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### NAVIGATING THE REGULATORY REGIME FOR VIDEO ON DEMAND: GLOBAL PERSPECTIVE AND INDIA'S POTENTIAL APPROACH

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#### *Abstract*

The advent of Video on Demand (VOD) services has significantly transformed the way people consume content in the modern media industry. As VOD platforms like Netflix, Amazon Prime Video, Disney+, and regional players become increasingly integral to our daily lives, the regulatory issues surrounding VOD have garnered significant attention from legislators, legal experts, and stakeholders worldwide.

This article provides a comprehensive analysis of the global regulatory regimes surrounding VOD platforms, examining diverse approaches adopted by countries such as the United Kingdom, Singapore, Indonesia, and Turkey. Amidst this backdrop, the study delves into India's unique position within the VOD landscape and explores potential approaches for regulatory navigation. Drawing on extensive literature and recent developments, the authors scrutinize India's evolving regulatory landscape, including recent initiatives like the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. The analysis considers the implications of regulatory actions on free speech, artistic freedom, and audience rights, emphasising the importance of striking a balance between creative expression and responsible oversight.

Additionally, the study examines the impact of the newly formulated Media Ethics Code on the Indian market and explores avenues for effective regulatory implementation. By synthesising insights from global perspectives and India's regulatory trajectory, this article aims to provide valuable insights into the intricate dynamics of VOD regulation while offering suggestions for achieving a balanced regulatory framework that fosters innovation while safeguarding public interests.

*Keywords:* Video on Demand (VOD), Regulation, Media Ethics Code, Content Moderation, OTT regulation, Information Technology, Digital Media, balanced regulation.

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## I. INTRODUCTION

The emergence and rapid proliferation of Video on Demand (VOD) services have transformed how people consume content in the dynamic environment of the modern media industry. The regulatory issues surrounding VOD have attracted considerable attention from legislators, legal experts, and stakeholders alike as streaming services become a vital part of our daily lives. This study examines the intricate structure of VOD regulation, providing a thorough examination of the worldwide viewpoints that influence this developing field and exploring a viable strategy India can use to navigate the regulatory currents.

Traditional media distribution methods have been disrupted by the rise of VOD platforms like Netflix, Amazon Prime Video, Disney+, and a variety of regional players, creating both unheard-of potential and difficult obstacles. Contrary to traditional broadcast media, VOD gives customers the freedom to access a sizable collection of content whenever they wish, erasing geographic restrictions and changing viewing habits. In this situation, nations all over the world are struggling to create regulatory frameworks that strike a balance between promoting innovation and defending public interests. The author endeavours to shed light on the intricate dynamics that underpin the regulatory discourse surrounding Video On Demand services along with analysing how the newly framed Media Ethics Code is going to have an impact on the market. This paper embarks on a global journey through diverse regulatory approaches that different countries have embraced to tame the VOD frontier. Concurrently, the paper turns its spotlight onto India to scrutinise India's unique position in the VOD landscape and speculate on the potential avenues it may explore to navigate the regulatory maze.

## II. LITERATURE REVIEW

1. Rishwin (2019)<sup>3</sup> discusses how concerns have arisen over the suitability of online content for all users, prompting a call for regulatory measures and focuses upon how India has begun to explore potential approaches to regulate OTT content due to increasing legal cases and complaints against offensive material. The author emphasises on the fact that to understand India's potential approach, it's essential to examine the regulatory landscape in other countries. International examples highlight diverse approaches: Singapore enforces content classification, Australia uses a complaints-based mechanism, the UK aims for online safety, Turkey introduces licensing, and Saudi Arabia employs broad internet controls. As India ponders its regulatory direction, it must consider unique online content dynamics and evolving viewer preferences to strike a balance between creative freedom and responsible regulation. The push-and-pull dynamics of content delivery differ from traditional media, and any regulatory approach should address the evolving preferences and demands of viewers while ensuring appropriate safeguards. Amidst the evolving

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<sup>3</sup> Rishwin Chandra Jethi, *Online content regulation: how is it done in other parts of the world?*, Ikigai Law (Nov. 30, 2019), <https://www.ikigailaw.com/article/354/online-content-regulation-how-is-it-done-in-other-parts-of-the-world>.

landscape of viewer preferences, a balanced and informed approach to OTT regulation will be crucial for India's media landscape.

