



THE RISE OF VIDEO-ON-DEMAND PLATFORMS: LEGAL CHALLENGES IN THE MEDIA & ENTERTAINMENT INDUSTRY

Rabia Mittal*

ABSTRACT

Video-on-Demand (VOD) has changed the way we watch entertainment, but it also comes with complex legal and regulatory challenges. In India, the framework is shaped by constitutional provisions, Copyright Act, IT Act and IT Rules, Cinematograph (Amendment) Act, Digital Personal Data Protection Act and Bharatiya Nyaya Sanhita, 2023. Globally, approaches vary: the US has a safe harbour under DMCA, the EU has cultural quotas, and China has strict censorship. Piracy, creative freedom, data privacy and global harmonisation are the key challenges.

Keywords: Video-on-Demand (VOD), OTT Platforms, IT Rules 2021, Copyright Law, Data Protection.

INTRODUCTION

Over the last decade, we have seen a complete change in the way we watch movies and shows. From crowded cinema halls and fixed TV schedules to a world where entertainment is just a click away. This has been made possible by Video-on-Demand (VOD) platforms, also known as Over-the-Top (OTT) services. Platforms like Netflix, Amazon Prime Video, Disney+ Hotstar and regional players like Zee5, Sun NXT and Hoichoi have become household names.

The Indian streaming market has grown rapidly due to affordable data and smartphones. A PwC report predicts that the OTT industry in India could reach USD 7 billion by 2027¹. But with this growth comes many legal and regulatory questions. How should these platforms be regulated? Who owns the content they stream? What happens when there are complaints about

*BA LLB, THIRD YEAR, BABA FARID LAW COLLEGE, FARIDKOT (AFFILIATED TO PUNJABI UNIVERSITY, PATIALA, PUNJAB)

¹ PwC, *Global Entertainment & Media Outlook 2023–2027* (2023).

a show? These are the kind of questions that fall under media and entertainment law, which now has to adapt to the digital age.

TYPES OF VIDEO-ON-DEMAND PLATFORMS

VOD platforms are not all the same—they differ mainly in their revenue models.

- **Subscription Video on Demand (SVOD):** Here, users pay a monthly or yearly subscription. Netflix and Amazon Prime Video are the best examples.
- **Advertising Video on Demand (AVOD):** These platforms are free to watch but run advertisements for revenue. YouTube and MX Player follow this model.
- **Transactional Video on Demand (TVOD):** In this case, users can either pay or rent for each film or show they want to watch. Apple iTunes and Google Play Movies are examples.
- **Hybrid Models:** Some platforms combine both subscriptions and ads, like Disney+ Hotstar.
- **Regional Platforms:** In India, platforms like Hoichoi (Bengali content) and Sun NXT (South Indian content) focus on specific language markets.

This variety of models shows how flexible the streaming industry is. But it also makes the legal picture more complicated, since contracts, revenue sharing, and consumer rights can vary from one model to another.

KEY LEGAL ISSUES IN THE STREAMING INDUSTRY

Copyright and Licensing: At the core of the streaming business is copyright law. To show a film or series, a platform needs to own or license the rights. Disputes arise when platforms use content without proper permission. A good example is *Tips Industries Ltd v Wynk Music Ltd*, where the Bombay High Court held that streaming music without the right licence is copyright infringement.²

This applies to VOD platforms as well. When Netflix or Amazon Prime acquires the rights to a film, the agreement clearly states if it has exclusive rights, in which countries it can stream

² *Tips Industries Ltd v Wynk Music Ltd* [2019] SCC OnLine Bom 180.

and for how long. Since copyright is territorial, platforms often have to block access in regions where they don't have the rights—a practice called geo-blocking.

Content Regulation and Censorship: Theatres films need a certificate from the Central Board of Film Certification (CBFC). But OTT platforms were operating without any regulation for a long time. This changed with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which brought online platforms under government control.³

Now streaming platforms have to classify content with age ratings, provide parental controls and have a grievance redressal system. But this has also led to controversies. For example, Amazon Prime's web series *Tandav* faced multiple police complaints for allegedly hurting religious sentiments.⁴ This shows the constant tug of war between freedom of speech under Article 19(1)(a) of the Constitution and the reasonable restrictions under Article 19(2).

Data Privacy and Consumer Rights: When you watch shows on Netflix or YouTube, the platform knows exactly what you watch, how long you watch and even when you pause. This data is useful for recommendations and ads, but raises privacy concerns.

In India, the Digital Personal Data Protection Act, 2023, has rules on how companies can collect and process personal data.⁵ VOD platforms now have to ensure users give consent for data collection and data is not misused. But enforcement of these rights is still evolving, and many consumers are unaware of how their data is being used.

