

# Tuning into consumer

Indian M&E rebounds with a customer-centric approach

March 2022





**Akshay Kumar**



## राह संघर्ष की जो चलता है, वही संसार को बदलता है...

यह पंक्तियाँ कहीं पढ़ी थी, और आज अपनी फ़िल्म इंडस्ट्री के लिए यही कहना चाहूँगा। बहुत संघर्ष भरा समय देखा है भारतीय मीडिया और मनोरंजन सेक्टर ने पिछले कुछ सालों में। कोविड ने संसार भर में मुश्किलों की झड़ी लगा दी।

लेकिन आखिरकार हम ने हार नहीं मानी। हम अपनी पूरी मेहनत, पूरी लगन के साथ फ़िल्में, वेब सीरीज़, डिजिटल प्रोग्राम, संगीत बनाते रहे और हमारी इंडस्ट्री को आत्मनिर्भर करने की राह पे चलते गए। आज खुशी की बात है की भारत का मीडिया और एंटरटेनमेंट सेक्टर दुनिया में बहुत तेज़ी से तरक्की कर रहा है। 2023 तक इस सेक्टर की कीमत INR2.23 trillion हो जाने की सम्भावना है। यह तरक्की सम्भव हुई है हमारे भारत देश की असाधारण डिजिटल उपलब्धियों की वजह से। आज हमारे देश के कोने कोने में, शहरों में, गाँव में लोगों के हाथ में स्मार्ट फ़ोन हैं। इस फ़ोन के ज़रिए OTT, TV, YouTube, Instagram, Facebook, Twitter और उनके जैसे और प्लैटफ़ॉर्म उनके पास हैं जिस से वो फ़िल्म, खेल, समाचार, संगीत - हर तरह का कॉन्टेंट देख पा रहे हैं, और अधिक देखने की चाह बढ़ रही है। और साथ ही बढ़ रही है यह इच्छा की अपने देश की संस्कृति से जुड़ा कॉन्टेंट देखें।

जब मैं स्कूल में था तो अंग्रेज़ी फ़िल्मों देख के हम यह समझते थे कि सूपर हीरोज़ अगर हैं तो विदेशी। वॉर से, तबाही से अगर इस दुनिया को कोई बचा सकता है तो विदेशी ताकत। अब जाकर यह समझ में आ रहा है कि जो ख़ज़ाना अपनी पंचतंत्र, अमर चित्र कथाएँ और वीरता भरी ऐतिहासिक कहानियों में है उसकी कीमत को कभी समझा ही नहीं। आज जो कॉन्टेंट भारत में बन रहा है उस से हमें हमारे शूरवीरों के बारे में, हमारे वैज्ञानिकों के बारे में, हमारे शक्तिमान सूपर हीरोज़ के बारे में दुनिया को बताने में गर्व महसूस हो रहा है। पूरा विश्व आज भारत की कहानियाँ सुनने को बेताब है। हमारी टेक्नॉलजी ने भी ऐसी तरक्की कर ली है की चाहे वो VFX हो या Animation, हम किसी से कम नहीं हैं। बहुत इंतज़ार किया और अब हमारा वक़्त आ गया है। उम्मीद करता हूँ इस रिपोर्ट से आपको जानकारी मिलेगी कि हम प्रगति की राह पे कितनी तेज़ी से बढ़ रहे हैं। गर्व है। जय हिंद।

# FORE



## The one who walks the path of struggle changes the world...

I had read these lines somewhere, and I would like to say the same for our film industry. The past few years have been times of intense struggle for the Indian Media & Entertainment sector. COVID-19 rained a flurry of problems and challenges all over the world.

But we never gave up.

With our utmost hardwork and dedication, we continued to produce films, web series, digital programs and music, and remained on our path to make our industry self-reliant.

I'm happy that today India's media and entertainment sector is flourishing worldwide. The industry's value is likely to touch INR2.3 trillion by 2024. The extraordinary digital achievements of our country have made this possible.

Today, people in every corner of the country, whether in cities or villages, have smartphones. Using these smartphones, they are now able to access OTT, TV, YouTube, Instagram, Facebook, Twitter through which they can watch all kinds of content, including films, sports, news, music and more.

And people's desire to watch ever more content is increasing all the time. What's also growing is their desire to watch content related to the culture of our country.

When I was in school and used to watch English films, I was convinced that if superheroes existed, they could only be foreigners. And that only an international/ foreign power could save the world from war and destruction.

It's today that we have come to understand/realise the value of the treasures that are in our books like the Panchatantra, the Amar Chitra Kathas and all our heroic historical stories! A treasure never valued, never appreciated enough.

The content, which is being made in India today, makes us feel proud to tell the stories of our heroes, scientists, and mighty superheroes to the world. The world is impatient for the stories of India.

Our technology also has made such advancements, that whether it's VFX or Animation, we are right up there with the best.

We have waited for long and now, our time is here.

I hope this informative report will tell you how fast we are progressing.

I feel so proud!

Jai Hind!

# WORD





### **Sanjay Gupta**

Chairman, FICCI Media and Entertainment Committee



### **Jyoti Deshpande**

Co-Chairman, FICCI Media and Entertainment Committee



## Television to Mobile to Metaverse. Watch. Interact. Immerse.

After two tumultuous years of unprecedented global crisis, uncertainty and personal losses, the ever-resilient Indians bounced back and how. As the M&E sector stepped in to educate, inform and entertain, time spent on entertainment, news and sports was higher than ever. Seamlessly integrated into our daily lives, every home actively interacted with some or the other part of M&E across multiple screens, to relax, to work or to study. Our lives have admittedly changed permanently.

TV became connected and interactive, films released online, news went hyper-local, 390 million Indian gamed online, over 150 billion songs were streamed, subscription OTT scaled to 40 million households, and digital media cemented its position as the second largest segment of Indian M&E.

In doing so, digital and other technologies played a large role - and consequently, changed the power equation in favour of consumers. Consumer data became the crux for all decision making, and media companies started to take more and more data-backed decisions. The media company of yesterday became the media-science company of today.

The M&E sector had de-grown 24% in 2020 but rebounded with a 16% growth to reach INR1.6 trillion, just 11% short of its 2019 pre-pandemic numbers. Except for cinema advertising, all segments of the M&E sector grew in 2021, though experiential segments - like events and films - are yet to get back to normal. What's more, the sector should reach and exceed its pre-pandemic levels in 2022 itself.

Also, the year saw an explosion in the Indian creator economy where more than half a million bloggers, vloggers, content creators, artists, educators, musicians, influencers etc were actively posting content on their various social media channels to directly build an audience around their niche.

Another success story is the large growth in content support that India's animation and VFX segment provides leading global content studios. This combination of technical know-how and creativity could propel Indian stories and storytellers on to the world stage powering the 'Make in India and Show the World' mantra.

We have only just begun to reimagine life in the Metaverse - where our digital and physical lives converge; a world with infinite creativity, a world that connects people without geographical barriers.

The hyper-adoption of a digital ecosystem, an endless supply of creative and technically skilled workforce, governmental focus on ease of doing business and sectoral winds of consolidation - all point towards a supply pool capable of fuelling global content needs.

All the momentum and tailwinds are likely to hurtle the Indian M&E sector to INR2.3 trillion by 2024.

On behalf of FICCI we wish to thank everyone who has contributed towards making this report rich and insightful.

# FORE





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**Ashish Pherwani**

M&E Sector Leader  
Ernst & Young LLP



## That unique Indian consumer, yet again.

India has always been a different kind of media and entertainment market. High on volume and low on ARPU, yet up top with the rest on technology and ahead of the pack when it comes to digital adoption.

We love quantity and bundles; but we pay for value. We are amongst the top smartphone markets; and a large feature phone base. We subscribe to global OTT platforms; yet binge on Youtube and watch free satellite TV. And we are thirsting for curated knowledge and escapism, while creating millions of pieces of content each day ourselves.

Technology has led to the democratization of M&E in India - content is now created for the people, by the people and of the people. The flow of consumer data provides rich and real-time insights on what the consumer likes and dislikes, when where and how it is being consumed, and whether the price-points are appropriate.

Never have Indian consumers been more powerful in determining what content and experiences are produced, when and where they need to be delivered, and how they need to be marketed. This report aims to provide an insight into the changing M&E needs of Indian consumers and what the sector can do to embrace them.

We hope you enjoy reading this report as much as we enjoyed putting it together for you. We are certain you would find this report to be insightful.

# WORD

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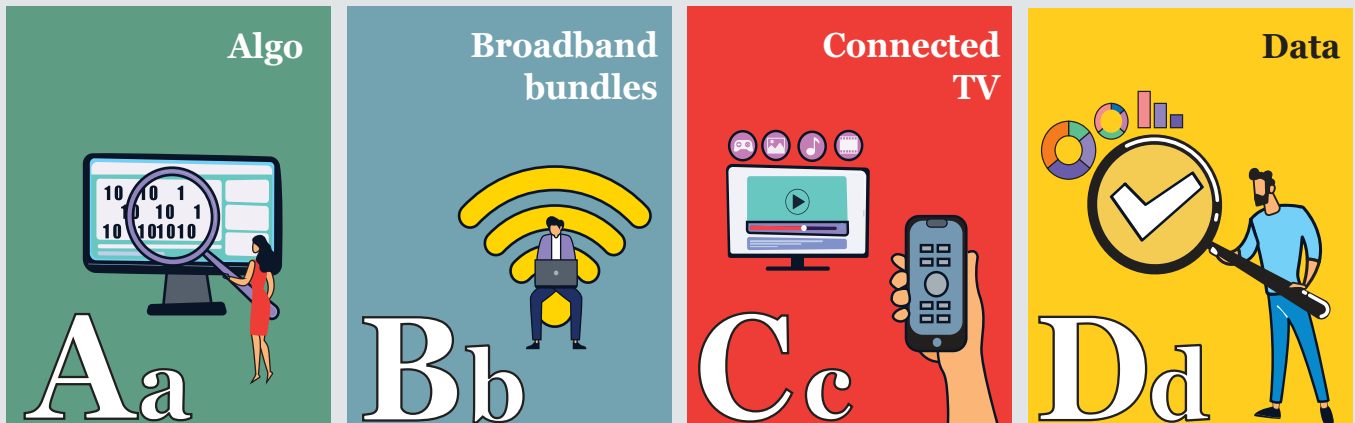
# About this report

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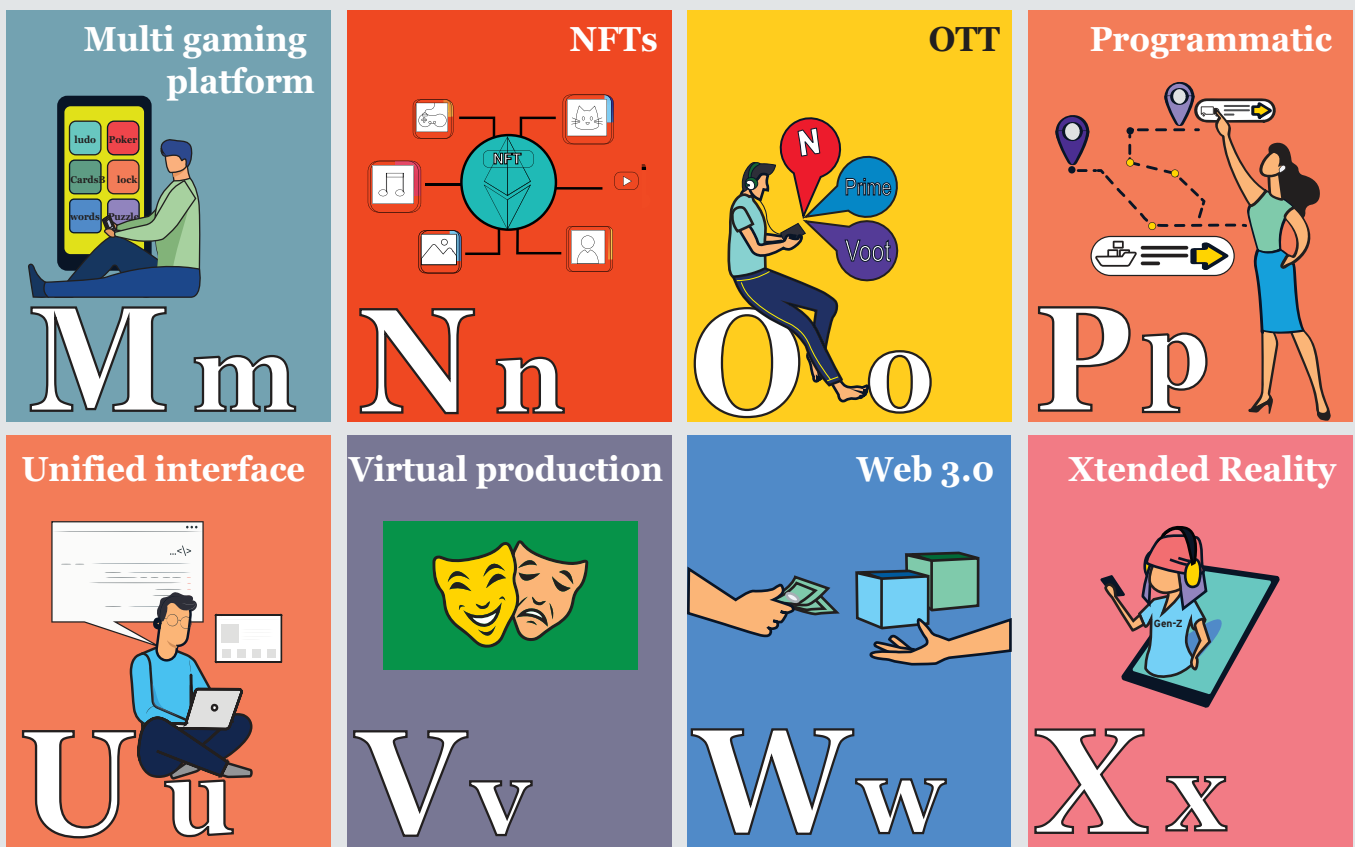
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# EVENTS





# M&E sector overview



Engagement



Ee

Freedish



Ff

Global reach



Gg

Handheld



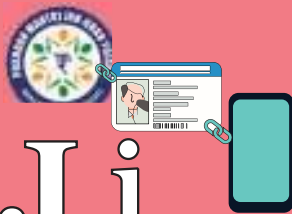
Hh

Influencer



Ii

JAM  
(Jandhan,  
Aadhar, Mobile)



Jj

K-POP



Kk

Likes



Ll

Quality of service



Qq

Recommendation  
engine



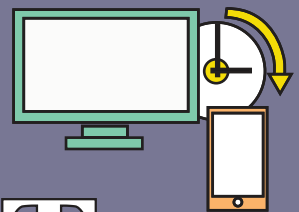
Rr

Social  
commerce



Ss

Time-shifted



Tt

Youth



Yy

Zero budget  
marketing



Zz

Sharing



#

Attention span



@

# M&E sector 2021: Key trends

Indian M&E sector grew 16.4% in 2021 to reach INR1.61 trillion

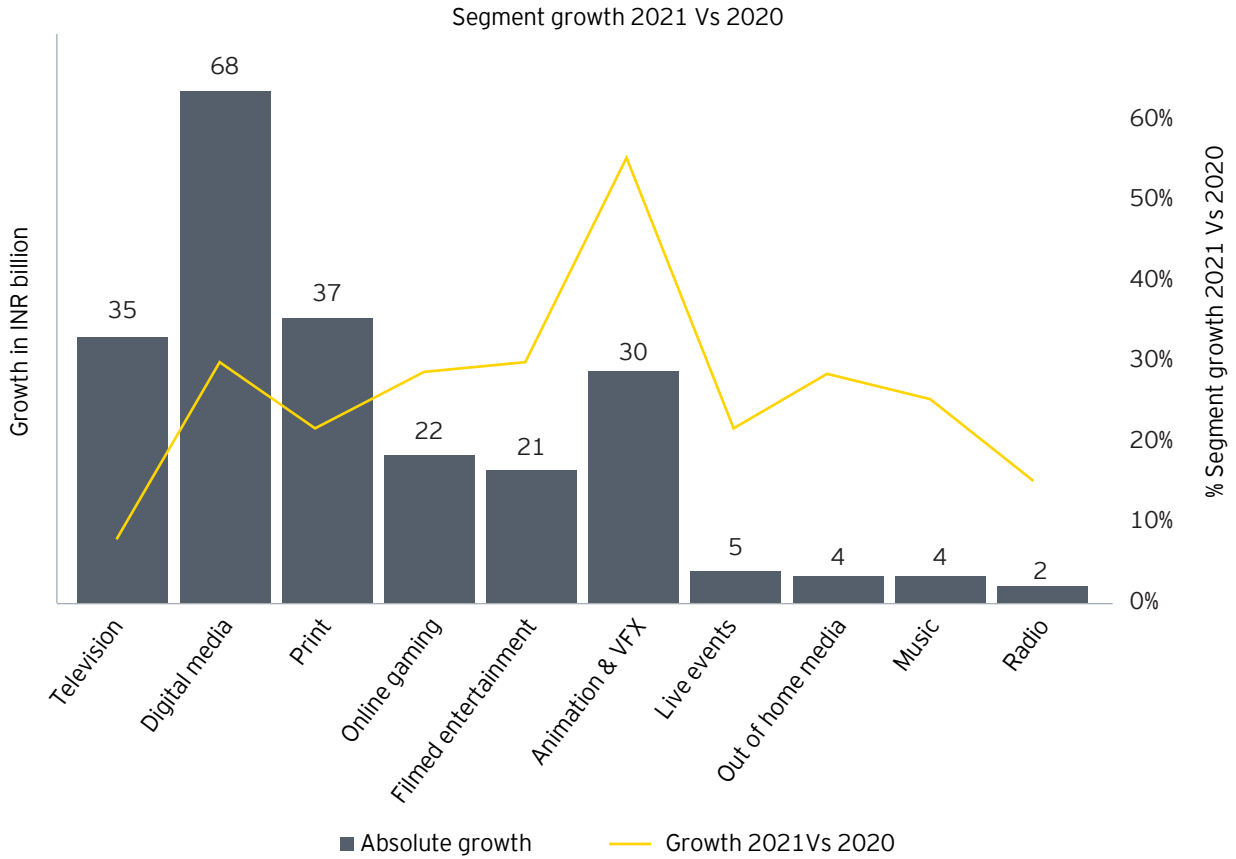
	2019	2020	2021	2022E	2024E	CAGR 2021-2024
Television	787	685	720	759	826	5%
Digital media	221	235	303	385	537	21%
Print	296	190	227	241	251	3%
Online gaming	65	79	101	120	153	15%
Filmed entertainment	191	72	93	150	212	32%
Animation and VFX	95	53	83	120	180	29%
Live events	83	27	32	49	74	32%
Out of Home media	39	16	20	26	38	25%
Music	15	15	19	21	28	15%
Radio	31	14	16	18	21	9%
<b>Total</b>	<b>1,822</b>	<b>1,386</b>	<b>1,614</b>	<b>1,889</b>	<b>2,320</b>	<b>13%</b>

All figures are gross of taxes (INR in billion) for calendar years | EY estimates

- ▶ The Indian M&E sector recovered by 16.4% to INR1.61 trillion (US\$21.5 billion), still 11% short of pre-pandemic 2019 levels, due to the second wave of COVID-19 which impacted the April - June quarter
- ▶ While television remained the largest segment, digital media cemented its position as a strong number two segment followed by a resurgent print
- ▶ We expect the M&E sector to grow 17% in 2022 to reach INR1.89 trillion (US\$25.2 billion) and recover its 2019 levels, then grow at a CAGR of 11% to reach INR2.32 trillion (US\$30.9 billion) by 2024



## Analyzing the INR227 billion growth



INR billion (gross of taxes) | EY estimates

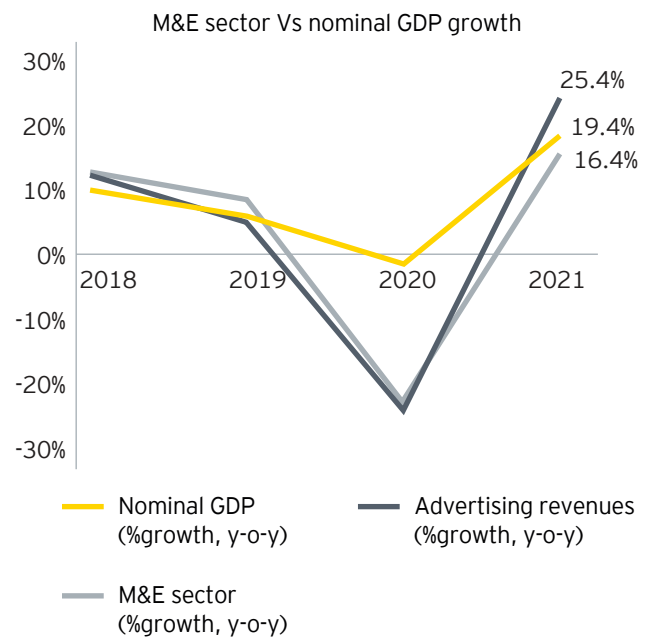
- ▶ Except for in-cinema advertising and TV subscription, all M&E segments grew in 2021
- ▶ Digital media grew the most at INR68 billion and consequently, increased its contribution to the M&E sector from 16% in 2019 to 19% in 2021
- ▶ The share of traditional media (television, print, filmed entertainment, OOH, music, radio) stood at 68% of M&E sector revenues in 2021, down from 75% in 2019

## Segmental performance in 2021

- ▶ **Television** - Television advertising grew 25% to end 2021 just 2% short of 2019 levels. Subscription revenue continued to fall for the second year in a row; experiencing a 6.2% de-growth due to a reduction of six million pay TV homes and a fall in consumer-end ARPUs. Connected TV sets, however, increased to 10 million
- ▶ **Digital advertising** - Digital advertising grew 29% to reach INR246 billion. In addition, advertising by SME and long-tail advertisers reached INR117 billion. Included in these revenues is advertising earned by e-commerce platforms of INR55 billion, which is now 16% of total digital advertising
- ▶ **Digital subscription** - Digital subscription also grew 29% to reach INR56 billion. 80 million paid video subscriptions across almost 40 million Indian households generated INR54 billion, an amount which is around 50% of broadcasters' share of TV subscription revenues. Due to a plethora of free audio options, just three million consumers bought music subscriptions, generating INR1.6 billion
- ▶ **Print** - Advertising revenues grew 24% in 2021, though ad rates remained subdued. Subscription revenues saw a growth of 12% on the back of recovery in direct to home and newsstand sales as well as rising cover prices. Corporate sales, metro circulation and English dailies remained under stress, though the situation seems to be improving
- ▶ **Online gaming** - Despite people going back to work as the effects of the pandemic receded, and regulatory uncertainty, the online gaming segment grew 28% in 2021 to reach INR101 billion. Online gamers grew 8% from 360 million in 2020 to 390 million. Real money gaming comprised over 70% of segment revenues
- ▶ **Film** - Despite capacity restrictions during the year, over 750 films were released in 2021, as compared to just 441 releases in 2020. Over 100 films released directly on streaming platforms, too. The segment grew 28%, but remained at half its 2019 levels
- ▶ **Animation and VFX** - At 57%, this was the fastest growing segment in 2021, as content production resumed, service exports increased and the industry adopted virtual production
- ▶ **Live events** - The segment grew 20% over an extremely depleted base, primarily due to the relaxation of event curbs in a few states and increase in vaccination rates; however, revenues were just 40% of 2019 revenues. It appears that pure digital events are here to stay: they have been adopted across several product and service categories