2. Bhandari D and Tripathi A (2020)<sup>4</sup> analyses the implications of regulatory actions and the potential infringement on free speech, artistic freedom, and audience rights. The lack of a comprehensive legislative framework and the influence of external factors in imposing restrictions highlight the importance of careful consideration in shaping OTT regulation. By examining regulatory approaches in other countries and self-regulation frameworks by Indian OTT platforms, the article suggests policy recommendations to ensure compliance with reasonable restrictions on free speech envisioned by Article 19 of the Indian Constitution. The analysis underscores the significance of balancing creative expression with responsible oversight and the importance of a well-defined legal framework to safeguard fundamental rights in the digital era.
3. Poorva Pandey (2021)<sup>5</sup> discusses how the introduced regulatory framework for social media and OTT platforms has placed intermediaries and users on an equal footing, addressing the need for regulation due to the rising number of registered users. Positive aspects of these rules include content removal within twenty-four hours, transparent compliance reporting, a dispute resolution mechanism for social media intermediaries, and labelling of advertised or sponsored content. The framework emphasises identifying the first originator and verifying users to curb misuse, and establishes a grievance redressal mechanism with a fifteen-day resolution period. For OTT platforms, content classification by age and parental lock mechanisms aim to protect children from inappropriate content. While the rules seem comprehensive, faster grievance resolution and considerations for smaller companies could be addressed, and public input during the formulation process should have been sought. Overall, these guidelines provide a secure platform without unduly restricting rights, aiming to ensure safety and prevent misuse.

### III. THE GROWTH OF OTT PLATFORMS IN INDIA

Digital media can currently be consumed in a variety of formats; including online programs, short films, news, short-form material, gaming, and social engagement. The viewers' consumption has shifted dramatically from large screens (TVs) to smaller displays (smartphones) in recent years. Instead of viewing television with the family as in the past, each member of an ordinary Indian household now consumes content on their personal device according to their preferences, interests, and schedules. The term "OTT"

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<sup>4</sup> Deepali Bhandari & Abhigyan Tripathi, *Censorship of OTT Media Services: Restraining Freedom of Expression?*, Law School Policy Review & Kautilya Society (Dec. 23, 2020), <https://lawschoolpolicyreview.com/2020/12/23/censorship-of-ott-media-services-restraining-freedom-of-expression/>.

<sup>5</sup> Poorva Pandey, *Guidelines for OTT Platforms and Social Media, 2021: Regulation or Restriction?*, 24 *Supremo Amicus* (2021), <https://supremoamicus.org/wp-content/uploads/2021/06/POORVA-PANDEY.pdf>.

includes those services that are delivered over networks and do not require the support of a carrier service provider in the design, selling, providing, or servicing elements. The word involves the availability of content on the internet, as opposed to traditional media such as radio and cable television. OTTs were once thought of as platforms that provided entertainment for smartphone users who wanted to view material in the comfort of their own homes like television sets. However, now they have gained widespread popularity and acceptability and are capable of playing a vast array of content on a variety of devices.

Due to numerous factors, OTT platforms in India are rapidly growing in terms of subscriber base. The Digital India campaign along with the lockdown<sup>6</sup> rolled out as a major turning point for the VoD service providers as they could stream a big chunk of content worldwide and test the choice of its viewers. Presently, there are around 40 service providers that are offering OTT content in India. “Bigflix”, which was introduced by Reliance Entertainment in 2008, was the first Indian OTT platform. The increase in OTT platform usage; including Netflix, YouTube, and others, has been linked to a youth focused population and the pandemic. Prices for cellular and smartphone data have decreased, making internet platforms accessible to a large percentage of the population.