Competition and Monopoly Issues: Streaming is also a war for exclusive rights. In 2023, JioCinema got the digital rights to stream the Indian Premier League (IPL).⁶ While this boosted JioCinema's popularity, it also raised questions about market dominance and can smaller platforms can compete.

Under the Competition Act, 2002, the Competition Commission of India (CCI) can step in if a company is found to be abusing its dominant position.⁷ As more platforms fight for exclusive sports, films and shows, competition issues will only get more important.

³ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

⁴ *Tandav* Controversy, FIRs filed against Amazon Prime Video (2021).

⁵ Digital Personal Data Protection Act, 2023 (India).

⁶ Reuters, 'Reliance JioCinema Bags IPL Rights' (2023) <https://www.reuters.com> accessed 13 September 2025.

⁷ Competition Act, 2002 (India).

Contractual Disputes: Contracts are the backbone of the streaming industry. Production houses, actors, distributors and platforms enter into agreements that cover everything from exclusivity to revenue sharing. Disputes arise when one party breaches the contract or when there are disagreements over royalties.

Most of these contracts have arbitration clauses, with international forums like Singapore International Arbitration Centre (SIAC) or London Court of International Arbitration (LCIA) being the preferred venues. This is because the industry is global, a show may be produced in one country, owned by a company in another and streamed across the world.

LEGAL PROVISIONS GOVERNING VOD PLATFORMS IN INDIA

The regulation of Video-on-Demand (VOD) and Over-the-Top (OTT) platforms in India is based on a combination of constitutional guarantees, sector-specific legislation and recent technological regulations. As streaming services grow, the legal framework has to balance creative freedom with public order, intellectual property and consumer rights.

The Constitution of India: The foundation of OTT regulation lies in the Constitution of India. Article 19(1)(a) gives the right to freedom of speech and expression, which OTT platforms use to defend their creative choices in films, web series and documentaries. But this freedom is not absolute. Article 19(2) allows reasonable restrictions in the interests of sovereignty, integrity, security of the state, public order, decency or morality. Most of the controversies surrounding streaming platforms, including the *Tandav* incident in 2021, have arisen under this balancing test where complainants allege that specific content violates the restrictions under Article 19(2).⁸

The Copyright Act, 1957: The Copyright Act, 1957, is the key legislation governing licensing and content ownership in VOD. Section 14 defines copyright as the exclusive right to reproduce, distribute or communicate a work to the public.⁹ Under Section 30, copyright owners can license their works to streaming services like Netflix or Amazon Prime. Unauthorised distribution or streaming is an infringement under Section 51, while civil remedies like injunctions and damages are available under Section 55¹⁰. Criminal liability is

⁸ Constitution of India 1950, art 19.

⁹ Copyright Act 1957, s 14.

¹⁰ Copyright Act 1957, s 51.

also prescribed under Section 63, with imprisonment up to three years and a fine.¹¹ This framework ensures that platforms enter into formal licensing agreements with producers and rights holders and prevents piracy and unlawful streaming.

Information Technology Act, 2000 and IT Rules, 2021: OTT platforms are most directly regulated by the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which are framed under Section 87 of the IT Act, 2000. These Rules impose due diligence and ethical obligations on digital media entities. Rule 3(1)(b) prohibits content that threatens sovereignty, security, friendly relations, public order, decency or morality. Rule 4 requires platforms to appoint a Chief Compliance Officer, Nodal Contact Person and Grievance Officer so that there is accountability. Further Rule 4(2) introduces a content classification system (U, U/A 7+, U/A 13+, U/A 16+, and A) and parental locks and age verification measures under Rule 4(3).¹² A three-tier grievance redressal mechanism under Rule 5 provides (i) self-regulation by publishers, (ii) self-regulation through industry associations and (iii) oversight by the Ministry of Information & Broadcasting. Noncompliance may invite penalties or even blocking orders under Section 69A of the IT Act.

The Cinematograph Act, 1952: Traditionally, film content in India has been governed by the Cinematograph Act, 1952, which mandates Central Board of Film Certification (CBFC) clearance before public exhibition. Although OTT platforms are not presently subject to CBFC certification, there is ongoing debate about extending similar scrutiny to VOD content. The Cinematograph (Amendment) Act, 2023, has also introduced anti-piracy provisions, including Section 6AB, which criminalises the recording or unauthorised transmission of films in cinema halls.¹³

Bharatiya Nyaya Sanhita, 2023 (Replacing IPC, 1860): Criminal law provisions continue to play a big role in OTT regulation, especially in cases where content is alleged to be offensive to religious or moral sentiments. With the repeal of the Indian Penal Code, 1860, the Bharatiya Nyaya Sanhita, 2023 (BNS) now applies. Offences often invoked against OTT platforms are:

- Section 298 (BNS), which penalises deliberate acts intended to outrage religious feelings (replacing IPC s 295A).
- Section 294 (BNS), which governs obscene publications (replacing IPC s 292).

