



## More Choices, More Chaos: Is OTT Content Overwhelming Us!

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### ABSTRACT

The OTT platform has experienced remarkable growth in the Indian market, leading to a significant decline in viewership for traditional media such as television. This trend has become particularly evident since the onset of the COVID-19 pandemic. The variety of content available on OTT platforms, including web series, live shows, and talk shows, has expanded dramatically, creating a vast library of options for viewers. Both national and international players have established a strong presence in this market, resulting in a notable transformation within the Indian entertainment industry. OTT platforms are increasingly focusing on themes that resonate with Indian society, including web series that explore religious sentiments and inter-religious conflicts. While some of this content may present sensitive topics in a controversial manner, it has garnered significant interest from audiences, particularly among younger viewers. This shift in content consumption habits has raised questions about the impact of such programming on creativity and societal values. In this paper, we will analyze these trends, examining the latest developments in the industry, including recent Supreme Court rulings that have addressed regulatory concerns. We will also discuss the implications of these changes for both content creators and viewers, particularly in relation to language and representation in web series. The theme is to provide a comprehensive overview of the current landscape of OTT content in India and its effects on media consumption. However, the self-regulatory code establishes an internal regulatory framework for Over-the-Top (OTT) platforms; however, the absence of an external governing authority results in inadequate oversight of content on these platforms.

*Consequently, no dedicated regulatory body has been created specifically for OTT services. Furthermore, there have been multiple instances in which courts have explicitly indicated that the Cinematograph Act and censorship regulations do not pertain to OTT platforms, as they function under their own distinct legal and regulatory guidelines.*

## **KEY WORDS**

*Strong Presence, Regulatory Guidelines, Younger Viewers, Religious Sentiments, Consumption Habits.*

## **Understanding The Spectrum of Mass Communication**

Mass communication is an ever-evolving field that began with radio and has since expanded to include television, cable networks, and, more recently, the internet. As technology has advanced, the speed and accessibility of communication have significantly improved, allowing information to reach audiences almost instantaneously, even in remote areas. Governments have leveraged technology to ensure that their services and initiatives are accessible to all citizens.

In mass communication, the process involves three key elements: the sender, known as the originator, the channel through which the message is transmitted, and the receiver who receives the information. A crucial aspect of this process is feedback, which is essential for effective communication. Without feedback, messages can become distorted or authoritarian in nature. Historically, communication was primarily vertical before independence, but with the advent of democratic societies, a more interactive form of communication has emerged, allowing for feedback and engagement. The evolution of communication mediums from radio to print, television, and now digital platforms—has transformed how news and information are shared. Today, we also see the rise of OTT platforms that provide real-time updates and connect audiences instantly. This rapid dissemination of information is a testament to the advancements in technology.

Mass communication serves several important functions, primarily informative and entertaining. It keeps the public informed about social events, educational topics, and current news, while also providing entertainment through movies, music, and talk shows. Additionally, media plays a vital role in influencing public opinion, particularly during significant events like elections, where it helps raise awareness about voting rights and civic responsibilities. (Happer & Philo, 2013). Moreover, media reflects the rich and diverse culture of India, promoting themes of unity and integrity. Overall, technology is integral to the effectiveness of mass communication, ensuring that information reaches people quickly and efficiently.

## **Voices of the People: How Investigative Journalism Shines a Light on Corruption**

As technology has advanced, the media landscape has significantly evolved across digital, print, and broadcast platforms. Today, individuals are more connected to various forms of media than ever before, engaging with content that spans political news, information dissemination, and more. The nature of news reporting has transformed considerably; it is no longer confined to entertainment, education, or information alone.

In contemporary society, media plays a crucial role in fostering interactive discussions and supporting public debates, contributing positively to the democratic fabric of our nation. This aligns with the principles outlined in our constitution, which emphasizes India as a democratic country where individuals have the freedom to express their views and opinions. The media has proven to be an effective platform for highlighting issues related to corruption, crime, and Government policies, reflecting both shortcomings and achievements in these areas.

Historically, the media's role was primarily focused on national building and raising social awareness. However, its importance has expanded to encompass security challenges and strategic international alliances.

