

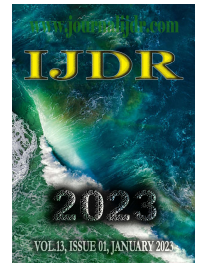


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RESEARCH ARTICLE

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A STUDY ON OTT AND CENSORSHIP IN INDIA

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ABSTRACT

In this fast-paced world, each one of us sits in front of electronic gadgets to pass the time. The digital uprising and the handheld devices (Mobile and Tablet) are evolving with impressive features, creating a pleasant and comfortable environment for watching content. The "Anyone, Anywhere" phenomenon, i.e. facilitated by gadgets technologies. The feature advancement has stimulated the search for a medium that is full of visual experiences, thus leading to the birth of OTT platforms. The Over the Top (OTT) platform significantly impacts the entertainment sectors' innovative drive. This audio-visual platform provides an opportunity to user's to choose the content which is based on their preferences. One can say Bigflix, launched by Reliance (2008), is India's first OTT platform, comprising feature films, series, T.V. shows, and documentaries. Censorship has to be understood in the broad spectrum. In that case, it defines the suppression of an individual's information, ideas, and artistic expression, whether it's a suppression of private entities, speakers, writers, or artists. The Ministry of Information and Broadcasting announced India's regulatory code for OTT platforms On February 25, 2021. In this study, we will focus on different OTT platforms and the censorship worldwide, determine the possible outcomes and make a few suggestions that can be brought in censorship and media laws.

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INTRODUCTION

OTT has become the most important mode of entertainment in the last decade across the globe; the growth of digital devices and facilities of high technology-based Internet services has created this demand. We have reached that point where people in cities barely accept spending their time on Television or Radio. Everyone is busy consuming video content anywhere on the platforms, anytime available 365 days for 24 hours and seven days a week. According to a report, India's online video market will touch \$4 billion by 2025 (Jha, 2020), and the latest news says by May 2021, India has already crossed 29 crores of online OTT Platform consumers. Data consumption in India will grow from 71,67,103 million MB in 2017 to 10,96,58,793 million MB in 2022 at a CAGR (Compound Annual Growth Rate) of 72.6% (ASSOCHAM, 2018). Indian media and Advertising sector is growing as projected. A country that is growing fastest than china is India, and presently generating 0.38 per cent of India's gross domestic product. India has witnessed massive growth in video content consumption from online platforms. And if we look behind this huge increase is the immense change in deeper penetration of internet facilities and net neutrality movement, which made the cheap Internet and leading usage of the smartphone by the consumer across a different tier of cities. Factors that are driving the growth of OTT in the Indian market is its young demographics, improved digital payment systems like UPI and other

wallet services such as Airtel, google pay, Paytm etc. Apart from web content and social media, OTT communications and OTT media are now increasingly playing a major role in the internet domain (TRAI, 2015). (Categorization of Internet services in Fig 1).

