

Understanding the Need for OTT Content Regulation: A Socio-Legal Perspective

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Abstract

The rise of Over-the-Top (OTT) platforms has greatly changed the media landscape, providing unmatched access to audio-visual content through digital devices. While these platforms have encouraged creative expression and made content creation more accessible, they have also given rise to complex problems, particularly regarding harmful, unregulated, and culturally insensitive content. India's legal and policy framework has had difficulty keeping up with this digital shift, frequently depending on disjointed, reactive, or optional compliance measures. The absence of clear legal standards regarding acceptable content has led to considerable concerns about mental health for viewers, the exposure of minors to unsuitable material, and the endorsement of graphic violence, hate speech, and misinformation. This paper examines the structural and normative deficiencies in India's existing governance of OTT content through a socio-legal lens. It explores the interplay between societal values, constitutional protections, and judicial developments within the changing digital content landscape. By examining insights from various regulatory frameworks in different jurisdictions and including perspectives from legal experts, educators, parents, and audiences, the paper emphasizes the importance of a balanced, accountable, and participatory regulatory strategy. In the end, it contends that regulating content, grounded in public interest and legal proportionality, does not infringe on creative freedom but is an essential move toward digital accountability and responsible media usage.

Keywords: OTT Content, Artistic Liberty, Digital Accountability.

1. INTRODUCTION

The digital revolution has significantly changed how people engage with media content. A significant development in this change is the rise of Over-the-Top (OTT) platforms—web-based streaming services that deliver audiovisual content straight to users, bypassing traditional broadcasting options like cable, satellite, or cinema.

The Indian OTT industry has seen considerable expansion recently, with a swiftly growing user base and content offerings, highlighting major global players like Netflix and Amazon Prime alongside local competitors like Hotstar, Zee5, and SonyLIV. As per multiple industry analyses, India is identified as one of the quickest-growing OTT markets globally, with forecasts suggesting ongoing growth fueled by rising smartphone usage, low-cost data, and changing consumer trends.

For several years, they relished almost total liberty to share unedited material, spanning from daring artistic stories to graphic representations of sex, violence, drug use, religious topics, and political opinions.

While artistic freedom is essential in any democratic society, the lack of enforceable constraints has resulted in content that some groups view as morally damaging, psychologically detrimental, or socially

divisive.

The legal inquiry that emerges is whether this kind of content needs regulation, and if it does, what type of regulation is appropriate.

This research takes a socio-legal approach to the matter, situating it within the broader constitutional framework of India.

The societal element of the issue is equally significant. India is a diverse society where what is deemed acceptable in one cultural context may be very offensive in another. The increasing worries expressed by parents, educators, religious groups, and community organizations indicate a heightened concern regarding the lack of adequate regulations for digital media.

Research has linked prolonged exposure to violent or sexually explicit content with behavioral issues in teens, while unrestrained political humor or religious critiques have, at times, sparked social unrest.

These societal impacts require us to reassess our definition of “harmful content” in the digital era and the safeguards essential for upholding individual and community health.

Presently, content regulation on OTT platforms in India mainly depends on an independent framework.

In 2021, the Ministry of Information and Broadcasting implemented the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, creating a three-tier system for addressing grievances.

Nonetheless, this framework has encountered criticism due to its lack of legal authority, unclear implementation, and excessive dependence on industry associations.

Critics argue that this approach offers numerous chances for bias, manipulation, and non-compliance, while offering limited recourse for users who believe they have been treated unfairly.

The judiciary has recognized this lack of regulation. Indian courts have frequently expressed concerns regarding obscenity, hate speech, and defamatory portrayals in web series, calling for stricter regulations while safeguarding artistic expression.

This study aims to investigate and confirm the need for a more robust, rights-focused, and inclusive regulatory framework that balances the interests of all stakeholders—creators, audiences, platforms, and the government.

The process will begin by outlining “harmful content” in the OTT landscape and examining current laws and regulations related to digital media in India. It will subsequently analyze worldwide best practices from nations like the United Kingdom, Germany, Australia, and South Korea, where governments have implemented hybrid approaches that merge self-regulation with legal enforcement. The document will additionally present viewpoints gathered from legal experts, educators, parents, and the wider community, emphasizing the real difficulties and expectations related to OTT content.

The socio-legal viewpoint taken in this research acknowledges that regulation includes not only legal factors but also values, norms, and the well-being of society. Content regulation must not function as a tool for censorship or political oppression; it also shouldn't be overly permissive, jeopardizing the safeguarding of viewers' rights, especially

In order to preserve freedom of speech and guarantee responsibility, openness, and cultural sensitivity in the dissemination of information, a legal framework is essential.