#### **IV. VoD REGULATION IN INDIA: RECENT DEVELOPMENTS**

The growing consumption of on-demand content by audiences in the country has resulted in an increase in VoD platforms across India, catering to a wide range of tastes. However, this has also created a flurry of disputes, with various Indian and international programs getting drawn into discussions about obscenity, defamation, religious sensibilities, and other issues. In previous years, the Ministry of Information and Broadcasting (MIB) emphasised the need for some form of regulation of OTT platforms to streamline the sector and held consultations with several stakeholders. In the current situation, these platforms lack the necessary mechanisms and procedures for detecting and preventing the distribution of unsuitable content that is discriminatory based on factors such as religion, which is very delicate and may be harmful to the nation’s dynamics. The present situation creates no ethical or legal obligations on the service providers, which subsequently impacts the society. These facts point to the growing necessity for special legislation to regulate the new-age digital phenomenon of OTT. The only artistic advantage of OTT platforms initially was the lack of regulation on the platform. Hence, more and more work started on the OTT platform. Though the content on the online platform was still governed by the provisions of the Information Technology Act and the Indian Penal Code, the absence of a regulatory body gave rise to content that was more controversial. Content that could not be easily presented in print media or on screens found its way onto these platforms.

In the case of *Justice for Rights Foundation and Ors. v. Union of India*, the High Court of Delhi directed the government to frame a set of detailed rules and guidelines for online service providers like Amazon, Netflix, and Prime Video. The Hon’ble High Court also clarified the government’s position on the issue of whether it can regulate the content on these platforms. The Hon’ble court stated that enough provisions were mentioned in the IT Act to take action against such content providers, and hence no separate laws were required. The issue was again discussed in an appeal brought before the same Court in the matter of *Nikhil Bhalla v. Union of India and Ors.*, where the Court formulated an instrument to handle grievances

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<sup>6</sup> L. Calvaruso, *From TV to VOD platforms: Regulating online audiovisual media services in the European Union*, 28 INT’L J.L. & INFO. TECH. 105, 105-128 (2020).

based on complaints made about the surfacing of such content online. This was mainly in relation to episodes of the famous show “Sacred Games,” which were alleged to be harmful by the petitioners. Relying on the judgement given in the previous case of *Justice for Rights Foundation*, the Court held that they cannot take a different view in this particular case and thus the complaint was dismissed.

Following several disputes, the Supreme Court intervened and directed the government to implement some regulations. Various suggestions were proposed, including the “Code for Self-Regulation of Online Curated Content Providers” by the Internet and Mobile Association of India. However, the proposal was rejected by the MIB due to the lack of independent third-party monitoring and uncertainty regarding what should be included in the definition of prohibited content, as well as how to formulate a Code of Ethics. At present, there is no legislation, government body or any other local authority regulating these. The latest development in this sector was the formulation of *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules* in February 2021, but strict implementation is yet to be a reality.

## V. GLOBAL REGULATION OF OTT (OVER THE TOP)/ VoD (VIDEO ON DEMAND) PLATFORMS

The media and entertainment industry has been steadily expanding worldwide, and this growth has been accelerated by the current trend of using the Internet to consume media. Many online media firms or service providers now offer personalised content based on unique customer interests and demands. By 2023, it is expected that the VoD market in India will exceed 5 billion USD.<sup>7</sup>

The world is therefore facing a similar issue in terms of seeking and implementing appropriate regulatory measures to deal with problems of non regulation of the content on VoD. The states are trying to navigate the possibilities of regulation of the Video on Demand in the era of digitalization<sup>8</sup>. However, some nation states are already trying to regulate these which can serve as a model for other states where no such mechanism is available. The regulatory mechanism of the United Kingdom, Singapore, Indonesia and Turkey are discussed below-

- I. **The United Kingdom: British Broadcasting Corporation (BBC):** The United Kingdom is one of Europe's most established OTT video marketplaces, with 47.9% of internet households regularly paying for online video content services. The regulatory authority in the UK is the Office of Communications, or Ofcom, which has the power to regulate various industries such as broadcasting, postal services, telecommunications, and more.<sup>9</sup> The Office of Communications has extensive and strict authority over these industries. They are legally obliged to promote their consumers' interests by regulating online content and safeguarding them from harmful material,

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<sup>7</sup> Rishwin Chandra Jethi, *Online content regulation: how is it done in other parts of the world?*, Ikigai Law (Nov. 30, 2019), <https://www.ikigailaw.com/article/354/online-content-regulation-how-is-it-done-in-other-parts-of-the-world>.