- ▶ **OOH** - OOH media grew 27% but remained at 50% of 2019 levels. Capacity utilization improved towards the end of 2021, but rates remained challenged. We expect it to regain 2019 levels not before 2024
- ▶ **Music** - The Indian music segment grew by 24% in 2021. 90% of revenues were earned through digital means, though most of it was advertising led, there being around only 3 million paying subscribers. Performance rights witnessed a recovery and grew by 89% once lockdown restrictions were lifted
- ▶ **Radio** - Ad volumes recovered 29% over 2020 but are still 6% behind 2019 volumes. Ad rates fell 13% on average and recovery will only be seen once daily travel resumes fully and the retail sector recovers. Many radio companies are looking at alternate revenue streams to make good the differential

## Advertising growth again outperformed the Indian GDP



Nominal GDP is for financial years | Growth (Basic data): First Revised Estimates, NAS dated 31 Jan 2021 and Advance Estimates, NAS dated 26 February 2021, NSO, MoSPI | M&E data is for calendar years

- ▶ In 2021, when India's GDP grew 19%, advertising recovered 25%
- ▶ The M&E sector recovered just 16% as consumers' subscription spend remained impacted by COVID-19 across film, events and television
- ▶ Advertising was just 0.32% of GDP in 2021

## Advertising grew 25% in 2021

Segment	2019	2020	2021
Television	320	251	313
Print	206	122	151
Radio	31	14	16
Cinema	8	2	1
OOH	39	16	20
<b>Total traditional</b>	<b>604</b>	<b>404</b>	<b>500</b>
Digital	191	191	246
<b>Total</b>	<b>795</b>	<b>595</b>	<b>746</b>

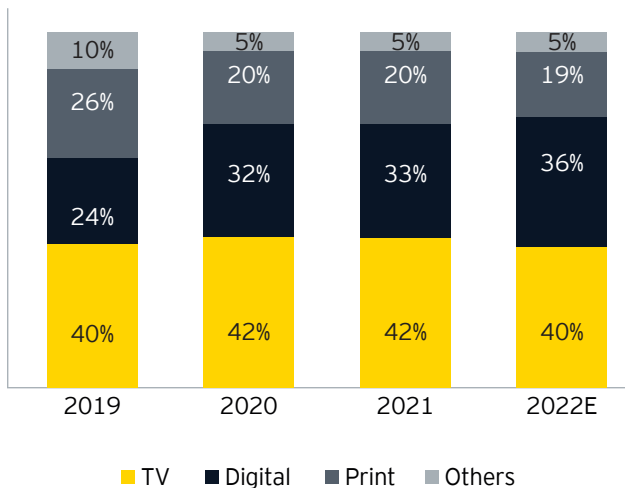
INR billion (gross of taxes) | EY estimates

Note: The above numbers exclude live events, online gaming and animation and VFX segment revenues

- ▶ At INR746 billion, advertising recovered to just 6% below 2019 levels
- ▶ While digital advertising grew INR55 billion, the highest growth was in television advertising of INR62 billion, followed by a growth of INR29 billion in print

## TV + digital + print = 95% of ad spends

Ad revenue by segment



EY estimates | Excludes event segment revenues and SME and long-tail digital advertising

- ▶ TV remained the largest earner of ad revenues in 2021, contributing 42% to the total
- ▶ Digital advertising increased to 33% of total advertising in 2021, from 24% in 2019 (excluding SME and long-tail advertising)
- ▶ Together, television + digital contributed 75% of all advertising spends

## Subscription grew just 2.4% in 2021

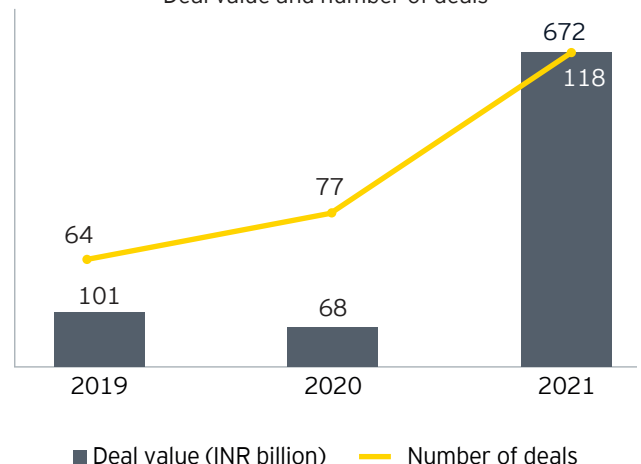
Segment	2019	2020	2021
Television	468	434	407
Digital	29	44	56
Print	90	68	76
Film	183	71	92
<b>Total</b>	<b>770</b>	<b>617</b>	<b>632</b>

INR billion (gross of taxes) | EY estimates

- ▶ Overall, subscription grew INR15 billion with film, print and digital showing a combined growth of INR42 billion while television saw a drop of INR27 billion
- ▶ Overall, subscription revenues were 18% below 2019 levels due to:
  - ▶ Lower theatrical revenues as lockdowns and capacity restrictions impacted film releases
  - ▶ Fall in pay TV households and reduced television ARPUs, and
  - ▶ Reduction in absolute print circulation, particularly in metros and for English dailies
- ▶ Share of subscription reduced from 51.5% of total revenues in 2020 to 46.5% in 2021

## There were over 100 M&E deals in 2021

Deal value and number of deals



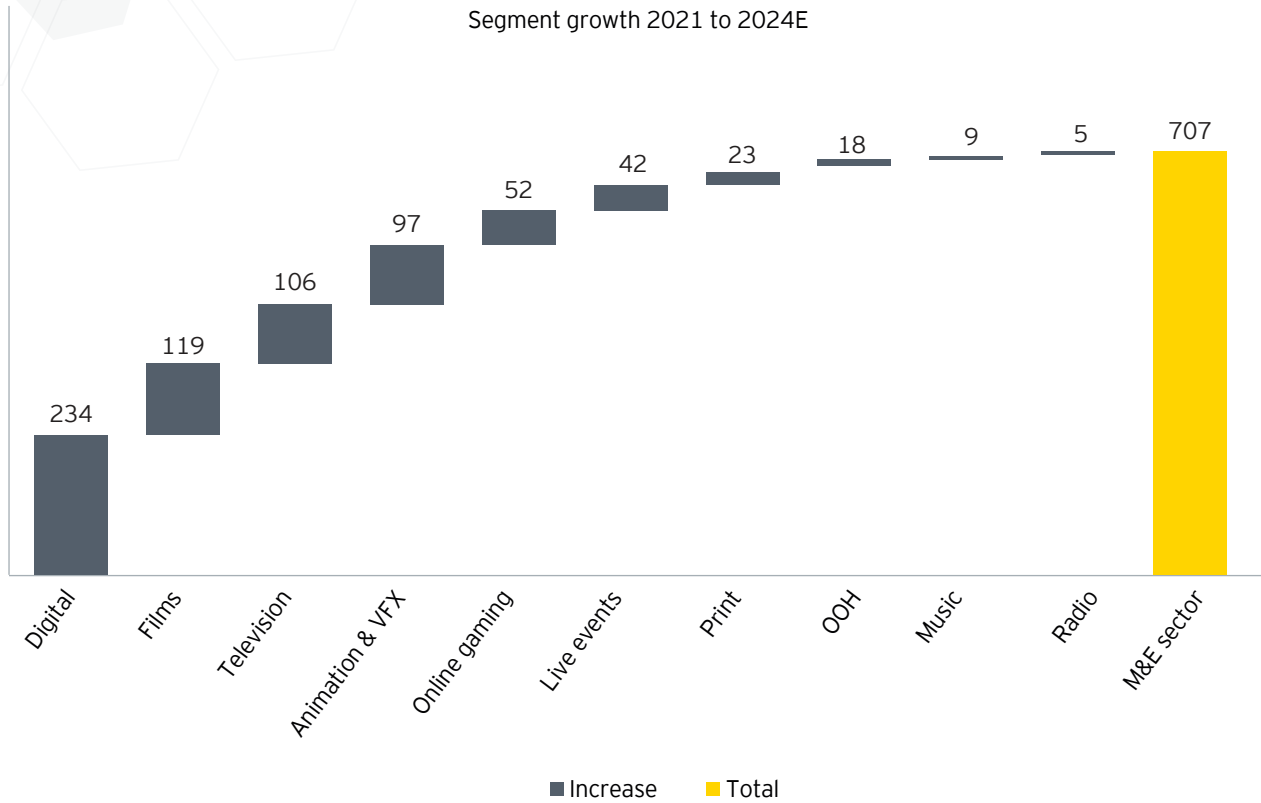
EY estimates based on publicly available information

- ▶ Most investment was made in digital media and gaming, with one marquee deal in TV
- ▶ New media accounted for 86% of the deal volume in 2021



# Future outlook

The M&E sector will grow INR707 billion to reach INR2.3 trillion in 2024



All figures are gross of taxes (INR billion) | EY estimates

- ▶ The Indian M&E sector will grow at a CAGR of 13% and add INR707 billion in three years
- ▶ The key contributors to this growth will be digital, films and television (together adding 65% of the growth), followed by animation and VFX (14%) and online gaming (7%)

## The M&E sector has gone medium agnostic

	2019	2020	2021	2024E
Video	55%	69%	68%	61%
Experiential	22%	16%	16%	22%
Textual	19%	12%	13%	14%
Audio	4%	3%	3%	3%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Revenue share | EY estimates | Includes related data consumption cost estimates

- ▶ Given that video, audio, text and experiences are available across almost all segments, the M&E sector is redefining itself across these 4 verticals:
  - ▶ Video - TV, video OTT, short video
  - ▶ Experiential - Online gaming, cinemas, events, OOH
- ▶ Textual - print, online news
- ▶ Audio - radio, music, audio OTT
- ▶ Video remained the largest earning segment in 2021, holding on to its gains of 2020 as work-from-home and school-from-home remained significant for most Indians throughout 2021
- ▶ The pandemic-impacted year, 2020, caused a fall in the share of experiential, but we expect it to recover by 2024
- ▶ Text has probably seen a permanent loss due to the fall of print circulation, but will grow its share on the back of online advertising and print and digital subscription growth
- ▶ Audio revenue models remain largely ad supported, and their revenue share will therefore remain stable

## Video trends

### I. Monetization will be driven by both premium and mass viewers

Customer segment	2020	2021	2024E
Digital only	10	12	30
Tactical digital	49	67	91
Bundled digital	284	309	422
Mass consumers	270	228	63
Free consumers	200	215	250
<b>Total video viewers</b>	<b>803</b>	<b>819</b>	<b>856</b>

Millions of consumers | EY estimates

- ▶ Digital only: consume content only on digital platforms, do not access television
- ▶ Tactical digital: consume pay TV and at least one paid OTT service
- ▶ Bundled digital: consume pay TV and generally only bundled OTT content
- ▶ Mass consumers: consume pay TV and occasionally may consume some OTT content, usually free
- ▶ Free consumers: do not pay for content
- ▶ Premium consumers (comprising Digital only and Tactical digital) will reach 120 million by 2024
- ▶ The fastest growing segment will be the bundled digital consumer segment, growing to over 400 million by 2024 as telcos bundle content to justify increasing data rates
- ▶ The free consumer base will also grow as progress continues to spread amongst the over 50 million homes today which do not have access to television

### II. Connected TV sets will exceed 40 million

- ▶ Smart connected TVs will exceed 40 million by 2025, thereby ending the monopoly of broadcasters on the large screen and leading to around 30% of content consumed on large screens to be social, gaming, digital, etc.
- ▶ The unified interface - whether on app, device, or platform - will become the new landing page and earn placement and marketing revenues

### III. The 2 x 4 LCO model is inevitable

- ▶ The LCO will evolve to provide two wires into each home - a linear TV connection for live television and a broadband connection
- ▶ LCO services will include aggregation of content (across TV and OTT), data, smart home capabilities and community social interaction and news

### IV. Regional content consumption will increase

- ▶ The share of regional content will increase to 60% of television consumption in 2025 from around 55%<sup>1</sup> in 2020 and will increase to around 50% of OTT consumption from 30% in 2020
- ▶ The need for dubbing, titling, formatting etc. services to make content mobile will increase
- ▶ Advertising rates of regional media will increase to get indexed to the growing per-capita income of regional markets

### V. Talent shortages will drive up production costs

- ▶ As original OTT content grows from 2,500 hours in 2021 to over 4,000 hours in 2024<sup>2</sup> at a much higher production cost than television content, television producers could face a shortage of quality talent
- ▶ As the talent shortage becomes acute, it will drive up television production costs, which would need to be recouped through increased subscription revenues

### VI. New content windows will emerge

- ▶ Monetization will be at the mercy of consumers' willingness to pay, and unlike international markets, Indian markets are more heterogenous and need to be finely segmented
- ▶ Accordingly, premium SVOD, theatrical, SVOD, bundled SVOD, satellite, TVOD and finally free television windows could come into existence for different types of content

<sup>1</sup> BARC India  
<sup>2</sup> EY estimates

## Experiential trends

### I. Online gamers will touch 500 million

- ▶ Online gaming will continue to grow and reach 500 million gamers by 2025 to become the fourth largest segment of the Indian M&E sector
- ▶ The segment will grow across all its verticals viz, esports, fantasy sport, casual gaming and other games of skill, but revenue growth will be led by mobile-based real-money gaming applications across these verticals
- ▶ Gaming event IP will come into being, in the form of esports leagues, national online gaming events and multi-game platforms where gaming will be united with social interaction and commerce

### II. Online avatars will cross 50 million

- ▶ Over 70% of the consumption of Indian M&E revolves around escapism
- ▶ Products like Second Life which enable people to adopt avatars and lead a life in virtual worlds they could only imagine till now will increase in popularity - a trend already being seen in developed markets with high quality broadband
- ▶ This could be one of the most important use cases for the metaverse in India and we estimate over 50 million avatars to be created by 2025, leading to an incredible virtual commerce opportunity

### III. The massification of cinema

- ▶ Cinemas will evolve into "experience zones" to cater to top end multiplex audiences who watch movies for their spectacular experience and to enjoy an evening out with friends and family - a market we estimate at around 100 million customers by 2025
- ▶ In addition, a set of lower-priced "cinema products" will emerge for the next 100 million audiences across the top 75 cities of India, which will also require a change to the type of content being produced for these audiences, and which could even see regional OTT products releasing in a windowed manner

### IV. Premium thematic OOH spaces will be built

- ▶ More cities in India will develop premium spaces that will lend themselves to OOH engagement
- ▶ Mumbai recently announced that it is planning to build a 'sister city square' at Bandra Kurla Complex to honour the relationship between Mumbai and its 15 'sister cities' around the world. The space will act as a cultural exchange zone and a tourist destination

### V. Niche sports will find their mojo in the metaverse

- ▶ Sports fans can increase their engagement with live sports - watching matches from a seat of their choice, interacting with sportspersons, attending after-match parties with their friends and watching replays on demand - all from the comfort of their homes
- ▶ Innovations in such virtual experiences could be the boost non-cricketing sports need in India to enable trial and build stickiness

### VI. Revenge "eventing" will drive event segment revival

- ▶ The lockdowns and restrictions have taught us all the need for physical connection
- ▶ Marketers feel no differently: our survey of 50 marketers had 52%<sup>3</sup> of respondents planning to increase their event spends in the next few years
- ▶ We expect the events segment to recover pre-pandemic levels by 2025

<sup>3</sup>EY marketer survey 2022

## Textual trends

### I. Reach of online news will grow

- ▶ In 2021, Comscore data indicates that online news had a reach of 467 million as compared to 503 million smartphones in India; by 2025 we expect this reach to grow to over 750 million
- ▶ A majority of this news consumption is now in vernacular languages - as high as 95% - and we believe vernacular news portals will see increased penetration with proposed launch of low-cost smartphones by telcos

### II. Utility of the newspaper will be enhanced

- ▶ Newspapers will focus on increasing the collection of local news to create very strong regional products with multiple editions of extremely high relevance to audiences - news that national and large digital news aggregators may not be able to provide
- ▶ The newspaper will also work towards increasing its non-editorial utility to readers (to ensure it gets picked-up and read) by making ads more relevant, enabling engagement tools and building curated community experiences

### III. "Through the day" news brands will emerge

- ▶ Consumers have stated their preference for news through the day and accordingly we believe newspapers will engage digitally with readers through the day from a breaking news perspective, while the newspaper the following day will focus on depth, commentary and analysis

### IV. Subscription focus will increase

- ▶ Cover price growth is critical for the print segment, in order to reduce the variable loss incurred on each newspaper printed by most print companies, and India could see a 25-50% growth in average newspaper cover prices by 2025
- ▶ Online subscription models for digital products have become prolific in 2021 and should keep seeing increased interest over the next few years
- ▶ We expect them to follow in the footsteps of the OTT video segment and adopt mass bundling with data packs and other online OTT offerings and grow from INR0.9 billion in 2021 to INR5 billion in 2025
- ▶ Transaction revenues / margins on both digital and physical platforms will become critical, enabled by "click to buy" technology

## Audio trends

### I. Video OTT will positively impact the music segment

- ▶ Content produced for the video OTT segment will begin to play a more important role in creating, using and promoting music - akin to Bollywood's age-old link to music
- ▶ We expect the OTT segment to use / create 500-600 songs each year by 2025

### II. Bundle-mania will drive OTT uptake

- ▶ So long as YouTube continues to provide music for free, the paid OTT music sector will struggle to grow; at best we expect it to reach 7 million paid users by 2024 at a maximum effective rate of INR1 per day, generating INR2.8 billion in subscription revenue
- ▶ While this could lead to consolidation in the music OTT segment, bundling will grow to generate syndication revenues
- ▶ Expect to see music bundled with telco data subscriptions, e-commerce platforms, digital service apps etc.

### III. Radio will recover smartly with work-from-office opening up

- ▶ Radio, the most affordable of all media for consumers, will grow extensively once retail outlets come back to normal levels, events and activations pick up with mall traffic, and people start going back to work and to school
- ▶ Ad rates, however, may take a while to rise - perhaps only after the SME and retail segment revenues rebound, but may require ad sales to transform and provide a multi-media [radio + digital] offering to SMEs

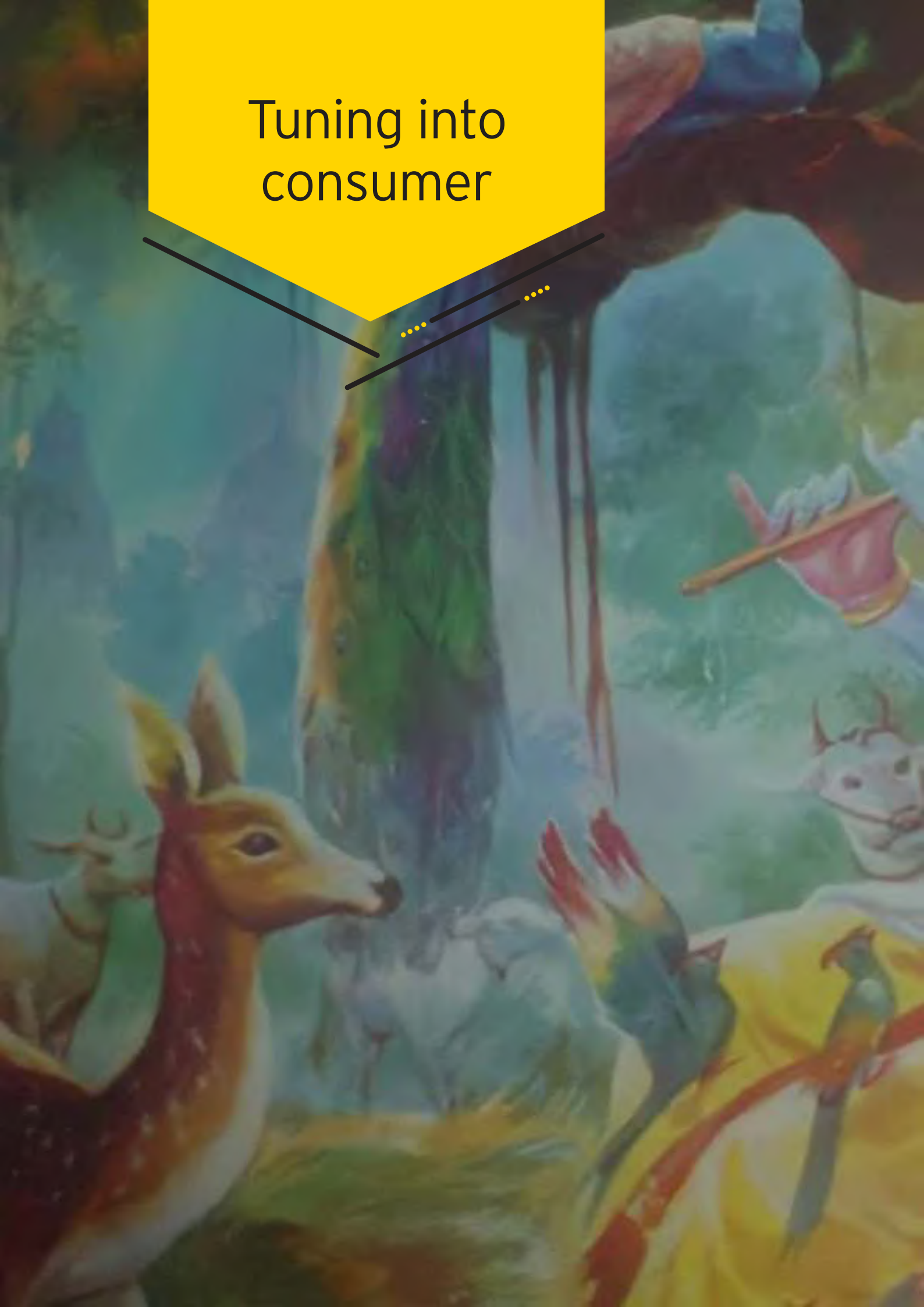
### IV. Branded music will gain acceptance

- ▶ Brands are using music to engage with consumers directly on D2C platforms and social media
- ▶ Integrations could be songs specific to brands, in-video brand placement, lyrical inclusion, brand ambassador integrations, musical filters, social audio contests, signature tunes in ads etc.
- ▶ We estimate this revenue stream to grow from INR0.5 billion in 2021 to INR3 billion by 2025

### V. Non-film music will grow its audience base

- ▶ The lack of film releases in 2020 and 2021 have led to the growth of non-film music, which we believe has created a new audience
- ▶ While non-film music is currently a niche audience, its growth is expected to pick up - particularly in regional markets, and this could increase its share to over 30% by 2025

# Tuning into consumer







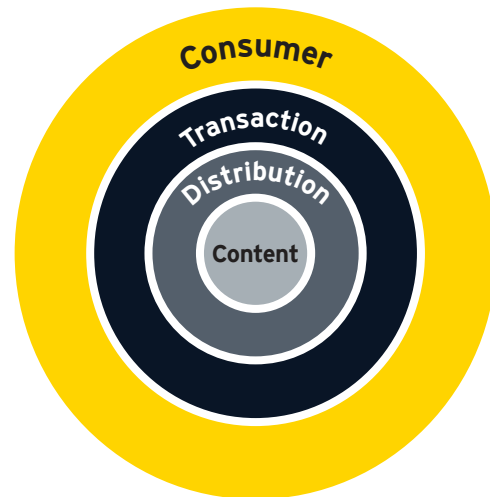
# Tuning into consumer

## Customer is king

There were several doubts on this age-old media adage, but with the digital revolution India is currently undergoing, these doubts no longer remain.