(Staff, 2013) and the Nirbhaya

incident, showcased the media's active involvement in investigative journalism, providing detailed coverage and raising public awareness (**Khurana, 2023**). The media has also played a significant role in high-profile cases, such as the Jessica Lal murder and various corruption scandals, including those related to the Commonwealth Games and the cash-for-vote controversy. Its commitment to unbiased investigative reporting has been evident in recent protests, such as those concerning the CAA/NRC in Sahin bagh (**Kapoor, 2022**), where the media effectively communicated the implications of the legislation for public interest. Furthermore, the media has critically examined Government initiatives, such as the farmers' movement, providing comprehensive coverage of agricultural issues and the challenges faced by farmers (**Iqubbal & Alam, 2021**). It is important to note that the media does not solely serve Government interests, but it actively reports on both positive and negative developments, including events in regions like Jammu and Kashmir. In essence, the media plays a vital role in keeping citizens informed about local and national events, ensuring that accurate information reaches the public. By doing so, it contributes to the overall success of Government initiatives and enhances public awareness, even in remote areas.

### Understanding Media Bias in Today's Political Landscape

As time has progressed and technology has advanced, the role of media has also evolved significantly. With the increase in the number of news channels and broadcasts, media and politics have become more intertwined. For instance, national parties like the BJP and Congress have seen certain news channels favoring one over the other, leading to a perception that media content can be biased. This shift has resulted in a noticeable change in public perception regarding news coverage.

Today, many media outlets question the accuracy and integrity of the news they broadcast. In the past, news channels often presented similar content, but as the media landscape has diversified, both ruling and opposition parties have aligned themselves with specific media organizations to promote their narratives. This has led to a situation where news coverage can vary significantly depending on the political affiliation of the channel.

Moreover, the tendency for media to engage in sensationalism and to cast aspersions on rival channels has diminished public interest in unbiased reporting. Incidents involving the ruling party may receive extensive coverage on certain channels, while the same events might be downplayed on others. This fluctuation in media representation has been evident in various political and social issues, including discussions around political intolerance and high-profile cases that have captured public attention.

Recent events, such as the controversies surrounding figures for instance, there have been notable discussions surrounding Aamir Khan's comments on intolerance, the Rohith Vemula incident related to caste politics (**Correspondent, 2016**), the Asharam Bapu case, and the recent debates regarding the recognition of Afzal Guru as a martyr at Jawaharlal Nehru University (**Sebastian, 2021**) etc., illustrating how media shapes public perception and influences to public at large. The portrayal of these issues can compel individuals to form opinions based on the narratives presented by different media outlets.

In today's media environment, particularly in entertainment channels, there is a growing trend of sensationalism and provocative language. It is essential for media organizations to consider their responsibility in shaping public discourse and to strive for a balance between creativity and ethical reporting. The Government should also pay attention to these trends to ensure that freedom of expression does not compromise the integrity of information being disseminated.

In recent years, the presence of explicit scenes on over-the-top (OTT) platforms has become increasingly prominent. Previously, such content was limited to specific Indian television programs, such as "X-Uncensored" and "Bekaboo." These bold scenes appear to resonate particularly with the youth demographic (**Shafi, 2020**). The content available on OTT platforms not only diverges from traditional Indian television but also influences young audiences in both sensitive and significant ways.

Research indicates that Indian youth are particularly drawn to this type of content, as OTT platforms are primarily designed to cater to their preferences, given that a substantial portion of their leisure time is spent engaging with these services. A key factor contributing to the youth's increased engagement with OTT content is the convenience of accessing their favorite shows or web series via mobile devices (**Dhiman & Malik, 2021**). When comparing contemporary programming with that of earlier television, notable differences emerge. However, it is essential to examine the extent to which such programming influences societal perceptions and the acceptance of explicit content. The impact of these bold scenes on the youth's mindset warrants further investigation, particularly in urban areas where exposure to such content may vary. Moreover, the adoption of Western cultural elements raises questions about the compatibility of these influences with traditional Indian values. The implications of this cultural exchange on the youth's development and societal norms merit careful consideration, as there are concerns regarding the potential for moral degradation among young audiences in India.

As of now, the viewership for shows like "Married Woman Diaries" has reached an impressive 5 million, indicating a significant shift in the Indian audience's preference towards digital media (**Pandit & Parmar, 2020**). This trend suggests that viewers are becoming more analytical and discerning in their consumption habits. In contrast to traditional Indian media, where producers focused on family-friendly content suitable for all ages, the current landscape of streaming services offers more personalized programming. This content often targets specific demographics, particularly younger audiences, while older generations tend to prefer conventional television shows due to their more conservative tastes.

