

A Comparative Study on Ott Platform Censorship and Policies in India

¹Rahul M, ²Dr.S.DineshBabu

¹Post Graduate Student, M.A JMC, Department of Visual Media & Communication, Amrita School of Arts & Sciences, Amrita VishwaVidyapeetham, Kochi, India

²Assistant Professor (Sr.Gr) and Head, Department of Visual Media & Communication, Amrita School of Arts & Sciences, Amrita VishwaVidyapeetham, Kochi, India

Abstract

Theatre extends large-screen viewing experience with the utmost outcome of audio and visuals. Visual acuity delivered in any movie was felt solely with the well-built ambience in theatres. With digital upswing, handheld devices evolved with impressive features rendering a pleasing and comfortable atmosphere to watch movies."Anyone, Anywhere "phenomenon facilitated by gadget feature advancement stimulate a search for a new mode for visual experience eventually leading to OTT platforms. The Over the Top (OTT) platform created a heavy impact on the innovative drive to entertainment sectors. This visual content-based platform provides an option to choose content based on their needs and preferences. Bigflix, launched by Reliance (2008) is India's first OTT platform which is comprised of feature films, series, TV shows and documentaries. Rage and hype for OTT platforms increased with the Smartphone revolution which now tends to be the major visual entertainment medium. On November 9 2020, the Government of India amends the Business Allocation Act and adds two subsections 22A and 22B. Category 22A includes movies and audio-visual programs provided by online content providers. News and current affairs on online platforms fall under the new 22B category. On February 25, 2021, the government announced the regulatory code for OTT platforms. This study will analyse the different types of OTT platform censorship around the world and find out how censorship has been conducted in different countries. This censorship regulation will be compared to Indian regulation of OTT platforms. The study will proceed through quantitative analysis.

Key Words: OTT platforms, Censorship, COVID-19, Web Series, Entertainment, Policies

OTT platforms have become more important in the last decade. The growth of digital devices contributes to the growth of the OTT platform. Access to OTT platforms is the greatest benefit, OTT platforms can access from anywhere and it available 24 hours a day and seven days a week. The content delivers in OTT platform in India was in 20 different languages according to the regional preference. On November 9 2020, the Government of India amends the Business Allocation Act and adds two subsections 22A and 22B. Category 22A includes movies and audio-visual programs provided by online content providers. News and current affairs on online platforms fall under the new 22B category. On February 25, 2021, the government announced the regulatory code for OTT platforms. Prior to this, OTT platforms in India were free from government control. Some OTT platforms automatically control the uploaded content.

In India, theatrical releases are controlled by the Central Board of Film Certification (Censor Board) it was established under the Cinematographic Act, 1952 (Act). With theatrical releases limited due to lockdown, manufacturers are turning to OTT platforms because they are widely accepted by audiences for the convenience they provide. It therefore increased content on OTT platforms and led to a discussion about the censorship of OTT platforms.

This research paper focuses on finding different types of OTT platform censorship around the world. This censorship regulation will be compared to the Indian regulation of OTT platforms. OTT platforms are the largest Internet media market in the world. So OTT platforms are controlled by different countries in the world. Internet control is a difficult task for all authorities, so controlling the OTT platform is not an easy task. Few countries are still trying to develop a control

code for OTT platforms. Internet facilities are completely controlled by very few countries such as the People's Republic of China and North Korea. India is currently develop a control code for OTT platforms. OTT platforms have grown over the last few years. With the growth of internet facilities and the revaluation of mobile phones, OTT platforms are now easily available. So the content-free flow is now questionable. This research paper compares censorship on the OTT platform around the world and finds out how censorship has been done in different countries through a quantitative analysis and it compares to Indian regulation of OTT platforms.

Literature Review

India is currently the fastest growing OTT (over-the-top streaming) market in the world and is poised to become the sixth largest country in the world by 2024. (JhaLata, 2020," India is the world's fastest growing OTT market: PwC report")The Covid-19 pandemic and lockdown were one of the reasons for the increase in subscriptions to OTT platforms. Filmmakers opt for the OTT platform for new releases.

In the Indian OTT sector, the number of paid subscribers increased by 30 per cent between March and July 2020 from 22.2 million to 29 million. Indians are more likely to see local language content, and Hindi is the most sought after, according to some studies. In the four months from April to July 2020, more than 50% of the total audience watched Hindi language content

Overall, the top five metro cities account total OTT video users were 46%, and Tier I cities account for 35% of users by mid 2020. 90% of the users in the studies saw the local language content and only 7% of the time was spent on English content in India.