Digital media has put enormous choice and power in the hands of consumers, and Indian consumers have taken to it in a massive way. From choosing which stars they want to watch, to which types of content, across formats, experiences, devices, and price-points they find comfortable, Indian consumers have never been more in control of their entertainment and information.

## M&E companies are re-thinking business models



For Indian media companies, it means a re-think of their business across four core areas:

- ▶ **Content** (what needs to be produced and in which format?)
- ▶ **Distribution** (how does content needs to be distributed, across which media, and using which partnerships?)
- ▶ **Transaction** (what pricing will work for consumers, what windowing strategy, and what other ancillary/ transaction revenue streams are possible?)
- ▶ **Consumer** (what are the consumer needs around escapism and information, which format (audio, video, text, experience), what price, what type of advertising will they view, what utility does the content provide and what talent do they prefer?)

To navigate this shift of power to consumers, media companies need to look towards strategic and technological innovation.

We have tried to identify some of the imperatives for success. However, sometimes, it is not as simple as A, B, C...

## Imperatives for M&E success

### **A**lgorithm

Artificial Intelligence (AI) will go back up the value-chain from just content recommendations, to custom-determined pricing, to marketing intelligence (what images and scenes to use), to automated content/story insights on what to produce, to automated production cost budgeting, most appropriate star casting, and even pre-production and greenlighting.

### **B**roadband bundles

At 795 million broadband subscriptions, digital infrastructure is definitely in place. But payment for content on top of that needs a rethink. Consumers have for long been satisfied with bundled content provided by DPOs, and we expect ISPs, Telcos, and start-ups to bundle together OTT content from different platforms to drive further growth.

### **C**onnected TV

Connected TV has crossed 10 million households today, on the back of the growth in wired broadband and technologies like Chromecast and Firestick. And this in turn has opened a huge opportunity for content creators to reach top-end audiences who have moved viewing time from traditional TV – by providing non-traditional content and experiential products – without having to go through broadcasters.

### **D**ata and D2C

D2C will emerge as the top metric for media valuations, where “ownership” of consumer data is with the platform. For brands, too, maximum media spends would be to garner first party data. KPIs on campaign attribution will drive customer acquisition budgets. IoT will develop many media use cases – including around measurement.

### **E**ngagement

First it was reach. Then it was MAU. Now, it is DAU. But finally, it is stickiness that matters, and engagement will be the most prized metric of all, as loyal customers reduce ever-increasing CAC and tend to spend more on the platform.

### **F**reeDish

Love it or hate it, the consumer has spoken and cannot do without free television. Library content and news have driven its growth to over 40 million households today, but soon originals and regional content will get added to the mix. It serves an audience segment that will always prefer free access and is not that bothered around quality.

### **G**lobal reach

Indian content has started performing better in international markets – and not just with Indian diaspora. Several Indian films and series now garner global viewership on Netflix, Amazon, Zee5 and Hoichoi. OTT platforms provide global audiences to Indian creators and it is up to the Great Indian Content Factory to create content for the world.

### **H**andheld/ hyper local

Hyper local content on handheld devices would be priority for global platforms, music, and news brands. India loves its regional-ness, and content now needs to adapt to that. In addition, “newsjacking” – the process of adding a viewer’s thoughts and opinions into breaking news stories viz., piggybacking on trending news topics to get noticed – will create significant social interaction.

### **I**nfluencer economy

The digital medium, long criticized for being low on trust, has bounced back with trust-based commerce. Audiences follow creators they trust, who in turn bring relevant brands to their notice which are far more liable to be purchased than from celebrities they may never have interacted with. Large media platforms will become distributors of creator economy assets. Consumers have clearly shown their interest in such content, and large media needs to take heed. With over 200k professional entertainment creators by 2025, and another 100k news stringers, creators will build communities, earn revenues, and become influencers at the national and local levels.

## JAM

The trinity of Jan dhan (online bank account), Aadhaar cards (online identity proof) and Mobile are driving digital banking, which in turn makes it much easier for users to pay for content, prove their age online and transact easily. For MSMEs, digital marketplaces for procurement and sales are the new normal – at a global level, increasing their spends on advertising.

## K-Pop

Move over Hollywood, there is a genuine competition in content creators across Turkey, Israel, UK, Korea, Japan, and many other countries. Dubbing and subtitling into several Indian languages will become the new norm for quality international content to access Indian audiences.

## Likes → Lifetime value (LTV)

It is no more around only likes on social and streaming platforms. Digital media businesses need to keep investing in content which attracts and retains consumers whose LTV will define financial success.

## Multi gaming platforms

Consumers use gaming in several ways: for escapism, social interactivity, recognition of their skill and the thrill of the unknown (chance-based games). Skill-based games would not be nearly enough for sustained growth, and we expect that gaming companies will now expand to provide a wider gaming experience to consumers.

## NFTs

Digital assets will add-on to physical assets for a generation which is more comfortable online than it is offline. Personal digital museums will generate social acceptance and be investment opportunities – just like for today's art collectors. Blockchain will convert content and experiences into tradeable digital assets, build transparency on royalty payments and incentivize C2C content sharing. Initial Fan Token Offerings will fund alternate media ventures and thereby enable fans to invest in their favorite talent.

## OTT

With over 40 million households now willing to pay for OTT content, the segmentation of India is clear. The SVOD opportunity exists and will probably grow to 60+ million households by 2025. Publishers will promote dynamic paywalls.

## Programmatic

Industry estimates indicate that around 40% of India's digital ad spend – or around INR140 billion – is transacted through programmatic channels. We expect guaranteed programmatic models to prevail in the medium term along with pure programmatic as consumers consume an ever-widening array of apps and platforms, many not even media platforms.

## Quality of Service (QoS)

The television distribution industry struggled with distributed QoS management for decades – that has now changed with centralization and online self-service. QoS may even trump creative as the key differentiator across similar products on experiential, television and digital.

## Recommendation engines

Recommendation will replace channels and bouquets.

## Social commerce

The future of commerce is, indeed, conversational. Social media will become the next online shopping destination, eating away share from pure e-commerce stores in India.

## Time-shifted

While we are used to time-shifted viewing on OTT and even television platforms, we expect this phenomenon to pervade other M&E segments – asynchronous event participation, audio/ radio, online gameplay etc. However, the key utility of linear viewing viz., having common topics for discussion with friends, would need to be recalibrated to enable conversations across social media.

## United interface (UI)

Content discovery will move to the united interface – which will reduce the importance of channel loyalty and brand loyalty. The UI will be the point of content marketing using recommendation engines.

## Virtual production

Still a concept in its infancy in India, we expect virtual production to influence more than 20% of production budgets and enable India to become the back office of the content production world.

## Web 3.0

Web 3.0 will create the next entertainment moghuls as audiences gain access to the “ultimate escapism”, living and transacting through custom-designed avatars in imaginary worlds of their choosing.

## Extended Reality (XR)

XR will make content flow between physical and virtual environments seamlessly, thereby creating many new monetization opportunities for content creators and platform managers.

## Youth

As the Count said in The BBC’s Dracula, “I knew the future would bring wonders. I did not know it would make them ordinary.” As one of the youngest countries in the world, with heavy digital adoption, Indian youth will drive innovation across everything – content, experience, pricing, platforms, and positioning.

## Zero budget marketing

Zero budget marketing will spur many digital-only brands who will create Contech capabilities without legacy issues, forming a plethora of investment opportunities for investors. However, there remains a gap in India’s early-stage funding landscape – media needs an Indian Y Combinator.



The global  
perspective on  
M&E



DE

PADI



**HORN**





ILHI

HARO



PLEASE





# Global point of view

In 2022, media and entertainment companies will experience a familiar landscape influenced by consumer behavior dynamism, technological innovation, competitive intensity, and industry reshaping. Mix in the continuing effects of the pandemic on business conditions and the workforce, an inflationary economy, and a charged social and political landscape, company leaders are steering through unpredictable terrain. Here are five trends to watch in the year ahead as the industry works to reframe its future.

## Content distribution gets (more) complex

Investment in new original content shows no sign of slowing as we move into 2022. Content is the fuel that drives consumer interest and engagement across platforms - streaming, broadcast, and cable networks. How the content reaches consumers, however, often involves a complicated decision-making process.

The direct-to-consumer (D2C) pivot will continue to be the primary strategic priority for the industry in the coming year. Operators and investors alike are focused on subscriber growth and retention as the key performance indicators for services where switching costs for consumers are minimal. Despite their rapid growth over the last two years, most D2C services operated by media companies remain unprofitable and consume cash, devouring resources from the overall enterprise.

The capital intensity associated with streaming highlights the importance for media companies to harvest financial benefits of the linear ecosystem. Even as cord cutting gradually shrinks the universe of traditional video subscriptions, broadcast and cable networks remain cash flow engines. To avoid a dislocated unwinding of the legacy pay-TV environment and its valuable monthly subscriber fees and advertising revenues, network owners must continue to direct fresh content, including sports, to their linear channels to keep viewers engaged.

In the year ahead, operators (especially those without the scale or capital resources to go truly "all in" on streaming today) will be faced with challenging decisions around programming their streaming platforms to drive growth, while also remaining profitable but structurally declining linear businesses to generate cash flow. This is a tricky balancing act.

Acting on these decisions will require sophisticated modeling and disciplined business planning that spans creative and executive priorities to achieve an optimal mix of growth and financial outcomes.

## Simplified and customized experiences take center stage

In 2022, consumers will continue to seek out unique experiences and ubiquitous access to entertainment content. Companies that solve the discoverability puzzle and aggregate content in a more intuitive and accessible way will rise to the top.

Consumers expect effortless interactions throughout the end-to-end customer journey, from sign-up to usage and billing. Accordingly, we will see more companies participating in the streaming value chain. Network owners, broadband providers and connected TV manufacturers will be taking steps to simplify, optimize and integrate layers and compatibility tools across platforms to **improve the user experience.**

Content discovery is becoming increasingly difficult for consumers as they bounce between streaming services searching for new series and old hits among the avalanche of available programming. Tech-savvy companies that harness valuable viewership data to give customers more of the content they want will enjoy a competitive advantage. In 2022, streamers playing catch-up will refine their recommendation engines based on demonstrated subscriber preferences and usage history, and tailor their marketing - in-platform and over external channels - to make consumers aware of all the viewing options.

Bundling can also enhance the consumer experience. The scaled digital-native streamers provide a variety of integrated offerings to their video subscribers - shopping, gaming, devices, and other digital services. Media companies with diversified businesses or innovative partnerships with third parties - including in the digital asset arena (e.g., non-fungible tokens, also known as NFTs) - will aim to create their own "flywheels" that provide a portfolio of offerings to their streaming subscribers, driving new sign-ups and adding stickiness to the D2C revenue model, extending the life of the customer relationship.

A deep lineup of desirable programming is table stakes for the streaming game. In an environment where consumers are juggling a growing collection of services and switching costs are low, media companies need to deliver an experience that keeps subscribers connected and engaged.

## Movie night will return to the theatre

The effects of the pandemic on the movie business have been severe. Cinema owners struggled to remain open as moviegoers stayed away because of virus concerns and limited availability of fresh film product. While the emergence of the Omicron COVID-19 variant is adding uncertainty, there are signals pointing to a constructive path forward for the box office in 2022.

In 2021, 13 films grossed over \$100 million according to Box Office Mojo, down from over 30 in 2019. Nonetheless, results in 2021 indicated an enduring audience appetite for “blockbuster” features as reopening across the country gained steam, prompted in part by the distribution of effective vaccines. Looking ahead, a robust slate of long-anticipated tentpole movies should help drive the recovery in theatre admissions.

A change that will hold in 2022 is the abbreviation of exclusive theatrical window to approximately 45 days and, for some mid-size films, a day-and-date release approach that enables consumers to view new movies in the theatre or at home. After a difficult series of negotiations between theatres and studios, the movie industry appears to have aligned on an approach that preserves the attributes of theatrical window while acknowledging the reality of streaming popularity.

The shorter first-run window will allow studios and theatres (and creative talent) to reap the benefits of successful major releases - namely the huge ticket sales that take place on opening weekends and the following several weeks, plus the ability for studios to leverage marketing spend in support of a film's premiere into future distribution windows, specifically fast-following D2C availability.

## NFTs have entered the media chat

Excitement is building around NFTs as a vehicle for media companies to expand engagement with their content and IP and may provide a future monetization model as the market matures.

Early adopters are purchasing NFTs linked to sports, art, collectibles and more, acquiring one-of-a-kind digital assets that are easily tradable and whose ownership and authenticity are recorded via blockchain technology.

To join the action, media companies are forming relationships with NFT technical specialists and marketplaces to develop offerings that enable consumers to participate in an entirely new way with their favorite characters, movie and TV show scenes and other content. NFTs allow media industry players to create cross-platform consumer interactivity anchored in proven IP and to build new communities by extending the consumer relationship into emerging digital areas.

In 2022, the media and entertainment industry will undertake plenty of NFT innovation and experimentation. The economic return of these efforts is unclear; today, NFT projects in the media and entertainment space are essentially marketing investments meant to power engagement and to access fans - especially those active in crypto - eager to deepen their association with popular content. In the future, media companies could generate royalty income related to secondary sales of NFTs... perhaps in transactions tied to activities taking place in the metaverse.



## M&A remains a popular item on the menu

Over the last 12 months, the media and entertainment industry saw the biggest players execute on a variety of transactions - landscape-shifting megamergers, bolt-on acquisitions of smaller studios including properties located in international markets that produce localized content, targeted deals for niche IP assets that can be leveraged to create fresh programming, and innovative joint ventures meant to accelerate global streaming growth on a capital-efficient basis.

In 2022, the consolidation of studios and networks will continue as companies seek to build content, capabilities and scale needed to battle the digital-native behemoths who reap the benefits of tremendous financial and operational advantages.

After deal headlines fade, management teams will face a heavy lift of integration, right-sizing and realigning front office operations, IT systems and corporate infrastructure to achieve ambitious efficiency goals. Cost savings realized through integration will fund future growth investment and boost profits, a key objective as the industry transitions from the stable, high-margin linear world to a streaming ecosystem that drives less-profitable revenue (for now).

Robust conditions in private and public capital markets are enabling companies to sell non-core businesses and other corporate assets that no longer fit their evolving growth

strategies or capital allocation priorities. Accordingly, asset divestitures will be a key trend in 2022 as well. Activist investors will play a role in some of these transactions, serving as another catalyst for change.

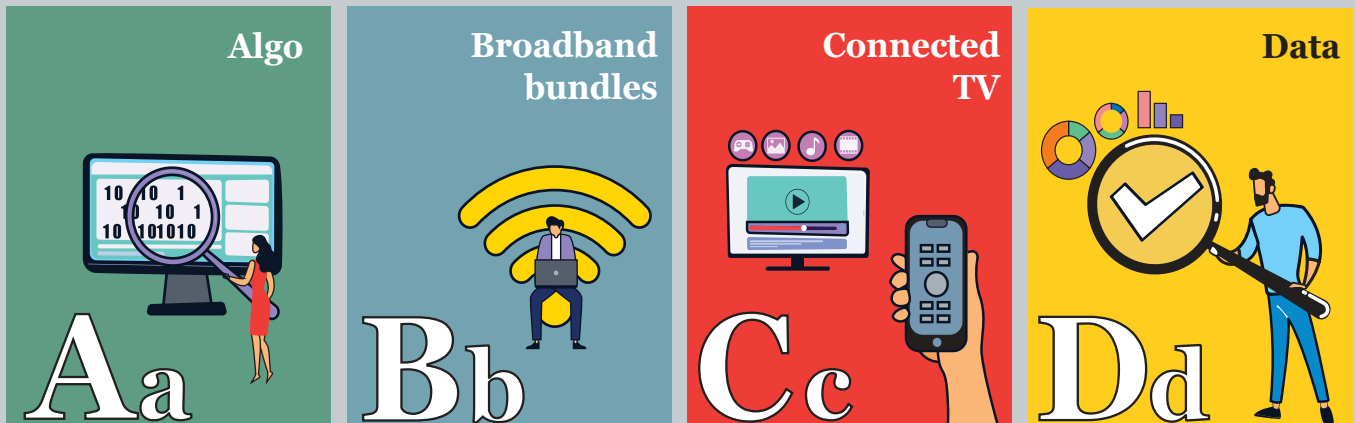
The media and entertainment industry has always been a whirlwind of strategic activity as companies build, renovate, and tear down business portfolios in response to market developments, and 2022 will be no different. These five trends indicate that the media industry is poised for another year of exciting change, as companies drive innovation, tackle new challenges and capture opportunities to position themselves for growth.



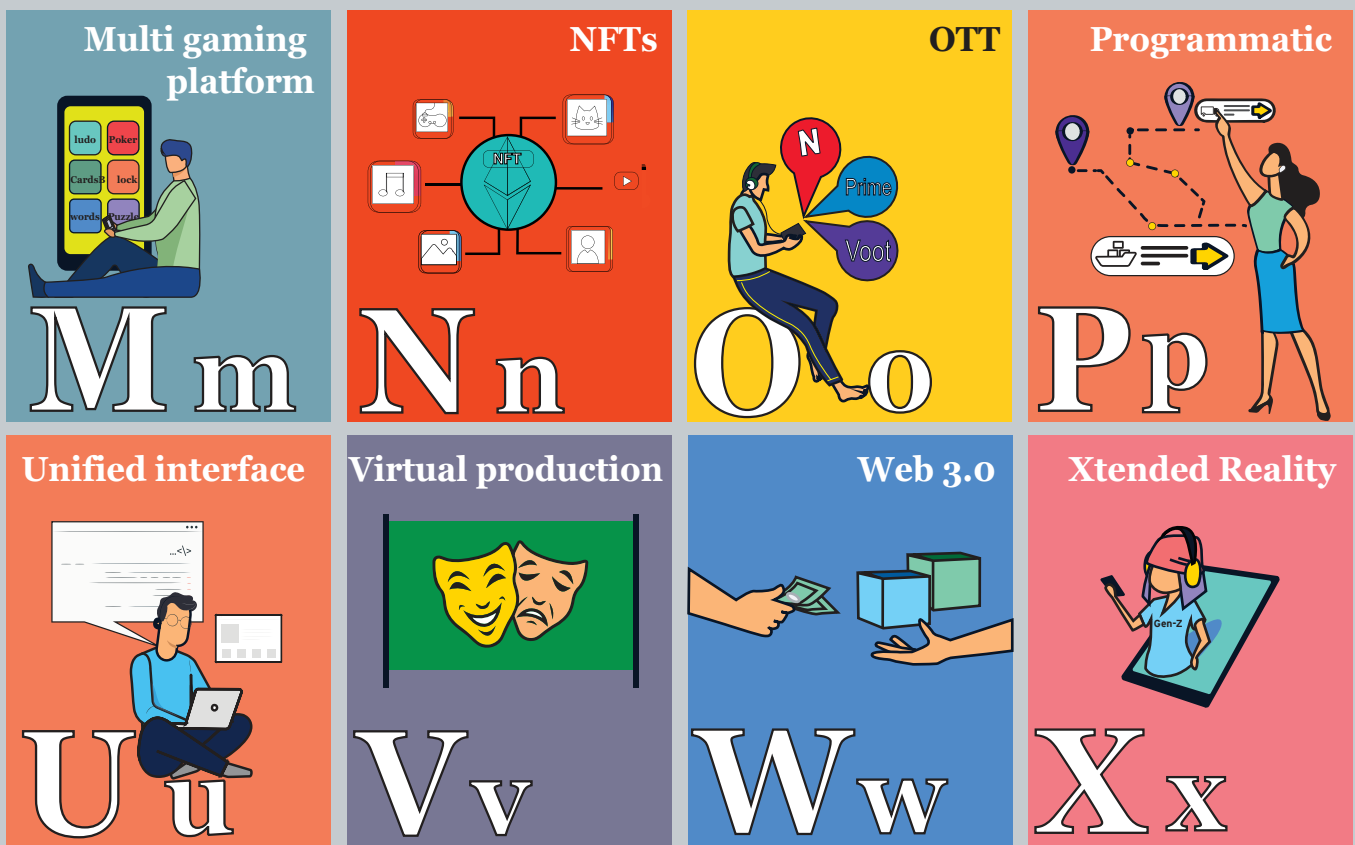
**John Harrison**

*EY Americas Media & Entertainment Leader*





# Segmental trends

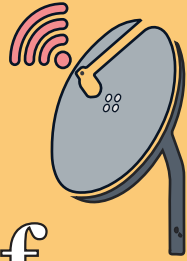


Engagement



Ee

Freedish



Ff

Global reach



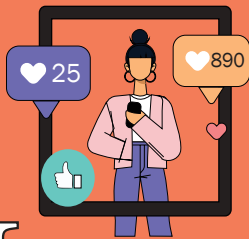
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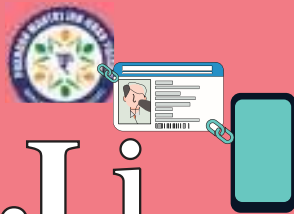
Hh

Influencer



Ii

JAM  
(Jandhan,  
Aadhar, Mobile)