<sup>8</sup> Dwyer T & Martin F, *Video on demand and the regulatory landscape: Navigating the complexities of change*, 8 INT'L J. DIGIT. TELEVISION 283, 283-299 (2017).

<sup>9</sup> (2012) 5 SCC 488.

which also promotes positive competition in the market.<sup>10</sup> The UK government has proposed a new regulator and regulatory framework to safeguard British residents' internet safety. The regulator's responsibilities include overseeing the regulatory framework, creating codes of practice, enforcing user redress mechanisms, promoting awareness of safety concerns, and commissioning research to enhance online safety standards. This is inclusive of other mechanisms such as maintaining an annual transparency report, imposing a duty of care on service providers to keep their viewers safe, and incorporating a proper complaint redress mechanism.

II. **Singapore Content Code for OTT:** Singapore has always followed a light-touch approach when it comes to online regulation. The regulation, known as the Internet Code of Practice, was adopted in 1996 and requires online service providers to take down content that goes against certain laid-down guidelines. Content can also be removed if it is deemed objectionable.<sup>11</sup> This is mainly on the grounds of public interest, morality, and security. All internet providers need to register themselves with the Media Development Authority (MDA). The Singaporean government assured that it would not remove websites but would only censor them as a symbolic measure. But little has happened since then. Even after such regulation, state action is still present.<sup>12</sup> Singaporean law mostly demands that programs provided by the service providers adhere to Singaporean regulations and do not contain any content that is provocative or might jeopardise public interest or national security.<sup>13</sup> The Singapore Infocomm Media Development Authority (IMDA) has the authority to set and periodically review codes of practice for programs and commercials. Television and radio shows, particularly local productions, may have a significant impact on the community.<sup>14</sup>

III. **Indonesian Law on Regulation:** The Indonesian government, through the Ministry of Communication and Informatics (MCI), announced a liability framework for OTT providers in August 2017. Online platforms must also build a "censor system" to monitor and prohibit "bad" content such as terrorism, pornography, and radical propaganda, according to the proposed MCI laws.<sup>15</sup> As a result, OTT service providers need to conduct internal filtering of their platforms' contents to comply with Indonesian rules. Indonesia has strict anti-pornography rules that require internet platforms to restrict any sort of nudity, and businesses that break them face temporary bans. Before delivering services, foreign OTT providers must register by submitting an Indonesian tax ID number, service information, and a contact centre. If a foreign OTT establishes a foreign investment company in Indonesia, it must submit the Indonesian Investment Coordinating Board's

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<sup>10</sup> Khasawneh NA & Khoury C, *The Regulatory Positions of OTT - a Global View*, EvershedsSutherland, [https://www.evershedsutherland.com/global/en/what/articles/index.page?ArticleID=en/tmt/Regulatory\\_Position\\_of\\_OTT](https://www.evershedsutherland.com/global/en/what/articles/index.page?ArticleID=en/tmt/Regulatory_Position_of_OTT) (last visited May 21, 2021).

<sup>11</sup> Chua Hian Hou, *MDA bans two video-sharing porn sites*, The Straits Times (last visited May 23, 2021).

<sup>12</sup> Cherian George, *Looking for patterns in 10 years of 'light touch' regulation, online*, Journalism.sg, <http://journalism.sg/2007/08/23/looking-for-patterns-in-10-years-of-light-touch-regulation/> (last visited May 23, 2021).

<sup>13</sup> Cherian George, *Postings on New SBA Rules Flood the Net*, The Straits Times (July 17, 1996).

<sup>14</sup> GARRY RODAN, *TRANSPARENCY AND AUTHORITARIAN RULE IN SOUTHEAST ASIA: SINGAPORE AND MALAYSIA 48* (2005).