¹¹ Copyright Act 1957, s 63.

¹² Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, rr 3–5.

¹³ Cinematograph (Amendment) Act 2023, s 6AB.

- Section 354(1) (BNS), which defines criminal defamation (replacing IPC s 500).
- Section 152 (BNS), which criminalises acts endangering the sovereignty, unity and integrity of India (replacing IPC s 124A on sedition).
- Section 194 (BNS), which prohibits promoting enmity between groups (replacing IPC s 153A).

For example, in the *Tandav* controversy (2021), multiple FIRs were lodged invoking IPC Sections 153A and 295A. Under the current regime, these provisions would correspond to Sections 194 and 298 of the BNS.¹⁴

Digital Personal Data Protection Act, 2023: OTT platforms also collect and process personal data. Digital Personal Data Protection Act, 2023 (DPDP Act) requires platforms to get valid consent before processing personal data (Section 4). Section 9 imposes purpose limitations while Section 14 requires data fiduciaries like Netflix and Amazon Prime to adopt robust security safeguards. Non-compliance can attract penalties up to ₹250 crore under Section 33.¹⁵ This framework protects subscriber data collected during sign-ups, recommendations and targeted advertising.

Competition Act, 2002: The Competition Act seeks to prevent monopolistic behaviour in the digital entertainment space. Section 3 prohibits anti-competitive agreements like collusive exclusivity in content licensing. Section 4 prevents abuse of dominant position, which becomes relevant when platforms like JioCinema acquire exclusive sports broadcasting rights like the Indian Premier League (IPL). Under Section 19, the Competition Commission of India (CCI) can investigate OTT practices like predatory pricing or restrictive agreements.¹⁶

Consumer Protection Act, 2019: OTT subscribers are also covered under the Consumer Protection Act, 2019. Section 2(1)(r) defines “unfair trade practices”, and Section 35 allows consumers to file complaints before consumer forums. Misleading subscription models, price discrepancies, or service failures can lead to consumer disputes for the platforms.¹⁷

Foreign Exchange Management Act, 1999 (FEMA): The Foreign Exchange Management Act, 1999, regulates cross-border subscription payments for international streaming platforms.

¹⁴ Bharatiya Nyaya Sanhita 2023, ss 152, 194, 294, 298, 354.

¹⁵ Digital Personal Data Protection Act 2023, ss 4, 9, 14, 33.

¹⁶ Competition Act 2002, ss 3–4, 19.

¹⁷ Consumer Protection Act 2019, ss 2(1)(r), 35.

Subscription charges billed in foreign currency must comply with Reserve Bank of India (RBI) regulations under FEMA. So, payments for services like Netflix or Amazon Prime are compliant with India's foreign exchange laws.¹⁸

RECENT INDIAN CASES AND CONTROVERSIES

Indian courts are increasingly dealing with OTT content-related cases. In *Justice for Rights Foundation v Union of India* (2021), the Supreme Court asked the government to examine OTT regulation, which led to the 2021 IT Rules.¹⁹ In *Vikram Vedha v Reliance Entertainment* (2022), the Delhi High Court looked into the contractual aspects of OTT rights and how licensing agreements lead to disputes.²⁰ Tandav FIRs discussed earlier are another example of criminal law and creative freedom in the VOD sector.

INTERNATIONAL COMPARISONS

VOD platforms are regulated differently across jurisdictions, depending on the legal, cultural and political context.

In the US, the main statute applicable to online platforms is the Digital Millennium Copyright Act (DMCA) of 1998. Section 512 of the DMCA provides a "safe harbour" for online service providers, as long as they act quickly to remove infringing content upon notice.²¹ This has been particularly relevant for platforms that host third-party uploads, like YouTube. But for subscription-based VOD platforms like Netflix or Hulu, which primarily host licensed content rather than user uploads, their main legal obligations come from their contracts and copyright licenses.

The EU has taken a more structured, culture policy-driven approach with the Audiovisual Media Services Directive (AVMSD) 2018.²² The AVMSD extends regulation to VOD services across the EU, including requirements to protect minors from harmful content, prevent incitement to violence or hatred and ensure accessibility for people with disabilities.²³ A key feature is the promotion of European works: Article 13 of the AVMSD requires on-demand

¹⁸ Foreign Exchange Management Act 1999.