During the Lockdown period, filmmakers add new releases to OTT platforms. The Indian OTT market is projected to reach Rs 237.86 billion (US \$ 3.22 billion) this fiscal year. On 2023, there will be 500+ million online video subscribers in India.

There are four different OTT markets: Advertising Video on Demand (AVOD), Subscription Video on Demand (SVOD), and Freemium & Transactional Video on Demand (TVOD). Ad-based model (AVOD) is highly recommended to increase advertising revenue; However, the subscription-based market (SVOD) is growing significantly. Direct-to-digital release and pricing strategies enable OTT platforms to increase customers. In addition, OTT platforms offered affordable plans and custom language packs. Although most platforms focus on local content.

SVOD OTT platforms introduce strategic initiatives to ensure reasonable costs. This will help in gaining acceptance among price sensitive Indian consumers. Major OTT platforms invest real local content to engage their subscribers. OTT platforms test live video content as well as interactive activities that appeal to viewers. An example of this is the launch of the Disney + Hotstar 'Watch N Play' social feed during the 2019 IPL season. In it spectators can predict scores in a live competition and win prizes. OTT platforms are expected to become more competitive in the next 4–5 years.(Knowledge Centre - IBEF, 2020, "India's OTT Market: Witnessing A Rise In Number Of Paid Subscribers")

The entertainment and media industry in India will generate \$ 55 billion by 2024. India is currently the fastest growing OTT market.The share of OTT video segment in the entertainment and media sector is expected to increase from 2.4 percent in 2019 to 5.2 percent by 2024. (VermaAmbwaniMeenakshi, 2020, "India set to become the 6th largest OTT market by 2024: PwC") Digital media is largely unregulated and allows complete creativity for content creators. The increase in content consumption by the Indian audience has also led to a huge increase in the

number of OTT platforms launched in India to cater to the diverse sensibilities of the Indian audience.

However, this has caused a great deal of controversy, with many Indian and foreign shows being dragged into disputes over issues such as pornography, defamation and insulting religious sentiments. Last year, the Ministry of Information and Broadcasting (MIB) discussed and consulted with several stakeholders on any form of regulation of OTT platforms to make the sector more efficient. In this context, the Central Government has set rules and frameworks for regulating social media companies, streaming service providers and digital news publishers. (Banerjee Tanu, JohriIshan&KediaGarima , 2021 “New Rules for OTT Platforms: Regulation or restriction?”)

The new Information Technology (Guidelines for Intermediates, Digital Media Ethics Code) rules, 2021 will bring online organizations under a three-tier regulatory framework.

The first level - Level I - will be self-governing by the company. To this end, each company will appoint a grievance redressal officer and publish their details on their websites. Social media companies need to appoint a Chief Compliance Officer, a Nodal Contact Officer and a Grievance Officer.

The second level - Level II - is referred to by the government as "self-regulatory bodies of applicable institutions". As such, industrial enterprises will consider complaints against organizations under them. However, when the term 'self-regulation' is used, the law stipulates that the grievance redressal mechanism of an enterprise must be headed by a retired judge empaneled by the government and must have 'experts'. "The self-governing body referred to in sub-rule (1) shall be headed by a retired judge of the Supreme Court or the High Court, who shall be appointed from a panel constituted by the Ministry, with no other members exceeding six, and shall specialize in the fields of media, broadcasting, technology and entertainment," the rules state.

Level III is government control through an inter-departmental level government committee appointed by the Ministry of Information and Broadcasting. The committee may decide to include other ministries and organizations, including the Ministry of Information and Broadcasting, the Ministry of Women and Child Development, the Ministry of Law and Justice, the Ministry of Home Affairs, the Ministry of Electronics and Information, the Ministry of Technology, the Ministry of External Affairs, the Ministry of Defense, the Indian Computer Emergency Response Team and the domain experts.