Jj

K-POP



Kk

Likes



Ll

Quality of service



Qq

Recommendation  
engine



Rr

Social  
commerce



Ss

Time-shifted



Tt

Youth



Yy

Zero budget  
marketing



Zz

Sharing



#

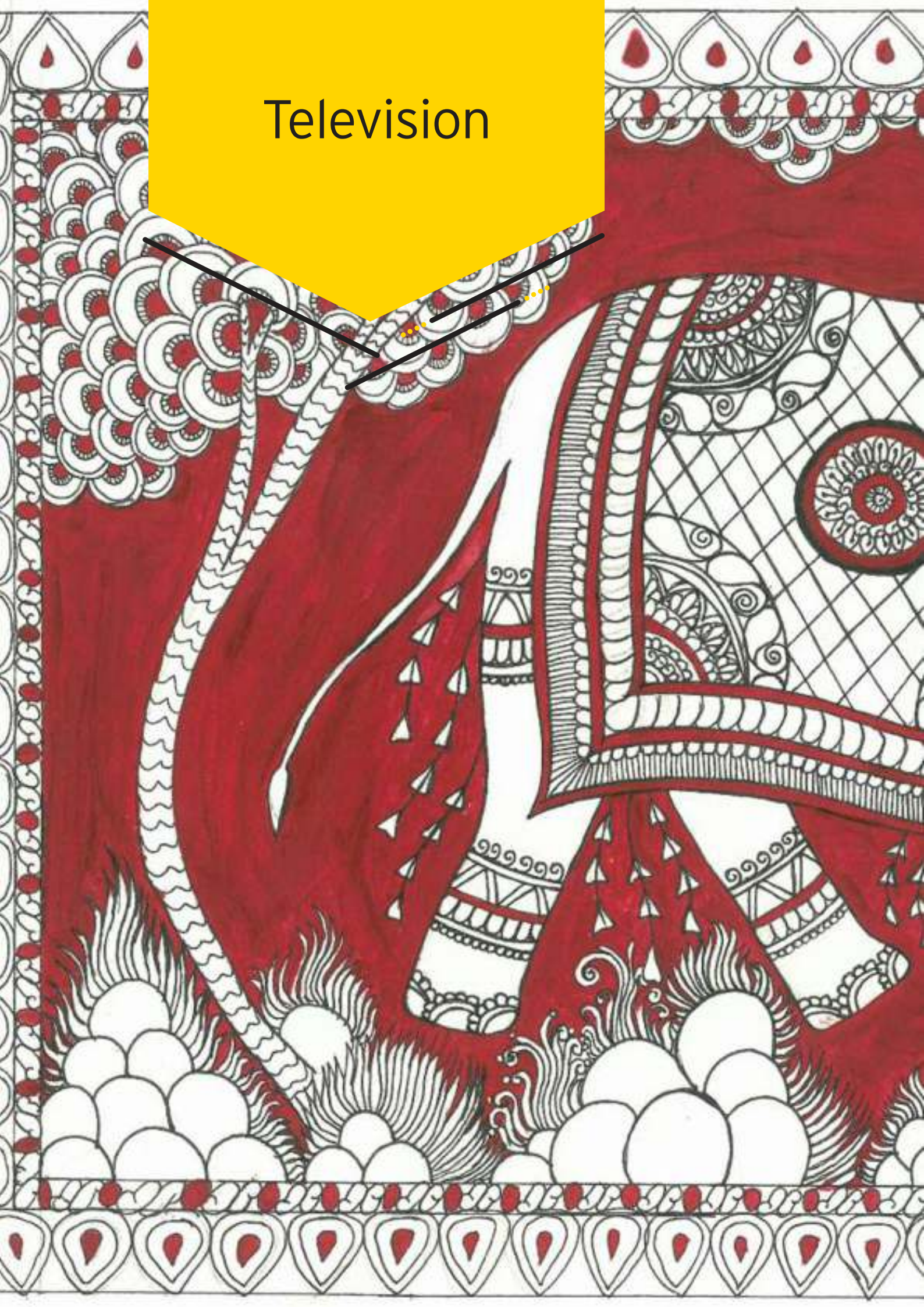
Attention span



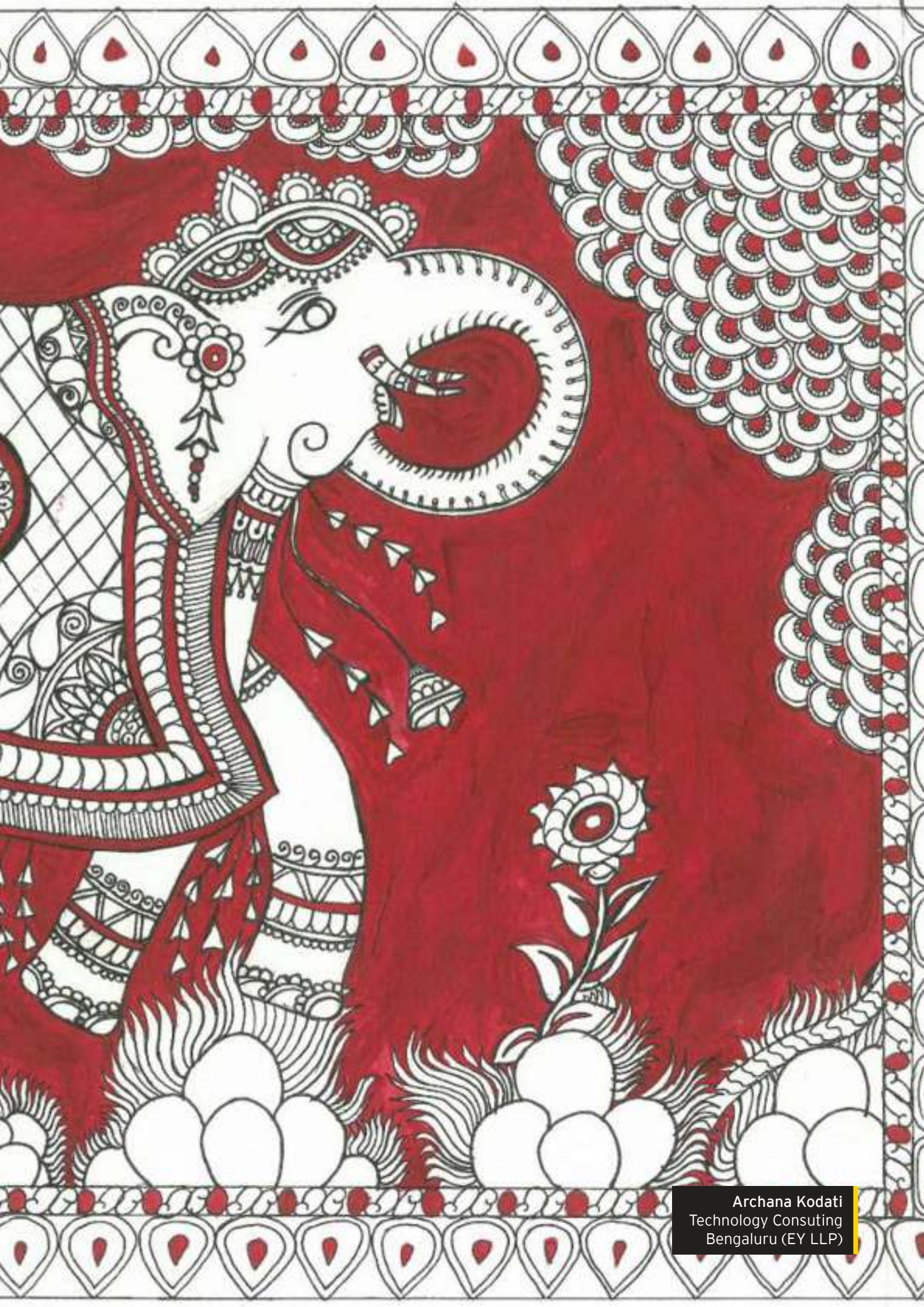
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# Television









# Television

## Television segment grew 5% in 2021

Segment	2019	2020	2021	2022E	2024E
Advertising	320	251	313	344	394
Distribution	468	434	407	415	432
<b>Total</b>	<b>787</b>	<b>685</b>	<b>720</b>	<b>759</b>	<b>826</b>

INR billion (gross of taxes) | EY analysis

- ▶ Television advertising grew 25% in 2021, recovering from a 21.5% drop in 2020, just 2% short of 2019 levels
- ▶ Ad recovery was volume-driven for most of the year, with an average of 3% rate growth
- ▶ Subscription revenue continued to fall for the second year in a row; it experienced a de-growth of 6.2% mainly due to a reduction of six million pay TV homes and a fall in consumer-end ARPUs
- ▶ Connected TV sets, however, increased to 10 million
- ▶ Time spent on TV fell 8% from 2020 levels and was slightly lower than 2019 levels for Hindi speaking markets
- ▶ While television households will continue to grow at 1% till 2025, we expect growth to be driven by connected TVs which could cross 40 million by 2025 and free television which could cross 50 million, thereby stressing the core pay television market
- ▶ Subject to implementation of ad caps and regulatory restrictions on pricing, we expect television revenues to grow to INR826 billion by 2024
- ▶ We expect the LCO business model to be hybrid: a linear TV wire + a broadband connection for providing efficient content services, broadband connectivity, smart home services and locality/ community services

# Reach

## Number of television channels reduced marginally to 906

	September 2020	September 2021
FTA	584	558
Pay	327	348
<b>Total</b>	<b>911</b>	<b>906</b>

MIB website; TRAI

- ▶ Pay channels increased by 21, while free-to-air (FTA) channels reduced by 26, which reflects a move by broadcasters to build stronger subscription revenue products through bouquets
- ▶ 62% of channels were free-to-air as compared to 64% in 2020<sup>1</sup>
- ▶ News channels comprised 43%<sup>2</sup> of total channels

## The number of distribution platforms remained stable

	December 2020	September 2021
MSO	1,702	1,745
DTH	5	5
HITS	1	1

MIB website

- ▶ MSO registrations increased by 3% during 2021 to reach 1,745
- ▶ The Indian market is serviced by four pay DTH providers and one free DTH provider as of 2021
- ▶ Operating platforms include Dish + VideoconD2H+, Tata Play, Airtel, Sun Direct and FreeDish
- ▶ InCable continues to operate the lone HITS service - NXT Digital

<sup>1</sup> TRAI  
<sup>2</sup> TRAI

## There were 164 channels on DD FreeDish in 2021

Date	Channel count
December 2018	80
December 2019	104
December 2020	161
December 2021	164

Prasar Bharti

- ▶ As of February 2022, DD FreeDish hosted 164 channels including 91 Doordarshan channels (comprising of 51 educational channels launched during the pandemic) and 73 private channels<sup>3</sup>
- ▶ The FreeDish service also delivers All India Radio's audio programming content of around 48 satellite radio channels<sup>4</sup>
- ▶ Four large broadcast networks, Star India, Viacom18 Media, Zee Entertainment Enterprises and Sony Pictures Networks India, who had pulled-out their content from DD FreeDish from 1 March 2019, made a comeback on DD FreeDish during 2020 to capitalize on advertising revenues and stayed on the platform through 2021, though news articles indicate that they are again planning to quit the platform in 2022<sup>5</sup>
- ▶ Interviews with dealers of FreeDish indicated that the demand for customer premise equipment had increased in 2021

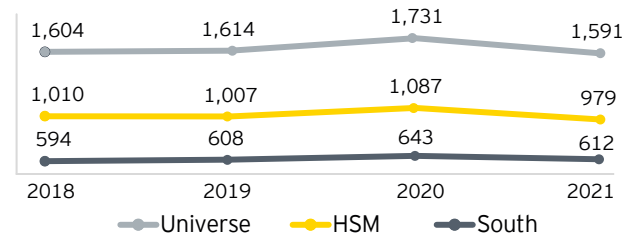
<sup>3</sup><https://prasarbharati.gov.in/wp-content/uploads/2021/12/Genre-wise-list-of-channels-available-on-DD-Free-Dish.pdf>

<sup>4</sup>Prasar Bharti

<sup>5</sup><https://www.exchange4media.com/media-tv-news/big-4-broadcasters-likely-to-pull-out-their-hindi-gecs-from-dd-free-dish-118922.html>

## Television consumption

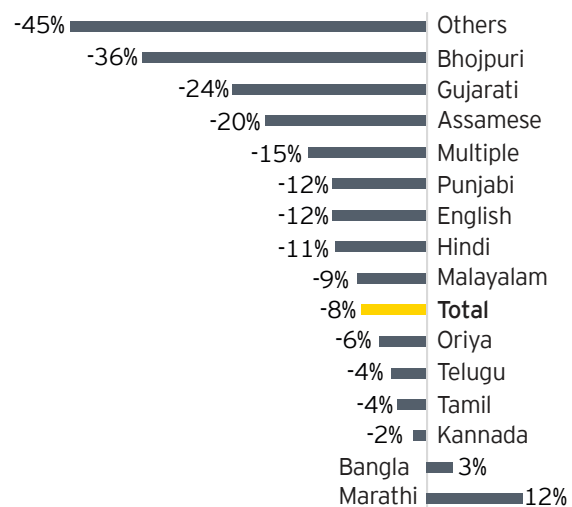
### Overall, time spent on TV decreased 8% over 2020



BARC | Sum of weekly AMA (in billion) | Wk1 to Wk52

- ▶ Overall impressions dropped 8% over 2020 levels with people moving back to work in 2021 and were lower than overall 2019 levels as well
- ▶ While Hindi speaking markets (HSM) saw a 10% drop, south markets dropped by 5% in 2021
- ▶ Viewership of south markets remained higher than their 2019 levels, while HSM viewership was lower than 2019 levels

### Only two regional languages increased in viewership in 2020



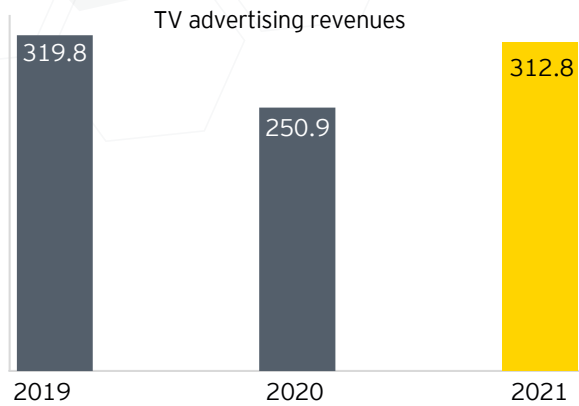
BARC | change in aggregated weekly AMA 2021 vs 2020

- ▶ Marathi and Bengali were the only two languages to witness a rise in their total minutes of viewing
- ▶ Bhojpuri was the most impacted with a fall of 36% followed by Gujarati and Assamese
- ▶ Hindi television, the largest language by viewership, lost 11%
- ▶ In terms of genres:
  - ▶ Reality television ratings were on average lower than previous years, as impact properties failed to deliver
  - ▶ Hindi movie channel viewership was down due to fewer new film releases
  - ▶ Infotainment and English channels continued their struggle from 2020



# Advertising

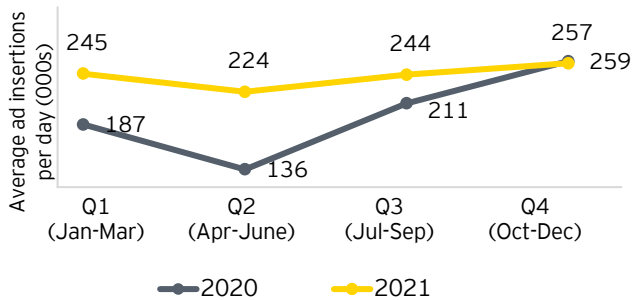
TV advertising revenue grew 24.6%<sup>6</sup>



INR billion (gross of taxes) | EY analysis

- ▶ TV ad revenue in 2021 recovered to just 2% below 2019 levels
- ▶ The recovery was mainly volume driven, though certain pockets like regional entertainment, news and sports did witness rate growth as well towards the end of 2021

Ad volumes grew 21% in 2021



TAM AdEX

- ▶ Ad insertions were significantly higher YoY in the first three quarters of 2021, before dipping marginally below the 2020 number in Q4
- ▶ Tokyo Olympics 2020, Euro 2020, ICC Men's T20 World Cup which were all originally scheduled for 2020 were held in 2021<sup>7</sup>
- ▶ The sustained growth in ad volumes consequently led to an average rate growth of 3% for the year<sup>8</sup>

Almost all categories increased spends on television

Product category	Category contribution 2020	Category contribution 2021	Growth in spends
FMCG	51%	46%	13%
E-commerce	11%	18%	93%
Education	4%	6%	93%
Auto	6%	5%	20%
Telecom	8%	4%	-32%
Household durables	4%	4%	19%
Real estate and home improvement	3%	3%	55%
Banking, financial services, insurance	2%	3%	70%
Others	11%	11%	-
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>25%</b>

Pitch Madison Advertising Report 2021

- ▶ 46% of ad spends on TV were contributed by FMCG, which remained the largest category to advertise on television
- ▶ E-commerce was the largest contributor to revenue growth, contributing 43% of the absolute growth
- ▶ It was followed by FMCG and education which contributed 26% and 14% of the absolute growth respectively

Advertising monies moved towards regional channels

- ▶ Fall in Hindi language pay TV viewership resulted in increased CPRPs for advertisers, while CPRPs for regional channels remained constant in 2021
- ▶ Accordingly, many advertisers increased their share of spends on regional TV products - regional channels (836 hours/ channel) received 26% more ad volumes than national channels (664 hours/ channel) in 2021<sup>9</sup>

<sup>6</sup>EY estimates; BARC; TAM AdEX

<sup>7</sup>2020: A rollercoaster ride for the broadcast industry," Exchange4Media, <https://www.exchange4media.com/media-tv-news/2020-a-rollercoaster-ride-for-the-broadcast-industry-109883.html>, accessed 10 Feb 2021

<sup>8</sup>EY analysis

<sup>9</sup>TAM AdEX

## GEC overtook news to be the largest contributor of ad volumes

Rank	Genres	% Share	
		2020	2021
1	GEC	27%	28%
2	News	31%	28%
3	Movies	23%	21%
4	Music	10%	12%
5	Kids	3%	3%

TAM AdEX

- ▶ The GEC genre led with 28% share of ad volumes, marginally edging past the news genre which was the largest in 2020
- ▶ Hindi movies remained the top language genre for ad volumes. However, its share of ad volumes dropped by 2%
- ▶ In the event where the proposed ad cap rule does get implemented, there would be a significant impact on rates (which would increase), while volumes would decrease (particularly for music, news, and some entertainment channels), leading to an overall dip of ad revenues by approximately 10-15%<sup>10</sup>

## 45 channel genres saw an increase in the number of advertisers

Channel genre	Count of new advertisers
English business news	115
Telugu GEC	104
Tamil GEC	91
Kannada music	87
Telugu religious	78

TAM AdEX

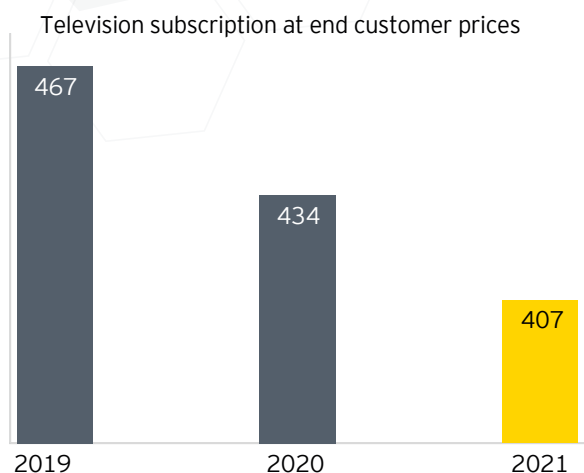
- ▶ 8,932 advertisers used television in 2021 as compared to 9,225 in 2020 and 10,105 in 2019, showing a continued decline in advertiser base
- ▶ Of these, 4,682 advertisers used only television as a medium for advertising and were not present in print and radio
- ▶ Four of the top five genres which saw the highest increase in new advertisers were all from regional language markets

<sup>10</sup>EY estimates

<sup>11</sup>EY estimates

# Distribution

## Distribution income continued to fall in 2021



INR billion (gross of taxes) | EY estimates

- ▶ Television subscription revenues in India decreased 6% in 2021 due to a fall in ARPUs as customers adjusted their packs and a reduction in the paid subscriber base by around six million television homes
- ▶ The fall in homes has been attributed to both cord-cutting at the top end as well as movement to free television (FreeDish) at the bottom end of the customer pyramid

## Active paid subscriptions reduced by 6 million in 2020

	2020	2021
Cable	72	67
DTH*	56	55
HITS	2	3
Free TV	40	43
<b>Total</b>	<b>171</b>	<b>168</b>

Television subscriptions in millions | Industry discussions, billing reports, TRAI data, EY analysis

\*Net of temporarily suspended subscribers

- ▶ While HITS and DTH were relatively stable in 2021, cable saw a decline of 5 million homes (7% compared to 2020 numbers)<sup>11</sup>
- ▶ The fall in paid subscriptions is attributed to rural subscribers who are churning out and moving to free TV platforms and some number of urban subscribers moving consumption to connected TVs
- ▶ In 2021, broadcasters earned revenues from an average of 125 million paid subscriptions, as compared to 131 million reported in 2020<sup>12</sup>

## FreeDish continued its strong growth trajectory

- ▶ Free television, on the other hand, continued to grow its base to reach an estimated 43 million<sup>13</sup> subscribers on the back of less expensive television sets, economic issues, and addition of new channels to the platform<sup>14</sup>
- ▶ FreeDish distributors we spoke to mentioned year on year growth in sales as well as the inability to keep up with demand due to a shortage of China-manufactured chipsets which continued in 2021

## Connected smart TV sets doubled to 10 million

- ▶ At the other end of the cost spectrum, connected smart television sets continued their explosive growth, doubling to 10 million connections
- ▶ Several manufacturers have started providing advertising services on their smart TV platforms
- ▶ However, there is a large base of occasionally used connected television viz. sets that connect just once or twice a month to the internet
- ▶ In addition, work-from-home has created a large "laptop audience" - one reason perhaps why second TV sets are not getting re-connected, and a good case for parity-pricing between linear feeds on TV and on OTT
- ▶ Connected smart TV sets are expected to reach 14 million by 2022 and 40 million by 2025

## End-customer prices decreased marginally

- ▶ End-customer prices declined 1% on an average to reach INR223 net of taxes as compared to INR226 in 2020
- ▶ The reduction was on account of DTH subscribers fine-tuning their packs to eliminate channels that they did not wish to watch
- ▶ Industry discussions indicated that cable ARPUs did not decline significantly as most consumers opted for packs created by the MSOs and LCOs with minimal customization
- ▶ The impact of implementation of NTO was felt as there was little scope for pack discounting by DPOs

