

# Tighter Legal Regime For Media And OTT Platforms

## Digital Economy And Spread of OTT Platforms

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### Abstract

People were amazed when they saw square set box showing moving objects on the screen and story of their own lives. Indian society in 90's was witnessing the greatest revolution of their lives. From that scenario to today's era of OTT has provided people the vast experience of entertainment through various mediums. From remote to mobile, we efficiently invent the tools to enjoy with comfort. This last decade is decade of digital economy, wherein we transformed each and every aspect of our social, economic and administrative into digital format. That pushes the demand for OTT entertainment upward. But sudden flood of OTT channels and its penetration into society is the result of worldwide lockdown due to corona pandemic. When people's physical activity ceased, they turned towards digital means of exploring the world. And what other than OTT, which will provide them that chance of exploration.

The main factor in the expansion of the **OTT Platforms** is the convenience of the Platforms. You can access the OTT Platforms through your Smartphone. You just need a high-speed internet connection.

The rapid expansion and use of smart phones in the Indian population have led to an increase in digital consumption. Reliance Jio has contributed to making the Indian population digital-oriented, offering high-speed internet at affordable rates.<sup>1</sup>

**Keywords:** Digital economy , OTT , IT Act, Broadband and Internet, Media

### Introduction

Every industry requires the utilization of digital technology, and OTT platforms provide such a diverse range of material. In India, the epidemic was attributed to blame for an increase in OTT watching. The platforms are mostly popular among people aged 15 to 35. "India is predicted to observe a rise in the number of OTT viewers by 2023, compared to the current 350 million users," according to MICA's Center for Media and Entertainment Studies (CMES). This growth will bring the total number of users to around 500 million.

However, in India, these platforms did not gain popularity quickly. Netflix and other OTT providers have struggled to reach 5 million users. However, OTT platforms were able to gain a rural subscriber base because to affordable technology such as cell phones and low-cost internet connection through service providers such as JIO.<sup>2</sup>

It is obvious that digital development requires many inputs. Digital economy builds its momentum only when telecommunication, 4G connectivity and internet access spread its hands in social strata.

### History of entertainment media

Today we are watching Netflix, Amazon prime and many other OTT platforms for entertainment and information purpose. But it is important to know the history of this media, and how economic growth

<sup>1</sup>(<https://www.mid-day.com/brand-media/article/the-emergence-and-expansion-of-ott-platforms-affected-the-indian-audience-23209075#:~:text=The%20main%20factor%20in%20the>)

<sup>2</sup>([https://www.business-standard.com/content/press-releases-ani/popularity-of-ott-platforms-rising-thanks-to-modern-indian-audience-121122300630\\_1.html](https://www.business-standard.com/content/press-releases-ani/popularity-of-ott-platforms-rising-thanks-to-modern-indian-audience-121122300630_1.html))

led to the advancement of certain technologies. There is direct relationship between economic growth and telecommunication technology.

Mass communication is the sole purpose of such developments. As mass became more economically empowered new innovations and techniques started to flourish. In 1923 and 1924, three radio clubs in Bombay, Calcutta, and Madras founded the first private radio stations in India (now Chennai). In June 1923, the Radio Club broadcasted India's first radio programme. The 2- to 3-hour daily broadcasts featured mostly music and lectures. Due to a lack of funding, these stations were forced to close in 1927. Last line is more important, as funding collapses the means of mass communication also stops. And also look at the cities where these radios started working. All these cities were metropolitan cities and economically strong. This same stream of development we can see after evolution of televisions.

Television was first broadcast in India in 1959 as part of All India Radio and was formally commissioned as an experimental service on September 15, 1959. Its goal was to promote social consciousness and education. Television was not commissioned as a regular daily broadcast until Mrs. Indira Gandhi took over the Information and Broadcasting Ministry on August 15, 1965. Doordarshan transmissions are now broadcast to about three-quarters of the country's population via television transmitters. On August 1, 1975, 2400 villages in six states - Orissa, Bihar, Rajasthan, Madhya Pradesh, Andhra Pradesh, and Karnataka - were exposed to area specific programmes broadcast with the use of an American satellite for a year. Television went commercial from January 1, 1976 and now good numbers of sponsored programme are telecast on Doordarshan, increasing its revenue.

Television progress particularly tells us that the inflow of foreign capital helped to build our mass communication media platforms. The availability of several channels on television - either direct through satellite or through cable TV - is the second, and possibly most crucial, breakthrough that has altered not only India's media system, but the entire society.<sup>3</sup>

After India sat together and enjoyed cricket matches, listened bollywood songs. Revolution happened and human being came up with the miracle of internet.