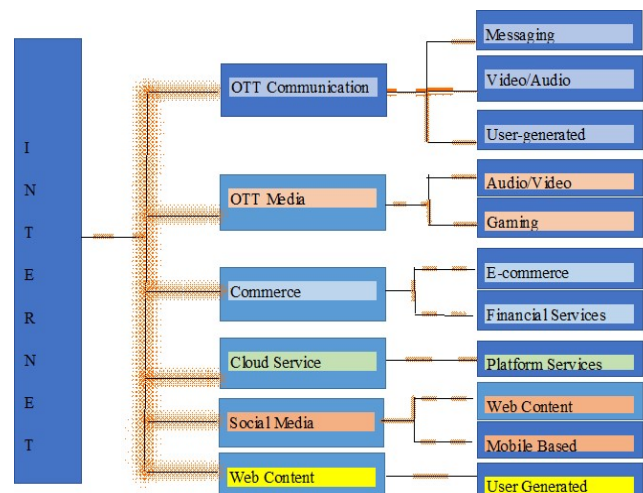


Figure 1. Categorization of Internet service

Among recent trends, Indian viewers have broken the barrier of language; as per Gaurav Gandhi, head of Amazon Prime India, "More than 50% of viewership for our regional programming, including Tamil, Telugu and Kannada, is coming from outside of its home state. International and foreign-language content is also being consumed here, as we could see with Parasite last year." (SHACKLETON, 2021). Netflix India Vice President agrees "that there is an increased consumption of 400% in Korean Content, a 100% increase in Kids and a 250% increase in Content across the globe". In contrast OTT platforms such as Hotstar premiered the movies that we're unable to release due to lockdown SOP. Contrary to traditional media content that is constantly regulated by a body like the CBFC (Central Board of Film Certification), the BCCC (Broadcasting Content Complaints Council), and others, the OTT platform lacks any regulatory body that oversees the streaming content. So far, Internet control is difficult for authorities, so is with OTT platforms. OTT platforms share the largest Share in the Internet Video market. As the population of a country like India, which is Under 35, The OTT service will ride on audience cord never. So right content at the right time will save democracy, personal space, one's privacy. Across the globe, the pursuit of controlling the OTT is made by Different countries in different ways. In this discussion, we will see OTTs, censorship and laws of censorship other countries are trying in order to control the content.

OTT: The acronym for OTT is Over the Top streaming, and India is the sixth-largest country in the consumption of OTT content. It is streaming of content across different devices anywhere we want, anytime, i.e. over the top. As in today's world, everything and anything can be done using the Internet. Due to the development of the Algorithm pattern and A.I., consumers get help about the aspects of the product that are available in the market. OTT services have a broad spectrum of applications, from OTT communication to web content. India is a developing country, and digital India boasts the OTT market. OTT is a term that defines a convenient way of delivering applications and services over the Internet. It is simply watching films and tv without any traditional broadcast setups and mediums such as cable and satellite T.V. It requires only the Internet. It's a cheaper way of accessing desired content. In simple terms, a method of paying internet providers to watch different platforms. Some of the significant OTT services in India are Netflix, Amazon Prime and Hotstar, Facebook, youtube etc. The Internet Services are available in a very vast broad category (Consulting, 2014). That can be categorized into different categories where few new classes have emerged rapidly, which is OTT platforms. On OTT platforms, contents are new and brewed in different languages and genres. Way before the Television screening, the OTT platforms announces Film. The process of booking tickets is history now. The famous OTT platform tempts its viewers by providing a free premium subscription and sometimes a free trial. OTT shows on the platform are ad-free, thus attracting viewers. No promotional content, which provides zero interference during shows. With the OTT platform, viewers have a hassle-free show without carrying remote and other gadgets. OTT also provide restricted and high-end shows. Freedom of downloading and viewing later one's favourite show. Without having any issue of setting time or the fixed schedule.

OTT market is segmented into Subscription Video on demand (SVOD), Freemium and transactional Video on Demand (TVOD), Ad based Video On Demand (AVOD), Premium Video on Demand (PVOD). (Karolina Maria Sadlowska, 2019). OTT content is accessible by different types of streaming services. In the video-on-demand format, content is being provided that allows users to select and play videos independently. Two major subscription models are subscription videos on demand (SVOD) and ad-supported video on demand (AVOD). In the SVOD model, services are flat charged, usually on a monthly subscription rate, with the facility of unlimited access to streaming videos. Netflix, Hulu, and Prime video fall under this category. AVOD model services such as VUDU and TUBI offer video and television content. Still, they show viewers ads in order of monetization method. TVOD is a format where consumers can purchase films download, particularly T.V. shows (Purchasing a movie from YouTube). PVOD is a form where users get an

opportunity to have early access to the contents or shortly after release in theatre. The best example of PVOD is Disney Plus offering early access to MULAN movies in 2020. The above classification of the OTT market has resulted in a Boast of the entertainment and media sector. Approximately an expected revenue of \$55 billion will be generated by 2024, and OTT growth is the fastest in India compared to other countries. Amazon Video is an example of an OTT service in which PVOD, TVOD and SVOD offering falls. At the present time, nearly all of the primary space player creates their original content. Earlier in the OTT world, the Netflix services used to be the aggregator of contents from production houses and companies, but now the scenario has changed. Largely unregulated contents on Digital Media allow creators to utilize their full potential. Because of this unregulated content, the threat and problem related to OTT are arising.

Problem with OTT contents

Threat to democracy: An attack on free speech discourages dissent. In order to showcase a thriving and adequately functioning of democracy, it is crucial to have a healthy and broad level of free speech without the fear of censorship. The most highlighted case of Jhon Oliver's show on OTT Hotstar, where he open-handed criticized Indias PM Narendra Modi and CAA. After heavy criticism from citizens and ministries as a response from Hotstar, the show was aired down. Similarly, as a case, Hasan Minhaj's show which dealt with the 2019 Lok Sabha election, was criticized by viewers. Netflix didn't respond to taking down of series showing Bofors scam and shows speculative lies in Sacred Games, and viewers highly criticized it. Similarly, Leila was criticized for promoting Hinduphobia but didn't air down. Amazon deleted its Indian version show of Madame Secretary and is said to hurt the sentiments of Indian citizens by showing Hindu extremism. Violence over the Muslim community by Hindu society, Indian occupied Kashmir atrocities by the Indian Army. Contents targeting the fundamentals of constitution and democracy or upper and lower house law is a direct threat to democracy. However, criticism is allowed, but using derogatory scenes and falsified content is harmful to democracy, like India, which is heart centric of 150 crores citizens.