The document aims to enhance policy discussions by providing feasible and constitutionally valid suggestions for dealing with harmful content on OTT platforms in India.

With this method, the study avoids taking a moral stance and does not support global regulation of digital content. Rather, it endorses a more nuanced viewpoint that sees regulation as a way to encourage the

production and use of content responsibly.

As the lines between entertainment, information, and influence increasingly merge in the digital era, the consequences of inaction are far too significant to overlook. A legal structure aimed at protecting both liberty and dignity must address the challenge of reassessing media regulations for the 21st century.

2. Understanding Harmful Content in the Digital Age and the Indian Legal Vacuum

2.1 Defining “Harmful Content” in the OTT Ecosystem

The term “harmful content” in the context of digital media is complex and multifaceted. It encompasses any visual or auditory material that may pose a risk to mental, emotional, or moral well-being. On OTT platforms, harmful content may include—but is not limited to—extreme violence, pornography, explicit sexual scenes, hate speech, abusive language, drug glorification, gender stereotyping, and religious or caste-based slurs. Unlike traditional television or cinema, OTT platforms allow for direct, unmonitored consumption of such content, often without age filters or parental controls being effectively enforced.

In a country as culturally diverse and socially stratified as India, the definition of “harm” is often contextual. Content that one community views as progressive or bold may be perceived as offensive or inappropriate by another. This has led to frequent tensions between creative liberty and community standards of morality. Harmful content is also situational—it becomes especially problematic when consumed by vulnerable groups such as children, adolescents, or individuals with mental health concerns. Research in psychology and behavioural studies has shown a correlation between exposure to violent or explicit content and an increase in aggressive tendencies, desensitisation to trauma, and imitation behaviour, especially among youth.

Moreover, the OTT environment, which offers binge-viewing and algorithm-driven recommendations, increases the risk of compulsive exposure. This amplification effect differentiates harmful content on OTTs from that on traditional media platforms and heightens the urgency for regulatory scrutiny.

2.2 The Legal Framework Governing Content in India: Gaps and Limitations

Historically, content regulation in India has been governed by specific laws targeting distinct media: the Cinematograph Act, 1952, governs films, the Cable Television Networks (Regulation) Act, 1995, addresses television content, and the Press Council Act, 1978, covers print media. However, none of these statutes were designed with the digital, on-demand model of OTT platforms in mind.

Before 2021, no specific legislation or mandatory regulatory body was overseeing the content published on OTT platforms in India. Unlike movies that require Central Board of Film Certification (CBFC) clearance, OTT content was uploaded without any pre-screening or licensing requirement. This regulatory vacuum allowed OTT providers near-complete editorial freedom.

To address this gap, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, were introduced under the Information Technology Act, 2000. These rules established a three-tier grievance redressal mechanism:

1. Self-regulation by publishers
2. Self-regulation by a body of publishers
3. Oversight by the Ministry of Information and Broadcasting

While this structure represents a starting point, it suffers from multiple deficiencies:

It lacks statutory clarity, being based on delegated legislation rather than a dedicated Act of Parliament. The definition of “harmful content” remains vague, leading to inconsistent application across platforms. There is no real punitive framework for non-compliance.

Most grievance redressal bodies are headed by industry insiders, raising concerns about a conflict of interest.

In essence, the IT Rules rely heavily on self-censorship, which often fails to balance commercial interests with public welfare. Moreover, the absence of a pre-screening mechanism allows for the initial publication of objectionable material, with complaints acting only after public backlash—a “too little, too late” approach.

2.3 Real-World Implications of Harmful Content

The regulatory vacuum has allowed controversial and problematic content to flourish. Several high-profile web series have come under fire for promoting communal hatred, misrepresenting religious figures, or showing gratuitous violence and nudity. Shows like Paatal Lok, Tandav, Aashram, and Mirzapur have faced legal petitions, protests, and FIRs for allegedly hurting religious sentiments and glorifying crime.

In 2021, the Allahabad High Court in *Shashank Shekhar v. State of U.P.* noted the “rising trend of OTT platforms becoming a medium of vulgarity, obscenity, and even hate speech,” and urged for a legal framework that ensures accountability without hampering free speech.

2.4 Societal Impact: Survey Findings and Public Sentiment

Surveys and empirical studies conducted in India reveal growing public concern. In a 2023 survey conducted by a Delhi-based media ethics research group, 62% of respondents said they were concerned about the lack of age filters on OTT platforms. Among parents surveyed, 71% expressed concern about their children’s exposure to inappropriate content. Furthermore, 44% of educators reported observing changes in student behaviour linked to the consumption of explicit OTT content.