While the internet has been around since the 1960s, Indians did not have access to it until 1986, when the Educational Research Network (ERNET), a joint effort of the Department of Electronics (DOE) and the United Nations Development Program, was launched (UNDP). The Internet was originally meant primarily for educational and scientific purposes. We used to connect to the internet via a modem (short for modulator-demodulator), an equipment that allowed a computer to send signals over normal phone lines by converting analogue signals into digital signals.<sup>4</sup>

**The government issued its broadband strategy in 2004, defining broadband as "an always-on Internet access with a download rate of 256 kbit/s or higher."**

**In July 2013, the term was updated to include broadband as a "data connection that provides interactive services, particularly internet access, and is capable of a minimal download speed of 256 kbps to a specific person." In August 2014, the minimum download speed was upgraded from 256 kbit/s to 512 kbit/s.**

Broadband connection pushed the initiation and penetration of OTT platforms in the India. 4G and 5G network services also made digital media more accessible and rapid service provider. 5G services are going to set digital platforms demand on ablaze . According to some reports Indian electronic and media market will see sky achievements. According to global market research firm PwC's 'Global Entertainment & Media Outlook 2020-2024,' the Indian E&M industry is expected to grow at 10.1% CAGR to reach \$55 billion by 2024.<sup>5</sup>

Furthermost important thing is these OTT platforms are not only limited to the big giants like Netflix, Amazon Prime. Regional businesses are targeting India's substantial local-language audiences in the

<sup>3</sup>(Quazi)

<sup>4</sup>(selectra)

<sup>5</sup>(Economic times , 2020)

lively market of 40 OTT providers. They are even charging only 1 Rs per day, which is bolstering the presence of OTT platforms in each corner of Indian society.

So in brief, we can say that India leaped forward with big jump. From radio to OTT platforms, media industry flourished with full-fledged economic and social expansion.

### **Brief Information about OTT Platforms**

OTT stands for Over The Top platforms. BigFlix was the first OTT portal in India. BigFlix was India's first OTT portal, launched by Reliance Entertainment in 2008. After the launch of Zee TV and Sony Liv in 2013, OTT began to thrive in India. In 2015, Disney Hotstar made its OTT debut.<sup>6</sup> OTT platforms streams serials, web series, short films, Films, albums and many things. One of the best advantage of OTT platforms is you can access it with comfort without getting out of your home. That's what gave boost to these platforms during pandemic era. Pandemic lockdown situation lifted digital media in high extent.

### **Now do really OTT platforms help Indian economy? How much contribution is getting done by digital media?**

Contributing over 13 percent to India's GDP, the Information and Communication Technology (ICT) sector and the Digital Economy are major economic drivers. India's digital economy generates approximately \$200 billion annually from information technology (IT) and business process management (IT-BPM), IT-enabled services (ITeS), E-Commerce, electronics manufacturing, digital payments, and digital communication services<sup>7</sup> India aims to reach \$ 1 trillion economy of digital form. According to a new estimate, India's over-the-top (OTT) video streaming market could grow at a compound annual growth rate (CAGR) of more than 20% over the next decade, reaching \$13 billion-\$15 billion thanks to original content and pricing innovations. This number is huge and can impact the whole structure of the Indian economy.

If we look world wide such digital platforms are getting momentum and acquiring larger amount shares in many digital media companies. Many big players like reliance, sony, star network are hungry to invest in such digital platforms due to estimation of guaranteed profit.

Experts estimate that India's media and entertainment sector might employ up to eight million people by 2025, with demand for content growing across television, cinema, and OTT. That's more than double the four million people who currently make a living — directly or indirectly — from the industry's 1.8 lakh crore.<sup>8</sup> OTT platforms are not only entertaining us or giving us info we needed. These platforms are also major driver for Indian economic growth. It must be considered while policy making that from now on the role of digital platforms is going to be important and essential for country's economic and digital development.

But such digital media penetration is impossible without any legal support. India do not have such holistic law particularly addressing the sphere of digital media. Many laws are there, talks about some segments of digital platforms. but there exists so many flaws and lacunas. Hence it is important to understand the role of law in digital economy. Because without law we cannot develop the dream of attaining trillion dollar digital Indian economy.