Harmony of society: The first case is a murder case Of Ballabgarh, Haryana, where Tauseef shot a B.A. 3rd-year student returning home, the accused of the case. Tauseef was in one-sided love with the victim. In police custody, Tauseef confessed that he planned the whole scenario after having an influence of web series Mirzapur, in which a role of MunnaBhaiya shot a girl Sweetie for one-sided love. The plan was the same as it was in the show; Tauseef waited for victim Nikita outside the college. And forced her to marry him and convert, she resisted and shot on the road, in front of Nikitas friend. The whole confession is also on the digital platform. In the second case, According to News TV9, two boys named Nadeem and Aftab from Jamia Nagar Delhi planned their own kidnapping by calling their families member from personal numbers. The whole kidnapping story was based on watching crime Web series. In CCTV footage, they were found to be chain snatchers as per south-east Delhi DCP. There are a plethora of incidents in which youths committed the crime—inspired by these OTT platforms, from kidnapping to murder.

Adultery: There is a saying, "What a man sees, he thinks. What he thinks, he talks. What he talks, he does, and what he does, he becomes." IN OTT content like Sex Education on Netflix is for an adult. Still, unfortunately, youths and young lads get easy access to this content. OTT allows freedom of watching anytime, anywhere as per convenience. It also creates problems, a worry of OTT displaying vulgar language and pornographic content imparting destructive impact over youths minds. Youth who are watching get easily influenced—web series full of problems mentioned above like Mastram, Ashram, Charnasukh. The present world is operating for money, so producers don't refrain from showing anything. Many OTT supporters say that blending sensuality, vulgar language and violence is necessary for a web series to be complete, as life is full of these experiences. But the question remains to what extent these

elements will be allowed in form sexual intimacy, etc., in the name of freedom and originality. Even content supporters also say it's not safe to watch this content with family because of Indian Ethos. Everyone watches alone in a room. During the Corona pandemic, people have stopped going to Movie hall because of Covid SOP (Standard operating procedure); thus OTT gained popularity. Also, in the coming days, the projection of Boast has been discussed earlier. Earlier in November 2020, as reported by Times of India, there was a fir registered by Maharashtra Police to many OTT local content creators and groups like Alt Balaji, Ullu, Kokku, Fliz movies etc. as they have created adultery content to a greater extent. "The videos uploaded on these platforms and portals have not been certified by any certifying agency. It is likely that the actresses in these videos have been exploited, lured or compelled to perform obscene acts. We will be treating the actresses as 'victims' and not 'accused persons,'" If we remove internationally acclaimed OTT platforms like Prime, Netflix. Local OTT content creators provide paid content and are generally Homemade, which is full of vulgarity, derogatory remarks, misogynists and promoting hatred among societies. It has been seen in some reports that total traffic on these softcore porn stimulating sites and apps has increased nearly threefold. If the new generation has to be free from the slavery of adultery, violence and sex, control over display has to be done. It's now or never a situation for the government of India to frame new laws and regulations in materials distributed in the name of freedom on these OTT. In order to save the future of kids in development character full of sex and violence.

Regulations for OTT: Union Ministry of Information and broadcasting CBFC (Central Board of Film Certification), Ministry of electronics, information and broadcasting cannot exercise any judiciary process, as government authorities consider these OTT platforms as intermediaries.

As per Information Technology (Intermediaries Guidelines) Rules of 2011:

Impersonate another person; harm minors in any way; is grossly harmful, harassing, blasphemous defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever (Technology M. O., 2011); The present scenario has already mentioned that we are struggling with the OTT platforms. The reason of court not being able to act against platforms of OTT is because it considers them as intermediaries, and as per the case of Justice for right, an NGO (Non-governmental organization) with petition no (W.P. (c)11164/2018)¹ in Delhi high court said Hotstar promotes soft pornography and communal contents. However, the court dismissed the petition. Previously necessities of legislation in OTT weren't felt until recently due to the surge in covid19 pandemic; these OTT platforms got full access in the name of freedom. Still, MIETY refused the introduction of censorship rather than making it a self-regulatory body. In 2021 the information and broadcasting ministry passed guidelines for intermediaries and the Digital media Ethics Code; these sets of rules will regulate OTT platforms. According to guidelines of section 3, now OTT platform will provide complete information about the users participating in downloading, subscription and access wise data.