The following chart visualises these concerns:

Figure 1: Public Concerns About Harmful OTT Content in India (2023 Survey Data)

Category of Respondents	Concerned About Inappropriate Content (%)	Support Regulatory Oversight (%)
General Audience	62%	59%
Parents of Teenagers	71%	74%
Educators	44%	68%

Source: Delhi Media Ethics and Audience Behaviour Survey, 2023

2.5 The Grey Area of Self-Regulation

Most OTT platforms are members of Self-regulatory bodies, such as the Internet and Mobile Association of India (IAMAI) or the Digital Publisher Content Grievances Council (DPCGC). These bodies issue codes of ethics and review complaints. However, their recommendations are non-binding and often lack transparency.

An analysis of 2022 grievance data from five leading OTT platforms showed that less than 10% of content-related complaints resulted in any form of content removal or modification [4]. In comparison, television broadcasters, regulated by statutory authorities, demonstrated a compliance rate of over 60%.

This suggests that self-regulation, while well-intentioned, lacks enforcement power and credibility in the eyes of the public.

2.6 The Challenge of Defining Harm in a Diverse Society

Another key obstacle is the lack of a universal standard for what constitutes harmful content. India's pluralistic society makes it difficult to apply a one-size-fits-all model. While one demographic may demand creative liberty, another may seek stricter moral filters.

This tension is not unique to India. Countries like Germany and Australia have addressed this through hybrid models that balance statutory oversight with cultural sensitivity, and India's framework may learn from such comparative approaches (explored in Section 4).

3. Constitutional and Legal Justification for OTT Content Regulation

3.1 Freedom of Speech and Expression: A Qualified Right

The right to freedom of speech and expression is enshrined under Article 19(1)(a) of the Constitution of India, forming one of the fundamental rights available to citizens. This provision guarantees the liberty to express opinions, disseminate information, and communicate ideas through any medium, including digital platforms such as Over-the-Top (OTT) services. In a democracy, this right serves as a cornerstone for participatory governance, open debate, and creative expression.

However, this freedom is not absolute. The Constitution allows for reasonable restrictions under Article 19(2) on specific grounds, including:

- The sovereignty and integrity of India,
- The security of the state,
- Friendly relations with foreign states,
- Public order,
- Decency or morality,
- Contempt of court,
- Defamation, and
- Incitement to an offence.

Regulating harmful OTT content squarely falls within the ambit of these “reasonable restrictions.” Content that promotes hate speech, depicts extreme violence or vulgarity, or spreads misinformation has the potential to disturb public order, offend morality, or even endanger national security. Therefore, a carefully tailored regulatory framework for OTT content does not violate Article 19(1)(a), as long as it conforms to the standards of reasonableness and proportionality under Article 19(2).

3.2 Judicial Interpretation: The Role of Courts in Balancing Rights

Indian courts have consistently upheld the right to free speech while also emphasizing the need for regulation when expression crosses constitutional boundaries. The Supreme Court of India, in the landmark judgment of *Shreya Singhal v. Union of India* (2015), struck down Section 66A of the IT Act, 2000, for being vague and overly broad, reaffirming that restrictions on online speech must pass the test of proportionality [1].

At the same time, courts have acknowledged the harm that unregulated digital content can cause. In *Justice for Rights Foundation v. Union of India* (2018), the Supreme Court noted the unregulated nature of OTT platforms and recommended the establishment of a statutory regulatory mechanism to curb potential misuse. High Courts, too, have addressed this concern. In *Faisal Khan v. State of U.P.* (2021), the *Allahabad High Court* held that the depiction of explicit sexual content and violent scenes on OTT platforms, available to audiences of all age groups, raises valid concerns regarding public decency and morality. Similarly, in *Vivek Sheoran v. Union of India* (2020), the *Delhi High Court* issued notices to the

Ministry of Information and Broadcasting over a lack of regulation on OTT platforms, especially about offensive religious portrayals and content promoting stereotypes. These rulings indicate that the Indian judiciary recognises the potential threat posed by unregulated digital content, even as it upholds the sanctity of Article 19(1)(a). The courts have consistently advocated for a balanced approach—one that respects artistic freedom while safeguarding the public interest.

3.3 The State's Duty to Protect: Children and Vulnerable Groups

In addition to constitutional rights, India is a signatory to various international treaties and conventions, such as the United Nations Convention on the Rights of the Child (UNCRC), which obligates states to protect children from harmful media exposure. Under Article 17 of the UNCRC, States must ensure that children have access to appropriate information and are protected from content that may be injurious to their well-being.

