

## THE FUTURE OF VIDEO ON DEMAND REGULATION: LEGAL IMPLICATIONS AND EFFECTIVENESS

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### Abstract

The digitalization of entertainment has brought about a seismic shift in consumer behaviour worldwide. This paper meticulously traces the evolution of the Indian entertainment industry, with a particular focus on the central role played by OTT players in this digital transformation (Lehdonvirta, 2013, pp.18-35). It provides a local context to traditional entertainment media and their gradual shift with the advent of digital technologies, followed by the steep rise of OTT services. It delves into the notion of 'Technological Determinism' and its use in understanding this transformation. The study comprehensively represents the definition, operation, and dynamics of the nascent market of OTT. It thoroughly examines the influence of OTT on traditional broadcasters, consumer behaviour, and content monetization (Drew, R., 2016, pp.165-183). Leading platforms such as YouTube, Netflix, and Amazon Prime Video vividly illustrate the competitive strategies, growth of subscribers, and, most importantly, the content diversification that defines the present entertainment paradigm. The approach for this study is to define how OTT platforms have not just redefined the concept of entertainment, but have also made it more accessible, personal, and engaging for a diverse range of audiences, thereby underlining the central role of these platforms in the transformation of the Indian entertainment industry (Mehta and Cunningham, 2023, pp.276-290).

**Key Words:** Indian Entertainment Industry, Digitalization, Over-the-Top Platforms, Technological Determinism, Content Consumption, Video on Demand, OTT Ecosystem (comprising of content creators, distributors, and consumers), etc.

### Introduction

The global entertainment industry has been witnessing a constant change over the past few decades due to the digitalization era. There is a societal revolution that has been seen to be triggered by the change in technology, and this concept of 'Technological Determinism' has been described by Thorstein Veblen (Bustamante, E., 2004, pp.803-820).

The Indian Entertainment industry, a 1.82 trillion industry, is a diverse landscape that comprises of the digital sector, television, radio, print and cinema. The visual entertainment industry started off with Television channels and print media. For almost two decades, content available on TV remains unscathed with a few modifications here and there. This was followed by mobile phones and personal computers. The major changes began with the disruption of digital content, after smart-phones came into the picture. It is the era of online videos and Over the Top services (OTT), which enables users to consume content through the usage of internet. Key players in this industry include traditional broadcasters, such as Star India and Zee Entertainment, as well as digital disruptors like YouTube, Netflix, and Amazon Prime Video (Banerjee, S. and Srivastava, R., 2019, pp.14-26).

While telecommunication players have been quick to respond to the rapidly changing advancements like the launch of cell phones and the internet, they appear to have been battling to keep up their pace with their latest competition, i.e., the OTT service providers. These are some of the youngest players in the market and have become the driving force in

video consumption because of the rapid increase in the number of users across various platforms (Evans, et. al., 2008, p. 408)

### **Context and Meaning of OTT**

Over The Top or OTTs are the young, new stakeholders in the market of content exhibition and broadcasting. It indicates towards the applications or services accessible through the web, which does not require the support of any hardware (Sadana and Sharma, 202, pp.348-367). This refers to Internet-based content, applications or services that ride ‘over the top’ of networks and are accessed by the end-users via the internet. OTT platforms provide services to the end-user by bypassing the traditional operator’s network hence, dealing directly with the end-users. These services are carried over a network that transit and deliver to users without the contribution of a service provider in the selling, provisioning, and overhauling viewpoints (Longo, et. al., 2019, pp.118-133). The Telecom Regulatory of India defines OTT Service providers<sup>6</sup> as: *“A service provider that offers Information and Communication Technology (ICT) services, but neither operates on a network nor leases network capacity from a network operator.”* In simple terms, Tata Consultancy Services defined OTTs as *“platforms that deliver film and television content, bypassing the conventional distribution streams of cable and satellite TV, from producer to consumer directly, an exchange driven by Internet.”*

Under its wide scope, OTTs include any sort of content, application, or service accessed via websites or mobile applications, including video streaming, e-commerce, messaging, social media, etc. The terminology ‘social media’ in itself is a wide term that includes a vast range of internet-based communication platforms like blogging, video-sharing, and social networking websites (Fenton, 2012, pp. 126-151). Leading video streaming platforms like YouTube have over a billion unique viewers; Netflix subscriptions have reached over 118 million; Amazon Prime Video increased its base to over 36 million. By delivering catch-up content, OTT platforms act as an auxiliary platform of monetization opportunities for a few conventional broadcasters. The introduction of OTT platforms has established a parallel system, increasing the quality as well as the quantity of the content pool. All leading platforms are launching lucrative content with attractive subscription offers to attract viewers and subscribers (Tickell, S. and Evens, T., 2021, pp.266-282).