In these subsections, at least once in a year platform has to publish a set of regulations to its viewers about its policy and should refrain from displaying, hosting, storing and publishing the followings:

- belongs to another person and to which the user does not have any right;

- is defamatory, obscene, pornographic, pedophilic, invading another's privacy, including bodily privacy, insulting or harassing on the basis of gender, libellous, racially or ethnically objectionable, relating to or encouraging money laundering or gambling, or otherwise inconsistent with or contrary to the laws in force; (Vaish Associates Advocates, 2022).
- is harmful to a child;
- threatens India's unity, integrity, defence, security or sovereignty, friendly relations with foreign states, or public order, or causes incitement to the commission of any cognize. (FOUNDATION FOR INDEPENDENT JOURNALISM& ORS, 2021).

The platform should make identification of the first originator. However, these regulations were in 2011 also only states the related issue is added. The self-regulation mechanism for platforms has been improved; there are three levels of regulation:

The first level: the company will be self-governing, and above these laws, the platform must have a grievance officer, nodal officer, and chief compliance officer should be placed in order to handle issues related to contents.

The second level: The platform of the appropriate institution should be led by individuals selected by the government, such as judges. so that grievances about the platform will be taken into account. The self-regulatory body referred to in sub-rule (1) shall be presided over by a retired judge of the Supreme Court, a High Court, or an independent eminent person from the fields of media, broadcasting, entertainment, child rights, human rights, or such other relevant field. It shall also have other members, not to exceed six, who are experts in the fields of media, broadcasting, child rights, human rights, and such other relevant fields. (Technology M. o., Intermediary Guidelines and Digital Media Ethics Code, 2021).

In the third level: There can be more than one governing body that will hear an apology, reprimand publishers, issue warning cards, which should have access control and decide other factors like age classification, modification in contents etc. Publish a charter for self-regulating bodies, including Codes of Practices for such bodies; establish an Inter-Departmental Committee for hearing grievances (Technology M. o., Intermediary Guidelines and Digital Media Ethics Code, 2021).

Content rating beyond the general rules: Platforms will categorize content in "U" universal content suitable for all age groups, U/A 7+ for children with of above seven years under parental guidance. Same as with U/A 13+ parents' guidance is essential. For 16 and above classification is U/A 16+ under parental guidance. Adult content shall be rated as "A". Even the content themes, nudity, drugs, violence, and others should be mentioned; beyond this, it will be the duty of the platform to restrict adultery, and the above-mentioned clauses should be checked, and the firm will be liable for any failure in implementation. In the case of Australia, the Broadcasting Services Act 1992 is the sole regulation of the OTT sector. However, it was regulated in 2000, known as the online content co-regulatory scheme (Onoja, 2020). Schedule 5 (for content hosted outside Australia) read together with Schedule 7 (for content with an 'Australian connection') (Onoja, 2020). Four categorizations are mentioned: R.C. (refused classification) to those content that can't be sold or imported in Australia (43, 2013). Second is X18+ content restricted for adults, R18+ also for an adult but sexually explicit material aren't there. M.A. 15+ for adults above 15 years or so. Recently though, after a two-year pilot test, Netflix got the approval to self-classify its content using its own tools (Government, 2019). A monitoring program revealed that Netflix's tool could assess and classify content with 94% accuracy (Government, 2019). The U.K. government released a white paper on the threat that unregulated online content posed and sought closed consultation on how it could be dealt with (UK Department for Digital, 2019). It only proposes the safety of British citizens practices self-regulatory code and ethics of displaying. And many other

