

IPR, MEDIA AND ENTERTAINMENT LAW IN THE OTT ERA: BALANCING COPYRIGHT, LICENSING AND EMERGING CHALLENGES IN THE DIGITAL ENTERTAINMENT INDUSTRY

AUTHOR– ANJALI BHATI, AMITY LAW SCHOOL, NOIDA, UTTAR PRADESH

BEST CITATION – ANJALI BHATI, IPR, MEDIA AND ENTERTAINMENT LAW IN THE OTT ERA: BALANCING COPYRIGHT, LICENSING AND EMERGING CHALLENGES IN THE DIGITAL ENTERTAINMENT INDUSTRY, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (7) OF 2025, PG. 118-125, APIS – 3920 – 0001 & ISSN – 2583-2344

ABSTRACT

The speedy expansion of OTT platforms has transformed the global media and entertainment landscape, challenging traditional IPR system. In this new era, balancing copyright protection with fair use, licensing agreements, and distribution rights has become increasingly complex. As content creators, distributors, and consumers navigate a fragmented digital ecosystem, OTT platforms are often at the center of debates over the ownership and monetization of creative works. Issues like cross-border copyright enforcement, digital piracy, and unauthorized content sharing are exacerbated by the borderless nature of the internet, necessitating a reevaluation of existing legal structures to address the unique demands of streaming services and their global audiences.

This research article paper explores the evolving landscape of IPR in the OTT era, focusing on the interplay among copyright protection, licensing practices, and the challenges posed by new technologies such as digital streaming, piracy, and cross-border distribution. It examines how media companies and content creators must navigate the changing legal frameworks, including jurisdictional issues and the enforcement of rights across multiple territories. The study also analyzes into emerging challenges such as user-generated content, the role of Artificial Intelligence in content creation, and the implications of data privacy regulations on content consumption. The study seeks to provide insights into how the media and entertainment industries can strike a balance between protecting intellectual property, fostering innovation, and ensuring equitable access in the face of a rapidly evolving digital ecosystem.

Key words: IPR, OTT, Copyright protection, Licensing

I. INTRODUCTION

Ensuring legal compliance for OTT platforms in India is a multifaceted process that involves adhering to a wide range of laws, regulations, and government-issued guidelines. These measures are designed to promote responsible content distribution and safeguard users. The primary legal foundation governing digital platforms, including OTT services, is the Information Technology Act, 2000, which serves as the cornerstone for regulating online activities in India.

Initially, the Information Technology (Intermediary Guidelines), 2011 applied exclusively to intermediaries. However, with the introduction of the 2021 rules, the regulatory scope was expanded to include both intermediaries and digital content publishers—bringing OTT platforms under the category of "publishers of online curated content." As a result, these platforms are now required to exercise due diligence to prevent the misuse of their services for illegal or harmful activities, as stipulated under Section 79 of the IT Act.

Section 67 of the same Act grants the government the authority to restrict access to content that may threaten public order or national security. This provision highlights the increasing regulatory scrutiny faced by OTT platforms and underscores the importance of compliance within the broader digital content ecosystem.¹⁵⁴

the IT Rules, 2021 outline specific responsibilities that OTT platforms must fulfill. These rules require platforms to comply with a prescribed Code of Ethics and adopt a self-regulatory approach. Key obligations include categorizing content based on age suitability, implementing parental control features, and establishing a robust grievance redressal system to address user complaints.

IT Act and its rules, OTT platforms are also governed by provisions of the Cable Television Networks (Regulation) Act, 1995, along with the associated Rules of 1994. Although originally intended for cable television (CTV), these regulations extend to OTT services that offer TV-like content. This was reinforced in the landmark judgment *Justice for Rights Foundation v. Union of India*¹⁵⁵, where the court clarified that such content must comply with the programming and advertising standards applicable under the Act. These include restrictions on material that may be considered indecent, immoral, or likely to incite violence.

II. STATEMENT OF THE PROBLEM

The rise of OTT platforms in India has revolutionized the media and entertainment industry, presenting significant challenges to intellectual property rights (IPR) laws. With the explosion of digital content, there is a growing need to address the complexities surrounding copyright protection, content licensing, and distribution. In an era where content is increasingly produced, distributed, and consumed through digital platforms, traditional IPR frameworks are struggling to keep up with

the rapid pace of technological advancements and changing consumption patterns. Issues such as unauthorized distribution, infringement of copyrights, and the blurred lines of licensing agreements create legal ambiguities and risks for creators, distributors, and consumers alike.

