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**CENSORSHIP OF THE OTT PLATFORMS- A CRITICAL ANALYSIS****Abstract**

*For many decades the creative content in India like movies and documentaries had a requirement to get a certificate from censor board and then they had to censor the movie in front of members of censor board. After this the censor board grants certificate and also categorizes the movie for e.g. whether it is an adult or an underage movie. But in the last ten years this entire platform of showcase of creative content has diversified with the evolution of OTT apps. OTT platform refers to those media-based services which enables the viewers to stream movies, web shows/ TV shows and documentaries of various genres via the internet from their comfort at home. The full form of this acronym is Over-the-top. The most attractive quality of such OTT platforms are that paid viewers can stream the content from anywhere and from any electronic device for e.g. laptop, smartphones etc and enjoy watching their favorite episodes without getting disrupted by advertisements. If you are also exhilarated to binge watch such contents, you can do so on platforms like Netflix, Amazon prime video, Voot, ALT Balaji, Zee 5, Disney hotstar, viu, Sony Liv, MX player, JioCinema and Youtube Premium. In the past few years, Indians have found that these OTT platforms stream certain kinds of movies and web series, which hurt their religious sentiments and are not suitable for the Indian culture and society. With all these concerns arising amongst the people, the Government of India on November 11, 2020 decided to bring OTT platforms under the limits of the Ministry of Information and Broadcasting. Later, on February 25, 2021 former*

*Law Minister Ravi Shankar Prasad and Former I&B Minister Prakash Javedkar from the government's side notified rules and guidelines for OTT platforms.*

### **Controversies created by OTT Platforms**

In the Tandav series, an actor played the role of Lord Shiva and passed comments on Hindu gods due to which the sentiments of the audience were hurt. The makers of the web series deleted such scenes later with the fear of getting arrested<sup>1</sup>. Another web series, Mirzapur faced a lot of criticism because most of the characters were portrayed as gangsters, goons and the cultural image of the city was tarnished. A petition was filed in the Supreme Court because the series portrayed the city in bad light and changes were demanded to be made. Now, Supreme Court has issued the notice seeking response from Amazon Prime Video and makers of series<sup>2</sup>. Next on the list is Paatal Lok, where a BJP MLA filed a complaint against producer for allegedly using his photograph without his permission<sup>3</sup>. Sacred Games, a web series on Netflix created controversy where a character takes off his 'kadha' and throws it away which hurt the religious sentiments within the Sikh community<sup>4</sup>. The makers of web series very well know that hurting religious sentiments or creating a negative image would give a lot of hype to them. Thus they use this weapon intentionally to create controversies which would give them success.

### **OTT platforms under Ministry of Information and Broadcasting**

Internet and Mobile Association of India proposed a self-regulatory model. The self-regulatory model consisted of a framework for age classification, content descriptions and parental control with a redressal system<sup>5</sup>. But the Ministry rejected the self-regulation model proposed by OTT platforms. Last year in mid-October, a PIL in Supreme Court stated that digital content on OTT platforms is launched for the public at large without any filter or screening. The Supreme Court

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<sup>1</sup> Available at-<https://indianexpress.com/article/entertainment/web-series/controversies-surrounding-tandav-heres-everything-you-should-know-7163727/> (last accessed- 1/8/2021)

<sup>2</sup> Available at-<https://www.livemint.com/news/india/supreme-court-issues-notice-to-centre-amazon-prime-video-for-mirzapur-11611232433424.html> (last accessed- 1/8/2021)

<sup>3</sup> Available at-<https://indianexpress.com/article/entertainment/web-series/paatal-lok-controversies-everything-that-has-happened-6428414/> (last accessed- 30/8/2021)

<sup>4</sup> Available at-<https://www.indiatoday.in/india/story/remove-sacred-games-scene-saif-ali-khan-throwing-kadamanjinder-sirsa-1582522-2019-08-20> (last accessed- 30/8/2021)

<sup>5</sup> Available at-<https://www.hindustantimes.com/bollywood/ott-platforms-sign-self-regulation-code-in-india-here-s-what-the-platforms-and-experts-have-to-say-about-it/story-WJKgyvV8Fo1c9fhBgk1XJJ.html> (last accessed- 29/8/2021)

then sought response from the Centre on this PIL for regulating OTT platforms by an autonomous body<sup>6</sup>. In an executive order, the government has amended the Allocation of Business rules, 1961 and thus have also said that Films and audio-visual programmes, news and current affairs content by OTT providers will be brought under the Information and Broadcasting ministry. There was no law to regulate the OTT platforms and this is the first time the government is stepping into the digital space. The decision was taken in exercise of the powers given under Article 77(3). The rules are referred to as Government of India (Allocation of Business) Three Hundred and Fifty Seventh Amendment Rules, 2020<sup>7</sup>. This move by the government will let OTT platforms keep a check on their content and it would be necessary for them to apply approval for the content before launching on their platforms. The government has described this move as a level playing field and creating an enabling regulatory environment. This move by the government will enable to prevent objectionable content on audio and video streaming platforms. Earlier, the Ministry of Electronics and Information Technology had clarified that there was no need for regulation of OTT platforms under Cinematograph Act for prior licensing of content but now the I & B Ministry may take a different route to regulation and it could be a precursor to a legislative route.