According to the new rules, complaints against OTT content must first be made to the OTT platform complaint officers. They must resolve the complaint within 15 days. The complainant is not satisfied this solution, can go to the grievance committee of the industry body, which will give him 15 days. If the complainant is still dissatisfied with the decision, he can go directly to the Ministry. Content removal, apology, warning, and content rating are all actions that can be performed under each level. The final decision rests with the Level III Inter-Ministerial Government Body. (Oommen Paul &KarthikeyanRagamalika, 2021, “Explained: Union govt’s new IT rules for social media, OTT platforms & digital news”)

Instead of pre-censored content, platform owners should categorize their content according to different ages groups: “U” or universal rating, others 7+, 13+, 16+, and then 18+. It needs to be developed specifically for India as a similar age limit does not exist in other countries. Platforms are required to enable parental locks for content classified as U / A 13+ or higher and reliable age verification systems for content classified as "A". Also, there will be ambiguity about some of the films that have already received CBFC certification. It is not clear whether the platform should include similar certification or redefine it based on these rules, which would lead to increasing

compliance procedures. (JhaLata , 2021 “Government sets out regulations for digital media, OTT platforms”)

This content classification is in fact not new, exists as part of the Cinematograph Act 1952, and is similar to the rating criteria prescribed under the Internet and the Self-Control Codes issued by the Mobile Association of India.

While viewers are encouraged to make informed selections of content ratings in advance, can a viewer who continues to watch a movie, series, or show, despite warnings and ratings, register complaints with the grievance redressal system? Laws do not provide specific reasons for which complaints can be made, and given the subjective nature of the content and the diverse sensitivity of the viewers, there are likely to be numerous complaints. The challenge for OTT platforms is to balance the complaints from different audiences with the different social sensitivities and the demand for different types of content in their “on demand” service models from a wider audience base.

(Banerjee Tanu, JohriIshan&KediaGarima , 2021 “New Rules for OTT Platforms: Regulation or restriction?”)

Experts say the 29-page laws introduced on February 25 on a number of factors, including consumer privacy and censorship of digital news media, affect the rights of Indian citizens. The new laws come after the government demanded that certain social media manipulations, including shows on OTT platforms and news platforms, be blocked, and that several defamation cases be filed against digital news publishers for reporting the news. Speaking at a press conference in New Delhi on February 25, Union Broadcasting Minister Prakash Javadekar said that although freedom of the press is important, "all freedom must be responsible freedom". (Oommen Paul &KarthikeyanRagamalika, 2021, “Explained: Union govt’s new IT rules for social media, OTT platforms & digital news”)

As the digital space and technology for content distribution evolves, so does the regulatory framework for the digital industry. Policymakers and stakeholders continuing to engage with each other to establish an effective and balanced regulatory framework to ensure that significant barriers, implementation challenges and controls are not abused. (Banerjee Tanu, JohriIshan&KediaGarima , 2021 “New Rules for OTT Platforms: Regulation or restriction?”)

Objectives

- To study the control of OTT platforms around the world and in India
- Analyze the effectiveness of regulation on OTT platforms in the implemented countries and India
- To compare the regulatory law on OTT platforms in India and other countries

Hypothesis

- OTT platforms are strictly regulated in India and a few other countries
- Effectively regulates censorship on OTT platforms
- The control of OTT platforms in India is good compared to other countries

COMPARATIVE ANALYSIS ON OTT PLATFORM

The regulation made by India is different from other countries. How censorship was implemented in those countries, what method they used for control, everything can be compared and analyzed with

India. Let us examine how different India is from other countries or how much inspiration India has from other countries.

Independent Organizations for Censorship on the OTT platforms

In India, OTT platforms is directly controlled by the Central Government. The Central Government has issued a three-tier regulatory framework for which self-regulation has been proposed. The OTT platforms in Singapore and Turkey are governed by an independent body. The Infocomm Media Development Authority (IMDA) in Singapore and The Radio and Television Supreme Council (RTUK) in Turkey are responsible for regulating OTT platforms. IMDA is the media regulatory body in Singapore, like the CBFC (Central Board of Film Certification) in India. The contents are rated by IMDA at G, PG, PG:13, NC:16, M18 and R21 which is similar to the UA, U and A ratings given by CBFC for theatrical releases.

RTUK in Turkey is the primary regulatory body for the regulation of OTT platforms, television and radio. RTUK issue license to OTT platforms for 10 years. It enables the government to monitor visual and audio feeds. Under the new regulation OTT platforms will no longer be required to register in India. The Government of India has proposed a system of self-regulation for censorship. RTUK does not provide any specific or specific control codes for OTT platforms.

Regulatory Rules for OTT platforms

In India, the regulation made through the new law of the new Information Technology (Guidelines for Intermediates, Digital Media Ethics Code) rules, 2021. The new law enforced a three-tier regulatory framework for OTT platforms regulation.