As the OTT landscape continues to evolve, the existing copyright and licensing mechanisms in India must adapt to balance the interests of content creators, platforms, and users while ensuring fair compensation and protection. The proliferation of global OTT players further complicates this balancing act, as content licensed for one market may face challenges when consumed in another, creating jurisdictional issues. Moreover, the rapid pace of technological innovation, such as the use of artificial intelligence, deep fakes, and live streaming, has introduced new legal and ethical dilemmas. This necessitates a rethinking of IPR law to address emerging challenges, foster innovation, and protect the rights of all stakeholders in the digital ecosystem.

III. RESEARCH OBJECTIVES

- To examine the effectiveness of current IP laws in protecting digital content on OTT platforms in India.
- To analyze the issues and challenges faced by content creators in navigating copyright issues within the OTT industry.
- To identify the legal implications of emerging technologies on copyright and licensing in OTT platforms

IV. RESEARCH QUESTIONS

1. How effective are the existing IP laws in India in identifying copyright infringement on OTT platforms?
2. What issues and challenges do content creators face in securing and dealing with copyright protection in the OTT era?
3. How do emerging technologies complicate current copyright and licensing frameworks in the OTT sector?

¹⁵⁴ Panda Kishore, et al, "Over-The-Top (OTT) Platforms in the Indian Entertainment Industry" IJRPR (2023)

¹⁵⁵ *Justice for Rights Foundation V. Union of India*, WP(C) 11164/2019

V. LITERATURE REVIEW

1. Priyanshu Yadav (2023)¹⁵⁶ Copyright is a form of intellectual property right that grants the creator of an original work the exclusive legal authority to control how their work is reproduced and distributed. When someone reproduces or copies such a work without the permission of the copyright holder, it constitutes a violation of copyright law. As per Section 2(m) of the Copyright Act, 1957, such unauthorized reproduction is legally recognized as the creation of an "infringing copy."
2. Mansi Kukreja (2023)¹⁵⁷ India's Intellectual Property Rights (IPR) framework is well-established and aims to protect the rights of creators, particularly those involved in artistic and literary endeavors, by allowing them to derive economic benefits from their creative output. However, the digital revolution—especially the rise of internet-based services—has introduced new complexities and challenges to the enforcement of these laws, particularly with the emergence of OTT platforms.
3. Manoj Vidwans (2016)¹⁵⁸ The rapid proliferation of the internet and smartphones has significantly reshaped consumer behavior in India. As OTT platforms explore different strategies to capture a larger share of the Indian market, their long-term success will largely hinge on the quality and uniqueness of the content they offer. Viewer engagement in this sector will be driven by the availability of original programming and a broad, diverse content portfolio.

VI. INTELLECTUAL PROPERTY RIGHTS AND OTT PLATFORMS

A significant number of online companies manage vast databases that are protected under intellectual property (IP) laws. In the case of online streaming platforms, the original content they host is typically owned by the platforms themselves, granting them exclusive rights that can be leveraged for future licensing deals and revenue streams. Copyright law plays a key role in this ecosystem by ensuring that creators are recognized and rewarded for their original works, while the public retains a right to access information in a fair and balanced manner.

Given the global and borderless nature of the internet, unauthorized use or duplication of content has become increasingly easy, making copyright infringement a pressing concern. Therefore, to safeguard content from ownership disputes or misuse, it is essential to address multiple legal aspects such as copyrights, trademarks, and licensing agreements. These mechanisms help define ownership rights clearly and ensure that intellectual assets are properly protected in the digital landscape.

Copyright law protects original creative works that are fixed in a tangible form, while trademark law focuses on brand elements—like logos and names—that distinguish goods or services. In the context of streaming platforms, multiple components must be evaluated individually, such as the written content, audio, video, and personality rights of individuals featured. Licensing for new media formats, such as video synchronization rights and permission to use individuals' likenesses, is often necessary.