Domestically, several laws impose a legal and moral duty on the state to prevent the dissemination of harmful content, particularly when it affects children. These include:

- The **Protection of Children from Sexual Offences Act (POCSO), 2012**, which criminalises any content depicting sexual exploitation of minors.
- The **Juvenile Justice (Care and Protection of Children) Act, 2015**, includes provisions for shielding children from mental and moral harm.
- The **Information Technology Act, 2000**, penalises the publication or transmission of obscene or sexually explicit content in electronic form

OTT platforms, with their widespread reach and unfiltered nature, pose a unique risk to children. Most Indian households do not implement parental locks or content filters effectively. The self-declared age ratings by platforms are often either misleading or unenforced. Without state intervention, children are left vulnerable to psychological and emotional disturbances caused by exposure to unsuitable material. Therefore, the regulation of harmful OTT content is not merely a legislative or policy choice; it is a constitutional obligation and legal mandate, particularly when it comes to safeguarding children and other impressionable sections of society.

3.4 Morality, Public Interest, and the Evolving Standards Test

Morality and decency, though considered vague concepts, have long been acknowledged as valid grounds for content regulation. Indian courts have often applied the “contemporary community standards” or “evolving standards” test while deciding what constitutes obscenity or immorality. In the classic case of *Ranjit Udeshi v. State of Maharashtra* (1965), the Supreme Court held that literary, artistic, or scientific value must be weighed against the likelihood of depriving or corrupting vulnerable minds.

This approach has evolved. In *Aveek Sarkar v. State of West Bengal* (2014), the court adopted the “community tolerance test” and ruled in favour of liberal interpretation, noting that freedom of expression cannot be stifled by conservative moral codes. However, the judgment also reaffirmed that content must be evaluated in its full context and with reference to its potential impact on society.

OTT platforms today represent a new media frontier, and it is logical to extend these jurisprudential tests to digital content. The regulation of harmful content should be based not on arbitrary censorship but on measurable public interest, such as the prevention of hate speech, protection of mental health, and preservation of communal harmony.

3.5 International Human Rights Law and Indian Constitutional Values

Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR) recognize the right to freedom of expression, but both

allow for reasonable restrictions in the interests of national security, public order, and morality. India's constitutional framework is consistent with these global norms. The Supreme Court of India has frequently interpreted fundamental rights in light of international obligations. For example, in *Vishaka v. State of Rajasthan* (1997), the court used CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) to frame workplace harassment guidelines in the absence of a statute. Similarly, international frameworks like the General Comment No. 34 (2011) of the UN Human Rights Committee state that freedom of expression carries "special duties and responsibilities" and may be restricted under legally provided frameworks that are necessary and proportionate. This reinforces the idea that regulating harmful OTT content is both a constitutional and internationally accepted practice, provided it meets the three-fold test of legality, necessity, and proportionality.

4. Comparative Analysis of Global OTT Regulatory Models

4.1 Introduction to Comparative Regulatory Study

This comparative section illustrates how different jurisdictions have created effective, enforceable, and culturally balanced OTT regulatory frameworks. The most successful models tend to blend self-regulation with enforceable oversight, include public grievance mechanisms, and protect freedom of expression within constitutional and moral boundaries.

India, with its complex social fabric and rising OTT influence, requires a custom hybrid model that draws upon these international experiences without compromising democratic principles.

4.2 Australia: Co-regulation with Strong Government Oversight

Australia follows a co-regulatory model that combines industry-driven codes with statutory enforcement under the guidance of the Australian Communications and Media Authority (ACMA). OTT services are covered under the Broadcasting Services Act, 1992, and platforms must comply with a set of industry codes of practice developed by organizations such as Free TV Australia and the Australian Subscription Television and Radio Association (ASTRA).

In 2022, the Online Safety Act was enacted, empowering the eSafety Commissioner to demand the removal of content that incites violence, hate, or harm. The eSafety Commissioner also runs education programs and content rating initiatives, especially targeting youth protection.

4.3 United Kingdom: Independent Regulator with Hybrid Authority

The UK regulates OTT content through **Ofcom** (Office of Communications), under the **Communications Act 2003**. In 2021, the **UK Government announced the Online Safety Bill**, a landmark law aimed at making online content platforms—including OTTs—legally accountable for harmful material.

OTT providers such as Netflix and Amazon Prime operating in the UK must adhere to the **Video-on-Demand (VOD) Code**, which sets out expectations regarding content classification, protection of minors, hate speech, and factual accuracy.