The impact of the COVID-19 pandemic has further accelerated changes in the preferences of younger viewers, who are now more open to bold themes and language in web series. Shows like "Mirzapur" and "Akarashan" have introduced more explicit language and scenarios, aiming to create a sense of realism in their narratives. However, this raises questions about the appropriateness of such content and the extent to which it resonates with audiences.

Historically, the censor board imposed strict regulations on content, limiting the portrayal of bold scenes and language. Many creators faced challenges in navigating these restrictions, leading to a lack of opportunities for creative expression. Recent court rulings have highlighted the need for a content regulation, suggesting that the evolving landscape of digital media may require a reevaluation of existing guidelines to foster creativity while still considering audience sensibilities.

The protection of religious beliefs is enshrined in the Indian Constitution, affirming that the right to safeguard and practice one's religion is a fundamental right. This right is outlined in Part 3 of the Constitution, which guarantees every citizen the freedom to follow and express their religious beliefs without interference. This underscores India's commitment to being a secular nation, where individuals can actively practice and promote their faith. Furthermore, Articles 25 to 28 elaborate on various religious freedoms, emphasizing that while individuals have the right to their beliefs, it is important to respect the rights of others and refrain from imposing one's beliefs on anyone else.

There should be the balance between the constitutional right to freedom of occupation, trade, and business, and the need for reasonable restrictions to protect public interest, particularly regarding religious sentiments. While Articles 19(1)(a) and 19(1)(g) of the constitution affirm the right to engage in business, they also allow for limitations, especially concerning sensitive issues like religion. The IT Guidelines of 2021 highlight the importance of adhering to these principles, particularly for Over-The-Top (OTT) platforms, which must navigate the fine line between entertainment and social responsibility. As these platforms become more popular, especially with content related to religious and political themes, it is crucial to avoid content that could offend cultural sensitivities. It is urgent call to think over the self-regulation within the media industry to maintain societal values, asserting that artistic freedom should not compromise respect for religious beliefs and cultural integrity. Content that promotes vulgarity or disrespects religious sentiments can negatively impact societal cohesion.

In the Indian Penal Code, there are several provisions that address issues related to religious sentiments and insults. For instance, Section 295 outlines penalties for individuals who insult places of worship (**Paliwala, 2021**). If someone intentionally destroys or damages a place of worship with the intent to offend a particular religion or community, they may face a punishment of up to two years. Section 295A specifically addresses the deliberate insult of religious sentiments. If a film or any form of expression offends a religious community, there are legal consequences. Offenders who use words, gestures, or any means of communication to insult religious beliefs may be subject to a punishment of up to three years. Additionally, if someone speaks with the intent to offend and causes harm to an individual's religious feelings, they could face imprisonment for up to one year or a fine. The key elements in these cases are deliberation, intent, and the act of hurting religious sentiments. If all three elements are present, Section 298 may apply. Furthermore, Section 153-A addresses actions—whether online or offline—that incite discord between different religious communities. Any communication that fosters animosity based on religion, race, or language, and disrupts communal harmony, falls under this provision. Promoting hatred or disharmony among various groups can lead to penalties under Section 295A as well. Lastly, Section 153B pertains to activities that create religious, racial, or linguistic controversies that could harm national integration. Individuals engaging in such activities may also be subject to legal action under this section. In 2021, the online web series “Tandav,” available on Amazon Prime Video, sparked significant controversy due to its portrayal of religious sentiments. Critics argued that the series crossed constitutional boundaries under the guise of artistic freedom. In response to the backlash, the producer and director issued apologies, and certain scenes were edited out. However, the situation escalated, leading to legal objections in the Allahabad court, which emphasized the importance of responsible content creation. The court noted that the series infringed upon fundamental rights related to religious beliefs, as outlined in Articles 25 to 28 of the Constitution (**Kaushik, 2025**)

.Similarly, the web series “Ashram,” streaming on MX Player, faced legal scrutiny (**Desk, 2022**) when the Jodhpur district and session court issued notices to producer Prakash Jha and actor Bobby Deol. The portrayal of a Hindu guru as a rapist and drug dealer was deemed offensive to Hindu sentiments. In another instance, the Supreme Court addressed concerns regarding “Mirzapur,” stating that it should be viewed as a work of fiction rather than a factual representation.

Furthermore, the series “Mumbai Begam” faced strong criticism for its depiction of minors engaging in inappropriate activities (**Tini Sara Anien et al., 2021**), including drug use and sexual relations. The National Child Protection Commission took notice of the series due to its potentially harmful content, which could negatively impact children's mental health and well-being. Overall, these incidents highlight the ongoing discussions around responsible content creation in the realm of digital media.