In India, the new Information Technology (Guidelines for Intermediate, Digital Media Ethics Code) rules, 2021 are used to regulate OTT platforms. The new law implemented a three-tier framework for regulation of the OTT platforms. Like India, in Australia the Broadcasting Services Act 1992 is used to the regulation of OTT platforms. The law includes different schedules and five and seven schedules in the law is mentioned on the OTT platform's regulation. Schedule 5 for content hosted outside Australia and Schedule 7 for content with an Australian connection.

The UK Department for Digital Culture, Media and Sport has released a "White Paper" (policy documents produced by the Government that set out their proposals for future legislation) on how to deal with the OTT platform rules. The same department also provides a white paper for a regulatory framework. IMDA is used to regulate OTT platforms in Singapore. IMDA is a statutory body of Singapore that does not use any other special law to regulate OTT platforms there.

RTUK controls the OTT platform in Turkey. It is a primary institution for media control Saudi Arabia is a monarchy country and regulates the Internet under the Anti-Cyber Crime Law (ACCL). No specific OTT regulation is available in Saudi Arabia, but the country that monitors OTT content based on the ACCL. Certain OTT content has recently been banned, citing some articles in the ACCL.

India is the largest democracy in the world. Therefore, a law made in India needs to be clearly defined in every way. So that, the law enacted for OTT control is more effective in India than in other countries. Apart from India, Australia is the only country that regulates OTT platforms through law enforcement. Compared to India, the law made by Australia is small. Australia's regulation is mainly based on two articles in the Broadcasting Act, but the Indian government has developed a new law to regulate the OTT platform. Therefore, Indian law was given the opportunity to include as many legal entities as possible in this Act.

Censorship Methods and Content Ratings

India follows a three-tier regulatory framework for censorship of OTT platforms. The central government offers two types of control, one self-regulation and the other government control. The self-regulatory body should be headed by any retired judge of the Supreme Court or High Court. Government control is said to be an inter-departmental government committee appointed by the Ministry of Information and Broadcasting.

The censorship of OTT platforms in Singapore is quite different from that in India. OTT platforms are directly controlled by IMDA. The rights to regulate OTT platforms are centralized in the IMDA. OTT platforms are directly regulated by law in Australia. Under the Broadcasting Services Act 1992, the Australian Government has developed an online content co-regulatory scheme for OTT platform control. Two schedules in the BSA are used to control OTT platforms.

Turkey is like Singapore, where OTT platforms are controlled by RTUK, primary institution for media control. No other subtitles are available for control of OTT platforms in Turkey. The United Kingdom intends to regulate OTT platforms. The UK has proposed a regulatory framework for OTT platforms. Saudi Arabia is a monarchical country, so OTT platforms are monitored under Anti-Cyber Crime Law.

Compared to other countries in this study, India is the only country that promotes self-regulation. Other countries use only government regulation for the censorship of OTT platforms. India promotes two methods in an effective way. India does not develop any special bodies for the regulation of OTT platforms, so the Government of India directly regulates OTT platforms and provides another means of self-regulation for the benefit of OTT platform companies.

The content ratings available in India are 7+, 13+, 16+ and 18+. The law also prescribes parental lock above content rated 13+ or U/A. The law also prescribes a reliable age verification system. The content classification in Singapore is like the classification of India. In addition, a section of the G referred to general and R21 referred to above 21 included.

Although the classification of Australia is slightly different, the whole concept is like India and other countries. Their classification is RC, X18+, R18+ and MA15+. RC is refused classifications, X18 + and R18+ being similar, but R18+ is a restricted access system. The UK intends to impose restrictions on OTT platforms and Turkey does not classify the content of OTT platforms. In Saudi Arabia, they monitor the entire Internet.

Comparison of India Censorship on OTT Platforms with Other Countries

Censorship of OTT platforms is a long way discussion in India. The market for OTT platforms in India has been growing over the last five years. The number of subscribers on different OTT platforms doubles during this period. After the increase in subscribers, the competition between OTT platforms increased. OTT platforms seek to enhance the content in the viewer's point. Among these contents include nudity, violence, and other vulgar content. This was led to questions about the importance of censorship on OTT platforms. Based on this history, the Central Government announced a new Information Technology (Guidelines for Intermediate, Digital Media Ethics Code) rules in 2021.