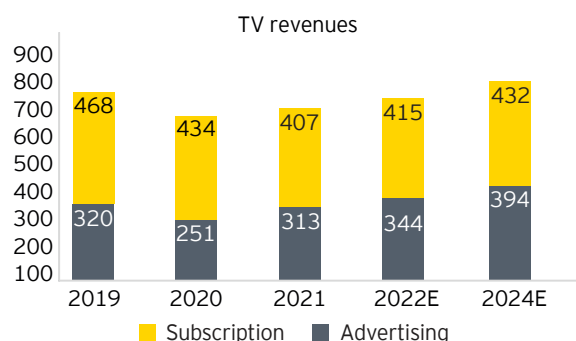
<sup>12</sup>EY analysis; industry discussions; subscriber reports

<sup>13</sup>Industry discussions, EY estimates

<sup>14</sup>Based on our discussions with suppliers of set top boxes

# Future outlook

## We expect television revenues to grow to INR826 billion by 2024



INR billion (gross of taxes) | EY estimates

- ▶ We expect television advertising to grow at a CAGR of 8% to reach INR394 billion by 2024, driven by:
  - ▶ new advertiser segments and brands exploring TV advertising to build brand awareness
  - ▶ upward correction in regional ad rates
  - ▶ lineup of fresh sports content, which remains a bastion of television
  - ▶ continued growth of free television, including with original content
  - ▶ TV continuing to be the most cost efficient medium from a CPM perspective
- ▶ Subscription income will see a marginal 2% CAGR growth to reach INR432 billion by 2024, on account of several conflicting factors:
  - ▶ On the positive side:
    - ▶ electrification of rural areas will increase reach of TV households
    - ▶ as work resumes post the COVID-19 pandemic, and people get back to the cities where they work, deactivated connections will come alive
    - ▶ entry level television sets will increase the demand for second screens in middle class homes, some of which may extend to television
    - ▶ relative pricing of television to broadband remains – currently – much in favor of television
  - ▶ On the cautionary side:
    - ▶ continued movement of the pay TV base to free TV (at the lower end) and OTT platforms at the upper end (for the 2nd TV in the home) could have a dampening effect on the pay TV base
    - ▶ regulatory aspects around pricing and bundling could continue to impact ARPU as subscribers learn to rationalize their channels and packages
- ▶ Television segment revenues are expected to grow at a CAGR of 4-5% to reach INR826 billion by 2024

## Television will go mass, and premium

	2021	2025
Pay TV (cable + DTH + HITS)	125	130
Free TV	43	50+
<b>Unidirectional TV</b>	<b>168</b>	<b>180+</b>
Connected TV (bi-directional)	10	40+
<b>Total TV subscriptions</b>	<b>178</b>	<b>220+</b>

EY estimates | millions of subscriptions

- ▶ Pay TV will continue to grow as states like UP, Bihar, Rajasthan and West Bengal get electrified
- ▶ However, more new users will enter the Free TV market as FreeDish channel count increases to around 200 by 2022 (from 164 in 2021<sup>15</sup>), providing a low-cost advertising opportunity to marketers, despite the decision of large broadcasters to take their content off the platform in February 2022
- ▶ Growth of unidirectional TV will be far outstripped by the growth of connected TVs, which could reach over 40 million connected sets by 2025, on the back of 46 Indian cities which have a population of over a million each and a total population of 122 million which can be wired-up more easily for broadband<sup>16</sup> as well as telcos partnering with LCOs to drive broadband services
- ▶ This means that overall TV connections will keep growing at a healthy pace of over 5% per year to cross 67% of Indian households by 2025

## The future will be hybrid

- ▶ Over time, as wired broadband is perceived as a utility and enters more Indian homes, the importance of the hybrid set-top box will increase significantly
- ▶ Users will be able to get their television content in real-time linear mode through the television connection, while accessing more premium OTT content – and catch-up TV content – using their broadband connections
- ▶ This will prove to be network efficient, with live content viewed using television infrastructure, thereby reducing the load on broadband networks
- ▶ Packaging will also gain importance as linear + OTT packs become the norm; and this revolution will be led not just by the telcos and DPOs, but by ISPs, LCOs and independent start-ups
- ▶ Consequently, while a small portion of top-end households will cut the cord completely, we expect the majority to continue with at least one TV and one broadband + OTT bundle for the large screen

<sup>15</sup><https://prasarbharati.gov.in/wp-content/uploads/2021/12/Genre-wise-list-of-channels-available-on-DD-Free-Dish.pdf>

<sup>16</sup><https://www.nriol.com/india-statistics/biggest-cities-india.asp>



## The new 2x4 model for LCOs

- ▶ With the hybrid model, LCOs will move to a 2x4 business model i.e., two parallel wires connecting a household for TV and broadband respectively, offering four key services to consumers
- ▶ The service offerings of the LCO could include:
  - ▶ Aggregated content services:
    - ▶ Linear TV content
    - ▶ OTT content
    - ▶ Education/ learning content
  - ▶ Broadband connectivity
  - ▶ Home services e.g., security, smart home (heating/ cooling/ lighting etc.) management, etc.
  - ▶ Locality social media, news, online shopping and interactivity

## The proposed ad cap rule could significantly impact revenues

- ▶ The Telecom Regulatory Authority of India (TRAI) has approached the Delhi High Court against seeking stricter implementation of the 12-minute ad cap rule, to bring about a level playing field and the matter is currently sub-judice
- ▶ Implementation of the ad cap will significantly affect ad volumes, especially for news channels and some entertainment channels for their key impact properties, that have been historically airing ads for more than the earlier prescribed limit of 12 minutes per hour
- ▶ To compensate for the drop in revenue due to limited ad volume, ad rates would need to increase significantly, which we believe will be extremely difficult and lead to a 10-15% drop in ad revenues<sup>17</sup>

## Film and niche genres may continue to struggle on pay TV networks

- ▶ Viewership of film channels will continue to decline as audiences move away from TV to OTT
- ▶ As the habit of watching new films at home or on phones takes root (which has been helped by the pandemic and the direct-to-digital releases and shortening release windows), the TVOD film model will gain traction
- ▶ Reduced uptake for infotainment and niche genres could also be on the cards as several of these businesses move on to multi-media communities and expand their scope to more than content – this may force broadcasters to shut less popular channels operating in these genres

<sup>17</sup>EY estimates

## Consumer will be king

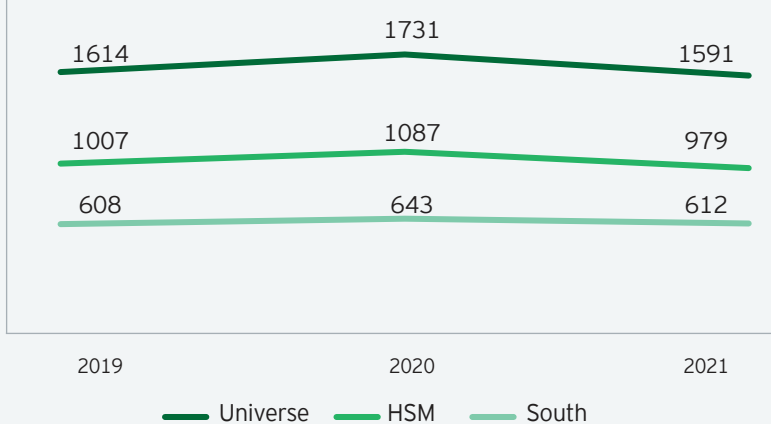
The consumer will shape the future of the television segment:

- ▶ **Whom to watch?** Audience preferences will determine the actors being cast in content produced, the genres of content, and duration
- ▶ **When to watch?** Content will need to be available at the exact time that the viewer would like to watch it. A mix of linear appointment viewing and the option of catch up available online, along with the option of a pure connected-TV-only experience may be explored to match consumption trends
- ▶ **Where to watch?** Consumers will also have a say on the platform that they would like to watch their content on. Expect to see platform splits and options for consumers to choose from, along with the potential to get into bundled packs for linear and digital platforms
- ▶ **How much to pay?** Current duration-based packs offered by MSOs i.e., daily, monthly, annual, etc., may have to be revisited. With connected TVs on the rise, there may be a need to unbundle content and align prices with actual pieces of content being watched, as well as create multiple windows – premium windows (watch content before any others) to regular windows to economy windows (offer delayed content at a deeply discounted rate for price-conscious consumers)
- ▶ **Why to pay?** With increase in broadband connectivity and demand for content, piracy is poised to grow. It will become imperative for content producers to manage controls and data security, as well as offer a seamless experience to paying subscribers to minimize piracy
- ▶ **What they think?** Social media interactions will provide significant channels of feedback on content, story, cast, quality. These interactions will also provide IP owners with a monetization opportunity around short video/shoulder content
- ▶ **Why not create/ belong?** Passive viewing will gradually be replaced by consumers who like to participate along with content viewing. This would mean an opportunity for broadcasters and IP owners to build and monetize interactivity applications, contests and AR solutions that would increase consumer engagement

# Trends Television

Powered by Broadcast Audience Research Council India (BARC India)

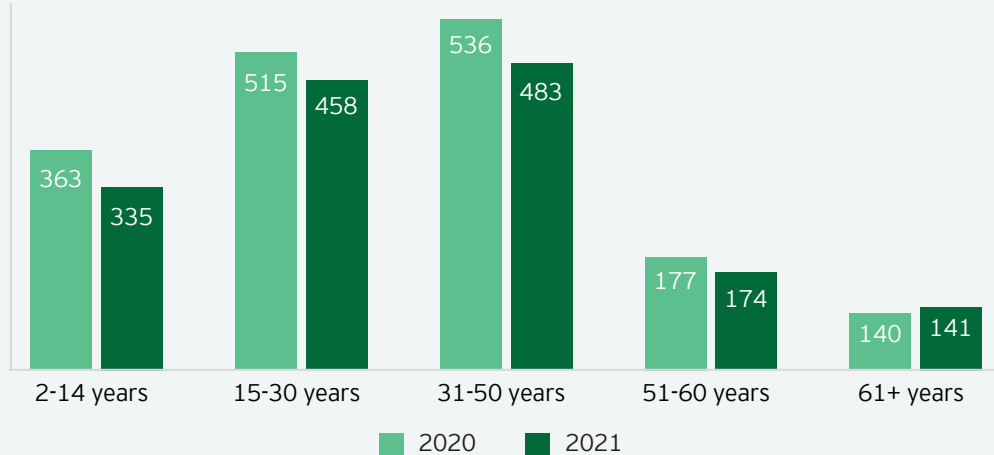
Total TV viewership 2019 - 2021



Sum of weekly AMA (in billion)

As people got back to work, time spent watching TV **decreased...**

% change in viewership by age group from 2021 vs. 2020



All India, Wk01 to Wk52 2020 and 2021 | Based on AMA in billions

...particularly for **younger** audiences

All data has been provided by BARC India and is based on their research. The data has not been independently validated by EY and is presented in summary form for representative purposes only.

	Average time spent		Weekly impressions (billion)		Weekly tune-ins (coverage)		Daily tune-ins (reach)	
	2020	2021	2020	2021	2020	2021	2020	2021
India	04:03	03:48	33	31	89.4%	86.2%	70.0%	65.3%
HSM	03:48	03:31	21	19	88.5%	84.8%	67.9%	62.5%
South	04:33	04:23	12	12	91.5%	89.4%	75.1%	71.9%

2021 numbers are based on the new BI study

Weekly tune-ins  
(reach) were at  
**86%** in 2021

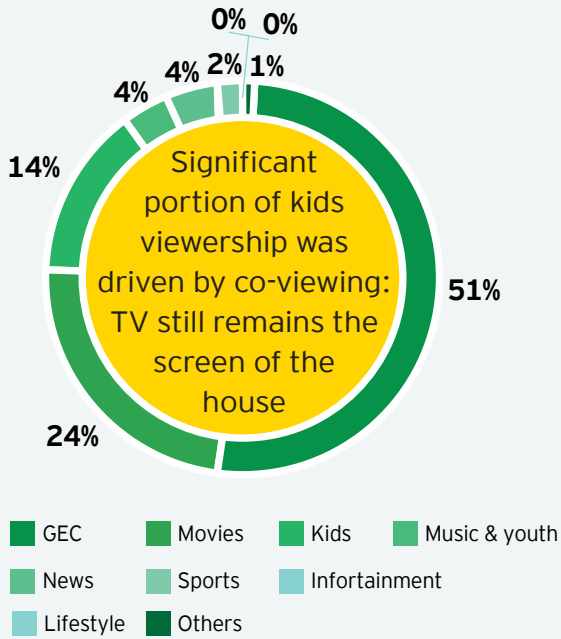
Language	Share of viewership (AMA)	No. of channels
Total	100%	613
Hindi	43%	175
Telugu	13%	50
Tamil	12%	65
Multiple	7%	43
Kannada	7%	36
Marathi	5%	27
Bangla	5%	36
Malayalam	3%	28
Oriya	2%	19
Bhojpuri	1%	15
Punjabi	1%	21
English	1%	60
Gujarati	0%	15
Assamese	0%	15
Others	0%	8

No. of channels represent all channels that had any viewership on any day of 2021

**56%** of  
viewership  
was in regional  
languages  
29% of channels were in Hindi  
and generated 43% of  
viewership; 10% of channels  
were in English but generated  
just 1% of viewership



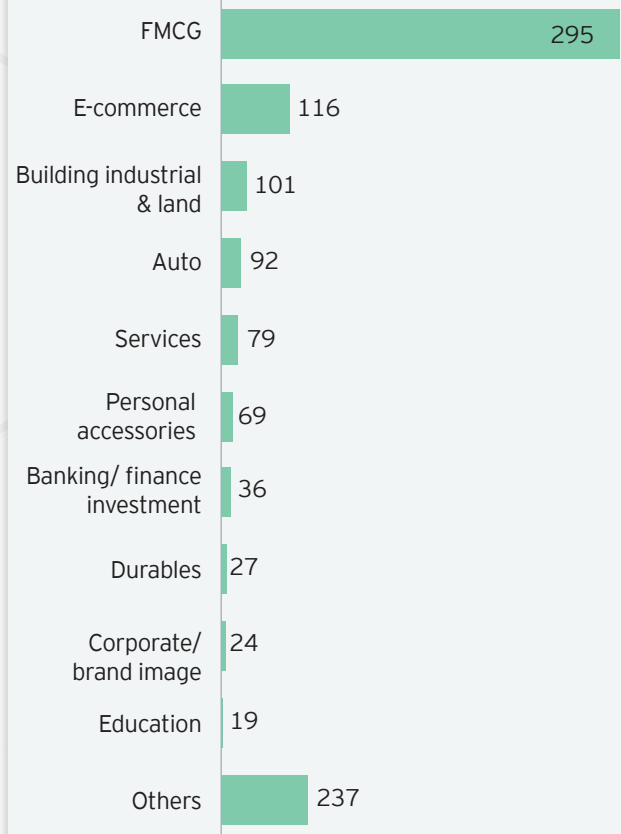
### Kids viewership by genre



Source: All India, 2021 | \*Note: Business News considered under News | "Music" and "Youth" channels clubbed as "Music/Youth"

### Top advertising sectors in 2021

AVGC studios in key centres



FMCG: baby care, food & beverages, hair care, household products, laundry, personal care/personal hygiene, personal healthcare;

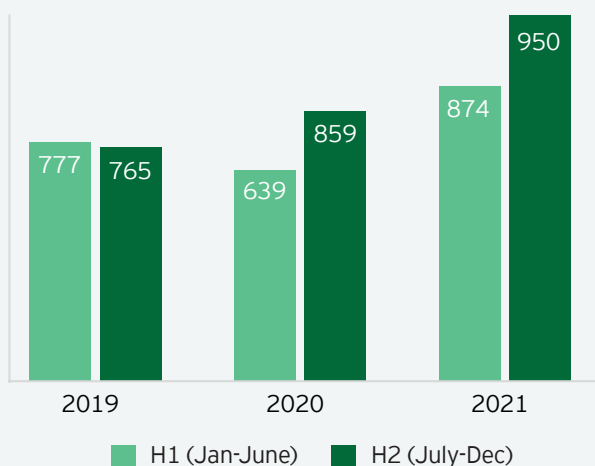
Digital: ecom-auto products & services, auto rental services, clothing/textile/fashion, financial services, food/grocery, gaming, home/interior jobs, matrimonial, media/entertainment/social media, online shopping, other services, payment banks, pharma / healthcare, real estate, travel & tourism, wallets and educ-ecom-education;

Education: excludes online and digital classroom

## Top 20 advertisers in 2021

Rank	Top 20 advertisers in 2021	Industry classification	Ad volume (Million seconds)
1	Hindustan Unilever Ltd	FMCG	331
2	Reckitt Benckiser (Group)	FMCG	201
3	Procter & Gamble	FMCG	50
4	Cadbury India Ltd	FMCG	37
5	Godrej (Group)	Conglomerate	31
6	ITC Ltd	Conglomerate	29
7	Colgate Palmolive India Ltd	FMCG	29
8	Pepsi Foods (Group)	FMCG	26
9	Glaxosmithkline Group of Companies	Pharma	24
10	Amazon Online India Pvt Ltd	E-commerce	23
11	Tata (Group)	Conglomerate	17
12	GCMMF (Guj Coop Milk Mkt Fed)	FMCG	16
13	Marico Ltd	FMCG	16
14	Coca Cola India Ltd	FMCG	15
15	Wipro (Group)	Conglomerate	15
16	Wadia (Group)	Conglomerate	13
17	Asian Paints (I) Ltd	Housing/ real estate	13
18	Think & Learn pvt Ltd	Education	11
19	Nestle India limited	FMCG	10
20	Abbott (Group)	Pharma	10
	<b>Total</b>		<b>915</b>

ad volumes in million seconds

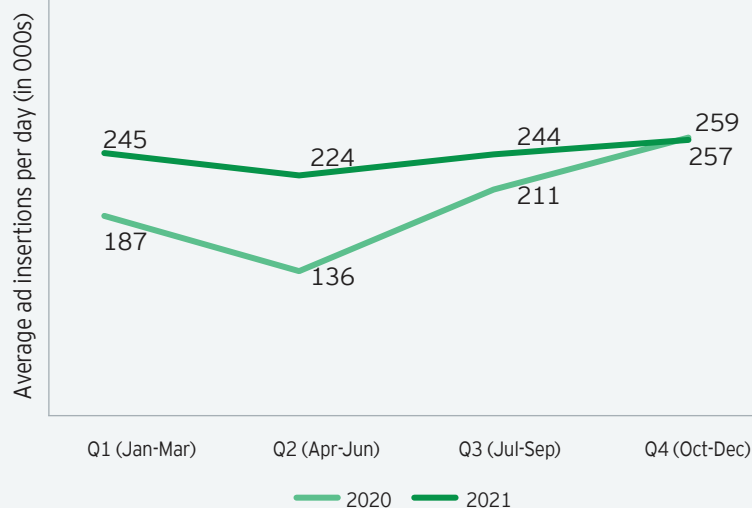


Total ad volumes grew by **22%** in 2021

# Trends

# TV advertising

Powered by TAM AdEX  
(A division of TAM Media Research)



**TV ad volumes grew 21% in 2021**

They were 125% of 2019 (pre-COVID-19) levels

Categories, advertisers and brands using TV continued to **fall in 2021**

5 categories and 4,600+ advertisers exclusively used TV in 2021

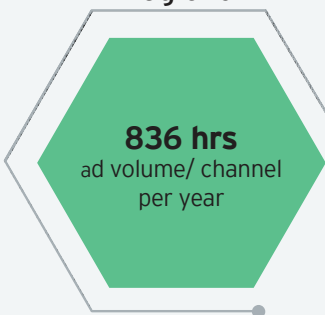
	2019	2020	2021
Categories	503	489	486
Advertisers	10,105	9,225	8,932
Brands	15,650	13,992	13,698

Rank	Top 10 categories
1	Toilet soaps
2	Toilet/ floor cleaners
3	Milk beverages
4	Shampoos
5	Toothpastes
6	Washing powders/liquids
7	Chocolates
8	Tea
9	Rubs and balms
10	Biscuits

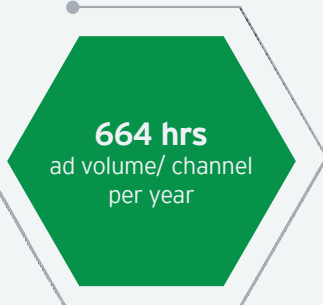
**192 ad categories** increased spends on TV compared to other media in 2021

Source: TAM Media research. TAM AdEX's data pertaining to 600+ television channels for Jan to Dec 2021. Dec data is till the 31st. Volumes are in seconds unless otherwise stated. The data has been provided by TAM Media Research to EY and has not been independently verified by EY.

