

# Critical Analysis of OTT Platforms in the light of Censorship Laws in India

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## Abstract

The goal of the study paper is to perform a thorough and critical analysis of Over-The-Top (OTT) platforms in India with a particular focus on their content and the difficulties presented by the changing censorship landscape. Concerns about content control have increased due to the explosive expansion of OTT platform usage and the consumption of digital media. The study starts out by giving a general overview of the OTT market in India, charting its development, and analyzing its effects on traditional media. The paper discusses the development of streaming services, content delivery systems, and the elements influencing their enduring appeal to a wide range of audiences.

The research then examines the censoring laws and rules that currently apply to India's conventional media, movies, and broadcasting. It examines the issues given by the decentralized and international nature of OTT material as well as how these rules, developed before to the OTT era, relate to the digital medium. Analysis of OTT content's impact on the younger generation and prospective implications on social norm formation receives special focus. Finally, the research provides a critical assessment of the status quo and recommendations for policy makers, content creators and OTT platforms to balance creative freedom with responsible content curation.

**Keywords:** Censorship, OTT, Younger Generation, Broadcasting, Media

## INTRODUCTION:

OTT platforms, or the Over The Top platforms, over the past decade are gaining an immense amount of popularity in India. These are the platforms of streaming an impressive amount of movies, web series and documentaries and much more to the wide amount of direct consumers of the internet<sup>1</sup>. And due to the succession of the easily accessible smartphones and multimedia services with a good quality of internet helping these OTT platforms to rise further in a very sprightly way in the country like India. If we consider some common examples of some OTT platforms then they are as follows, Netflix, Amazon Prime Video, Zee-5, and many more<sup>2</sup>.

The arrival of these OTT platforms have disrupted largely the traditional television industry and also produces the content that is totally uncensored which results in a bad impression on the upcoming youths and minors following the reason of easy accessibility. The main challenges that are being faced due to this origin of OTT platforms are like, piracy and infringement, competition and fragmentation. In the issue of censorship of OTT platforms the censor board need to have a careful consideration and should have a proper balance approach for the content to be displayed on the every accessible screen of the country. Development of a great regulatory framework which mainly addressees the main concerns of

these OTT platforms without any artistic expression will be a very crucial step towards the sustainable growth of the OTT platforms in India.

### **ORIGIN AND DEVELOPMENT OF OTT PLATFORMS :**

If satellite television revolutionized the broadcasting industry in the 1990s, the over-the-top (OTT) space has had a comeback over the past ten or so years that has even outperformed traditional media like cable and DTH. Our tastes and preferences have changed as a result of the unequalled expansion of streaming platforms, which has also changed how content is consumed and experienced. Now that our standard for narrative is elevated or the content is enticing, we are more responsive to content created in any language. On September 15, 1959<sup>3</sup>, India's publicly owned broadcaster, Doordarshan (DD), commenced with an experimental broadcasting in Delhi utilizing an insignificant transmitter and a temporary studio, just five years after the arrival of digital television<sup>4</sup>.

The weekly soap operas, sitcoms, and mythological serials were included in India's national broadcaster's programming over the years in addition to the original content based on themes of national importance. With the introduction and subsequent expansion of satellite TV in the 1990s, the situation changed practically overnight<sup>4</sup>.

OTT platforms stealthily merged into the Indian entertainment market. Despite having a brief history in India, video streaming has undoubtedly rocked up the entertainment industry and had a big impact on audience choices and tastes. The most obvious behavioral shift we have observed is viewers' acceptance of and enjoyment of information in various languages. This is shown by the popularity of films like *Pushpa: The Rise* (Telugu) and *Kantara* (Kannada), as well as television programs like *Squid Game* (Korean) and *Money Heist* (Spanish). Long-form TT content finds a greater following as the market changes from specialty to mass-centric. By 2030, it is anticipated that ad-supported platforms will make up for just 40–45% of total OTT revenue in India, while subscription-based video on-demand (SVoD) platforms will account for 55–60%<sup>4</sup>. In India, the majority of OTT users stream media in at least four different languages. It therefore comes as no surprise that a recent FICCI EY report anticipated that as more streaming platforms update their vernacular programming and encourage movies and shows in various regional languages, the proportion of native languages in all OTT (over-the-top) content will double, from 27% in 2020 to 54% in 2024<sup>5</sup>.

Content that is generated through OTT platforms has gone beyond just movies and TV shows to incorporate original documentaries, reality shows, and global content. As a result, how viewers absorbed media changed. With the global popularity of OTT services, viewers can now access content from any location with a connection to the internet. The adaptation of content for numerous locales and languages was a result of this global expansion. OTT platforms made major investments in original content, which resulted in widely praised shows and films that competed with developed industries for awards and viewers.