### **Introduction to VOD- Video on Demand**

Today, televisions and entertainment has shifted into the palm of hands of every person, and this is possible because online curated content is now available on various digital media platforms accessible through smartphones. This model, now known as VoD, was earlier known as the ‘TV Everywhere’ platform model (Waterman et al., 2013, pp. 725-736).

Video on Demand or, commonly known as ‘Over the Top,’ is a real-time technology that enables the users and subscribers to watch their favourite shows and video content anytime and anywhere, also one can download their must-watch content to enjoy binge-watching later at the comfort of their couch. It is one of those revolutionary machineries that have proved to own this 21<sup>st</sup> century with their services and popularity between populations of all age groups as well as making lives more straightforward (Livingstone, S., 2002, pp.1-278).

A video-on-demand setup doesn’t require a complex setup of a number of devices. Instead, a device as small as your pen drive can be installed on your regular television to transform it into a video-on-demand platform where a person is able to search from an array of channels and then select and watch them. Also, consumers can enjoy OTT services by accessing the internet over their smartphones, computers, laptops, etc (Kumari, T., 2020, pp.68-73).

VoD uses interactive real-time technology that empowers end users to select their content from a video database at any time. Then, the user has the option to either stream it online or download it later. The video content to be streamed online is stored in a digital format on a video server. When the user selects the content via an internet connection, the video is compressed and transmitted. After being transmitted to the user, the content is then decompressed and decoded, and the end user then enjoys online streaming without any interruption. The main reason behind the sudden growth in the popularity of video-on-demand content is that it doesn't work according to the schedule decided by the channel providers; instead, it leaves this department at the discretion of the users. Thus, speaking of recent times when everyone finds it difficult to spare free time for their favourite shows at scheduled times, VoD platforms have proved to become a boon in the lives of the millennials, where they have the power to control what and when they enjoy watching (Walker, A.J., 1996, pp.813-823).

Video-on-demand (VoD) services have exploded exponentially in recent years. One of the principal reasons for such an increase in its users is the increasing rate of smartphone users in India. The number of users will reach 1 billion by the end of 2025. It is also estimated that by 2025, the valuation of the digital economy in India will be around 1 trillion dollars (George, A.S., 2023, pp.85-109).

The terms OTT and VoD are often used as substitutes for each other, but these are two completely dissimilar notions. Let us try to understand the difference with the help of an example, suppose a viewer is watching a live cricket match over the internet, this is an OTT content. It will not be considered as VoD because the viewer has no control or choice to determine the time to view this content as it is a live match. Instead, VoD allows the viewer to be in absolute control of what and when they want to see. The VoD content includes movies, series, short videos, music, podcasts, and much more.

The VoD uses internet, which allows both, the servers and the user's device to directly communicate with each other. There are largely three types of VoD services. These are:

- i. AVoD (Ad-Supported VoD): These platforms allow users to view content on their platform in exchange of placing ads in the video. This allows the platform to earn its revenue. The most common one is YouTube.
- ii. TVoD (transactional-based VoD): TVoD refers to the viewing of content by buying media disks like CDs and DVDs. This allows the user to watch the content anytime they wish to watch.
- iii. SVoD (Subscription-based VoD): This is the most common VoD platform today. This allows the user to view the complete content of library of the SVoD platform in exchange of some subscription amount that is charged to subscriber.

### **The Concept of Censorship**

Plato believed that it was vital for the nation's survival. He expects the citizens "to maintain a higher level of moral standards to maintain a level of national pride, even if it means curbing those thoughts that undermine such values and morals." The very first incident of censorship was recorded in 399 BC. Socrates was sentenced to death for his 'corruption of youth and his acknowledgment of unorthodox divinities.'

During the 19th century, one of the greatest noteworthy events was the French Revolution, and censorship was rampant back then. People were not educated, and they used pictures, art, and caricatures to express their ideas. The shift in power dynamics witnessed the advent of newspapers and print media. The First World War, followed by the Second, witnessed censorship being given free rein, and newspapers communicated the events to the masses.