### Regional



### National



In 2021, **regional channels** received **26% more ad volumes** compared to national channels

This correlates to regional viewership share being **over 50%** of total TV viewership

GEC and news genres garnered the **highest share of ad volumes**

News however had lesser ad volume share compared to 2020

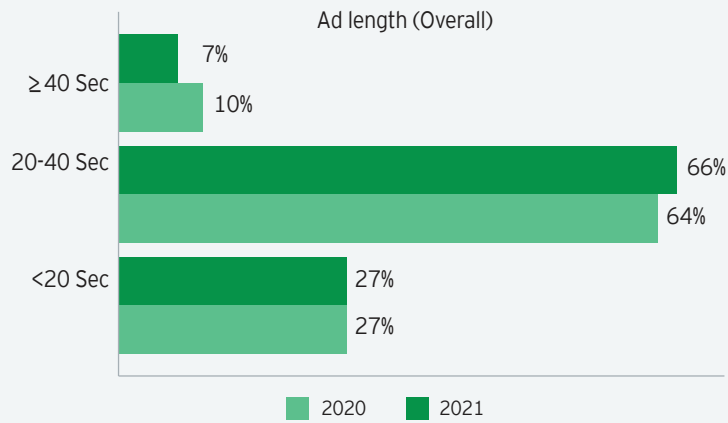
Rank	Main genres	Share	
		2020	2021
1	GEC	27%	28%
2	News	31%	28%
3	Movies	23%	21%
4	Music	10%	12%
5	Kids	3%	3%

Rank	2020		2021	
	Channel language genre	Share	Channel language genre	Share
1	Hindi movies	11%	Hindi movies	9%
2	Hindi news	6%	Hindi GEC	6%
3	Hindi GEC	6%	Hindi news	5%
4	Tamil GEC	4%	Tamil GEC	4%
5	Music	4%	Music	4%
6	Hindi regional news	4%	Hindi regional news	3%
7	Bengali news	3%	Telugu GEC	3%
8	Bengali GEC	3%	Bengali GEC	3%
9	Malayalam GEC	3%	Malayalam GEC	3%
10	Telugu news	3%	Kannada GEC	3%
	Others (69)	55%	Others (71)	57%

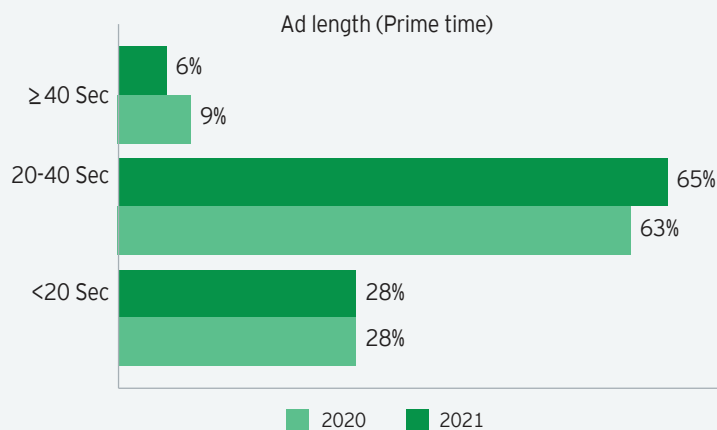
**Top 10 channel genres** contributed **43%** of total ad volumes

All the four southern GECs are now in the top 10





**Commercials with 20-40 second length were most preferred**



**Commercial ad space grew at the cost of channel promos**

Advertising	2020	2021
Only commercial	64%	68%
Only promotional	36%	32%

Rank	Top 5 advertisers	Share
1	Hindustan Unilever	14%
2	Reckitt Benckiser (India)	12%
3	Brooke Bond Lipton India	2%
4	Cadbury India	2%
5	Ponds India	2%

**Two advertisers contributed 26% of TV advertising volumes**

**Top five advertising sectors contributed 67% of volumes**

Top 3 sectors encompassed more than 50% of advertising on TV

Rank	2020		2021	
	Top 5 sectors	Share	Top 5 sectors	Share
1	Personal care/ personal hygiene	20%	Food and beverages	21%
2	Food and beverages	18%	Personal care/ personal hygiene	18%
3	Services	14%	Services	13%
4	Personal healthcare	7%	Personal healthcare	8%
5	Household products	7%	Household products	7%

Rank	2020		2021	
	Top 5 categories	Share	Top 5 categories	Share
1	Toilet soaps	7%	Toilet soaps	4%
2	Ecom-Media/ entertainment/ social media	4%	Toilet/ floor cleaners	4%
3	Toothpastes	4%	Milk beverages	4%
4	Shampoos	4%	Ecom-Media/ entertainment/ social media	3%
5	Washing powders/liquids	4%	Shampoos	3%

Milk beverages made an entry into the **top 5 ad categories**

Top 5 film celebrities	Share	Top 5 TV celebrities	Share	Top 5 sports celebrities	Share
Akshay Kumar	11%	Divyanka Tripathi	18%	MS Dhoni	25%
Alia Bhatt	5%	Raju Shrivastav	12%	Virat Kohli	20%
Kiara Advani	5%	Supriya Pilgaonkar	10%	Rohit Sharma	5%
Amitabh Bachchan	4%	Ratan Rajput	7%	Kapil Dev	5%
Ranveer Singh	3%	Pooja Gaur	6%	Sachin Tendulkar	4%

Share refers to percent share of ads of the celebrity compared to total ads featuring film/ TV/ sports celebrities

**Celebrity endorsement remained critical for marketers**

# Expert speak

*“The advent of innovations in the digital realm, coupled with consumers’ propensity for consumption, have created newer growth avenues for businesses. This has enabled them to transform and broaden business models offering much more than unidimensional offerings. The future of this sector will be determined by consolidation, to compete more effectively, with strategic investments in content and technology that will act as catalysts for exponential growth.”*



**Punit Goenka**

MD & CEO, Zee Entertainment Enterprises Limited

*“With SVoD services in India expected to continue their growth momentum, we will see the industry pivoting towards a more mature and competitive market. The customer is now finally paying for content and is empowered more than ever to determine their own content mix. Content and Cost would be the key differentiating factors as customers will gravitate towards getting most value for least price in a cluttered market.”*



**Megha Tata**

Managing Director - South Asia, Discovery Communications

*“Post the pandemic, the fluidity of media content delivery gathered has gathered pace. Success in M&E in the coming years will depend on how networks balance their investments between platform and long term content IP assets.”*



**Aditya Pittie**

Managing Director  
IN10 Media

*“A wider digital footprint, extensive and diverse content libraries and rationalised content production costs will fuel the next wave of growth. TV is the largest video consumption medium and will continue to grow. I see TV and OTT coexist with potential cross-platform monetisation opportunities emerging.”*



**NP Singh**

MD & CEO, Sony Pictures Networks India (SPN)

*“India’s M&E industry is the fastest growing in the world but despite the strong growth it has been witnessing in recent years, the market remains hugely under-penetrated, whether in linear or digital – 30% of households in the country still do not have television sets and there are only ~80mn users on OTT platforms. There’s no reason why the industry here cannot grow to USD100bn by the year 2030.”*



**K Madhavan**

Managing Director, Star & Disney India

*“As Prasar Bharati marks 25 years as India’s autonomous Public Service Broadcaster we are focused on a decadal vision to create the Pubcaster of the Future. This transformation of Doordarshan and All India Radio will entail complete phase out of obsolete technologies as well as significant investments in digital, IT, automation and cloud based media operations.”*



**Shashi Shekhar Vempati**

Chief Executive Officer, Prasar Bharati

*“The future of broadcast and for that matter all content will firmly be more and more rooted in data. Backroom data scientists will come into the front. From an art content will move more and more towards science. Distribution and Sales has already moved a lot towards science. If there is a saying that data is the new oil then for our industry data is the new God.”*



**Avinash Kaul**

Chief Executive Officer, Network18 Broadcast News

*“The M&E industry is poised for growth. At one end we see mergers and consolidation and at the other players marking geographies and going regional. This trend, in addition to branded content and IPs, will be the growth drivers. All in all we are seeing a completely new ecosystem shaping up. The future we all have been anticipating is becoming visible.”*



**MK Anand**

MD & CEO, Times Network

*“Increasing internet penetration, sale of Smart TV, platforms offering multiple services, more players in the bandwidth market will lead to immense growth in content consumption. D2C and interactive content will see a multiple fold growth in the next year. Live news will stay ahead of the curve but will also directly compete with VoD curated across different YouTube channels. In nutshell, content will remain the king.”*



**Avinash Pandey**

Chief Executive Officer, ABP Network



*“The Indian M&E industry has witnessed continued growth across all elements of the business on account of the improving economic parameters and the rise of disposable income. The Indian market offers immense potential for companies across the globe. Amidst this scenario, genres like entertainment, movies and sports will be instrumental in driving revenues, propelled by higher investments across linear and digital platforms.”*



**Rahul Johri**

President - Business, South Asia

*“People buy and consume media just as they consume soap and juices. Treating media like any other consumer product and applying light touch regulation and controls, wherever necessary, will aid customer convenience and industry growth.”*



**Harit Nagpal**

MD & CEO, Tata Sky Ltd.

*“With changing consumer preferences, it is imperative for the digital distribution industry to expand its “portfolio” of services to, and beyond digital TV, broadband and OTT. The focus should be on increasing “share of wallet” across multiple offerings rather than growing ARPUs of individual products.”*



**Vynsley Fernandes**

Managing Director & CEO  
NXTDIGITAL Limited

*“If the pandemic continues to recede, DTH growth should once again take centre stage. Content distribution is poised to benefit not only from a healing economy but also from increasing TV penetration, growing household nuclearization and smarter product offerings to content viewers who are now more evolved than ever before.”*



**Anil Dua**

Executive Director & Group  
CEO, DishTV India Ltd.

*“While interest from advertisers continues to soar, given the expansive reach and impact of television, simultaneously audiences continue to get more and more fragmented as “We Time” gets replaced by “Me Time” with the screen. Content creators and channel custodians across languages, seeing the opportunity, are innovating with content, making way for newer audiences across India.”*



**Nakul Chopra**

Chief Executive Officer,  
BARC India

*“The rise of DD FreeDish, YouTube, connected TVs, short video ecosystem and SVOD business - all simultaneously - is clear indication to the industry on changing media habits. The industry should take note and identify focus areas.”*



**Anuj Gandhi**

M&E Consultant

*“The sports broadcast industry is well poised to cater to the changing consumption patterns of the viewers and I believe there are enough properties for more than two players especially with new leagues coming into the mix.”*



**Rajesh Kaul**

Chief Distribution Officer,  
Sony Pictures Networks India

*“As consumer choices evolve, deep distribution reach and a platform-agnostic approach will help deliver impact and meaningful content to our audiences at an affordable price and at their convenience.”*



**Gurjeev Kapoor**

President - TV Distribution -  
India & International ,  
Star & Disney India

*“While an inordinate delay in implementation of NTO combined with increased churn, has resulted in a slowdown in pay revenues in the short term, we believe that there is a good potential for subscription revenue growth. Going forward, Pay TV eco-system will become increasingly consumer centric, quality content will remain the key differentiator and a direct-to-consumer approach will drive monetization.”*



**Atul Das**

Chief Revenue Officer -  
Affiliate Sales  
Zee Entertainment

*“Advertising spends are set to cross the Rs 100,000 crore mark this year itself and our view remains that India will continue to be one of the fastest growing ad-ex markets in the world for the foreseeable future. While digital platforms will account for a growing share of these spends, the dominance of linear is seen holding strong for some years at least.”*



**Nitin Bawankule**

Head of Advertising Sales  
Disney Star

*“2022 will see the resurgence of India’s M&E industry. Deeper TV & OTT sales collaboration will become imperative and TV Ad sales will also evolve to a more audience focused approach to deliver the best possible ROI to the client.”*



**Ashish Sehgal**

Chief Growth Officer,  
Zee Entertainment  
Enterprises Limited



# Digital media







Harsh Kumar  
Technology Consulting  
Gurugram (EY LLP)



# Digital media

## Digital media grew 29% in 2021

	2019	2020	2021	2022E	2024E
Advertising	192	192	246	314	430
Subscription	29	43	56	71	107
<b>Total</b>	<b>221</b>	<b>235</b>	<b>303</b>	<b>385</b>	<b>537</b>

INR in billion (gross of taxes) | EY estimates

- ▶ The digital media segment grew 29% to reach INR303 billion in 2021
- ▶ This does not include INR117 billion of ad spends by SME and long-tail advertisers<sup>1</sup> - if included, the segment would be valued at INR420 billion
- ▶ We expect the segment to grow at a CAGR of 20% over the next three years

### I. Digital infrastructure continued to grow

- ▶ Internet penetration increased 5% to reach 834 million subscriptions, of which 795 million had broadband access as of September 2021
- ▶ Only 24 million Indian households had a wired broadband connection
- ▶ Smartphone users reached 503 million and connected TVs crossed the 10 million mark

### II. Online consumption increased

- ▶ Indians spent 4.7 hours a day on their phones in 2021, aggregating 700 billion hours of consumption (second highest in the world)
- ▶ However, India was ranked 20th in terms of consumer spend

### III. Online video gained scale amidst changing consumer habits

- ▶ Online video viewers grew to 497 million.
- ▶ Time spent by Indians on entertainment apps grew 52% since the onset of the pandemic
- ▶ Importance of regional audiences increased - in 2021, 47% of OTT originals and 69% of films released on streaming platforms were in regional languages
- ▶ Over 100 films released directly on streaming platforms without a prior theatrical release

### IV. Online audio continued to struggle for monetization

- ▶ Around 200 million people streamed music each month and the time they spent increased to an average of 10.4 hours per week
- ▶ Bollywood remained the most preferred language for music at 38% of total consumption; however, southern languages and international music garnered 35% streaming share between them

### V. Online news became ubiquitous with digital reach

- ▶ Online news audience grew to 467 million in 2021, which is over 50% of internet subscriptions
- ▶ News is now available in up to 15 languages on aggregator platforms

### VI. Social media took most of India's phone time

- ▶ Social media penetration reached 33% of India's population or around 467 million
- ▶ Indians spent more time on their phones on social media than on any other category

### VII. Digital advertising grew 29% in 2021 to reach INR246 billion

- ▶ In addition, advertising by SME and long-tail advertisers reached INR117 billion
- ▶ Ad rates of premium properties increased, but average rates continued to reduce as inventory volumes increased by over 30%
- ▶ E-commerce platforms earned over INR55 billion in advertising, which is 16% of total digital advertising (up from 12% in 2020)

### VIII. Digital subscription grew 29% to reach INR56 billion

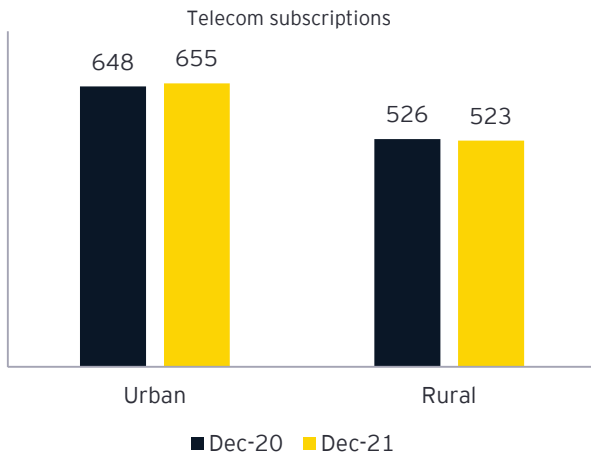
- ▶ Video subscription revenues grew 27% in 2021 to INR54 billion, and amount which is over 50% of broadcasters' share of TV subscription revenues
- ▶ Paid video subscriptions scaled up to 80 million in 2021, across almost 40 million Indian households
- ▶ Due to a plethora of free video and audio options, just three million consumers bought music subscriptions, generating INR1.6 billion
- ▶ News subscriptions - mainly for exclusive and premium content - generated INR0.9 billion in 2021

<sup>1</sup> Which we are unable to adequately validate and hence have left out of the above sizing

# Digital infrastructure

## A billion+ telecom subscriptions

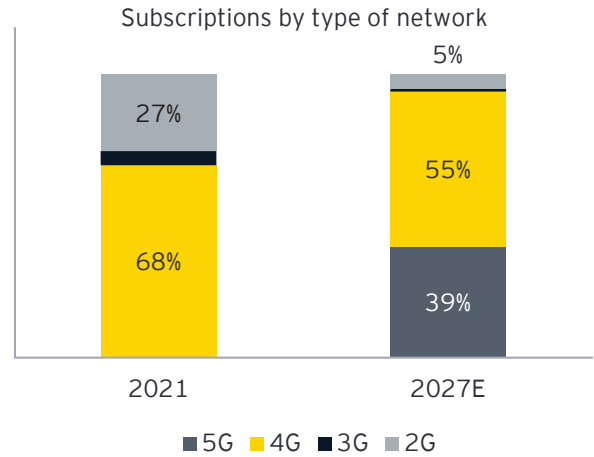
### I. Telecom subscriptions remained stable at 1.18 billion in 2021<sup>2</sup>



TRAI | Subscriptions in million

- ▶ Total telecom subscriptions were 1,178 million in December 2021 as compared to 1,174 million in December 2020, an increase of 4 million
- ▶ Urban subscriptions increased marginally to 56% while rural subscriptions declined minutely
- ▶ The tele-density number in India is now 86%, but is heavily skewed to 137% in urban areas and just 59% in rural areas<sup>3</sup>

### II. 4G dominated Indian subscriptions



Ericsson Mobility Report, November 2021

- ▶ 68% of telecom subscriptions used 4G technology, another 5% used 3G, while 27% of subscriptions were still using 2G technology in 2021
- ▶ This is expected to change significantly by 2027, where 5G is estimated to reach 39% of subscriptions, but 4G will remain the dominant technology

<sup>2</sup> TRAI, [https://www.trai.gov.in/sites/default/files/PR\\_No.12of2022\\_0.pdf](https://www.trai.gov.in/sites/default/files/PR_No.12of2022_0.pdf); [https://www.trai.gov.in/sites/default/files/YIR\\_25112020\\_0.pdf](https://www.trai.gov.in/sites/default/files/YIR_25112020_0.pdf); [https://www.trai.gov.in/sites/default/files/PR\\_No.101of2020\\_0.pdf](https://www.trai.gov.in/sites/default/files/PR_No.101of2020_0.pdf), accessed 03 January 2022

<sup>3</sup> TRAI, [https://www.trai.gov.in/sites/default/files/PR\\_No.12of2022\\_0.pdf](https://www.trai.gov.in/sites/default/files/PR_No.12of2022_0.pdf); [https://www.trai.gov.in/sites/default/files/YIR\\_25112020\\_0.pdf](https://www.trai.gov.in/sites/default/files/YIR_25112020_0.pdf); [https://www.trai.gov.in/sites/default/files/PR\\_No.101of2020\\_0.pdf](https://www.trai.gov.in/sites/default/files/PR_No.101of2020_0.pdf), accessed 03 January 2022, Press release by TRAI No. 06/2021

### III. Internet penetration increased by 5%<sup>4</sup>

	Dec 2019	Dec 2020	Sep 2021 <sup>5</sup>
Total internet subscriptions (a = b + c)	719	795	834
Narrow band subscriptions (b)	57	48	39
Broadband subscriptions (c)	662	747	795
Urban internet subscriptions (b)	450	482	497
Rural internet subscriptions (c)	269	313	337

- ▶ Just 71% of telecom subscriptions accessed the internet, up from 68% in December 2020<sup>6</sup>
- ▶ 95% of those accessing the internet used broadband
- ▶ While narrow band subscriptions fell 19%, broadband subscriptions grew 6% between December 2020 and September 2021
- ▶ Urban internet subscriptions, which now comprise 60% of all internet subscriptions, grew 3% while rural internet subscriptions grew 8% in 2021

### IV. Broadband subscriptions reached 795 million

Subscriptions	Dec 2018 <sup>7</sup>	Dec 2019 <sup>8</sup>	Dec 2020 <sup>9</sup>	Sep 2021 <sup>10</sup>
Wired broadband	18	19	22	24
Wireless broadband	507	643	725	771
Total broadband	525	662	747	795

- ▶ With almost 800 million broadband subscriptions, India has the second largest broadband subscriber base in the world
- ▶ Currently, less than one in ten Indian households has a wired broadband connection
- ▶ We believe the wired broadband base is under-reported as it may not include some wired connections provided by LCOs and other last mile operators, who buy bulk broadband from ISPs and then retail the same

<sup>4</sup> TRAI, [https://www.trai.gov.in/sites/default/files/QPIR\\_10012022\\_0.pdf](https://www.trai.gov.in/sites/default/files/QPIR_10012022_0.pdf);

[https://www.trai.gov.in/sites/default/files/YIR\\_25112020\\_0.pdf](https://www.trai.gov.in/sites/default/files/YIR_25112020_0.pdf); [https://www.trai.gov.in/sites/default/files/Report\\_09112020\\_0.pdf](https://www.trai.gov.in/sites/default/files/Report_09112020_0.pdf); [https://www.trai.gov.in/sites/default/files/PIR\\_21102021\\_0.pdf](https://www.trai.gov.in/sites/default/files/PIR_21102021_0.pdf), accessed 03 January 2022

<sup>5</sup> TRAI, [https://www.trai.gov.in/sites/default/files/QPIR\\_10012022\\_0.pdf](https://www.trai.gov.in/sites/default/files/QPIR_10012022_0.pdf); [https://www.trai.gov.in/sites/default/files/YIR\\_25112020\\_0.pdf](https://www.trai.gov.in/sites/default/files/YIR_25112020_0.pdf); [https://www.trai.gov.in/sites/default/files/Report\\_09112020\\_0.pdf](https://www.trai.gov.in/sites/default/files/Report_09112020_0.pdf); [https://www.trai.gov.in/sites/default/files/PIR\\_21102021\\_0.pdf](https://www.trai.gov.in/sites/default/files/PIR_21102021_0.pdf), accessed 03 January 2022

<sup>6</sup> EY analysis

<sup>7</sup> Yearly Performance Indicators by TRAI (Third Edition) published on 25/9/19

<sup>8</sup> TRAI, The Indian Telecom Services Performance Indicators October - December, 2019 0

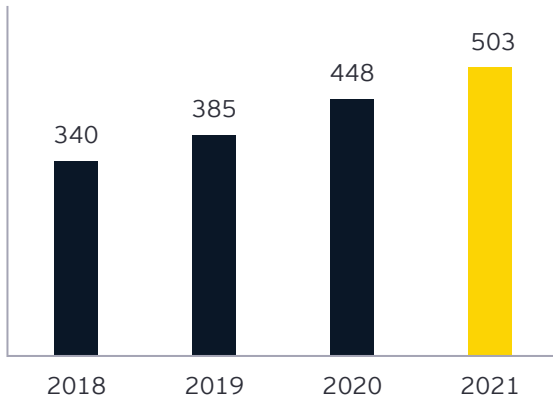
<sup>9</sup> Press release by TRAI No. 06/2021

<sup>10</sup> TRAI, [https://www.trai.gov.in/sites/default/files/QPIR\\_10012022\\_0.pdf](https://www.trai.gov.in/sites/default/files/QPIR_10012022_0.pdf), accessed 18 February 2022

## Smart device growth continued unabated

### I. Smartphone users reached 503 million in 2021

Smartphones in India (millions)



Ericsson Mobility Report, Comscore, eMarketer, EY analysis

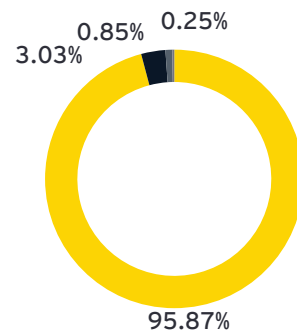
- ▶ The smartphone user base increased to 503 million in 2021 from 448 million in 2020 - this indicates penetration into around 36% of India's population base
- ▶ Smartphone telecom subscriptions are expected to reach 810 million in 2021 from 760 million in 2020 at an average of 1.6 subscriptions per smartphone<sup>11</sup>
- ▶ Government of India has introduced a Production Linked Incentive Scheme (in August 2021) to provide all electronics manufacturing companies with 4% to 6% incentives on incremental sales if produced within Indian boundaries and 25% incentive on capital expenditure for production of electronic component<sup>12</sup>, which will hopefully lead to companies making smartphones at affordable prices, hence increasing their demand further
- ▶ India is the world's second largest smartphone market as per Newzoo, behind China at 954 million and ahead of third placed USA which has 274 million<sup>13</sup>