But it should be mentioned that OTT has been available in India since Reliance Entertainment introduced the first OTT platform in 2003. NexGTV was introduced in 2010 by Digivive, a division of Media Matrix Worldwide, and provided customers with entertainment on all types of devices, including smartphones, tablets, and laptops<sup>4</sup>. When Ditto TV from Zee Digital Convergence Limited first debuted in 2012, it delivered live and recorded television. It was combined with in 2018 with ZEE-5<sup>4</sup>.

### **IMPACT OF OTT ON YOUNGER GENERATION :**

Many research investigations have demonstrated the detrimental effects that binge viewing web series and

other online streaming entertainment has on young people. According to a study by Sung et al. (2005), binge behavior is regarded to be closely associated to unpleasant emotions. The association between binge watching, body dissatisfaction, academic loss, depressed symptoms, and low self-esteem has been shown in numerous studies, with examples including and In the words of Stice, who investigated the consequences of binge-watching on college students' social and academic lives, For many participants, the rhythm of their day was built around binge-watching. They set apart time to binge-watch web shows, encouraging themselves along the way<sup>6</sup>. The participants downplayed or were oblivious of the negative implications of this new viewing experience, which affected their academics, their social lives, and to some extent, their schedule.

In respondents between the ages of 18 and 20, it was discovered that binge-watching was associated with loneliness and despair. Studies show that binge watching web series and online video material on OTT platforms has changed people's attitudes, behaviors, and social lives in a number of ways<sup>5</sup>.

The current generation has been significantly influenced by OTT platforms in several of ways:

- 1. Accessibility of Content :** OTT platforms deliver an extensive choice of content that is simple to access on mobile devices, tablets, and PCs. Younger viewers now have the freedom to watch what they want, when they want, and where they want, which has facilitated a move away from traditional TV schedules<sup>2</sup>.
- 2. Personalized Viewing Experience :** OTT platforms make recommendations for personalized content according to algorithms and recommendation systems. Younger viewers, who value material catered to their interests, respond to this personalised experience<sup>3</sup>.
- 3. Cultural Diversity :** OTT platforms feature material from all around the world, exposing younger consumers to many cultures and viewpoints. Greater cultural respect and understanding may result from this encounter<sup>2</sup>.
- 4. Binge Watching Culture :** OTT platforms made binge-watching, in which consumers watch several episodes or an entire series in one sitting, popular. This movement has altered how young people consume information, frequently resulting in immersive viewing experiences<sup>3</sup>.
- 5. Cord-Cutting :** Younger generations are more inclined to choose OTT platforms over conventional cable or satellite TV due to cord-cutting. The "cord-cutting" movement shows a desire for flexible and affordable options.

#### **CENSORSHIP ON MEDIA, MOVIES and BROADCASTING - CONSTITUTIONALITY :**

As an essential medium for the free exchange of ideas and opinions, Cinema must be guarded against all forms of censorship. The fundamental human right to express one's opinion in the community of civilized societies must not be restricted in any way. The practical realities of the society in which these thoughts are propagated must be kept in mind, though, at the same time. The process of expressing a point of view ought to safeguard the peace and security of the community. Given that cinema can have an impact on society as a whole, care must be taken when screening the movie to prevent any form of disturbance and threat to the country's security. The freedom to free speech and the obligation to uphold social peace must coexist in cooperation. The Certification Board must look at a film rationally and with consideration for the compatibility between the right to free speech and the preservation of peace and security in society.

Thus, it is clear that a regulatory and approval authority for films is necessary. As a result, The Cinematograph Act, 1952, was passed. To "make provisions for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs," this legislation was passed<sup>7</sup>.

The Central Board of Film Certification is the name of the overseeing body. In order for the filmmakers to show their films to the public, this authority gives certificates for them. The Board can do the following after viewing the movie and its material<sup>78</sup>:

- A. sanction the movie for unrestricted public exhibition;
- B. sanction the movie for public exhibition limited to adults;
- C. direct such excisions and modifications in the movie before sanctioning the movie to any unrestricted public exhibition;
- D. refuse to sanction the movie for public exhibition.

The Cinematograph Act of 1952's constitutionality as well as the rules imposed by it were first disputed before the Supreme Court in the case of **K.A. Abbas v. Union of India**<sup>9</sup>. In response, the supreme court stated that a movie is "able to stir up sentiments more deeply than any other product of art." The bench said that in accordance with Article 19(2) of the Constitution<sup>10</sup>, films must be treated differently from other forms of art and expression. It must be "in the interests of society" to enact this restriction. The same must be questioned if the power is being misused.