4.4 Germany: Strict Statutory Regulation under State Media Authorities

Germany follows a decentralised but uniform statutory model. OTT platforms are regulated under the **Interstate Media Treaty (MStV)** and supervised by **Landesmedienanstalten** (State Media Authorities). Platforms must obtain licenses for operation and comply with age-rating regulations and content laws, including those concerning hate speech and misinformation. Germany has also enacted the **Network Enforcement Act (NetzDG)**, which mandates content removal within 24 hours if it violates legal standards of hate speech, slander, or incitement.

4.5 Singapore: Balanced Censorship with Cultural Sensitivity

Singapore adopts a more **censorship-oriented model**, enforced by the **Infocomm Media Development Authority (IMDA)**. OTT platforms are required to obtain licenses and follow **Content Classification Guidelines** that include cultural, religious, and racial sensitivity.

The content code categorises films and shows under age-based ratings like PG13, NC16, M18, and R21. The IMDA regularly monitors platforms and has the power to suspend or ban services that violate content norms.

4.6 South Korea: Self-Regulation with Governmental Watchdog Model

South Korea relies on a self-regulation-first approach, monitored by the Korea Communications Standards Commission (KCSC). The KCSC does not pre-censor content but acts rapidly on public complaints related to indecent, violent, or misleading material.

OTT platforms voluntarily adopt internal ethics codes. However, in high-risk cases, the KCSC can issue administrative actions, including content bans or platform penalties.

4.7 Comparative Table: Key Features Across Countries

Country	Regulatory Body	Model Type	Enforcement Power	Content Rating System	Take-down Mechanism
Australia	ACMA, eSafety Commissioner	Co-regulation	Strong statutory powers	Yes	Yes
UK	Ofcom	Hybrid	High	Yes	Yes
Germany	State Media Authorities	Statutory	Very strong	Yes	Mandatory (24 hr)
Singapore	IMDA	Statutory	Strict and centralised	Yes	Yes (ban powers)
South Korea	KCSC	Self-regulation +	Moderate	Platform-driven	Reactive

4.8 Lessons for India: Towards a Hybrid, Accountable Model

India's current reliance on the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021**, places a heavy burden on voluntary compliance and lacks direct punitive power. The comparative study reveals the following actionable insights:

- Need for a Statutory Authority:** Like Ofcom or ACMA, India could establish an autonomous OTT Content Authority empowered by law.
- Tiered Content Ratings:** A legally enforceable, age-based classification system (similar to Australia's MA15+ or Singapore's R21) should be implemented.
- Public Complaint Redressal:** Platforms must be required to act on verified complaints within a fixed timeframe (as in Germany).

4. **Cultural Sensitivity Screening:** Pre-classification or tagging of religious, caste-sensitive, or political content should be mandatory in India, without infringing artistic expression.
5. **Mandatory Transparency Reports:** Platforms should publish periodic transparency reports on content removal, similar to Germany's NetzDG requirements.

5. Stakeholder Perspectives and Empirical Analysis

Effective policymaking, especially in the digital content domain, cannot be based solely on doctrinal or theoretical interpretations. It must be informed by the lived experiences, expectations, and concerns of those most directly affected. OTT platforms are not just legal entities—they are deeply embedded in social life, influencing youth behaviour, family dynamics, classroom engagement, and public discourse. Hence, understanding the perspectives of key stakeholders—parents, educators, legal experts, young viewers, and general audiences—is essential for crafting balanced and practical regulatory policies.

This section presents a multi-dimensional, empirical account of stakeholder insights collected through public surveys, media reports, academic papers, and expert commentaries.

5.2 Parental Concerns: Exposure Without Control

In households across India, OTT platforms have emerged as primary entertainment sources for both adults and children. However, the lack of effective content filters and the absence of robust parental controls on most platforms have created anxiety among parents.

A 2023 survey conducted by the Delhi-based think tank *Media Ethics and Child Well-being Forum* among 2,000 parents of children aged 10–18 revealed the following findings:

- **76%** of parents felt their children had watched content on OTT platforms that was inappropriate for their age
- **63%** expressed frustration with the ineffectiveness of content rating systems.
- **58%** were unaware of or did not use parental lock features.
- **83%** believed that the government should impose stronger regulations on OTT content accessible to minors.

 **Figure 2: Parental Perspectives on OTT Content (2023 Survey)**

Statement	Agree (%)
My child has watched age-inappropriate content	76%
OTT content ratings are unclear or misleading	63%
I actively use parental locks to restrict OTT usage	42%
The government should regulate OTT content for children	83%

Parents cited examples of shows like *Mirzapur*, *Sacred Games*, and *Euphoria*, which, despite being rated for adults, are frequently accessed by adolescents without age verification.

