AIIMS; Dr. Jitendra Nagpal, Sr. Psychiatrist, VIMHANS; Ms. Shailja Sen, Clinical Psychologist and Family Therapist and Dr. Rajiv Seth, Pediatrician. Dr. (Mrs.) Shantha Sinha, Chairperson, Smt. Sandhya Bajaj, Member, Smt. Dipa Dixit, Member. The Enquiry panel was assisted by the team of Officers and Consultants of the Commission led by its Registrar.
- (v) The enquiry was held at NCPCR Office on two dates namely 15.10.2009 and October 23<sup>rd</sup>, 2009, respectively. The Enquiry Panel met the team from BBCW Channel Pvt. Ltd. on 15<sup>th</sup> October 2009 and the NDTV Imagine Ltd on 23<sup>rd</sup> October 2009. The Expert panel of Psychologists and family Therapists also met one of the parents whose child was involved in the program at NCPCR office on 15<sup>th</sup> October 2009. The Commission had also solicited the views of the Ministry of Information and Broadcasting on regarding the involvement of infants and young children in the program: 'Pati, Patni Aur Woh' as telecast by NDTV Imagine along with relevant information/documents, vide its letter no. DL-26011/8638/09-COMP and 8866/SB/2009/8980, dated 26.10.2009. Although the Ministry promptly provided useful information/documents, vide its letter no. 3105/55/2008-BC-III dated 30<sup>th</sup> October 2009, its views/comments on the Reality show in question vis-à-vis the involvement of infants in such show are still awaited.

### 3. Observations:

Post the enquiry and based on the interactions with the Expert Panel, BBCW Channel Private Ltd., NDTV Imagine Ltd. and parents of a child, the Commission wishes to make the following observations regarding the program in question from 'child rights' point of view:

- (i) While the producers made out a strong case about following BBC's norms of safety standards for children during the process of production, the views of the child psychologists as obtained clearly indicate that such safety norms were confined mostly to the physical well being of the child. The aspect of negative psychological impact on these children which could be felt much later in life was not at all reckoned with. If this aspect had been duly considered, the program should not have even been conceived of. What is important to note is that effects of such separation can manifest only in the long run and could have damaging repercussions. Such a risk is totally unacceptable!
- (ii) The testimonies of the producers clearly indicate that the whole focus of the program is new couples and providing them with exposure about the problems one would encounter in marriage and brining up children from the stage of infancy till adolescence. It was also informed that this program was based on an earlier UK production namely 'Baby Borrowers', that was made to deal with teenage pregnancies in the UK. There are

newspaper reports of public outrage against the manner in which children's rights were violated in this program and the consequent closure of the same. In view thereof, conceiving a similar program in India seems grossly misplaced. It is evident that they were insensitive to the negative impact that such a program could have on a child and the viewers.

- (iii) The justification of parental consent was given as an excuse for continuing with the show despite the evident traumatising of several children on the program. Considering that parents themselves sometimes compromise their children for visibility and publicity purposes, their consent in the matter may not always be in the best interest of the child and certainly not in the instant Case.
- (iv) The reality program 'Pati Patni aur Woh' was clearly a violation of child rights of infant children for providing entertainment to the viewers and a means to make profit by the TV Channel.
- (v) On the whole, children were depicted as commodities with little regard to their rights, their own cosmos of comfort with familiar people and their dignity. In their defense, the producers articulated that the program is edited to highlight those fraction of moments where the child is so obviously distressed and that, in reality the child is not subject to trauma for long periods of time. However, the fact remains that the focus is entertainment at any cost; that children were unhappy for even for that brief period could have been avoided totally.

#### 4. Recommendations:

Based upon the above observations and facts and circumstances of the Case, the Commission wishes to make the following recommendations under section 15 of the Commissions for Protection of Child Rights (CPCR) Act, 2005:

- (i) Programs, like, 'Pati Patni Aur Woh' should not be aired in future on the following grounds:
  - a. The program violates the relevant rules of the Cable Television Networks Rules, 1994. Such Rules are:- Rule 6. Programme Code.—(1) (a): offends against good taste or decency; and (l): adversely impacts children and is in derogation to their rights to dignity.
  - b. The anxiety and stress infant children were exposed to, in the serial, is unacceptable.
  - c. The focus of the program was entertainment at the cost of the dignity of the children.
  - d. There were no exit provisions in the Contract so as to allow the parents of the children to take them out of the show at any time during production. The Contract was one-sided with most of the obligations on the parents. The responsibilities and obligations placed contractually on the production house and surrogate mothers, were comparatively less.

- e. The psychologists, engaged by the Production house for assessing the children involved in the show, only made a physical and mental assessment (as against a psychological, emotional assessment) of the child. The long-term effects of separation on infant children from their parents and participation in such shows were not addressed and/ or communicated to the parents.
  - f. On occasion, especially in the context of infant and/ or very small children, even a parental consent is not a justification for a child's participation in a reality show. They must be protected from all forms of physical, psychological or mental trauma, anxiety, violence, injury or abuse, neglect or negligent treatment, maltreatment, or exploitation, including sexual abuse while in the care of parents, legal guardians or any other person who have the care of them, (as required under Article 19 (1) of the UN Convention on Rights of Child, 1989 which has been acceded to by India on 11 December 1992) and the Juvenile Justice Act. As mentioned earlier, the separation of infants and young children involved in the program from their parents (natural care givers) even for a few minutes, causes anxiety and impacts upon their emotional well being and psyche.
- (ii) The Ministry of Information and Broadcasting should establish an effective mechanism in terms of legal provisions and administrative structure for introduction of a 'pre-clearance system' for the reality show. This pre-clearance system may involve a multidisciplinary expert panel which would assess any reality shows using children, and also, issue guidelines on the cut off age limit for the participation of children in such shows. This would entail screening participation of children even before the production of a program is done. These guidelines should also detail the procedures and processes that would need to be adhered in order to protect the best interests of any child.
  - (iii) The Electronic Media Monitoring Centre (EMMC) and the Inter-Ministerial Committee of the Ministry of Information and Broadcasting should make proactive interventions in taking cognizance of the reality shows affecting child rights and taking prompt measures to prevent their telecast, instead of waiting for the public to lodge complaints.
  - (iv) The Ministry of Information & Broadcasting should make special drives through electronic media (Door Darshan & All India Radio) and other available means for educating the parents and the public that the involvement/participation of children in reality shows to the extent it is violating their right to health and psyche, safety, education, recreation, leisure, etc. must be discouraged.
  - (v) A detailed guidelines need to be in place for safeguarding the rights of children in the entertainment industry after having a broad-based consultations with prominent psychiatrists, psychologists, family therapists, child rights groups, legal experts, child development experts, etc.
  - (vi) The shooting sites / sets should be inspected by the multidisciplinary inspection panels constituted for the purpose by the Government and the producers and TV channels associations (for self-regulation). There should be a regulator to which the producers must provide prior information about the shooting of their

programmes, especially, the place(s), schedules and particulars of the programme, the particulars of the persons (eg. name, address, age, sex, qualification) proposed to be involved in the shootings and the safety measures / safeguards proposed to be taken.

- (vii) There is need for consultation with child psychologists and experts about the minimum age of participation of children in reality shows and like to protect children's rights even with a policy before production of the show.