They were used to boost the morale of the citizens and also to instill fear among the people (Blanchard,1991, p.741).

The time span of 1950-1980s, which was also recognized as the Red Scare<sup>38</sup>, saw the arbitrary use of censorship in film and media, and any deviation from a democratic or republican way of life resulted in the arrest of citizens. This era saw the two superpowers<sup>39</sup> greatly wield censorship as a weapon to impose control on the ideas and expression of citizens. The use of censorship to limit the spread of information is continued to date, though it has been relaxed in democracies worldwide. However, State-imposed censorship is upheld in countries like China and the erstwhile USSR.

### **Navigating the Content Censorship in India**

India is an amalgamation of multiple cultures, races, religions, and ethnic groups and is best described by 'Unity in Diversity.' Censorship in India primarily remains an 'instrument of state intervention, defined and administered by the parameters of the law.'

Cinema has the control and power to unite and divide people, irrespective of barriers like age and other social constructs. Hence, the Apex Court has also stated on multiple occasions that censorship is essential owing to the wide range that cinema offers. The framers of our Constitution were of the belief that it was necessary to permit certain restrictions as they wanted to ensure a proper balance between the liberty guaranteed and the social interests specified in Article 19 (2).

The Cinematograph Act has also laid down similar restrictions and guidelines based on which film certification is to be done<sup>47</sup>. Similarly, the regulatory power over cinema is vested to the Union Parliament under Entry 60 of the Union List of the VII Schedule<sup>48</sup>. States enjoy limited jurisdiction regarding the regulation of motion pictures under Entry 33 of the State List<sup>49</sup>.

The landmark verdict of *KA Abbas v Union of India*<sup>50</sup> is based on censorship in films. The Apex Court deduced that "*a motion picture has the ability invoke emotions deeply compared to any other art form. A film can be censored on the grounds mentioned in Article 19(2) of the Constitution*<sup>51</sup>". The Supreme Court stated that "*censorship of films, their classification according to the age groups and their suitability for unrestricted exhibition with/without excisions is considered a valid exercise of power in the interest of public morality, decency, etc*<sup>52</sup>. This is not to be construed as offending the freedom of speech and expression under Article 19.

### **Factors Leading to OTT/ VOD Growth in India**

OTT platforms' growth in India is at its inflection due to contributory factors such as:

- **Improving connectivity and fall in data prices**

With growing competition in the telecom sector, industry leaders like Airtel, Vodafone- Idea, Jio, etc are refining their facilities along with providing profitable packages at competitive rates and providing internet access at an inexpensive rate to attract customers. Access to reasonable and inexpensive services has propagated a steep development in practice of data usage and added to the move towards digital content in India. This new epoch of inexpensive data in the country began with the advent of Jio. Statistics show that after the introduction of today's major service provider, Jio in 2016, the trimestral consumption of data amplified around ten times. Its influence has made access to online content on OTT platforms effortless, straightforward, and affordable, creating a latent demand for digital consumption by the Indian consumer. The telecom services providers like Vodafone-Idea, Jio, and Airtel, use aggregator-based models, i.e., assembling content through various platforms and offering a payment interface. They are likewise providing access to numerous OTTs as a separating component to improve consumer retention and acquisition. For instance, Vodafone offers an

exclusive subscription of ZEE5 to all its users; Airtel offers a one-year exclusive subscription to Amazon Prime Videos to its postpaid consumers, etc (Srivastava et al., 2023,p.61-65)

- **Increase in Smartphone Usage**

Due to the penetration of the smartphone in the Indian economy and increasing spending power of the individual, OTT viewing in India has surged phenomenally. This was more of a worldwide phenomenon due to smartphone penetration as a key factor in every individual's lives. Presently, there are about four billion smartphones in the world and the Indian market accounts for more than 450 million of these statistics.

- **Favourable demographics**

A remarkable trend in the distribution of income in India is witnessed today with increased penetration of the 'affluent and elite' class in the economy. Internet penetration in rural India has proved to be a spur in the proliferation of OTT services in India. India impacts OTT development since the bulk of OTT services users (75%) fall within the age bracket below 35 years<sup>88</sup>. Such variables, in addition to increased connectivity, better networking, more resilient internet access, mobile handsets capable of multimedia services, and application creation infrastructure, have been responsible for the surge in Internet content viewing.