OTT service providers typically offer content either for free or as part of subscription packages, making them more attractive compared to traditional network operators who often incur significant costs. This digital sector faces fewer regulatory constraints compared to conventional media such as television and cinema, granting creators greater artistic liberty and enabling them to cater to diverse audience

¹⁵⁶ Priyanshu Yadav, A Brief Study of Intellectual Property Law in Context of OTT Platform and Video Piracy in India IJLLR (2023)

¹⁵⁷ Mansi Kukreja (2023) Infringement of IPR Laws by OTT Platforms <https://www.lawyered.in/legal-disrupt/articles/infringement-ipr-laws-ott-platforms/>

¹⁵⁸ Manoj Vidwans, Success in OTT market will depend on content strategy, Business Today, December 2, 2016

preferences. Combined with the flexibility of on-demand access from any location, these factors significantly contribute to the rising popularity of streaming platforms. Their intuitive interfaces and user-friendly experiences further enhance their appeal, creating a mutually beneficial model for consumers.

Telecom companies have struggled to adapt to the changing market dynamics and the shift in revenue caused by the rise of OTT platforms. These newer digital players have capitalized on both content and ad revenues. Traditionally, broadcasters have commissioned the creation of shows, entering into agreements with producers. Under such contracts, broadcasters pay a fixed fee and, in return, gain ownership of the IPR. This gives them the authority to distribute the content in multiple languages, sell it internationally—including to airlines and other content platforms—or even feature it on their own streaming services.

In the past, producers had limited avenues to earn from broader distribution and audience reach, often resulting in restricted earnings. They also lacked ownership of intellectual property rights, which prevented them from tapping into potential revenue streams beyond the initial production deal.

VII. CONTROVERSIES SURROUNDING OTT PLATFORMS

In recent years, India has witnessed an explosive growth in the number of OTT platforms, both domestic and international. This surge has been driven by the need to cater to the diverse tastes and preferences of the Indian audience, making India the fastest-growing OTT market globally. However, this rapid expansion has also sparked numerous controversies, particularly surrounding the content featured on these platforms. Many Indian and foreign web series have faced backlash due to allegations of obscenity, defamation, and disrespect towards religious beliefs.

Authorities began to express serious concern after receiving a flood of complaints about inappropriate content, including vulgar

language, excessive violence, and the perceived denigration of religious values. Calls were even made to ban major platforms like Netflix and Amazon Prime, citing content that allegedly offended religious communities.

Frequently raised issues include controversial storylines, cultural misrepresentation, use of offensive language, regional stereotyping, and excessive sexual content. Several web series have faced legal challenges for these reasons. For instance, the popular show *Mirzapur* was targeted in a lawsuit claiming that it damaged the real city's reputation. Critics argued that while regulations might limit filmmakers' creative freedom, they could also help shield younger audiences from harmful material.

Another major controversy involved *The John Oliver Show* on Hotstar, where Oliver criticized Prime Minister Narendra Modi and the Citizenship Amendment Act (CAA). The episode was eventually pulled by Hotstar under mounting pressure. The government has also urged OTT platforms to establish review committees to assess and potentially remove content that could incite violence, offend religious sentiments, or violate legal rulings.¹⁵⁹

India's online streaming industry has grown into a complex and often contentious space. The primary responsibility for regulating digital content falls under the Ministry of Electronics and Information Technology (MEITY), which operates under the Government of India Rules, 1961. This legal framework grants MEITY the authority to oversee and manage content distributed through digital platforms.

VIII. LEGAL PROTECTION CONCERNING OTT PLATFORMS

Online films and content streamed through OTT platforms in India operate outside the jurisdiction of the Cinematograph Act of 1952, which only governs films released in theaters. As a result, OTT content has historically existed in a largely unregulated space, unlike traditional cinema which requires certification from the

¹⁵⁹ Raghuvinder Singh, *Obscenity on Over-The-Top (OTT) Platforms and Censorship*, IJNRD (2024)

CBFC. This regulatory gap has led to numerous complaints concerning offensive material—ranging from allegations of obscenity, religious insensitivity, and pornography to morally objectionable content. Since CBFC certifications are not applicable to digital content, the need for a formal governance structure for OTT platforms became increasingly evident.

To address this issue, several legal provisions currently regulate the content on OTT platforms in India¹⁶⁰:

A. Indian Penal Code (IPC), 1860

Section 293: Criminalizes the sale or distribution of obscene materials, especially to minors.

Section 295A: Punishes acts done with malicious intent to offend religious sentiments.

Section 499: Addresses the offense of defamation.

Section 354: Criminalizes any act that outrages a woman's modesty.