### **OTT And Law**

In India, the media is classified into three types-

1. Print media – for example: Books, Journals, Newspaper, etc.
2. Broadcast media- for example: Radio, Television set, etc.
3. Digital Media popularly known as new age media – for example: WhatsApp, Instagram, Twitter, Over-the-top (OTT), etc.

<sup>6</sup>(Java T Point, n.d.)

<sup>7</sup>(International Trade Administration, 2022)

<sup>8</sup>(Dey, 2020)

In India, for the protection and preservation of freedom of Print media and to maintain the standard of newspaper we have statutory body i.e., Press Council of India created under The Press Council Act, 1978. Apart from it for regulating printing press and newspapers in India, the news agency has to register their newspaper under the authority called Registrar of Newspaper for India (RNI). The RNI authority have been constituted under Press and Registration of Books Act, 1867 popularly known as PRB Act. The PRB Act is also preserve the copies of Books and Newspaper which are published in India.

Moreover, the TV news channels come under News Broadcasters Association (NBA), the Advertising Standards Council of India (ASCI) regulates the content of the Advertisement, Central Board of Films Certification (CBFC) monitors Films. The object of CBFC is to censor the film and give certificate on the basis of content of it. Under Cinematograph Act, 1952, there are four types of certificates provided after censor-

1. Unrestricted viewing (U)
2. Unrestricted, but with parental guidance for children below the age of 12 (U/A)
3. Restricted for adults (A)
4. Restricted to a class or a profession (S)

So, we can say that there are statutory provisions or self-regulatory rules are provided for print media and broadcasting media but when we look towards the digital media, then we found that in India there are no rules, regulations or any particular enactment, self-regulations has been made to govern the digital media.

In India, we have observed that to prevent any wrong the law should be made. When we see the Content on the OTT platform, many a times we see the content telecasted is in inappropriate manner, use of vulgar language, obscene scenes, and sometimes the content hurts the sentiments of people. We also cannot filter the content as OTT is not under the ambit of Cinematograph Act, 1952. So, there is a threat that we cannot monitor the person who is watching the content on OTT platform is a child, adolescent or major.

To curb this situation the government has made On November 09, 2020, the Central Government issued a notification bringing digital/online media platforms under the ambit of the Ministry of Information and Broadcasting (“MIB”). While there exists a legal framework and judicial pronouncements in respect of electronic and print media, there was no equivalent in respect of digital media. Digital platforms have been unregulated, having no specific regulatory framework barring the provisions of the Information and Technology Act, 2000 (“IT Act”)<sup>9</sup>

This framework is not sufficient and comprehensive enough to regulate OTT media platforms therefore the government came up with Information Technology (Intermediary Guidelines and Digital Media Ethics Code) 2021. India is big market. The government at the time of notification state that social media platforms welcome to do business in India but they need to follow the Constitution and laws of India.<sup>10</sup> Amidst growing concerns around lack of transparency, accountability and rights of users related to digital media and after elaborate consultation with the public and stakeholders, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 has been framed in exercise of powers under section 87 (2) of the Information Technology Act, 2000 and in supersession of the earlier Information Technology (Intermediary Guidelines) Rules 2011.

While finalizing these Rules, both the Ministries of Electronics and Information Technology and Ministry of Information and Broadcasting undertook elaborate consultations among themselves in order to have a harmonious, soft-touch oversight mechanism in relation to social media platform as well as digital media and OTT platforms etc.

Part- II of these Rules shall be administered by Ministry of Electronics and IT, while Part-III relating to Code of Ethics and procedure and safeguards in relation to digital media shall be administered by the Ministry of Information and Broadcasting.<sup>11</sup>

<sup>9</sup>(Associates, 2020)

<sup>10</sup>(PIB, n.d.)

<sup>11</sup>(PIB, n.d.)

## Conclusion:

So, this was bird view of Digital media platforms in India. We have seen how we evolved from radio to digital audio-visual media. Economy played very important role for the development of this sector. It is quite clear that whenever country inches towards economic welfare, people's lives transform dramatically, they demand more comfort with efficient service delivery. Digital media is the best example of this economic welfare. It is not only entertaining the society, but also strengthening the robust economic infrastructure digitally. It has created numerous opportunities for the young generation, developed new skills which will make us more competitive in the global market.

Whenever change happens, the one aspect which balanced the pros and cons of such change is legal system of that country. It is appreciable that Indian legal system is adjusting this new arena with most efficient and practical approach. So in the end it is our duty to handle this large amount of content responsibly and with well manner.

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