The Madras High Court abandoned the "U-Certificate" given to a Tamil movie called "Ore Oru Gramathile" in **Rangarajan v. P. Jagjivan Ram**<sup>11</sup>. The film subsequently received a national award. The movie criticized the employment reservation policy, alleging that it was caste-based and unfair to Brahmins. It was emphasized throughout the film that economic hardship should be the criterion rather than caste. The High Court had decided that there was no way to predict how the public would react to the film because so many people in Tamil Nadu have endured adversity for such a long time. A few insults were aimed at Dr. B.R. Ambedkar and a few Tamil celebrities.

It's crucial to establish a balance between the right to free speech and the obligation to uphold societal peace. The Certification Board needs to keep this in mind as well. Movies must be free from all kinds of limitations since they are an essential medium for the expression of ideas and uninhibited thought. In the community of civilized societies, the fundamental human right to express one's views cannot be limited in any way. However, the manner in which these ideas are communicated needs to be controlled. It is crucial that the community's peace and security are not jeopardized in the course of expressing one's thoughts.

### **CRITICAL ANALYSIS OF OTT PLATFORMS WITH REFERENCE TO CENSORSHIP :**

There are, counter arguments to censorship on OTT services. The likelihood that censorship may restrict freedom of speech and expression is one of the primary objections against it. Social media and the internet have emerged as some of the most essential channels for people to express themselves and trade ideas. This freedom of expression may be restricted by censorship on OTT platforms, which may also be used to muzzle those who disagree with official positions or social conventions. The possibility of its usage as a tool for political or social control is another argument made against censorship on OTT platforms. Governments all around the world have been charged with making use of censorship to stifle political opposition and guide public discourse away from touchy subjects<sup>12</sup>.

The criteria for classifying films are discussed in Section 5(B)1 of the Cinematography Amendment Bill, it was created in accordance with Article 19(2) of the Constitution<sup>10</sup>, so they are non-negotiable. The Current Unconstrained exhibition categories will be divided into age-based divisions like U/A7+, U/A13+, and U/A16+ as part of the sub division of the existing U/A category. It is pretty depressing to see how young people feel about monitoring the type of stuff they are seeing<sup>13</sup>.

In recent years, the usage of coarse language on OTT platforms has drawn criticism and discussion. While certain consumers contend that OTT services should permit creative freedom and not be subject to

copyright, others contend that platforms should exercise greater caution when choosing whatever material they share and make sure it is appropriate for all audiences. Because OTT channels are exempt from the same restrictions as conventional TV networks, obscene language is becoming more common there. OTT services are unconstrained by these restrictions and are permitted to create and distribute content whenever they see fit, in contrast to TV stations who are subject to stringent programming rules and laws.

As a result, certain OTT platforms are now generating video with graphic and explicit vocabulary that some viewers may find offensive or unsuitable. But it's important to remember that the majority of OTT platforms have age restrictions and content warnings in place to assist consumers in selecting the media they receive. Several governments and oversight organizations have unveiled new regulations in response to worries about the use of vulgar language on OTT platforms. For instance, the Indian government passed new regulations in 2021 requiring OTT platforms to self-regulate their content and offer users a way to file concerns<sup>6</sup>.

A delicate balancing act needs to be struck in order to properly distribute material while allowing for liberty of speech when it comes to the usage of filthy language on OTT platforms. While some viewers might like content with coarse language and graphic situations, platforms must make sure that it is appropriate for all audiences and take action to address any concerns or grievances from users.

## CONCLUSIONS AND SUGGESTIONS :

OTT platforms might not be appropriate for all audiences since they contain mature topics, strong language, and other content. Consumers may decide to utilize parental controls or other tools to restrict access to particular programs or content after receiving frequent warnings about such content. Overall, there is a delicate balance that must be struck between artistic freedom as well as ethical material distribution in order to address the issue of abusive language usage on OTT platforms. It's crucial for platforms to make certain that their material is appropriate for all audiences and to take action to resolve any issues or grievances from viewers, even though some producers may feel that using such language is necessary to connect with their target audience or generate buzz.

Considering how quickly the OTT media market is expanding, a regulatory agency will eventually be needed. In 2018, TRAI also published a consultation paper regarding OTT regulation. The IMAI introduced a new rule in February 2020 called "Self-Regulation for Online Curated Content Providers" (also known as the "2020 Code"), but not all Indian OTT platforms have yet ratified it. The Supreme Court has ordered the Centre to file its reply at the same time as numerous PILs, including one recently founded on a PIL, are being filed in the court. Before drafting or notifying legislation, the authorities must carefully consider their precise need. It may need to consider whether its goal is to safeguard the people it serves or to close any regulatory gaps and establish regulations for online players similar to that which exists for offline players, among other reasons. It's crucial to recognize that these two methods of material consumption aren't as similar as they first appear to be. Therefore, even while regulation is necessary and an independent Commission can be established to oversee it, excessive censorship and freedom must be granted to OTT platforms otherwise it will negate the goal of OTTs.

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