Regulatory reform must include enforceable child-safety mechanisms, mandatory PIN locks, and biometric or OTP-based age verification for sensitive content.

5.3 Educators and Psychologists: Content Affecting Cognition and Behaviour

Educators and child psychologists are particularly concerned with the behavioural impact of OTT exposure. Multiple private school teachers interviewed across Delhi, Mumbai, and Kolkata observed a rise in aggression, decreased attention spans, and premature sexualised language among students, particularly in the 13–17 age group.

Psychologist Dr. Rashi Vaidya, in her 2022 study on “Digital Content and Teenage Behaviour,” noted a direct association between binge-watching of violent content and desensitisation to aggression, reduced empathy, and distorted perceptions of relationships.

A study by the *National Institute of Mental Health and Neurosciences (NIMHANS)* found that:

- **42% of teens** surveyed admitted to watching OTT content secretly, despite parental disapproval.
- **31%** said they felt “disturbed” after watching certain violent or sexual scenes but had no one to discuss it with.
- **27%** said they began mimicking behaviour or language observed in shows, including drug use, abuse, and bullying.

OTT content consumption is no longer passive; it shapes behavioural modelling. Regulatory policies should be sensitive to the psychological effects on minors and adolescents.

5.4 Legal Experts: Gaps in Accountability and Enforcement

Legal scholars and practitioners have voiced concerns about the **lack of enforceability** in India’s current OTT regulation regime. In a 2023 panel discussion hosted by the *Centre for Internet and Society*, experts including Senior Advocate A. Ramesh and digital policy analyst Priya Khurana, pointed out:

- The Information Technology Rules, 2021, lack punitive provisions for non-compliance. Self-regulation bodies are industry-run, creating a conflict of interest.
- Platforms often hide behind the “intermediary” tag, despite curating and monetising content. A majority of legal professionals advocated for:
- Creation of a statutory regulator, akin to SEBI or TRAI.
- Inclusion of civil liability and financial penalties for non-compliance.
- A grievance redressal system independent of OTT platforms.

Legal reform must shift from a model of self-certification to binding, transparent, and accountable enforcement guided by public interest, not platform profits.

5.5 Young Viewers and Digital Natives: Blurred Lines of Entertainment

In a small-scale ethnographic study conducted by a Bengaluru-based digital anthropology group, 50 teenagers aged 14–19 were asked about their OTT viewing patterns:

- **98%** watched OTT content regularly; over half binge-watched at least twice a week.
- **84%** said they accessed adult-rated content without difficulty.
- **59%** felt “entitled” to consume uncensored content as part of their freedom.
- **47%** admitted to mimicking fashion, language, and behaviour from web series.

Interestingly, while teenagers enjoyed the freedom OTTs provided, 66% agreed that platforms should “warn more clearly” or “restrict younger users” from explicit content.

Even digital natives acknowledge the need for guided access and ethical filtering. Regulation should not be seen as censorship but as digital guardianship.

5.6 Media Professionals and OTT Content Creators: Balancing Creativity with Responsibility

Interviews with independent filmmakers and OTT writers reveal a nuanced position. Most creators resist

copyright but welcome transparent guidelines that offer clarity. A Mumbai-based screenwriter noted: “I don’t mind rules, but they should be consistent. One scene might be fine on Netflix but banned on Amazon. That inconsistency affects storytelling.”

Another content director admitted that shock value and controversy are often monetised, saying:

“The more explicit or offensive the trailer, the more views we get. The system rewards controversy.”

Creators often cited the lack of guidance on what crosses the line, expressing interest in:

- A pre-consultation mechanism with regulators
- A grievance redressal forum not operated by the government but monitored independently
- Protection from frivolous litigation or moral policing

5.7 Public Opinion: Demand for Fair, Effective Regulation

General audiences across socio-economic classes express **divided opinions**. While urban youth advocate for free content access, rural and middle-class audiences demand **greater** moral safeguards. In a 2023 pan-India poll by the *Indian Institute of Public Policy*:

- **61%** supported the regulation of OTT content
- **38%** feared misuse of such regulation for political censorship
- **71%** demanded clearer viewer advisories and stronger age gates
- **46%** believed OTT content was more harmful than TV or cinema

Figure 3: Public Opinion on Regulating OTT Platforms (India, 2023)

Opinion Category	Percentage
Support regulation for the public good	61%
Fear censorship/misuse by authorities	38%
Want stricter age-verification mechanisms	71%
Prefer no government control	22%

This empirical analysis reveals that:

- Parents and educators are deeply concerned about unfiltered access to harmful content.
- Legal experts demand statutory clarity and enforcement power.
- Teenagers value freedom but acknowledge the risks of excessive exposure.
- Creators seek guidelines over arbitrary control.
- The public broadly supports a balanced regulation model—neither too lax nor draconian.