- **Rise in variety and quality content**

Major OTT platforms are successful in the nation since they adhered to the principle of 'content is the king.' These platforms when first made inroads into the Indian market, started with catch-up programs. The entry of international competitors like Netflix and Amazon Prime Video, with loads of rich and differentiated content, prompted established Indian players to go beyond merely catch-up, syndicated and licensed content. Consumption in India is exceedingly diverse, and a one-size-fits-all approach will have unfavourable impacts on firms in the context of content consumption.

### **Video Streaming OTT Platforms in India**

In India, television has been one of the most favored picks for entertainment, advertisement, and transmitting information to the people in general. The consumption of video content has orthodoxly been through television or movies. Through progression, it is now possible to add additional convenience through web-based access or Video on Demand services. OTT has transformed the game by challenging conventional modes of distribution, such as cable or broadcast television (Pandey et al., 2019, pp. 81-87).

In recent years, media organizations have progressively shifted towards disseminating content via digital streaming platforms, including Hulu, Netflix, Hotstar, and Amazon Prime Video. Contemporary studies on consumer behavior reveal a pronounced inclination among millennials toward online streaming services rather than conventional cable television. The widespread acclaim received by series such as Sacred Games and Mirzapur from both critics and audiences underscores the pivotal role of content quality in influencing this transition. Within the Indian market, prominent OTT platforms comprise Netflix, Hotstar, Amazon Prime Video, Voot, and Alt Balaji (Jain, M.K., 2021, pp. 257-261).

In the early phase of its evolution, the Indian OTT ecosystem experienced a surge characterized by the presence of a limited number of dominant players, most of which were established media entities such as Voot by Viacom18 and Alt Balaji by Balaji Productions. The increasingly hectic lifestyles of contemporary audiences, coupled with their preference for convenience and instant accessibility, have significantly transformed patterns of media consumption. The entertainment sector is undergoing a profound transition toward digital formats. Traditionally, television served as the primary medium for video consumption;



however, the rapid expansion of internet connectivity has paved the way for a growing segment of users inclined toward on-demand multimedia content. This shift has resulted in a substantial increase in video data traffic. Presently, Video-on-Demand (VoD) refers to accessing video content through internet-based platforms or applications commonly categorized as OTT services. Notably, the advent of OTT streaming platforms has fundamentally reshaped the conventional television viewing experience.

The attractive features of OTT video streaming services are:

- i. The users get access to aassortment of national and international content at a faster pace and at a lower cost than conventional media.
- ii. Recently, to keep at pace with the trend and to be relevant in the industry, the prominent players like Star and Viacom18, Zee TV, and Sony have complimented their existing system by using OTTs as a tool to engage the online audience by exhibiting national and international digital content.
- iii. Independent artists and content creators are using the OTT platforms to create quality and original content at a relatively lower budget and with negligible barriers of censorship as lay down by the CBFC.

### **Regulation of Video Content Over Ott Platforms in India**

From not having any laws or legislation to regulate the content to constructing a self-regulatory code to finally having a full-fledged set of rules to govern the same, India has indeed come a long way. This chapter examines the evolution of regulations that govern OTT content. The first part examines how the Judiciary stepped up to fill the legislative gaps and lay down certain path-breaking judgments that paved the way for the IT Rules, 2021. The second portion of the chapter analyzes the Self-Regulation Code that all stakeholders of OTT platforms created to curb litigation.

In response to growing concerns regarding the dissemination of controversial content on video streaming OTT platforms, a writ petition was filed before the Karnataka High Court in Padmanabh Shanka v. Union of India. The central issue raised was whether the transmission or broadcasting of films, serials, and other multimedia content via the internet falls within the ambit of the term “cinematograph” as defined under Clause (c) of Section 2 of the Cinematograph Act, 1952. Prominent OTT service providers, including Netflix, Amazon Prime, and Hotstar, were named as respondents in this case.

The petitioner argued that online streaming platforms cannot claim the intermediary protection afforded under Section 79 of the Information Technology Act, 2000. This provision grants immunity to intermediaries only when they lack the authority to select or modify the transmitted content. The petitioner asserted that OTT platforms maintain contractual relationships with content creators, thereby possessing the discretion to determine and alter the material made available through their platforms. Consequently, the respondents were deemed ineligible for the safe harbour protection under the IT Act.

