



# The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## **REGULATORY FRAMEWORKS GOVERNING OTT** **PLATFORMS IN INDIA**

### *What is an OTT Platform?*

OTT (Over The Top) platforms in India is serving as a transformative force in the entertainment and media field. They are audio and video hosting and streaming services but started including production and release of short movies, feature films, web series and documentaries. They use artificial intelligence to suggest content that the users will love to watch based on their past viewership. The relevance of this field cannot be taken for granted. It created a paradigm shift on how content is created, distributed and consumed. As its importance was observed during the pandemic, the audience got accustomed to it even after that. The OTT Platforms shifted the market dynamics from traditional to technological. The TV Series we all once watched on TV has now become a series on Netflix, Amazon Prime etc. The Telecom Regulatory Authority of India (TRAI) has served many consultation papers to have a market driven approach towards OTT platforms and not a regulatory one. The Telecom Disputes Settlement Appellate Tribunal (TDSAT) ruled that OTT platforms like Hotstar are not in the jurisdiction of the TRAI and are governed by the IT Rules.<sup>1</sup> This debate was based on the question who should regulate internet based communications in the country. The IT Ministry believed that under the Allocation of Business Rules, Internet- based communications are not part of DoT's jurisdiction. This debate resulted in the Information and Broadcasting Ministry planning to introduce a legislation governing OTT platforms.<sup>2</sup>

---

<sup>1</sup> <https://www.drishtias.com/daily-updates/daily-news-analysis/regulation-of-ott-platforms>

<sup>2</sup> Regulation of OTT Platforms. By Dhanendra Kumar, Chairman of Competition Advisory Services (I) LLP

### ***How are OTT Platforms regulated in the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021?***

The most important regulations governing OTT is the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Section 2(I) of the Rules defines digital media as a digitized content that can be shared via internet or computer networks and it also includes content made or stored by an intermediary, publisher of news and current affairs or publisher of OTT Content<sup>3</sup>. According to the Appendix of the Rules which talks about the Code of Ethics.

### ***What are the general principles governing this platform?***

The general principles that govern the platform is as follows:

- The publisher is prohibited from transmitting or exhibiting any content that goes against the law or is prohibited by any court of competent jurisdiction.
- The following factors needs to be considered when deciding whether to feature or transmit or publish or exhibit any content that:
  - i. Affects the sovereignty and integrity of India
  - i. Threatens, endangers or jeopardizes the security of the state
  - ii. Detrimental to India's friendly relations with foreign countries
  - iii. Likely to incite violence or disturb public order
- The publisher needs to consider the multi racial and multi religious situation in India with due caution when featuring the activities, beliefs, practices of any religious group.

Regarding the content classification, the classification is based on the nature and type of content, into the following categories:

- An online curated content which is suitable for children as well as people of other age groups, it shall be classified as "U" rating.
- Online curated content suitable for persons aged 7 years and above, and for children lesser than 7 can watch it with parental guidance, it is classified as "U/A 7+" rating.
- Online curated content suitable for children more than 13 years of age and people under 13 can watch with parental guidance is classified as "U/A 13+"

---

<sup>3</sup> Section 2(i) of the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021).

- Online curated content suitable for persons aged 16 years and above, and can be viewed by persons under 16 with parental guidance is classified as “U/A 16+”
- Online curated content which is restricted to adults is classified as “A” rating. The II(D) of the rules states that it is the duty of the publisher to ensure that “A” rated content must take all efforts to restrict access to children below the age.
- The content is classified on the basis of:
  - i. Theme and messages
  - ii. Violence
  - iii. Nudity
  - iv. Sex
  - v. Language
  - vi. Drugs and substance abuse
  - vii. Horror
- But, this list can be modified time to time by the Ministry of Information and Broadcasting. <sup>4</sup>

The publisher of online curated content must display the classification rating specific to each content. The user must be informed about the nature of the content, and also be advised about viewer discretion at the beginning of every programme. This enables the user to make an informed decision before watching the content. The publisher of online curated content of U/A 13+ or higher must ensure that control mechanisms and parental locks are made available for such content.<sup>5</sup> The age mechanism must be done before viewing the content, and finally, content classification must be ensured and consumer advice must be taken. Finally, the publisher must take efforts to make the content fully accessible to everyone. <sup>6</sup>

### ***Grievance Redressal Mechanisms and Privacy Policy under this Rule:***

The Rules also provides for a grievance redressal mechanism which are responsible for receiving and resolve the complaints of the users. The person responsible, is expected to acknowledge the complaint within 24 hours and dispose the same in an appropriate manner within 15 days. Its access and publication by any other means on the platform should also be disabled. The privacy policy of the OTT Platforms must

---

<sup>4</sup> Rule II (B) of the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021).

<sup>5</sup> Rule II (C) of the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021).

<sup>6</sup> Rule II (D) and (E) of the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021).

ensure that users are educated about only circulating copyrighted material. Anything that is defamatory, racially, or ethnically or paedophilic is not published.