B. Protection of Children from Sexual Offences (POCSO) Act

This law is crucial for shielding children from both physical and digital forms of abuse, including sexual assault, harassment, and cyber pornography. It serves as a key legislative tool to protect minors from exploitation.

C. Indecent Representation of Women (Prevention) Act, 1986

This act prohibits any portrayal of women in an indecent or derogatory manner across all forms of media, including print, television, film, and digital content.

D. IT RULES 2021

Formulated after consultations by the MIB with key stakeholders, this legislation introduced a more structured framework for OTT platforms under the IT Act.

IX. THE IMPACT OF COPYRIGHT INFRINGEMENT ON OTT PLATFORMS

Copyright infringement has far-reaching consequences that negatively impact a wide

range of stakeholders within the entertainment industry. Piracy and unauthorized distribution lead to massive financial losses for content creators, producers, and OTT platforms. These losses hinder their capacity to fund future projects or sustain the quality of their productions, ultimately putting a damper on creativity and innovation. When audiences consume pirated content, it undermines the credibility of official platforms, dissuading creators from sharing their work through legitimate channels. This can result in fewer original, diverse offerings, limiting entertainment choices for viewers and damaging the overall health of the industry.

Infringement issues can also trigger expensive legal disputes, affecting both individuals involved in piracy and digital platforms that fail to regulate the content they host. In certain cases, these platforms may be subjected to penalties or legal sanctions for enabling or ignoring the unauthorized distribution of copyrighted material.

Combating copyright violations on OTT platforms presents numerous challenges. The borderless nature of the internet complicates law enforcement efforts, as copyright laws vary significantly from country to country. What qualifies as illegal activity in one jurisdiction may not be treated the same way elsewhere, allowing infringers to exploit legal gray areas. Additionally, pirates often use advanced technologies to circumvent digital rights management (DRM) protections and illegally distribute content. As technology becomes more sophisticated, so do the tools used for piracy, making it difficult for content providers to stay ahead.

A major hurdle in addressing this issue is the general lack of public awareness regarding copyright laws. Many consumers do not fully understand the legal and ethical consequences of streaming or downloading content from unlicensed sources. Some may unknowingly engage in piracy, believing these practices to be harmless or legal. This lack of knowledge

¹⁶⁰ Harprit Singh, The Legal Challenges and Opportunities in the Regulation of Over-the-Top (OTT) Platforms in India, BLJ (2024)

sustains demand for pirated material and makes enforcement even more difficult. Compounding the issue, smaller OTT platforms often don't have the financial or technical resources to implement comprehensive anti-piracy systems, leaving them particularly vulnerable. Their inability to effectively tackle infringement places them at a disadvantage in an already competitive digital media landscape.

X. SOLUTIONS TO ADDRESS COPYRIGHT INFRINGEMENT

In matter of **Sun TV Network Limited v. Amazon**¹⁶¹, Sun TV filed a lawsuit seeking a permanent injunction against Amazon for streaming 28 of its films—content over which it held copyright ownership—on the latter's OTT platform without authorization. The Madras High Court, while addressing the matter, emphasized a key legal principle: the producer of a cinematographic film is considered the original copyright holder. Since Sun TV had legally acquired the rights from these original producers, it held valid ownership over the content.

The court acknowledged that, given this lawful acquisition, Sun TV had every right to commercially exploit its copyrighted works without interference or infringement from third parties. In light of these observations, the court granted an interim injunction, restraining Amazon from further streaming the disputed films until the matter is fully resolved.

In another case of **Jagran Prakashan Limited v. Telegram FZ LLC**¹⁶², The Hon'ble Delhi High Court issued a directive to the defendants, Telegram, ordering them to remove specific channels within forty-eight (48) hours. These channels were being used by users to illegally reproduce and share the copyrighted digital e-paper content belonging to the plaintiff corporation, which offers this e-paper exclusively to its subscribers.

The increasing number of internet-based streaming platforms, along with the surge in digital content, has significantly heightened the risk of piracy and copyright infringement through these services. Although existing laws address such violations and outline the responsibilities of OTT platforms, there is a growing need to expand and clarify the legal provisions that specifically deal with digital content being disseminated across multiple OTT platforms—often without the knowledge of the rightful copyright holder. There is also a pressing demand for clearer procedures, as well as a well-defined understanding of the liability of each party involved in such cases of infringement.