Furthermore, the petitioner urged the Court to extend the regulatory framework of the Cinematograph Act, 1952 to encompass online content and advocated for the establishment of a statutory body to oversee and approve material disseminated through such platforms. As an interim measure, it was requested that the Central Board of Film Certification (CBFC) be designated as the certifying authority for all online content, with a mandatory requirement for streaming services to obtain CBFC certification prior to broadcasting or transmitting any material.

The Counsel for Respondents, while opposing the said Petition, informed the Court that some of the Respondents have their corrective mechanism in the form of a Code for Self-Regulation of Online-Curated Content Providers. The Counsel argued that the Petitioner's objections and concerns were already addressed under the provisions of the Information Technology Act, 2000, which takes precedence over the Indian Penal Code. It was further submitted that the Respondents cannot claim protection under the safe harbor clause of the IT Act. The Petitioner requested the Court to bring online content under the ambit of the Cinematograph Act, 1952, and to establish a statutory authority to regulate and approve such content. Additionally, the Petitioner sought interim relief that, until such an authority is formed, the Central Board of Film Certification (CBFC) should act as the certifying body for all content intended for online streaming, and that streaming platforms should obtain CBFC certification prior to publishing or transmitting any material.

In response, the Counsel for the Respondents opposed the Petition, stating that several Respondents already have self-regulatory mechanisms in place, such as the Code for Self-Regulation of Online Curated Content Providers. The Counsel reiterated that the Petitioner's concerns are covered under the provisions of the IT Act, 2000, which prevails over the Indian Penal Code. The Court observed that the guidelines under the Code for Self-Regulation of OCCPs do not create any enforceable rights for citizens and, therefore, do not prevent the State from considering appropriate safeguards and legal regulations to address the issues raised by the Petitioner.

*The division bench observed that "the exhibition of films, serial and other content perhaps amount to transfer of files based on a request by the user as per the concept of internet and its operation. The said transfer cannot be brought under the purview of the Cinematographic Act."*

In a connected PIL filed in the Bombay High Court concerning the streaming of the web series *Gandi Baat* on AltBalaji, which the Petitioner claimed was offensive to women and contained vulgar language, nudity, and violence similar to shows like *Sacred Games*, the Petitioner requested the creation of an independent body to pre-screen and regulate content available on such platforms. The plea also sought action against all media outlets broadcasting content deemed "obscene, nude, and vulgar," arguing that such material constitutes a cognizable offense under the Cinematograph Act, the Indian Penal Code, the Indecent Representation of Women (Prohibition) Act, and the Information Technology Act. Following the arguments, the Court issued a notice to the Ministry of Information and Broadcasting (MIB) seeking their response in view of the request for regulating these web series.

Another Petition was filed before the Madhya Pradesh HC by the Maatrfoundation relating to the regulation of content streaming on OTT platforms. The Petitioner based its petition on the view that the content is 'obscene, unregulated, uncertified, sexually explicit, vulgar and legally restricted.' The Petitioner made a plea highlighting that these content streamers objectify women, portray them in an unfavorable manner, and instil lascivious thoughts in the minds of viewers, which violates the fundamental right to live with dignity. The Petitioner further argued that the companies operating online streaming services act as intermediaries for offenses under Sections 67, 67A, and 67B of the Information Technology Act, 2000. It was also alleged that the offensive and obscene material on these platforms contravenes Sections 292–294 of the Indian Penal Code, the Indecent Representation of Women (Prohibition) Act, as well as Articles 21 and 51A(e) of the Indian Constitution.

Recently, the High Court issued notices to these platforms, seeking regulation of uncensored, uncertified, and unregulated content.

### **Self-Regulation Model**

Content across OTT platforms convey unique and distinct thoughts that have been absent from the dominant media platforms like films and television. Content creators and writers have thought of the absolute most unfathomable story thoughts when not burdened under the cloak of censorship. Series like ‘Karenjit Kaur: The Untold Story’ and ‘Lust ‘Stories’ often feature unique and explicit content that explores religious, political, social, and sexual inhibitions. Such material generally falls under the category of “inappropriate and sensitive content” and is therefore subject to censorship. No producer operating through traditional channels typically ventures into these themes and successfully meets the CBFC’s standards of “appropriate content” without making significant edits. The primary reason these films and shows are released on OTT platforms rather than through mainstream channels is the absence of a regulatory framework that enforces content censorship on these platforms. OTT services provide creators with the freedom to expand genres and experiment with narratives, which are usually restricted on conventional media platforms. In the absence of dedicated regulations or guidelines governing video streaming, self-regulation by OTT platforms like Netflix, Prime Video, and Alt Balaji remains the only immediate solution to manage controversial content streamed nationwide.