## **Artistic Freedom**

Artistic freedom encompasses the right to express oneself through various forms of communication, including print, broadcast, OTT platforms, and face-to-face interactions. The rise of OTT platforms, particularly since 2020, has brought significant attention to this topic, sparking numerous debates around the content of web series and talk shows, especially concerning language and representation.

While artistic freedom is often celebrated as a vital aspect of creativity, it is essential to consider the boundaries within which it operates. The Constitution recognizes artistic freedom, yet traditional media has historically faced censorship, leading to the omission of certain content. In contrast, OTT platforms currently operate with fewer regulatory constraints, allowing for a more vibrant expression of artistic freedom. However, this has also led to the use of explicit language and controversial themes, which can have a detrimental impact on societal norms and values.

The narratives presented in web series often tackle complex social, political, and gender-related issues, showcasing innovative storytelling that may not be found in traditional media. These platforms provide creators

with a unique space to explore diverse themes, including divorce and cultural nuances, without the limitations imposed by conventional censorship boards or commercial pressures. Nevertheless, the portrayal of sensitive topics, including violence and cultural sensitivities, can lead to backlash and legal challenges. Despite guidelines established in 2021 for content regulation, many creators continue to push boundaries in pursuit of creative expression, sometimes at the expense of societal impact. The reception of such content varies significantly between urban and rural audiences, with urban viewers often embracing bold and colorful narratives, while rural audiences may find them challenging to understand. This disparity can lead to public unrest and political controversy, particularly when content touches on sensitive issues related to religion or ethnicity. It is crucial to navigate these complexities thoughtfully, ensuring that artistic expression does not inadvertently harm societal cohesion.

In the case of *Nikhil Bhala versus the Union of India WP(C) 7123, 2018.*, derogatory language was directed towards former Prime Minister Rajiv Gandhi in a Netflix web series. The series included three offensive comments and two inappropriate scenes involving the Prime Minister and his family. The case sought the removal of these scenes, arguing that while the series depicted certain historical events—such as the Bofors scam, Shah Bano case, and Babri Masjid riots—but, It did so in a manner that was disrespectful and misleading.

The appeal was approached to request the removal of the contentious content, emphasizing that the portrayal of Rajiv Gandhi was inaccurate. But S.C stated that we have IT Act of 2000 and established 2011 guidelines, which were deemed sufficient to address objectionable content at that time, as the 2021 guidelines had not yet been implemented. The court ultimately recognized the importance of how the web series influences political sentiment and its potential negative impact on society. It highlighted the responsibility of OTT platforms to consider the moral implications of their content. While entertainment is essential, it is equally important for these platforms to adhere to reasonable restrictions that promote balance and harmony within society.

A case has been filed in the matter of *Divya Ganesh Prasad Gontia versus the Union of India PIL NO 127/2018 HC Bombay*, addressing concerns regarding the inappropriate content related to women and nudity in the ALT Balaji streaming series, *Gandi Baat*. The petitioner contends that such content violates various legal provisions, including the Indian Penal Code, the Representation of Women Act, and the Information Technology Act, citing the vulgar language and themes presented in the series. The petitioner argues that action should be taken under these laws, emphasizing the need for accountability regarding the distribution of such content within Indian society (**Online, 2024**).

The petitioner raises concerns about the lack of a regulatory body overseeing OTT platforms, contrasting this with traditional media, such as print newspapers and cable television networks, which are subject to stricter regulations. While traditional content is often reviewed and censored, OTT platforms have been granted more creative freedom, which can sometimes lead to the portrayal of sensitive political or religious themes. The petitioner urges that international OTT players should recognize the potential impact of their content on Indian culture and sentiments, suggesting that the creation of such series may infringe upon the cultural and religious values of the country.

In the case of *Life Insurance Corporation of India versus Prof Manubhai shah (1993), AIR 171.*, the plaintiff argues that halting any form of documentary broadcast infringes upon the freedom of speech. This action is seen as a violation of the rights of creators, as it restricts their fundamental right to express their views, as outlined in Article 19 (1)(a) of our constitution.