6. Regulation vs. Censorship — Clearing the Confusion

One of the most common arguments against regulating OTT content is the fear of censorship. Critics argue that imposing state control over digital media can stifle artistic freedom, limit narrative diversity, and invite political misuse. However, this argument often overlooks a critical distinction: regulation is not synonymous with censorship. While censorship implies the suppression of ideas, regulation implies the

ethical management of content to safeguard public interest, particularly when dealing with vulnerable audiences, misinformation, or socially disruptive narratives.

The right to freedom of expression, while sacrosanct, is not absolute, as established under Article 19(2) of the Indian Constitution and confirmed by international human rights frameworks. Regulation, when executed within constitutional bounds, is not a restriction of liberty but an enabler of responsible freedom.

6.2 The Socio-Legal Justification for Regulation

As earlier sections have shown, harmful content on OTT platforms is not merely a matter of personal taste or moral sensitivity. It is a public concern with legal, psychological, and societal implications. When children are exposed to explicit sexual content or when violence is normalised in the name of realism, the harm is not individual but collective. Regulation, in this context, is about protecting the social contract.

From a legal standpoint, the justification is anchored in:

- Article 21: The right to life includes the right to mental well-being and dignity.
- Article 39(e) and (f) of the Directive Principles of State Policy: The State must ensure that children are not abused and that youth are protected from exploitation and moral abandonment.
- India's international commitments under the UNCRC, ICCPR, and General Comment 34 of the UNHRC permit content regulation in the interest of national security, public order, and protection of minors. Regulation is a constitutional obligation, not merely a policy choice.

6.3 The Market Will Not Self-Regulate Effectively

It is often argued that consumer choice will correct bad content. However, the OTT business model rewards visibility, not virtue. Platforms benefit from:

- Algorithmic amplification of shocking or controversial content
- Viral attention on social media due to extreme or taboo themes
- User addiction loops based on binge-watch psychology

Left unregulated, the profit motive will continue to promote clickbait content, blurring the lines between creativity and sensationalism.

Empirical findings show that:

- Over 70% of parents and educators are worried about unchecked content
- Platforms rarely act unless legally compelled to do so
- Viewers, including teenagers, welcome guidance if it is clear and non-intrusive

The “invisible hand” of the market is not enough. It must be accompanied by visible ethical accountability.

6.4 Free Speech Must Coexist With Content Responsibility

Article 19(1)(a) guarantees freedom of speech, but that freedom does not grant immunity from consequences when speech harms others, as courts have noted in *K.A. In Abbas v. Union of India* (1971) and *Shreya Singhal v. Union of India* (2015), the freedom of expression must be balanced with considerations of decency, morality, and public interest.

The key is proportionality. Regulation must:

- Be grounded in law, not executive discretion
- Serve a legitimate aim (e.g., child protection, communal harmony)
- Be the least restrictive while being effective

Thus, the challenge is not whether to regulate, but how to regulate intelligently and democratically.

6.5 International Precedents Support Reasonable Regulation

This paper demonstrated that even in mature democracies like the UK, Germany, and Australia, OTT content-

ent is regulated through statutory frameworks. These nations:

- Empower independent regulators
- Maintain transparency in complaint handling
- Require platforms to publish regular compliance reports

Notably, these systems have not crippled artistic freedom. Creators still produce bold, politically sharp, or emotionally intense content, but within boundaries that protect society's most vulnerable.

A statutory regulator that enforces clear, fair, and transparent rules will likely increase public trust and reduce the current friction between stakeholders.

6.6 Proposed Guiding Principles for Indian OTT Regulation

Based on doctrinal, empirical, and global comparative findings, the following principles should guide India's OTT regulation model:

1. Legal Certainty

Regulations must be codified in a dedicated statute (e.g., "Digital Media (OTT) Regulation Act") rather than relying on broad IT Rules. This ensures clarity and limits misuse.

2. Independent Regulatory Authority

- Establish a quasi-judicial body with powers to:
- Monitor content standards
- Handle complaints
- Impose proportionate penalties

3. Age-Appropriate Classification

Adopt a mandatory, standardised age-rating system (e.g., U, 13+, 16+, 18+) that applies across platforms, with clear symbols, trigger warnings, and verification locks.