Self-regulation refers to the responsibilities and obligations established and voluntarily undertaken by media administrators themselves. These guidelines serve as aspirational goals, principles, and rules rather than rigid, enforceable standards.

A precise, systematic, self-policing-based methodology is desirable, particularly alluring because the alternate option – dependence on overbroad, profoundly stringent regulation, with laws varying across jurisdictional borders often yields short-term solutions due to rapid technological advancements. Distinguished and effective self-regulation provides an opportunity to adapt swiftly to the evolving global technical advancements and, when properly framed in collaboration with the Government, is preferable to mandatory regulations imposed by the legislature. The primary benefits of self-regulation include efficiency, greater flexibility, increased incentives for compliance, and reduced costs. A well-structured program focusing on self-regulation is particularly suitable and harmonious, considering the vast variety of content offered across OTT platforms. An example of self-regulation methods (i.e., Netflix) followed by OTT platforms is discussed below: -

Through its terms of use, Netflix informs the subscribers that they will view and use the content available on the platform for their personal use and will not commercialize it in any way. Through such terms, Netflix respects the Copyright laws of the territory. It has also designed a maturity rating categorization system that is visible while viewing the content. Netflix adheres to a specific set of ratings based on the age of the viewers for the television and film content:

- Little Kids: ALL
- Older Kids: 7+
- Teens: 13+
- Mature: 16+,18+

Every choice available on Netflix has the abovementioned maturity rating to assist the members and viewers in making well-informed choices.

### **Analysis of The Information Technology (Intermediary Guidelines and Digital Media Ethics Code)Rules, 20211**



*"Self-regulation encourages creativity and makes content creators more responsive to its viewers. It's worked well for broadcast media, and there's no reason for it not to do so for curated video content."* - General Counsel, Sony Pictures.

In 2019, the leading OTT players of the video streaming industry drafted a Self-regulation code titled 'Code for Self-Regulation of Online Curated Content Providers' with the help of IMAI. This code sets down the standards and guidelines about maturity ratings, grievance redressal framework, and general restriction over the content in accordance with a person's freedom of expressing their views and speech. With the growing risk of intervention by the government authorities to censor the content and the fear of curtailing the ever-increasing freedom of speech over these platforms, self-regulation seems to be the only immediate solution. The objective behind self-regulation is to avoid any other entity calling the shots on censorship and limiting the diversity of content done to movies and television shows.

The code places the obligation on the video streaming platforms for internal regulation and censorship over the content. The OTT players, including Netflix, Hotstar, Zee5, ALT Balaji Viacom18, Arre, Eros Now, Sony Pictures Networks, and Jio Digital Life, agreed to follow the model code or any similar rules for content regulation. However, the leading player, Amazon Prime, did not support the code, arguing that the current position was adequate. The contents of the code can be divided broadly into two sections:

- Prohibition of content
- Transparent Disclosure and Grievance Redressal

#### **Prohibited and Restricted Content**

The Code aims to place responsibility for the signatories with regard to the content shown on their platforms. It sets out the following principles, i.e., the guiding rules for censoring or regulating the content that the OTT services host on their platforms:

- "Content that insults and does not respect the national flag or the emblem.
- Content that depicts a minor in any sexual activity or context.
- Content that purposely and in bad faith tries to hurt the religious feelings of any individual or community.
- Content that deliberately and with malicious objectives supports or encourages terrorist activities or any violence.
- Content that has been banned from distribution under any law or by any order of the court."

#### **Transparent Disclosure and Grievance Redressal**

The Code places a responsibility on video streaming platforms to inform viewers about the kind of content being viewed on them. This is done by laying down content categorization according to the age of the viewers and disclosing the provision of technical mechanisms for parental control. It requires the signatories to establish compliance and to acknowledge viewer complaints by appointing a person or institute a department. This department is required to address the grievance within three days of the receipt of the complaint.