<sup>15</sup> Baker McKenzie, *Indonesia: Constitutional Court confirms OTT services remain subject to the EIT Law; Broadcasting Law does not apply in OTT platforms*, LEXOLOGY (Jan. 22, 2021), <https://www.lexology.com/library/detail.aspx?g=4c21e876-dd27-47c1-b6c0-68927a1e013c>.

principal licence or permanent business licence. The Ministry of Communications and Informatics issued the first draft of the entire regulation of OTT services in April 2016, which is the main driving force in Indonesia (the OTT Regulation).<sup>16</sup> The OTT Regulation is expected to force offshore OTT providers that provide their content to the Indonesian audience to either move to the country by forming a company or to be classified as an offshore or foreign service provider having a permanent establishment. In either case, the service providers will be solely subject to Indonesian norms.

- IV. **Turkey Law Regulations:** The Radio and Television Supreme Council (RTUK) is the principal authority governing television, radio, and on-demand media services' regulation and monitoring. It requires local joint-stock firms to seek a licence if they provide any kind of service on the internet. This licence would be valid for a 10-year period. The Information and Communication Technologies Authority (ICTA) and the RTSC are the two regulatory bodies in charge of over-the-top (OTT) services and providers. According to Article 29A of the amended Law on Broadcasting, regulatory authorities are responsible for regulating information transmitted via OTT platforms, among other things. Concerns arising under the Internet Law and associated subsidiary legislation, as well as consumer complaints, fall under the ICTA's supervisory competence over content. The RTSC has a far greater sphere of influence. The Law on Establishment and Broadcasting Services of Radio and Television, since its enactment, has provided a comprehensive OTT regulatory framework, including the Amended Law, which contains Article 29/A in its entirety.<sup>17</sup> Article 8/A allows for the removal of any content, based on orders issued by either a judge, the chairman of the ICTA, or the Criminal Court of Peace, to protect the safety of viewers, promote national interests, and prevent crime. The goal is to establish supervision of the content of internet-based broadcasting. Although the rule does not specify how this content surveillance will be carried out, it is reasonable to assume that one of the main objectives of the surveillance will be to safeguard minors.

## VI. THE INDIAN MEDIA ETHICS CODE: REGULATION OR RESTRICTION?

Censorship occurs when a piece of art that expresses an idea that defies existing convention is seized, chopped up, removed, impounded, disregarded, vilified, or otherwise rendered unavailable to its audience. The only way for society to progress is for people to freely share ideas. The amount of artistic freedom available on OTT was much more due to no proper regulation other than provisions of the IT Act. While there is sufficient jurisprudence to preserve artists' and filmmakers' creative freedom, the subjective aspect of regulation introduces the unwelcome potential of defining a lower bar for obscenity, radicalization, or other factors that merit restriction.<sup>18</sup>

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<sup>16</sup> Kay Vasey, *New OTT regulations in Indonesia and Thailand: inching towards a level playing field?*, LINKEDIN (May 24, 2017), <https://www.linkedin.com/pulse/new-ott-regulations-indonesia-thailand-inching-towards-kay-vasey/>.

<sup>17</sup> Burcu Tuzcu Ersin et al., *OTT Market and Regulations in Turkey*, LEXOLOGY (Mar. 24, 2021), <https://www.lexology.com/library/detail.aspx?g=4640c05d-87a8-4d24-8dae-c8753e5c6efe>.

<sup>18</sup> Deepali Bhandari & Abhigyan Tripathi, *Censorship of OTT Media Services: Restraining Freedom of Expression?*, Law School Policy Review & Kautilya Society (Dec. 23, 2020).

Continuous PILs have been filed by different individuals stating that online platforms must have a regulatory body owing to the different controversies. In the case of *Raksha Jyoti Foundation*<sup>19</sup>, an order was passed by the Punjab and Haryana High Court to the MIB to draft new policies for regulation of content which is accessible online but censored on other forms of media. Again in the case of *Himanshu Kishan Mehra vs State of UP*<sup>20</sup>, it was held that the right conferred under Article 19(1)(a) is not absolute and even OTT platforms though being self-regulated still come under the purview of Article 19(2) and cannot show any content that weakens the social fabric. The Government of India released a new set of legislation in 2021 that would subject OTT content to the same censorship standards as other entertainment content platforms in India.<sup>21</sup> The Government of India formulated the new ***Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*** replacing the *Information Technology (Intermediary Guidelines), 2011* to regulate online service providers, based on the powers granted under Section 87(2) of the IT Act.<sup>22</sup>