### II. Connected TVs crossed the 10 million mark<sup>14</sup>

- ▶ TV set sales in India were around 20 million units in 2021 and are projected to reach over 70 million units by 2025<sup>15</sup>
- ▶ The price of a 32-inch smart TV fell to less than US\$100 from INR8,499 in 2019 to INR7,200 in 2021<sup>16</sup>
- ▶ YouTube has claimed that over 20 million connected TVs streamed its content in May 2021<sup>17</sup>
- ▶ However, industry discussions indicate that around 10-12 million of India's smart TV sets were connected to the internet on a daily basis
- ▶ Smart TV, desktop and laptop users in aggregate increased from 101 million in 2020 to 107 million in 2021<sup>18</sup>

### III. Android remained the most preferred operating system in India<sup>19</sup>

Share of web-page requests originating from mobile handsets



■ Android ■ iOS ■ KaiOS ■ Others

Statcounter, share of web pages served to web browsers, Dec 2020 - Dec 2021

- ▶ Android market share decreased marginally by 0.5% when compared with December 2020, while all other operating systems' market share increased
- ▶ The increasing popularity of Apple phones in India led to iOS' share increasing from 2.2% to 3% over the period

<sup>11</sup> Ericsson Mobility Report, November 2020; EY estimates

<sup>12</sup> "Smartphone market in India 2021", Netscribes, accessed 18 January 2022

<sup>13</sup> Statista

<sup>14</sup> Industry discussions; EY estimates

<sup>15</sup> <https://www.adgully.com/ott-viewership-on-smart-tv-in-india-has-doubled-in-the-last-one-year-experts-109599.html#:~:text=As%20per%20industry%20reports%2C%20TV,70%20million%20units%20by%202025.>

<sup>16</sup> <https://www.91mobiles.com/list-of-tvs/32-inch-led-tv-in-india>

<sup>17</sup> YouTube Brandcast 2021

<sup>18</sup> Comscore

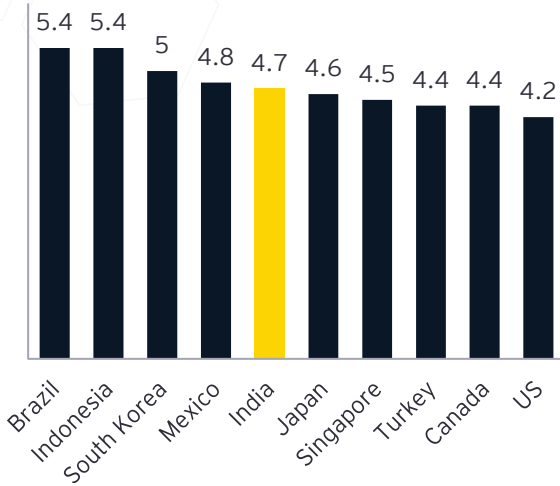
<sup>19</sup> "Mobile Operating System Market Share India", Statcounter, <https://gs.statcounter.com/os-market-share/mobile/india/#monthly-202012-202112-bar>, accessed 03 January 2022



# Content consumption

## Overall consumption trends

### I. Indians spent 4.7 hours a day on their phones

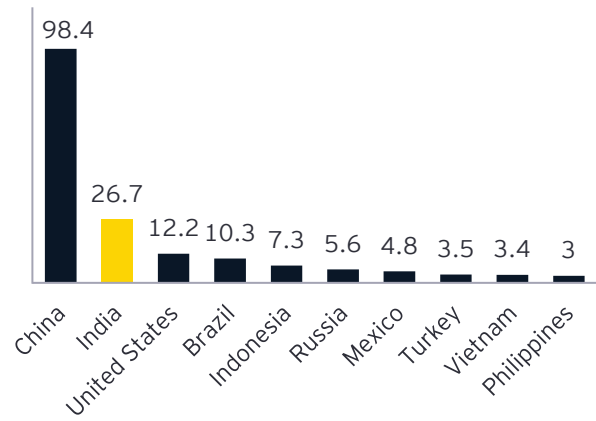


Data.ai

- ▶ At 4.7 hours per day, Indians came fifth in the world, for the most amount of time spent on phone apps in 2021, a 27% growth since 2019
- ▶ Consumers spent 699 billion hours on mobile in 2021, up 7% from 655 billion hours in 2020<sup>20</sup>

### II. Indians downloaded 26.7 billion apps in 2021, but lag on monetization

App downloads (in billion)



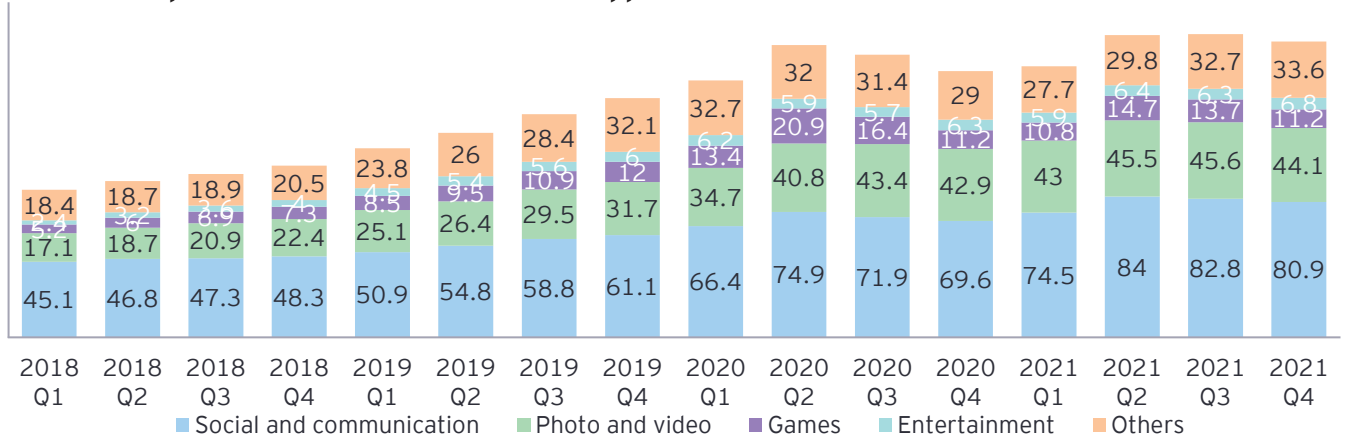
In billion	China	India	US	Brazil	UK	Russia
Downloads	98.4	26.7	12.2	10.3	2.2	5.6
Hours spent	1,118	700	195	193	NA	109
Consumer spend (US\$)	56.8	0.4	43.0	1.1	4.2	1.6

State of Mobile 2022, data.ai

- ▶ India remained the second largest market by app downloads in 2021, behind China
- ▶ Indians downloaded almost 26.7 billion apps in 2021, a growth of over 10% over 2020
- ▶ In terms of revenue, India lagged many smaller markets

<sup>20</sup> <https://www.businessinsider.in/tech/mobile/news/total-number-of-hours-spent-on-mobile-by-users-in-india-in-2021/articleshow/88854390.cms>

### III. Indians spent most time on social media apps



data.ai | Hours spent on apps by category

- ▶ 80% of time spent on mobile phone apps by Indians is on media and entertainment
- ▶ Indians contributed 19% of total global time spent on media and entertainment apps

### IV. Average mobile data consumption increased 15% in 2021<sup>21</sup>

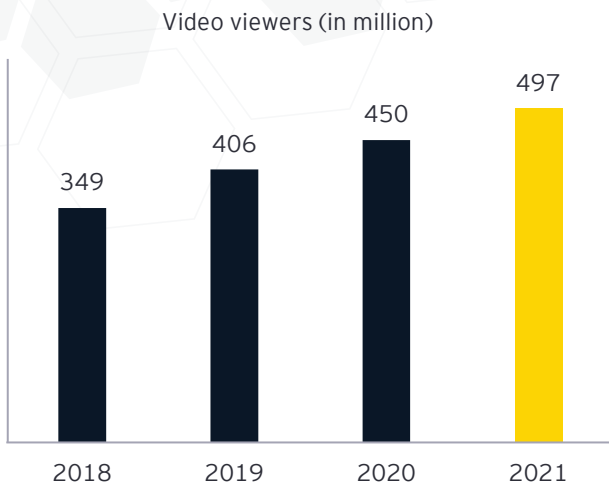
- ▶ In India, average monthly mobile data usage per smartphone continues to show robust growth, boosted by the rapid adoption of 4G and people working from home during COVID-19, at an average of 18.4GB per month which is set to continue to increase at a CAGR of 18% to 50GB by 2027
- ▶ Globally, 69% of data consumed was driven by video, expected to reach 79% by 2027
- ▶ Media and entertainment, including news, books, music, video and gaming, contributes to over 75% of data consumption in India<sup>22</sup>

<sup>21</sup> Ericsson Mobility Report, November 2020 and 2021

<sup>22</sup> Industry discussions; EY estimates

## Online video

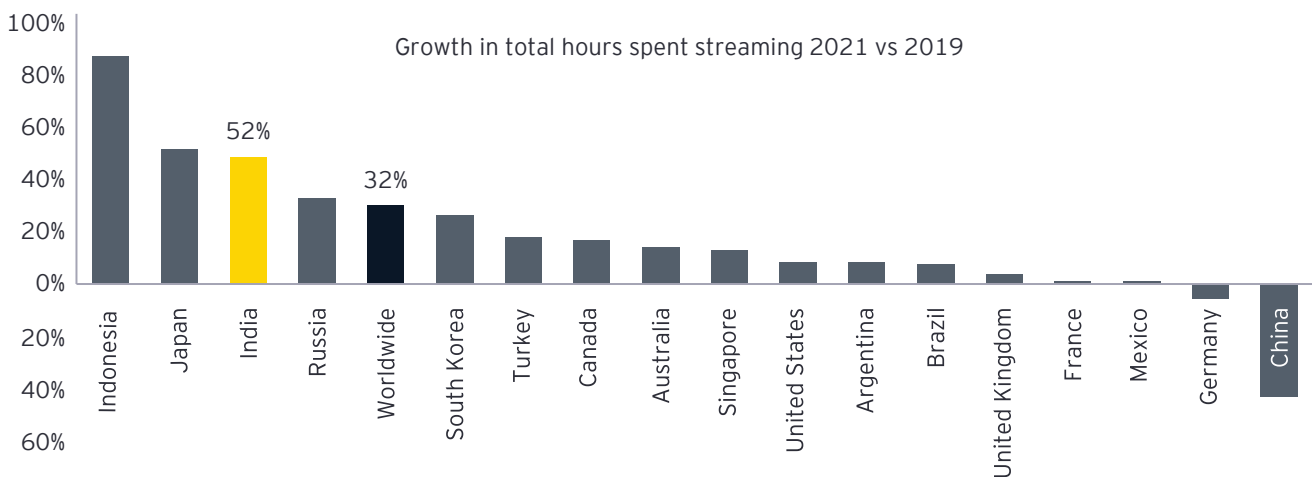
### I. Video viewers continued to grow



EY analysis

- ▶ Video viewers increased 10% (47 million) in 2021 to reach 497 million, which is around 94% of smartphone owners and wired broadband subscribers
- ▶ We estimate video viewers will cross 600 million by 2024
- ▶ The above data excludes YouTube, which has crossed 500 million MAU towards the end of 2021 and India now has the highest reach and time spent of any country on the platform, being available across most phones in metros and towns as well as a reach of over 600,000 villages<sup>23</sup>

### II. Hours spent on entertainment apps grew 52% since pre-pandemic levels



Data.ai

- ▶ Indians spent 52% more time streaming entertainment content in 2021 as compared to 2019
- ▶ This growth was the third highest in the world, driven by increased work from home and school from home infrastructure being put in place, as per industry discussions

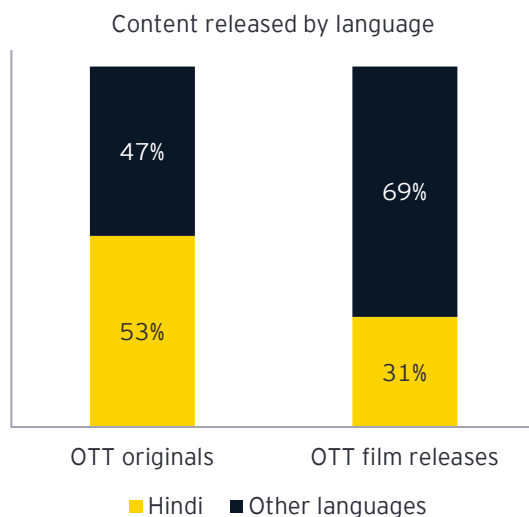
<sup>23</sup> Industry discussions

### III. Top performing apps of 2021

By downloads	By revenue
Disney+ Hotstar	Disney+ Hotstar
MX Player	YouTube
Zee5	Sony Liv
Jio TV	Zee5
Amazon Prime Video	Netflix

Combined iOS and Google Play; Market-level rankings. | Downloads do not include pre-loaded apps like YouTube | Revenues are only those earned through the iOS and Play stores | data.ai

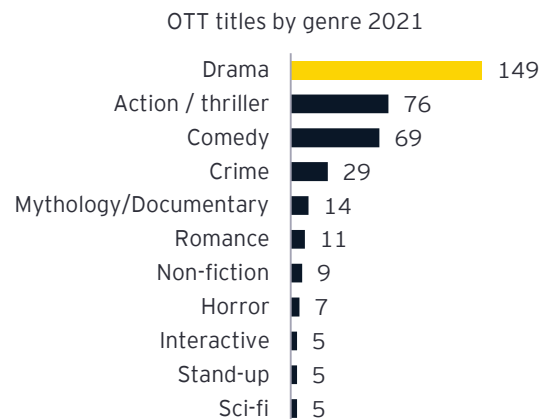
### IV. Language is critical for growth



EY production audit team estimates | Based on available information

- ▶ In 2021, 47% of OTT originals and 69% of films released on OTT platforms were not in Hindi
- ▶ Industry discussions with several OTT platforms indicated that while the majority of viewership is in the top seven Indian languages (Hindi, Marathi, Bengali, Kannada, Tamil, Telugu and Malayalam), content consumption is inching up in 18 other languages such as Bhojpuri, Gujarati, Panjabi, Assamese etc.
- ▶ 93% of Youtube viewers watch content in Hindi or other regional languages<sup>24</sup>
- ▶ OTT platforms desirous of a national reach will require to focus on at least eight to nine languages, and each language will require at least eight to ten pieces of content across film and episodic per year

### V. Action, drama and comedy remain critical for digital consumption



EY production audit team estimates

- ▶ Of the 380 titles we analysed, almost 300 fell into drama, action and comedy genres
- ▶ The staple of streaming platforms, these genres are amenable to multiple seasons and hence investing in them pays dividends for platforms, whose customer acquisition costs are benefitted
- ▶ Increases have also been seen in mythological, documentary and non-fiction genres, where Bigg Boss OTT is estimated to have generated 2 billion minutes of online viewership<sup>25</sup>
- ▶ Overall in 2021, over 2,500 hours of fresh content was produced for streaming platforms, which is 20% higher than 2019 levels

### VI. Over 100 films released direct to digital in 2021<sup>26</sup>

- ▶ We estimate that an all time high of 100+ films released on streaming platforms directly, without a theatrical release
- ▶ During the pandemic, consumers have started to get into the habit of watching new films online, and we believe this trend is here to stay
- ▶ Amazon Prime Video has claimed that its top performing films have been watched across over 4,000 Indian cities and towns, as well as across over 200 countries

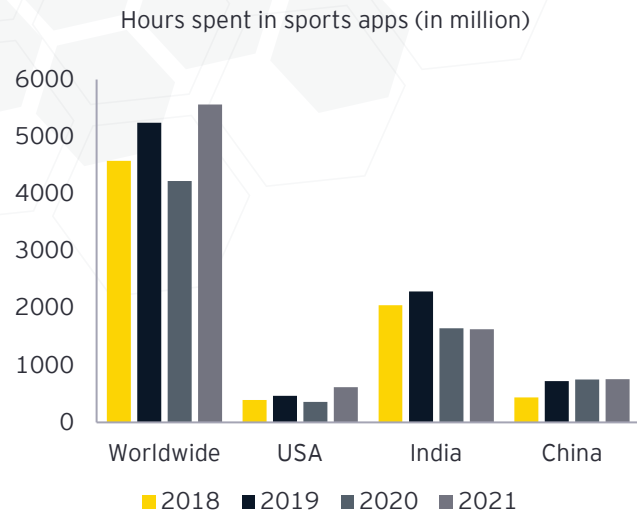
<sup>24</sup><https://www.financialexpress.com/brandwagon/youtube-brandcast-2021-93-of-youtube-viewers-prefer-watching-content-in-indian-languages/2330697/>

<sup>25</sup> Industry discussions

<sup>26</sup> EY production audit team estimates



## VII. Indians loved online sports



Data.ai | Android phones

- ▶ At over 1.5 billion hours, Indians spent amongst the most time on online sports in the world
- ▶ Their time spent equated almost a third of global time spent on sports apps

## Online audio

### I. Audio streaming users were 197 million in 2021

- ▶ Around 197 million people streamed music online in 2021 on a monthly basis<sup>27</sup>
- ▶ India had around 3 million paid music streaming subscriptions in 2021 and is projected to cross 7 million paid subscriptions by 2024<sup>28</sup>
- ▶ Wynk Music, JioSaavn and Gaana combined had more than 100 million downloads in 2021<sup>29</sup>
- ▶ India currently has around 15 music streaming companies including local and global players
- ▶ Usage was not limited to metro cities, with some platforms claiming 50%-75% of their audiences coming from non-metros and growing faster than metro audiences

### II. Total time spent listening to music increased<sup>30</sup>

- ▶ The COVID-19 pandemic in India increased the average time people spent listening to online music which increased by 0.7 hours to 10.4 hours per week
- ▶ Total weekly music listening hours increased significantly across all but the youngest age group

### III. YouTube remained the medium of choice for music consumption<sup>30</sup>

- ▶ 88% of Bollywood fans watched music videos on YouTube
- ▶ 67% chose their smartphone as their device of choice for listening to music
- ▶ 39% of respondents chose YouTube if they had to pick a single way to listen to music
- ▶ Almost half survey respondents felt that they did not need to pay as anything they wanted to listen to was available for free on YouTube

<sup>27</sup> Comscore; industry discussions

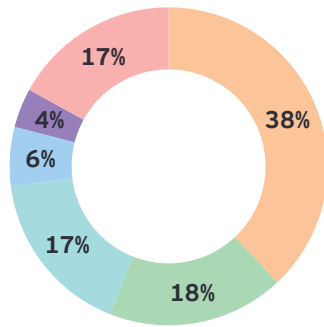
<sup>28</sup> EY estimates

<sup>29</sup> AppTweak | Data for downloads considered from Jan1 to Nov 30, 2021 from Google Play store and Apple app store

<sup>30</sup> IMI-IFPI Digital Music Study 2021

#### IV. Consumption of music was spread across many languages

Streaming consumption by language



- Bollywood
- Southern languages
- International
- Punjabi
- Classical / traditional
- Others

IMI-IFPI Digital Music Study 2021

- ▶ Bollywood remained the most preferred language for music at 38% of consumption
- ▶ Southern languages and international music (including K-pop) garnered 35% streaming share between them
- ▶ The focus going forward will increase on regional labels as this segment continued to grow

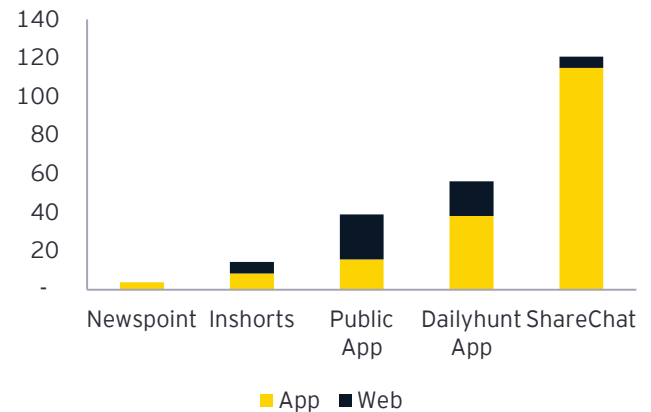
#### Online news

##### I. Online news audience grew to over 460 million in 2021

- ▶ Online news reach grew between 2020 and 2021 to reach 467 million across mobile and desktop users of news sites, portals and aggregators<sup>31</sup>
- ▶ This is approximately 56% of internet users<sup>32</sup>
- ▶ Times Internet, Zee Digital and Network18 were the three news media sites in Comscore's Top 10 publishers in December 2021 apart from Google and Facebook sites

##### II. News aggregators generated an app-heavy audience...

MAUs of select aggregators (in million)

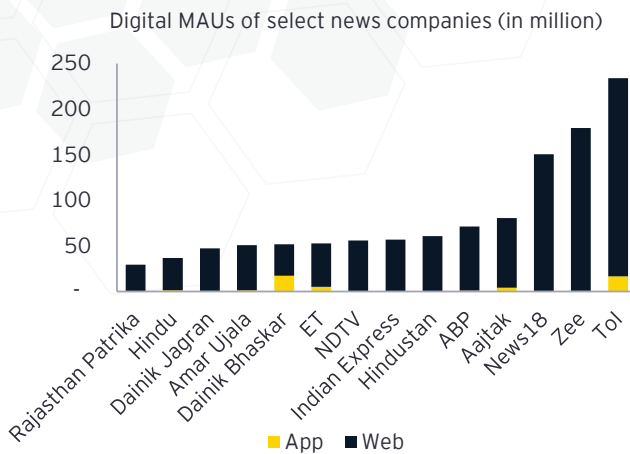


Comscore, January 2022 | Data is for select companies and has not been de-duplicated; does not include Google News

- ▶ While mobile news aggregators play a relatively small part in the media eco-system of Western countries, they have a significant position in India
- ▶ Google News, Inshorts and Dailyhunt are some of the leading news aggregation platforms and Redseer estimates their reach to be 340 million in India and their contribution at 10% of total online time spent

<sup>31</sup> Comscore  
<sup>32</sup> EY analysis, Comscore, TRAI

### III. ...while traditional news companies have generated web-heavy user bases



Comscore, January 2022 | Data is for select companies and has not been de-duplicated

- ▶ Times, Zee and News18 have all crossed 150 million MAU, while other national brands are all above 50 million MAU
- ▶ Large regional brands are also approaching that number
- ▶ However, all these brands, except for Dainik Bhaskar, generate over 90% of their MAUs from web services

### IV. Social media and news remained heavily connected

- ▶ According to the Reuters Digital News Report 2021<sup>33</sup>, people pay most attention to celebrities when using social media; however, the second most popular use was mainstream news outlets and journalists
- ▶ In India, too, majority of visitors on news sites are redirected from search or social media - in some cases, the number is as high as 90%