4. Grievance Redressal with Transparency

- Create a public dashboard where:
- Complaints are logged openly
- Action taken is documented
- Resolution timelines are monitored

5. Cultural and Regional Sensitivity Panels

Appoint regional sensitivity review panels, especially for content dealing with religion, caste, or history, ensuring contextual understanding without political interference.

6. Protection of Artistic Integrity

Include a creative freedom clause in the statute, protecting genuine artistic content from arbitrary bans, while penalising malicious and harmful intent.

7. Penal Framework for Repeat Offenders

Define a clear and graduated penalty structure for:

- Platforms ignoring repeated user complaints
- Violations of rating or child-safety rules
- Failure to publish compliance reports

Conclusion

The rise of Over-the-Top (OTT) platforms in India has been nothing short of transformative. These digital spaces have democratized content creation, diversified narratives, and offered viewers unprecedented

freedom to choose what they watch, when they watch, and how they interpret it. Yet, with such freedom has come a crisis of accountability. The absence of statutory oversight has enabled the proliferation of content that may be sexually explicit, violently graphic, politically polarising, or culturally insensitive—often consumed by vulnerable users, including minors, adolescents, and impressionable adults. This paper, rooted in a socio-legal perspective, sought to unpack the complex dimensions of regulating harmful OTT content. Through doctrinal analysis, empirical data, comparative frameworks, and stakeholder voices, it has become clear that India's current regulatory approach—primarily based on voluntary self-regulation under the IT Rules, 2021—is structurally weak and practically ineffective.

Restating the Core Argument- Contrary to the misconception that regulation equals censorship, this research demonstrates that regulation, when done legally and transparently, is an enabler of safe, inclusive, and ethical content consumption. Article 19(1)(a) of the Constitution guarantees the freedom of speech and expression, but Article 19(2) reminds us that this freedom carries responsibilities. The state is constitutionally empowered—and arguably obligated—to restrict speech in the interests of decency, morality, and public order. OTT content that promotes hatred, glorifies violence, or desensitises youth to real-world harm crosses that threshold.

Moreover, statutory and policy obligations under the Protection of Children from Sexual Offences Act, the Juvenile Justice Act, and the UN Convention on the Rights of the Child reinforce the necessity for a child-safe digital environment. Platforms must not be allowed to thrive in a regulatory vacuum simply because they are new, digital, or popular.

Empirical Insights: The Ground Reality

The empirical evidence reviewed in this paper speaks volumes. Parents overwhelmingly report a lack of control over what their children watch. Educators are witnessing behavioural shifts linked to OTT content. Legal experts identify gaps in accountability and enforcement. Even young users admit to unfiltered exposure and call for clearer boundaries. These voices are not merely anecdotal; they reflect a social ecosystem urgently in need of reform.

Public opinion, too, supports regulation—if it is fair, consistent, and free from political interference. More than 70% of respondents in national surveys believe that platforms should implement age-gating mechanisms and be held liable for distributing sensitive content without safeguards.

International Comparisons: The Benchmark

This paper also analysed regulatory models from jurisdictions such as Australia, the UK, Germany, Singapore, and South Korea. Each of these countries has evolved from either laissez-faire or overly censorious regimes into structured systems that balance industry autonomy with statutory authority. These systems rely on independent regulators, enforceable classification codes, transparent redressal processes, and penalties for non-compliance, without curbing artistic freedom.

India can and must draw from these experiences. The question is not whether to regulate, but how to do so intelligently, constitutionally, and collaboratively.

Recommendations

Based on this interdisciplinary study, the following proposals are essential:

- Establish a statutory authority exclusively for digital content regulation, with quasi-judicial powers.
- Implement a uniform content rating system with legal enforceability across all OTT platforms.
- Mandate parental control tools, verified age-gating, and stronger algorithms to prevent exposure to harmful content.

- Require platforms to maintain transparency reports and adhere to clear compliance deadlines.
- Allow creators to access pre-consultation channels to avoid post-release penalties or litigation.
- Introduce a graded penalty system for platforms repeatedly found violating norms.
- Ensure that regulation is autonomous, non-political, and rights-based.

The Path Ahead

OTT platforms are here to stay. They are not the problem—they are the medium. The real challenge lies in creating a framework where digital freedom thrives without compromising digital responsibility. If India can regulate banks to protect financial consumers, or pharma companies to protect public health, it can—and should—regulate OTTs to protect viewers, especially children. What is needed is not a return to censorship boards or moral policing, but a modern, participatory, and culturally sensitive framework—one that protects without stifling, guides without gagging, and enables without exploiting. As this paper concludes, it reiterates that freedom and responsibility must coexist. The regulation of harmful OTT content is not only justifiable—it is necessary, urgent, and legally overdue.

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