Currently, we have a regulatory mechanism that is both critical and complex, designed to categorize online content and identify suitable media for various audiences. While it aims to protect children from inappropriate material, the challenge remains significant. The existing framework is not entirely sufficient to ensure that children are shielded from harmful online content. It is essential for OTT platforms to take responsibility

for the content they host, ensuring that teenagers are protected from inappropriate material. This task is intricate and requires careful consideration of how to effectively safeguard young viewers. Additionally, it is crucial to uphold the free speech rights of content creators. In today's digital landscape, the current regulatory mechanisms often struggle to manage online content effectively, as they may be influenced by private interests focused on maximizing profits. Therefore, it is imperative for OTT platforms to balance their creative endeavors with their ethical and moral responsibilities to society, ensuring that they serve the public good while respecting freedom of expression.

The Over-the-Top (OTT) platform has emerged as a significant communication medium in the digital landscape, experiencing substantial growth in India. Numerous players, both international and domestic, have established a foothold in Indian market, particularly following the COVID-19 pandemic, which has led to a notable increase in subscriptions.

As technology advances, the understanding of freedom of speech and expression has evolved. Prior to the rise of OTT platforms, freedom of speech was often limited and heavily regulated, with content frequently edited or censored before being made public. However, with the rapid development of the internet, the definition of freedom of expression has broadened. Content that was previously restricted is now being presented with fewer limitations, allowing for a more diverse range of viewpoints.

OTT platforms play a crucial role in upholding the right to freedom of speech and expression. Content creators have the right to distribute media, whether through licensed material or original productions. Furthermore, these platforms can critique Government actions or policies through films and web series, although there are standards regarding the language and content that can be used. It is essential to consider how audiences perceive this criticism, as the portrayal of sensitive topics can evoke varying reactions.

While OTT platforms have the ability to highlight social issues such as trafficking, child labor, and corruption, it is important to approach these subjects thoughtfully. For instance, the film "Bandit Queen," which depicted the life of Phoolan Devi, was crafted in a way that garnered sympathy for the protagonist rather than sensationalizing her story. This illustrates the responsibility of content creators to present narratives that resonate with audiences without promoting harmful stereotypes (Madhu Kishwar, 1994). Moreover, viewers have the right to access information and entertainment through various media formats. The Supreme Court has affirmed that adults should not be restricted from enjoying entertaining content, provided it meets established standards for appropriateness. This ensures that while adult content is available, it is not suitable for children. Lastly, privacy is a critical aspect of the viewer's experience. The right to privacy, as outlined in Article 21, encompasses personal information and interests, emphasizing the importance of safeguarding individual privacy in the digital age.

## CONCLUSION

As media has evolved and technology has advanced, the speed of change has significantly impacted the OTT (Over-the-Top) platform. Reflecting on the journey from print media to the present, we can observe numerous transformations within the OTT landscape. Currently, the OTT platform is governed by regulations that align with the Information Technology Act of 2021 and its 2008 amendment. However, recent judgments from the Supreme Court and High Courts have highlighted the need for a tailored regulatory approach, as the nature of content on OTT platforms differs from that of traditional media. Applying a generic regulatory framework could lead to excessive censorship, ultimately diminishing the entertainment value that OTT platforms provide. Moreover, the Intermediate Guidelines and Digital Media Ethics Code Rules of 2021 encompass regulations for OTT content, addressing issues such as the removal of fake news and content that may offend religious sentiments or involve defamation. While freedom of speech and expression, as well as the right to trade and occupy, are fundamental constitutional rights, they are not absolute and can be subject to restrictions. This is particularly evident in traditional media, but the challenge intensifies for OTT platforms due to their

online nature and lack of geographical specificity. International players like Netflix and Amazon often present content rooted in Western culture, complicating the application of local laws universally. It is essential for these platforms to adhere to local regulations to ensure cultural sensitivity. The Supreme Court has indicated that a specific law governing OTT content may not be necessary, as imposing strict regulations could stifle creativity. Instead, a balance must be struck, emphasizing the ethical responsibilities of OTT providers regarding the content they deliver and its societal impact.

While the moral obligations of OTT platforms are crucial, they can also be daunting. Many web series depict social issues and realities in a manner that may be challenging for society to accept, especially when these portrayals are starkly different from traditional narratives. The acceptance of such content may take time, particularly as Western influences increasingly shape cultural representations. Additionally, some web series have faced criticism for their portrayal of Hinduism, raising concerns about the representation of religious sentiments. Despite these challenges, viewers appreciate the convenience and personalized experience that OTT platforms offer, allowing them to enjoy content in the comfort of their homes without intrusive recommendations. With a vast library of content, the unique nature of OTT platforms presents complexities in regulation, making it a challenging endeavor to establish a comprehensive framework for OTT content.

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