The IMAI has proposed an adjudicatory body, the Digital Content Complaint Council (DCCC), which will act as a governing council to nominate the members of this council with a retired Justice from either the Apex Court or the High Court as the chairperson and will have other members with experience from the media and entertainment industry. This Council will decide on issues related to age classification, content classification, and parental access control and may ask the content provider if it defaults in following the guidelines to re-classify the ratings of the content and may impose a financial penalty up to the limit of three lakhs. However, there has been discord in the industry regarding submission to the jurisdiction of DCCC under the chairmanship of the retired Justice A P Shah. However,

Netflix, Amazon Prime Video, ALTBalaji, Zee5, Arre, and MX Player refused to comply and be a part of DCCC. The Information and Broadcasting Ministry instructed the industry to finalize a self-regulatory body and have a fixed code of conduct. This code was rejected by the Centre in September 2021, before the introduction of the new IT Rules.

The principles laid down by the code for censoring the content are somewhat ambiguous. It does not define the ambit of the term ‘disrespect.’ A small act can be severely disrespectful for a staunch nationalist, and it might not be for another. This will lead to a subjective interpretation of the activities. The criteria of outraging religious sentiments put an unreasonable restraint on the fundamental rights of the artist and restrict the content creator’s artistic freedom, who wishes to produce a story and is presumably questioning the overpowering notions of hegemonic ideas. The code needs to strictly explain the concept of hate speech to avoid its subjective interpretation, i.e., as an endeavour to target a specific community.

Likewise, another question emerges: how can we establish the intention behind creating something ‘malicious?’ How can we distinguish it from an effort to address the dynamics of two opposing sides? The Netflix original series ‘Fauda,’ about an undercover Israeli army, was praised for a balanced and fair portrayal of the Palestinian conflict. On the other hand, ‘The Family Man,’ streaming on Amazon Prime Video, was mired in controversy for portraying a narrative that attempted to create and establish sympathy for terrorists and empathized with them, trying to reason out why they picked up guns against the State. The Code does not clarify to the grievance redressal department the liability or penalty if it does not reply to the complaint within the specified period, nor does it specify the qualifications of a person who would be considered fit to be a member of the grievance redressal department. It also does not grant any power to the department to ensure that the rules are complied with.

### **Legal Issues and Challenges**

Digital disruption is generally caused by advancements in technology at an accelerated rate when laws, economies, and policies take a much slower pace to evolve in response to that. The same has happened with VoD services all over the world. It becomes increasingly difficult to form policies for emerging technologies as these policies must maintain a balance between the rights of service providers and the customers.

Unlike developed countries, it becomes much more difficult for countries like India to tackle any digital disruption with competent laws in time. Today, the Indian market is flooded with applications that provide VoD services. These applications range from international players such as Netflix, Amazon Prime, and Disney Hotstar to locally brewed companies such as Alt Balaji, Voot, Ullum, and many more.

Earlier, the content had to pass various tests and had to be in accordance with the standards of the Censor Board before it released for the viewers. And then the viewers were required to reach out to their nearest possible theatres to enjoy the content. But with VoD, you can watch your favourite content on a variety of connected devices using the most popular platforms. Because of technological restrictions, this was never feasible with standard cable TVs (Parker, E.B. and Dunn, D.A., 1972, pp.1392-1399).

### **Conclusion and Way Forward**

It was through the power of digitalization and the entry of OTT that the Indian entertainment industry changed into something radically different. In its wake, it gave a new definition to content consumption, where accessibility, personalization, and engagement were taken to the most radical level ever. It has been an apt case of technological determinism defining this

shift, through which stringent changes articulated by technology in society enforce behaviors and industries.

OTT platforms emerged as potent disruptors of the age-old model for broadcasting and Minh innovating in content delivery. The genius of circumventing the traditional networks directly reaches consumers' hands, democratizing content consumption and making entertainment much more inclusive. Massive success for a plethora of online media and digital-first content companies like YouTube, Netflix, and Amazon Prime Video amply testifies to this growing attraction of home consumers to on-demand quality content.

The competitive strategies, trends of increasing subscribers, and diversified content reflect the characteristics that define the OTT space. In this process, these platforms are not only providing a huge audience but also opening new monetization avenues for content creators/distributors while enhancing the quantum and quality of content made available (Hadfield, R.H., 2009, pp.696-705).

This marks a new epoch in the entertainment sector, with digitalization being driven through innovations and the tremendous growth of OTT platforms. As this happens, OTT platforms will integrate with upcoming technologies over time to give users more immersive experiences that are highly personalized. The future of entertainment is one of individuality driven by technology and creativity—translating into a reigniting journey for consumers and all parties involved (Schreiber, 1995, pp.958-981).

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