By implementing more precise legal frameworks and enforcement mechanisms, the rights of content creators can be better safeguarded, which in turn could reduce the frequency of piracy and unlawful distribution through OTT platforms. Furthermore, streaming services must take a more vigilant and proactive approach in detecting potentially infringing material and deciding whether such content should be removed or blocked from their platforms.

Mr. John Hart Jr. V. Mr. Mukul Deora¹⁶³

In recent times, Indian courts have witnessed a surge in last-minute injunction requests, commonly referred to as "eleventh-hour injunctions." These are lawsuits filed just hours before the scheduled release of a film, alleging copyright infringement and seeking to halt its release. The judiciary has made it clear that not all such cases are dismissed outright. If the plaintiff can convincingly demonstrate that they became aware of the alleged infringement only at the last moment, the court may still consider the plea. The decision underscored the importance of acting promptly when pursuing legal remedies.

¹⁶¹ O.A.No.110 of 2021 in C.S.No.69 of 2021.
¹⁶² CS(COMM) 146/2020.

¹⁶³ AIR 2021 DEL 79

CONCLUSION

In conclusion, the rapid growth of OTT platforms in India has transformed the media and entertainment industry, presenting both opportunities and significant challenges for the protection of intellectual property rights (IPR). With the rise of digital content consumption, traditional copyright and licensing laws are struggling to keep up with the demands of an evolving market. As OTT platforms continue to dominate the entertainment landscape, it is clear that existing IPR frameworks must be re-examined and adapted to ensure that content creators, distributors, and consumers are fairly protected and compensated.

The role of government regulation and policy is also crucial in this context. Government intervention can help create a more balanced and fairer ecosystem by establishing clearer guidelines for copyright protection and licensing in the OTT sector. Furthermore, India must consider aligning its laws with international standards, particularly in the realm of digital content distribution and copyright enforcement. Cooperation with international regulatory bodies and industry stakeholders can lead to the development of more effective global solutions for protecting IPR in the OTT space, ensuring that the Indian creative industry can compete on a global stage.

Ultimately, the key to balancing copyright, licensing, and emerging challenges in the OTT era lies in creating a dynamic and flexible legal framework that adapts to the rapid changes in technology and content consumption. As the digital landscape continues to evolve, India's IPR laws must evolve with it, ensuring that the rights of creators are protected, while simultaneously fostering the growth of the OTT industry. By addressing these challenges head-on and developing a legal framework that is both forward-thinking and adaptable, India can secure a thriving, innovative, and equitable media and entertainment sector for years to come.

The legal framework should be updated to account for the challenges posed by emerging technologies like AI, deep fakes, and virtual reality. By developing specific laws for these technologies, India can better address issues of content authenticity, ownership, and protection in the digital space.

REFERENCES

1. Harprit Singh, The Legal Challenges and Opportunities in the Regulation of Over-the-Top (OTT) Platforms in India, BLJ (2024)
2. Priyanshu Yadav, A Brief Study of Intellectual Property Law in Context of OTT Platform and Video Piracy in India IJLLR (2023)
3. Raghuvinder Singh, Obscenity on Over-The-Top (OTT) Platforms and Censorship, IJNRD (2024)
4. Panda Kishore, et al, "Over-The-Top (OTT) Platforms in the Indian Entertainment Industry" IJRPR (2023)
5. Akkiraju Akhila, Legal Framework of Over the Top (OTT) Platforms in India, IJSR (2022)
6. Rinsha Narayanan Legal Compliance for OTT Platforms in India: Understanding the Regulatory Landscape, Media & Entertainment Law Journal (2024)
7. Mansi Kukreja (2023) Infringement of IPR Laws by OTT Platforms <https://www.lawyered.in/legal-disrupt/articles/infringement-ipr-laws-ott-platforms/>
8. TRAI <https://www.trai.gov.in/sites/default/files/OTT-CP-27032015.pdf>.
9. <https://digitalregulation.org/regulation-of-ott-services-in-india/>
10. Harprit Singh, The Legal Challenges and Opportunities in the Regulation of Over-the-Top (OTT) Platforms in India, BLJ (2024)



11. Biswajit Sarkar (2025), Copyright Infringement on OTT Platforms <https://www.biswajitsarkar.com>
12. <https://www.sonisvision.in/blogs/ott-and-copyright-infringement-in-reference-to-information-technology-rules-2021>
13. <https://ksandk.com/information-technology/ott-platforms-legal-challenges-safeguarding-ip-rights-and-addressing-taboo-content/>