¹ This public interest litigation has been filed with the High Court of Delhi: "To Frame guidelines in order to regulate the said online platforms and contents broadcasted on the online platforms". See: http://images.assettype.com/barandbench/import/2019/02/Justice-for-Rights-Foundation-vs-UOI_watermark.pdf

regulations were made to handle the screening of firms for online content; these responses were made after September 2018 when the British council for culture asked the DG (Directorate General) of BBC (British Broadcasting Corporation), for regulation framework on Netflix and Amazon Prime. The best thing about this policy is it remains open for any future related regulations in content, and government keep analyzing the feedbacks mechanism. In turkey, OTT regulation is maintained by, The Radio and Television Supreme Council (RTUK), a provision of generating a license of 10 years to online broadcasters is provided with remote monitoring by RTUK (RTUK, 2011). So the government has full authority to stop broadcasting if the content is injurious to the state. Soon censorship over OTT content may follow in upcoming days. Indonesia is a country that has taken a tough decision against Netflix for violating local censorship law. Indonesian Broadcasting Commission (KPI), however no written and rigid regulation with KPI. In monarch countries like Saudi Arabia, the agency that deals with internet things are Saudi Arabia's Anti-Cyber Crime Law (ACCL) (CITC, 2001). The Communications and Information Technology Commission cited Article 6 of the ACCL and requested Netflix to remove an episode of the 'Patriot Act, which was critical of the government, from its domestic catalogue (Ohlheiser, 2019). However, in the United States of America (USA), regulation on OTT is different from the rest of the world; it uses the concept of net neutrality rules. These rules are set by the federation communication commission: with the principle of No Blocking, No Discrimination and Full transparency. The USA has modified its regulation from 2010 till date. While critics acknowledge that broadband providers may have economic incentives to block or degrade certain content or application providers, competitive pressure and antitrust law each help to police such misbehavior (Pai, 2017).

CONCLUSION

This paper focuses on the censorship and regulations of OTT platforms in countries across the world. OTT platforms are witnessing spikes and immense growth that cannot be avoided. Even most filmmakers and producers are working for OTT platforms like Raj and D.K., who has produced and written The Family Man, in which Samantha Prabhu and ManojBajpayee starred. OTT platforms have proved themselves in terms of counsermism, thoughts or even opinions. The contribution of OTT platforms is immense, and data has been discussed that support its contribution to GDP (Gross Domestic Product), and the source of income for theatre artists. Many of the Indian made OTT content actors and actresses got fame, and this industry shows the potential of competing in the International market. Due to some mischievous and notorious depiction of OTT platforms which supports vulgarity and obscene content for just making a profit. Now the regulation of these contents gets utmost importance as it harms the Youths character-building process, the integrity of the nation and others. In the absence of no censor, there is the highest possibility of exploiting artists' creative liberty. Recently, Raj Kundra was in the news to distribute an adult platform, Hotshot, in the name of the OTT platform. This fragmentation in thoughts and content is dangerous. There is no fixed pattern of the age group exposed to these contents of Alt Balaji, Kooku, Ullu and other apps. So in this scenario, the importance of monitoring and censoring is necessary. However, the time has come when government and OTT platforms should work together and end the issue of the blame game. OTT is gaining popularity; when regulations and laws are framed, it will enhance the contents that have no space in the film industry. Let's compare laws and regulations related to OTT around the world. India's stand is affirmative and has given every window for the interest of viewers as well as OTT companies. One can say India has clearly mentioned all the possibilities in section and subsection, also by appointing Independent authority to hear and file complaints. The direct intervention has been prevented. In countries like the U.K., Australia once the regulatory bodies decide, one has to take down the video. In a monarchy like Saudi Arabia, the ideological groups put peer pressure on the regulatory authorities. The new guideline will prove India's impact on digital platforms, and a new era of OTT with the principle of Self-regulation and censorship is near.

This study has mainly focused on censorship requirements and new guidelines. However, countries like Australia, Saudi Arabia and Indonesia don't have a set of rules or regulations. Only India has clearly stated all the regulations; as it is a broad study, more data on regulation is required. A small version of censorship and regulation is presented.

Suggestions: The public of today's world requires content that shows the truth of society nation with geopolitical issues. In some sense, few fragments of society will be hearted, so in order to rectify those grey areas and gaps, regulation and censorship are important. So following points can be considered while applying censorship and regulations:

Deprivation of freedom of information: Freedom of information is considered inseparable from freedom of speech. Any restriction on the flow of content also restricts the flow of information and limits the intellectual development of individuals.

Suppression of marginalized voices: Policing online speech and curtailing scenes from different content in the name of censorship and making social media less accessible to marginalized peoples.

Limits creative freedom and personal autonomy: Censorship regulations may give validity to the illegitimate concerns that have been raised by certain groups against artistic content and have direct implications on creative freedom and personal autonomy. Also, censorship norms based on rigid societal definitions of social or moral order can promote an environment of intolerance towards progressive and new ideas.

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