The government ordered the formulation of two ministries in order to regulate online content, namely: Ministry of Electronics and Information Technology (MEITY) to administer social media platforms & Ministry of Information and Broadcasting (MIB) to administer the OTT platforms coming under jurisdiction. It mentions due diligence complied to by the “intermediaries”<sup>23</sup> which also includes “social intermediaries” and “significant social media intermediary” under sub-rule (1) of Rule 3<sup>24</sup> of the new guidelines. Some clauses are discussed in order to prevent any kind of uncertainty or confusion related to content regulation. Under these guidelines, it is now necessary for intermediaries to notify people about the rules and regulations, privacy policy and user agreement either on their websites or on the applications. The information shall not infringe the private space of other individuals and the content should not consist of any offensive and obscene images or videos. The impersonation of another person and any defamatory statement shall be considered as an offence under this rule.<sup>25</sup> A self-regulatory three-tier rule is established under the new Ethics Code of 2021. After thoroughly studying various global models such as of the UK, Australia and Singapore, and conducting various meetings throughout the metropolitan cities of the country, the government has come up with such guidelines expecting a successful outcome of regulation as what has been followed by other countries.

Under Part III of the 2021 Rules, any complaint regarding violation of the Code of Ethics are addressed through a 3-level structure as:

- **Level I - Self-regulation by the OTT platform:** As per the rules, a Grievance Redressal mechanism consisting of an officer will have to redress every grievance registered against the

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<sup>19</sup> 1322 Of 2016.

<sup>20</sup> W.P. (CrI.) No. 50/2021.

<sup>21</sup> *Content Self-Regulatory Guidelines for Non-News Channels*, INDIAN BROADCASTING & DIGITAL FOUNDATION, [https://ibdf.com/sites/default/files/IBF's%20Self%20Regulatory%20Guidelines%20\(updated%20version\).pdf](https://ibdf.com/sites/default/files/IBF's%20Self%20Regulatory%20Guidelines%20(updated%20version).pdf) (last visited May 25, 2021).

<sup>22</sup> The Information Technology Act, 2001, §87(2), No. 21, Acts of Parliament, 2001 (India).

<sup>23</sup> Subs. by s. 4, *ibid.*, for clause (w) (w.e.f. 27-10-2009) of Information Technology Act, 2000.

<sup>24</sup> Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rule, 2021.

<sup>25</sup> Poorva Pandey, *Guidelines for OTT Platforms and Social Media, 2021: Regulation or Restriction?*, 24 *Supremo Amicus* (2021), <https://supremoamicus.org/wp-content/uploads/2021/06/POORVA-PANDEY.pdf>.



curated content within 15 days. This person would be the correct authority to address any and all complaints made under the Ethics Code and to interact with the complainant and the MIB.

- **LEVEL II - Self-regulating bodies of the publishers or their associations:** The guidelines provide for the establishment of an independent body by publishers of online content or their bodies/associations, to be headed by a retired Judge of the Apex Court or a High Court, along with some persons excelling or having expertise in the subject area. This body will oversee and ensure adherence to the Code and hear appeals filed by complainants against decisions taken by the publishers.
- **LEVEL III - Oversight Mechanism by the Central Government:** Establishment of an inter-departmental committee by the MIB, consisting of representatives from various Ministries, to coordinate and monitor that the Code is being adhered to. It will also have the authority to address complaints arising out of decisions taken at Level I or II, or those specifically referred to the committee by the Ministry. It can also recommend to the Ministry to take action under Section 69A of the IT Act.

There is an excessive discretion provided to the committee by the new rules, which authenticate the powers vested in them, even though a breach of these rules do not confer any penal consequences. It is also contested whether the Part III of the Ethics Code could have been promulgated by the way of rule-making power through the Information Technology Act on the Central Government since the 2021 rules are a subordinate legislation.