¹⁹ *Justice for Rights Foundation v Union of India* (2021) SC.

²⁰ *Vikram Vedha v Reliance Entertainment* (2022) Del HC.

²¹ Digital Millennium Copyright Act 1998, s 512.

²² Directive (EU) 2018/1808 amending Directive 2010/13/EU on the coordination of certain provisions concerning the provision of audiovisual media services [2018] OJ L303/69.

²³ AVMSD, arts 6–7.

services to have at least 30% of European works in their catalogues and to give those works prominence.²⁴ This reflects the EU's dual focus on consumer protection and cultural diversity.

In China, regulation is much stricter. Streaming platforms like iQiyi, Tencent Video and Youku operate under a state censorship regime. All audiovisual content must be pre-approved by the National Radio and Television Administration (NRTA) before public release.²⁵ Content that undermines political stability, questions historical narratives or depicts certain social themes (e.g. LGBTQ+ relationships or supernatural elements) is often censored or banned. This heavy-handed approach reflects China's use of media regulation as a tool of social and political control.

In contrast, India is the middle path. While platforms are regulated by the IT Rules, 2021, there is also space for industry self-regulation through tiered redressal mechanisms.²⁶ The Indian approach tries to balance creative freedom with accountability, though controversies like Tandav show the ongoing tensions.

CHALLENGES AHEAD

Despite the growth, the VOD sector has many challenges in India and globally.

First, piracy is a big problem. Although Indian law provides civil (Copyright Act, 1957, s 55) and criminal (s 63) remedies for copyright infringement, illegal streaming websites and Telegram channels continue to distribute unauthorised content.²⁷ The Cinematograph (Amendment) Act, 2023, has introduced new anti-piracy provisions, but enforcement is weak due to the borderless nature of digital piracy.

Second, the challenge is to balance creative freedom with regulation. Courts are increasingly being called upon to decide whether OTT content violates reasonable restrictions under Article 19(2) of the Constitution.²⁸ Cases like *Justice for Rights Foundation v Union of India* (2021) show judicial intervention in shaping OTT regulation.²⁹ The question of how far state oversight should go without chilling artistic expression remains unanswered.

²⁴ AVMSD, art 13.

²⁵ National Radio and Television Administration (China) Regulations on Online Audio-Visual Services (2020).

²⁶ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021.

²⁷ Copyright Act 1957, ss 55, 63; Cinematograph (Amendment) Act 2023.

²⁸ Constitution of India 1950, art 19(2).

²⁹ *Justice for Rights Foundation v Union of India* (2021) SC.

Third, technological advancements like Artificial Intelligence (AI) and algorithm-driven recommendation systems pose new regulatory challenges. Recommendation algorithms used by platforms like Netflix and Amazon Prime are being scrutinised for potential violations of data privacy (regulated in India under the DPDP Act, 2023) and competition law, as algorithmic self-preferencing may amount to anti-competitive conduct.³⁰ Globally, the EU's Digital Services Act (DSA), 2022, requires very large online platforms to ensure algorithmic transparency, which may influence Indian policy.³¹

Fourth, the rise of regional content is bringing new legal and commercial challenges. Platforms like SonyLIV, Sun NXT and Hoichoi are focusing on vernacular audiences and hence there are licensing disputes, censorship concerns and jurisdictional overlaps between state and central authorities.³² With regional languages gaining prominence, there will be more scrutiny on whether content complies with diverse cultural sensitivities across India.

And finally, global harmonisation is a long-term challenge. VOD platforms operate across jurisdictions, but legal standards vary greatly—from US safe harbours to Chinese pre-censorship. This creates enforcement issues, especially in cross-border disputes involving copyright or defamation.³³ International cooperation, perhaps through bilateral treaties or alignment with frameworks like WIPO Internet Treaties, will be required to regulate streaming platforms globally.

CONCLUSION

VOD has changed the way we watch entertainment. It has given us more choices, opened up new opportunities for creators and disrupted traditional TV and cinema. But this transformation also brings legal issues around copyright, censorship, privacy, competition and contracts. India's framework is still evolving, and the challenge will be to balance—encourage creative freedom and innovation while protecting consumers and ensuring fair competition. As streaming becomes the way the world watches content, the role of media and entertainment law will only grow.

³⁰ Digital Personal Data Protection Act 2023; Competition Act 2002.

³¹ Regulation (EU) 2022/2065 on a Single Market for Digital Services (Digital Services Act).

³² Pratibha Ahuja, 'Regional OTT Platforms and the Rise of Vernacular Content in India' (2023) 58(2) Economic and Political Weekly 43.

³³ WIPO Copyright Treaty (1996); WIPO Performances and Phonograms Treaty (1996).