The way of censorship in India different from other countries, that they implement the censorship in OTT platforms. Indian government not ready to start an independent regulatory body for the censorship of OTT platforms. Singapore government's statutory body IMDA is a best example for this. Singapore's IMDA is a media regulatory body, they separately released regulation code for

OTT platforms. Compare to India's three tier regulation, the independent body have involved more deeply in the regulation. The independent body have possible to continuously monitoring the OTT platforms.

But the Indian government has effectively developed this three-tier control system. The government gives OTT companies the option of self-regulation in a government-controlled manner. The CBFC in India has received numerous complaints about their activities. Accordingly, the decision of the Central Government is relative. Because if the government develops a particular organization like the CBFC, it will get the same response as the CBFC. The independent frame for censorship is excellent in the form of the IMDA, but without the separate frames, India's trilateral control is better for the Indian situation.

All laws in India are defined in detail and include several subsections or articles. The new Information Technology (Guidelines for Intermediates, Digital Media Ethics Code) rules, 2021 for Censorship contains 29 pages of detailed legal explanation. The lengthy interpretation of the rules is generally confusing. The new law creates confusion about CBFC certified films. Also, there will be ambiguity about some of the films that have already received CBFC certification. It is not clear whether the platform will include similar certification or be redefined based on these rules, which will increase compliance procedure.

India has the option to shorten the expanded rules, but it is good for effective censorship putting aside the confusion of CBFC certifications, India's new law gives better control over OTT platforms. The law is satisfactory for OTT platforms and viewers. India has followed a new path to create censorship, so India's OTT platform control law is different from other countries. Therefore, the effectiveness of the law can only be fully understood in the future.

Content ratings for OTT platforms the new law provides are similar to the standard ratings for OTT platforms worldwide. In India, CBFC issues certificates for theatrical releases with one of the U, UA and A ratings. OTT platforms contain a wide variety of content, and it attracts a large crowd, so ratings should be given in a wide range. Gives ratings like G, PG, 15+, 18+ and 21+ in countries around the world. India also gives 7+, 13+, 16+ and 18+ ratings for content on OTT platforms. The new law prescribes a parental lock and a reliable age verification system, so it is an effective way of rating. For digital media, globally recognized OTT platform ratings are excellent. That is why India adopted that general rating system with a few additions.

After a long discussion and lengthy controversy, the censorship implemented by the Indian government on OTT platforms is effective. India's control of OTT platforms is quite different from other countries. Compared to other countries, India's control is effective and it serves the interests of the viewers and the interests of the OTT companies. The regulation of OTT platforms in India is not to say that it is better than other countries, but it is good for the censorship of OTT platforms. Media freedom is high in India, so in this case India's new law for OTT platforms is the best. The new law will soon have a huge impact on India's digital world and will make a big difference in the future.

Conclusion

The study focuses mainly on how censorship of OTT platforms has been done in India. Censorship is strong in the media. Content on all media platforms is censored differently. After the revaluation of the Internet a new media streaming grew, over-the-top service, i.e. OTT platforms. After the rise of OTT platforms, censorship also entered there. Censorship has also entered the Indian OTT platform market. In 2021, the central government implemented three level of regulation for OTT platforms. This study analyzes the censorship of OTT platforms in India and compares the

ensorship and control of OTT platforms in India with the control of OTT platforms around the world. Comparing OTT platforms around the world is not to describe how good the OTT platform censorship in India is, but to compare how censorship in India differs from other parts of the world. The Indian censorship system is unique in that it has implemented a way for viewers and OTT companies.

The censorship of OTT platforms by India is effective. The government had earlier censored theatrical releases through the CBFC. CBFC's censorship has been criticized in recent times. It is on the basis of these critiques that the Central Government has declared regulation. Therefore, the regulatory aspects are constructed to be equivalent to the freedom of viewers. But it is a challenge for the government to maintain this valuable censorship and move forward with regulation in the face of criticism. The CBFC's policy on censorship has been the subject of much criticism, and the regulatory rules for OTT platforms currently being built by the government go beyond that criticism. If the government keeps the censorship on the OTT platform in this mode it will benefit the government.

As part of the study, the analysis gathered most of the data on the censorship regulation of OTT platforms in India. Only a few countries were taken for comparison, as the countries with the most information were taken for comparison. Therefore, the study covers only a few countries, including India. Censorship of OTT platforms is a broad area of study. This study does not cover the maximum extent of OTT platform censorship. Some OTT platforms are available in more countries, and those broader OTT platforms are regulated in different ways in different countries. This study is a small copy of the analysis of broader OTT platform censorship.

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