### **Rules and Guidelines for OTT platforms**

The Ministry of Information and Broadcast notified rules and guidelines for OTT platforms under Information Technology (Guidelines for Intermediaries and Digital Media and Ethics Code) Rules 2021<sup>8</sup>. These rules are notified under the Information Technology Act, 2000. Under the guidelines, it becomes necessary for intermediaries to observe due diligence which includes informing users about rules and regulations and terms and conditions for the services. If the government or court orders to block unlawful information, then it must be blocked within 36 hours. In case of cancellation of registration by the user, the registered information by the user must be retained for 180 days. It is now mandatory for OTT platforms for classifying their content in age-appropriate categories, to implement a mechanism for accessing adult content with age verification, to strengthen parental control mechanisms and improve convenience of content for disabled persons.

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<sup>6</sup> Available at-<https://www.indiatvnews.com/news/india/sc-seeks-centre-s-response-on-pil-to-regulate-ott-platforms-657109> (last accessed- 29/8/2021)

<sup>7</sup> Available at-<https://egazette.nic.in/WriteReadData/2020/223032.pdf> (last accessed- 29/8/2021)

<sup>8</sup> Available at-<https://prsindia.org/billtrack/the-information-technology-intermediary-guidelines-and-digital-media-ethics-code-rules-2021> (last accessed- 29/8/2021)

The rules have also established a grievance redressal structure of three tier which is notified under section 87 of the Information Technology Act. The first tier is a grievance redressal mechanism that has to be established by the OTT platforms themselves. The second tier consists of a self-regulatory body that has to be headed by a retired Supreme Court judge or a High Court judge or a noteworthy person. The third tier consists of an oversight mechanism by the central government which would also consist of an inter-ministerial committee. An inter-ministerial committee is responsible to look after complaints related to violations and take necessary actions such as shutting down the website altogether for some time. The OTT platforms have to classify their content into 5 categories- U (Universal), U/A 7+, U/A 13+, U/A 16+ and A (Adult). The platforms have to implement parental lock for contents classified under U/A 13+, U/A 16+ and A. The content must specify the nature of it as an advisory note to the users and viewer description at the beginning of the movie or web series. The reason behind this small step is to proactively inform users about what they are about to watch.

### **Major Issues now for OTTs due to Censorship**

The OTT platforms have often launched such web series and documentaries of political and economic issues (for e.g. Jamtara, Delhi Crime, Inside Edge etc) which can hardly be watched at theatres or on Televisions due to the censorship in place. But with the censorship on OTT platforms, viewers will no longer enjoy such quality content as the supreme authority now has the right to regulate and control critical narratives on OTT platforms, the way they have been regulating and hampering the right to free speech of mainstream films and Televisions. There is a fear amongst the creators that such restrictions would limit the creativity of their work because censorship is often politically motivated which worsens their work of art. The censorship guidelines show the desperation of the government to control free speech and expression. Censorship can have adverse negative effects over the economy of the industry. The government will have powers to show what they want to for the viewers. Moreover the subscription numbers and revenue streams of business will suffer. Censorship snatches away the charm of subscription i.e. the choice which people have to watch such content that is either censored or unavailable at theatres and televisions. This may enable the people to access such content illegally. Censorship is a menacing precedent which limits the expression of viewpoints, both politically and creatively.

### **Conclusion**

Censorship in OTT platforms was an absolute necessity because most of the content delivered to the viewers were related to obscenity, violence and used to hurt religious sentiments of the people. Censorship will ensure that viewers do not suffer from such problems and would also restrict OTT platforms to produce content that is against the integrity and sovereignty of the country. People against the regulation for OTT platforms argue that freedom of speech and expression is their fundamental right and hence it must not be regulated, but what they must also know is that this fundamental right has certain reasonable restrictions. Hence, OTT platforms must not produce any such kind of content which is found disturbing amongst the viewers. OTT platforms have stood game changing in the field of entertainment with their creative quality content for their viewers. But there are certain contents on OTT platforms which do not abide by the law. To make sure viewers are not exposed to such contents, the decision by the Ministry of Internet and Broadcasting related to regulations of OTT platforms is felicitous. Some common complaints amongst the viewers' for contents have been related to obscenity, violence and hurting religious sentiments. This soft intervention by the government will ensure in resolving such complaints quickly. The regulatory model must censor such contents which do not abide by the law and also on the other hand must remain unbiased and impartial so that free speech and creativity of OTT platforms is not hampered.

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