## VII. CONCLUSION AND SUGGESTIONS

The need for an unbiased regulatory body to regulate the contents on OTT platforms is imperative, considering the present situation. The consumers are looking for a variety of content, in a variety of languages and from different origins. But at the same time, they have now become more sensitised about the violations that this content can cause. The stakeholders must ensure to regulate this content as well as take care that such regulatory measures do not override the rights of the people and provide an effective regulatory process.

For meeting this regulatory requirement, the *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* was passed. These rules have been criticised on many grounds, one of them concerning OTT platforms is excessive delegation of power by the government. The rules prescribe the establishment of a non-judicial adjudicatory process in order to resolve the grievances arising out of the contents published by the digital news media and OTT platforms as well as mandate the creation of an adjudicatory body “oversight committee” to keep a check on the actions of such intermediaries. However, the Information Technology Act, 2000 does not empower the government to do so. Thus, such measures of the government suffer from excessive delegation of power. Apart from this, the IT Rules, 2021 has also laid down a certain code of ethics which other intermediaries including OTT platforms have to strictly adhere to. It is now mandatory for the OTTs to classify their content based on its type as ‘U’, ‘U/A 7+’, ‘U/A 13+’, ‘U/A 16+’ and ‘A’. It is the responsibility of the OTTs to ensure that content classified as ‘U/A 13+’ has an access control measure and any content that is classified as ‘A’ has a reliable age verification mechanism for viewership apart from the access control mechanism for restricting minors from accessing such content. The OTT platforms now need to exercise due caution and precaution while streaming any show concerning beliefs, practices or views of any racial or religious groups.

Since most of the Indian laws are derived from common law, drawing inspiration and incorporation of the same is much easier than incorporation from legal systems of any other country. It is the Ministry of Information & Broadcasting that is broadly dealing with the regulation of OTT platforms in India. When we compare OTT content regulation of India with the UK model, it is seen that in the UK, Ofcom has been provided with the power to regulate the OTT content and while exercising their powers they ensure that they protect and promote citizens' interests. The Indian system can take inspiration from the UK model in a similar manner; the Indian system should also have a dedicated authority that protects the rights of consumers and citizens. Apart from the UK, the Indian system can also take inspiration from Indonesia and include regulations such as requiring foreign OTT providers to submit their relevant documents and details like tax ID number, etc. A legitimate distinction should be made between these online platforms and other platforms such as films and cable providers, as the censorship of online content becomes more complex. It becomes critical to have a monitoring system in place to keep track of such web information. Furthermore, attempts must be made not to represent women in a disparaging manner, but rather to depict them as equals, in order to shift the country's current perspective. The digital on-demand video business is continuously expanding, and participants are experimenting with a variety of revenue strategies; the most prominent of which being subscriptions and advertisements. India is deficient with regards to a uniform law keeping in mind the end goal to control VoD services. The Supreme Court of India has said that lawful control of the media should be made by the Indian government. There must be a general expert and under him specific offices must be constituted by the Government.

The main highlight of the Code of Ethics is identifying the originator of the online content and further verification of the users at the process of registration which will curb misuse of online platforms. Formulation of the grievance redressal mechanism would dispose of the complaints within fifteen days which confers a strict authority. Categorization of online content which surfaces on the OTT platforms on the basis of age group would surely make a difference since there exists a lot of content which is not meant for the children of a certain age. The obnoxious content available would impact the mind of a child. The Code has also absolved all sorts of ambiguity based on liability of the intermediaries. The author suggests a balanced approach to regulate online service providers based on provisions mentioned in the Constitution and important judgments pronounced by the Hon'ble Courts of the country.

The regulation of video on demand (VoD) services in India has been a topic of discussion for a long time now but progress seems slow. There is currently no comprehensive regulatory framework for regulating the VoD in India. None of the rules which apply to other broadcasters apply to these platforms. Efforts are being made to address the issues relating to regulations. While the efforts are being made, it is important to realise that a significant change in the virtual entertainment experience has been witnessed recently and there is a great need to strike out the balance between the need for regulation and the freedom of people.