### V. Focus on vernacular languages increased

- ▶ Google news is available in 8 main languages and content in several other languages is also aggregated
- ▶ In December 2021, Dailyhunt launched its offering in its 15th Indian language
- ▶ Zee Digital has launched digital-only brands in Tamil, Telegu, Malayalam and Kannada to increase its reach in South India
- ▶ ABP Network's Tamil News Digital Platform, ABP Nadu, is its 5<sup>th</sup> online language product apart from Hindi and English
- ▶ Although, Vernacular platforms remain lower on reach, these platforms provide extremely high engagement

### VI. Hyperlocal news content services increased

- ▶ Inshorts has launched a new hyperlocal video app Public for local news videos, which aggregates videos related to news and events happening in a particular location, city or town
- ▶ Dailyhunt launched video only hyperlocal app Publicvibe in December 2021
- ▶ Many news platforms enable selection of city-based news apart from national news
- ▶ Hyperlocal news poses a threat to the recovery of regional newspapers, though it can be used to augment the regional news offering by newspapers

<sup>33</sup> <https://reutersinstitute.politics.ox.ac.uk/digital-news-report/2021>

## VII. Use of AI/ ML

Online news companies are extensively using technologies like artificial intelligence (AI) and machine learning (ML) for curating and improving customer engagement

### Use of AI/ ML in online news

Story / lead generation	Content packaging	Distribution	Marketing and recommendations	Ad sales
<ul style="list-style-type: none"> <li>▶ Crawlers to understand viral content and create related content in real time</li> <li>▶ Automated text/ graphic generation</li> <li>▶ Sentiment analysis</li> <li>▶ Automatic alerts / notifications to journalists for anomalous data</li> <li>▶ Detecting, extracting and verifying data (from documents; web)</li> <li>▶ Claim/ fact identification</li> <li>▶ Social media event detection</li> <li>▶ Text/ data tokenization, chunking and parsing</li> </ul>	<ul style="list-style-type: none"> <li>▶ Automated news writing</li> <li>▶ Algorithm-based story generation (templated; database, report driven)</li> <li>▶ Content summarisation</li> <li>▶ Content curation</li> <li>▶ Content management</li> <li>▶ News aggregation (by Geography, locality, community, topic)</li> <li>▶ Semantic discovery</li> <li>▶ Auto tagging</li> <li>▶ Image search and recognition</li> <li>▶ Facial recognition</li> <li>▶ Object recognition</li> <li>▶ Slicing newscasts/ livestreams into clips</li> <li>▶ Transcription services (Voice-to-text)</li> <li>▶ Text-to-speech</li> <li>▶ Translations</li> <li>▶ Formatting</li> <li>▶ Self-critique systems to monitor journalistic bias</li> <li>▶ Automated video reports</li> <li>▶ Data visualization</li> </ul>	<ul style="list-style-type: none"> <li>▶ Automated social media post generation by region and time band</li> <li>▶ Homepage curation systems</li> <li>▶ Automatic and customized highlights package</li> <li>▶ Arrange and present stories in a developing and evolving sequence</li> <li>▶ Eliminating fake news</li> <li>▶ Identifying potential customers through clustering and pattern matching</li> <li>▶ Targeted news distribution</li> </ul>	<ul style="list-style-type: none"> <li>▶ Predictive story scoring (Sorting, selection and prioritisation)</li> <li>▶ Virtual news assistant</li> <li>▶ AI-enhanced search engine optimization</li> <li>▶ Personalized alerts</li> <li>▶ Personalized news aggregation</li> <li>▶ Content recommendations</li> <li>▶ Conversational messaging in natural sounding languages</li> <li>▶ Comment monitoring</li> <li>▶ Comment moderation</li> <li>▶ Dynamic paywalls</li> <li>▶ Predictive analytics (Subscriber interest prediction)</li> <li>▶ Reader engagement tracking</li> </ul>	<ul style="list-style-type: none"> <li>▶ Programmatic media bidding</li> <li>▶ Ad management platform</li> <li>▶ Contextual advertising</li> <li>▶ Performance optimization</li> <li>▶ Budget optimization</li> <li>▶ Ad targeting and recommendation</li> <li>▶ AI-enabled hyper personalization</li> <li>▶ Identifying the best times and means to advertise through pattern identification</li> </ul>

Note: Some use cases are still in development phase

## VIII. Several formats were adopted across platforms<sup>34</sup>

News app	Languages available	News articles	Summarized news articles	Video news	Live feed	Podcast	e-Paper	Others
Inshorts	English/ Hindi	●	●					Graphic card/ factoids/ Infographics
Dailyhunt	15 Languages	●		●	●	●		Viral social media content
Tol	14 languages	●	●	●	●	●	●	
Jagran	English/ Hindi	●	●	●		●	●	
Dainik Bhaskar	Hindi	●		●			●	
Aaj Tak	Hindi	●	●	●	●	●		
NewsPoint	14 languages	●		●	●	●	●	
The Quint	English/ Hindi	●		●		●		Viral content/ Graphic novels

Based on online research conducted in January 2022

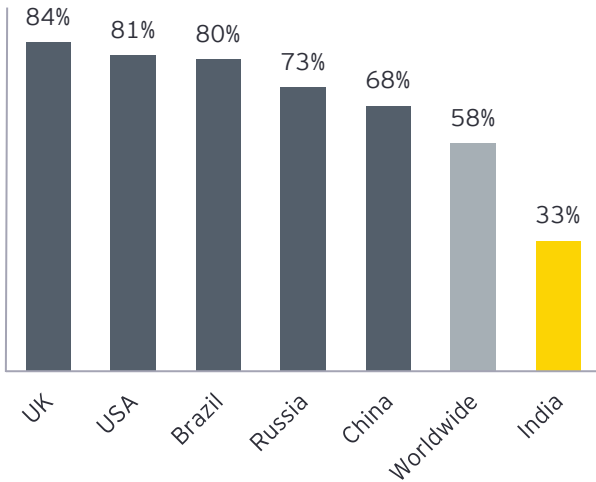
<sup>34</sup>Based on sample sites accessed during 2021



## Social media

### I. Social media penetration reached 33% in 2021

Social media penetration (% of population)

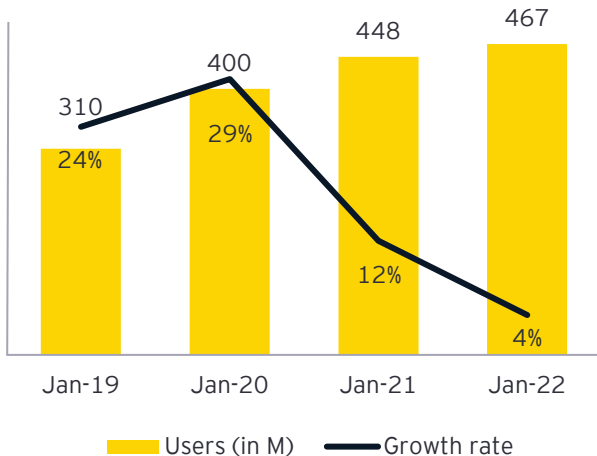


Hootsuite | Based on a survey of 16-64 year-old internet users

- ▶ Social media is now used by 33% of Indians aged 16 years and above, up from 29% in 2019
- ▶ Though this is lower in percentage terms than many other countries, in absolute terms, India is the second largest market by number of users

### II. Social media users grew to 467 million in 2021

Social media users in India



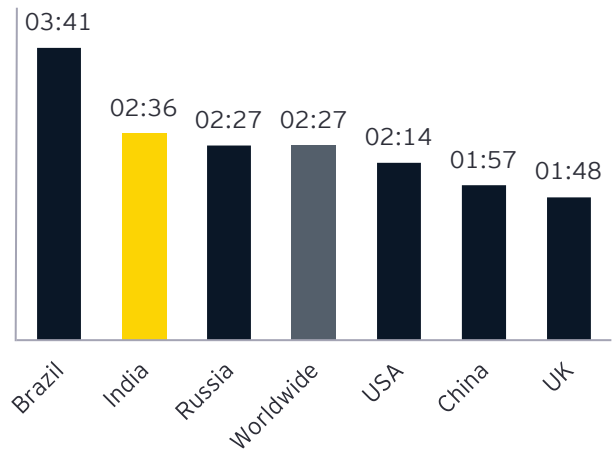
Hootsuite, We Are Social report, January 2022

- ▶ 467 million Indians were active on social media as of Jan 2022, a growth of 4.2% y-o-y

- ▶ Most social media users subscribed to multiple platforms but did not use each platform daily
- ▶ India is currently the biggest market for social apps globally in terms of downloads, according to data.ai's 'Evolution of Social Apps' report

### III. Indians spent 2.5 hours each day on social media

Hours and minutes / day spent on social media



Hootsuite | Based on a survey of 16-64 year-old internet users

- ▶ At an average of over 2.5 hours per internet user per day, Indians spend a larger quantum of time as compared to the world average, ahead of other large countries like China, USA, etc.
- ▶ Indians spend more time on social media than any other activity on their phones<sup>35</sup>

### IV. Indians used both international and domestic social media products

Rank	Social media platform
1	Instagram
2	MX Takatak
3	Facebook
4	Snapchat
5	Moj
7	Share Karo India
8	WhatsApp Messenger
9	Truecaller
10	Telegram

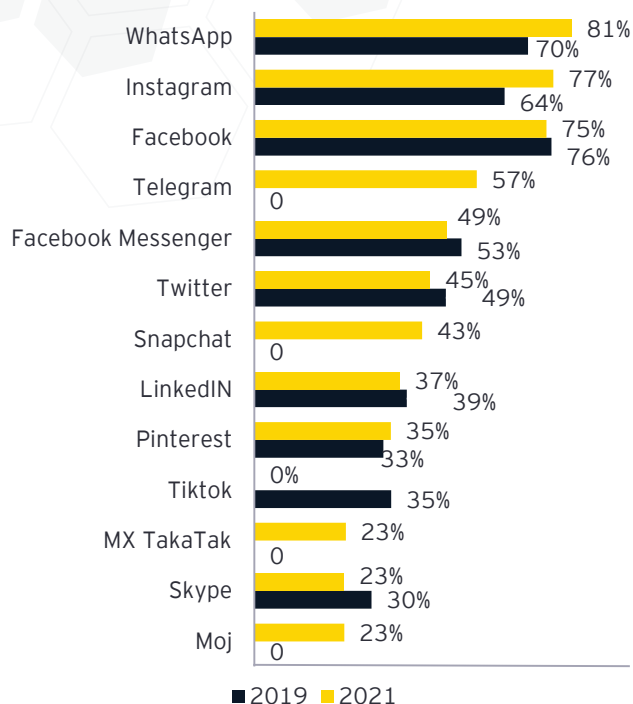
data.ai | Combined iOS and Google Play | Does not include preloaded apps  
Social app downloads in India (2021)

- ▶ While international social apps Instagram, Facebook and Snapchat were amongst the top of the most downloaded social media apps list in India, 'local' apps MX Takatak, Mauj and Josh were all in the top six
- ▶ There were almost no local apps in the top 10 list three years ago
- ▶ Indians spent roughly twice the time on international social media products than on domestic ones<sup>36</sup>

<sup>35</sup> Redseer report: Riding the digital wave | Oct 2021

<sup>36</sup> Redseer report: Riding the digital wave | Oct 2021

## V. Meta's apps had the highest reach



Hootsuite, We Are Social report, January 2022 and 2020: Based on a survey of 16-64 year-old internet users | Does not include pre-loaded apps | 0 indicates data not available

- ▶ WhatsApp remains India's favourite messaging app, while YouTube is India's favourite video platform
- ▶ Over the last three years, apps like Snapchat, MX TakaTak, Moj and Telegram have gained significant market share

## VI. Live streaming gained popularity

- ▶ Live streaming across verticals like astrology, agony aunts, education, skills, etc. gained significant popularity
- ▶ In-app purchases for a significant portion of creator revenues in the form of gifting, donating, celebrating etc.
- ▶ Some creators have even started charging a subscription fee for live interactions

## VII. Short video apps enabled increased escapism

- ▶ Static filters have given way to AR and VR engines
- ▶ Personalised video which can enable anyone to create their avatars or see how they would look like their favourite superheroes
- ▶ Integrating live action videos uploaded by users with animation and VFX capabilities to bring UGC to life

## VIII. New formats around social audio became popular

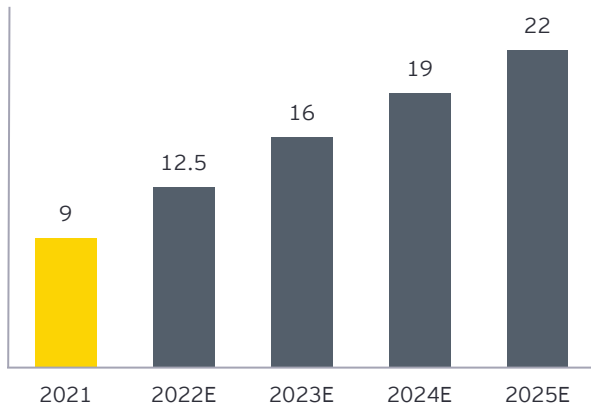
- ▶ Since the launch of Clubhouse, platforms started to experiment with their own versions of audio apps:
  - ▶ Reddit launched 'Reddit Talk'
  - ▶ Messaging app Telegram rolled out a similar feature<sup>37</sup>
  - ▶ Twitter launched Spaces for the public in May 2021
  - ▶ Spotify launched Greenroom, its own social audio network in June 2021
  - ▶ Facebook, now Meta, started testing its own audio room, Hotline, in April 2021
- ▶ India too has seen multiple local companies enter and focus on the audio space including Leher, FireSide (owned by short-video platform Chingari), Scenes by Avalon, Mentza, and Bakstage<sup>38</sup>
- ▶ However, the format poses some challenges specially in terms of content moderation since technology that could scan audio in real time does not exist at scale

<sup>37</sup> "The dawn of social audio apps and their relevance to users", The Hindu, 2 Jun 2021

<sup>38</sup> "What Indian social audio apps are getting right on content moderation," Moneycontrol, 5 Jan 2022

## IX. The creator economy gained scale

Estimated influencer marketing revenue growth

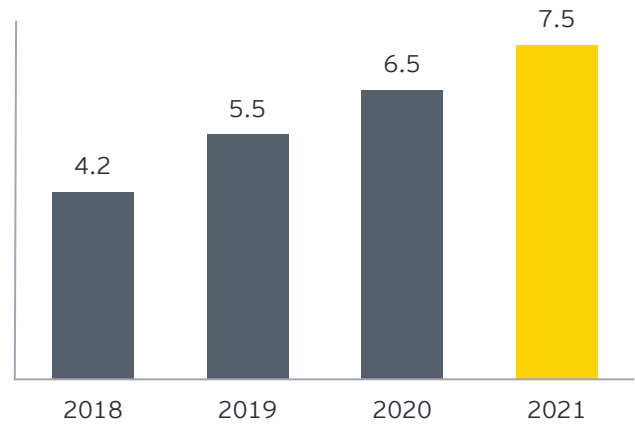


GroupM | INR in billion

- ▶ Influencer marketing grew significantly driven by the pandemic and those gains are not showing signs of slowing down
- ▶ The number of professional and semi-professional influencers who monetize their services is estimated to be 150,000; 33% of these professional influencers are estimated to focus on regional languages
- ▶ New modes of monetization include live streams where in addition to sponsorships and advertising, tipping, gifting, dedicating etc. are generating revenues for creators
- ▶ Influencer marketing spends are estimated to grow at a CAGR of 25% to reach INR220 billion by 2025

## X. Social commerce made a strong beginning<sup>41</sup>

Time spent on shopping apps in India (billion hours)



data.ai

- ▶ Social commerce (the process of selling products directly on social media platforms) has emerged in India and is powered by social reselling platforms such as GlowRoad, Shop 101, Meesho, Bulbul, SimSim, etc.
- ▶ The sheer number of buy and sell groups on Facebook are a testimony to the fact that online socializing and online shopping make a highly compatible pair
- ▶ By 2025, India's e-commerce market is projected to be US\$220 billion, while social commerce can potentially grow to touch upwards of US\$50 billion<sup>42</sup> in terms of gross merchandise value

<sup>39</sup>Kalaari Capital Creator Report

<sup>40</sup>"Influencer marketing spends set to zoom from Rs 900 to Rs 2200 crore: INCA-e4m report," Exchange4media, 20 Sep 2021

<sup>42</sup>"How social commerce is helping India move from interaction to transaction," EY, 18 Feb 2021

# Digital advertising

## Digital ad spends grew 29% in 2020

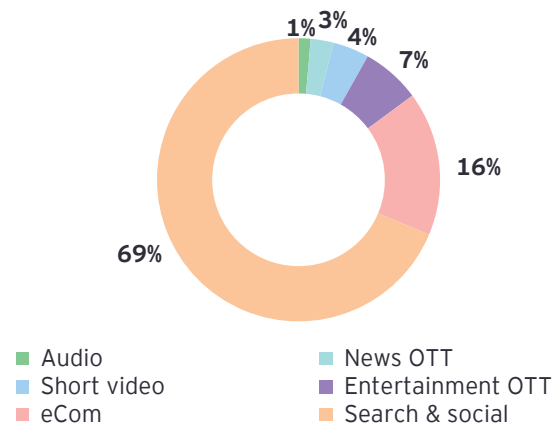
	2019	2020	2021	2022E	2024E
Large advertisers	191.5	191.5	246.5	313.9	430.2
SME & long tail (not validated)	87.5	90.6	116.6	139.9	201.4
<b>Total</b>	<b>279.0</b>	<b>282.0</b>	<b>363.0</b>	<b>453.8</b>	<b>631.7</b>

INR billion (gross of taxes) | EY estimates

- ▶ Digital advertising grew 29% to reach INR363 billion in 2021, the largest contributor to advertising revenues in India
- ▶ Included in the above estimate are spends by SME and long tail advertisers of INR116.6 billion, primarily on performance advertising on Google, Facebook, and e-commerce platforms<sup>43</sup>
- ▶ Ad rates for premium properties increased, but on average rates continued to reduce as volumes increased by over 30%
- ▶ Of the total, share of ad revenues generated by e-commerce platforms increased to over INR55 billion, crossing 16% of total digital advertising (12% in 2020)

## E-commerce advertising achieved scale

Break-up of digital ad revenues



EY estimates | Based on total digital advertising including SME ad base

- ▶ Search and social media, across different platforms continued to provide 69% of digital ad revenues, down from 75% in 2020
- ▶ E-commerce advertising crossed INR55 billion to garner 16% of total digital advertising as more brands used online channels like Amazon, Flipkart, Ajo, Nykaa, Myntra etc. to drive sales, as these platforms are seen as being closest to the point of purchase
- ▶ OTT platforms of broadcasters and news companies garnered 10% of digital ad revenues, led by Hotstar and Times Internet
- ▶ Many live digital feeds of news channels started selling their ad inventory separately (and not just carrying the ads scheduled on the linear feeds) as well as selling non-FCT inventory like L-bands and Aston bands
- ▶ Short video platforms gained scale and, along with music streaming platforms (excluding music video streaming), contributed around 5% to total digital advertising

## Small and medium enterprise (SME) advertiser base grew

- ▶ We estimate that SME advertisers spent over INR116.6 billion in 2021
- ▶ Large ad platforms claim that there are now 500,000 small and medium enterprises who advertise on them, to generate business in India and abroad<sup>44</sup>
- ▶ Regional media companies we spoke to also mentioned that their advertisers were increasingly experimenting with and shifting a portion of their ad budgets to digital
- ▶ In addition, the pandemic spurred the growth of hyper local entrepreneurs who target audiences in specific localities within cities
- ▶ Industry discussions indicate that this number is growing significantly and could reach a million advertisers within three years
- ▶ SME spends are focused on performance advertising - predominantly search, social and classifieds - on platforms like Google, Facebook, Flipkart, Amazon, Just Dial etc.

<sup>43</sup> We are unable to adequately verify this SME spend amount and have therefore shown this amount separately and not included it in our overall segment sizing estimates

<sup>44</sup> Industry discussions

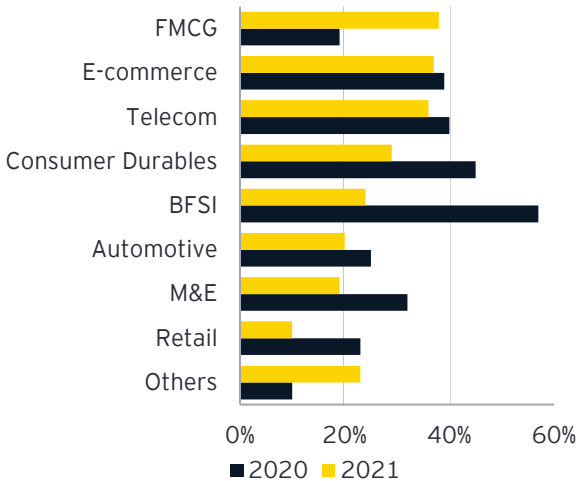


## Share of programmatic advertising increased

- ▶ Our interviews have shown that share of programmatic advertising increased from 10% of total digital spends in 2017 to 42% in 2021<sup>45</sup>
- ▶ We noted an increased prevalence of programmatic guaranteed amongst publishers, as they can guarantee both price and impressions to advertisers
- ▶ Programmatic advertising is now extending its remit to sectors like audio OTT, DOOH etc. and we can expect to see several platforms come into being to serve even traditional platforms like radio and regional television in future

## Six sectors spent over 20% of their total ad spends on digital

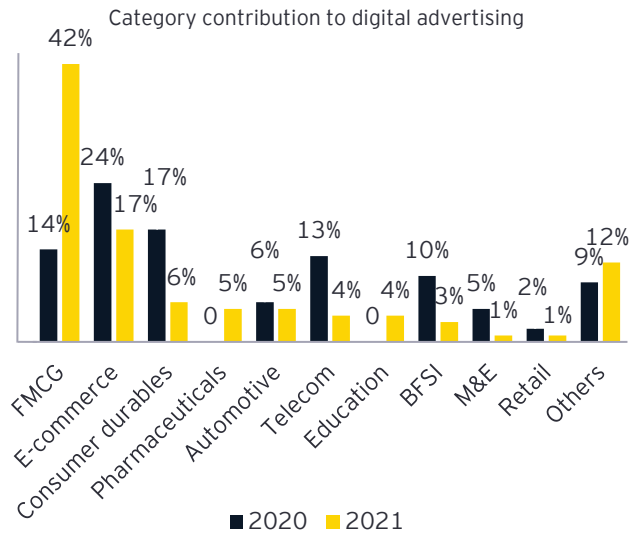
Percentage of ad spends on digital by sector



Dentsu Digital Advertising in India report 2022 and 2021

- ▶ Share of digital advertising spends of FMCG companies doubled due to the COVID-19 driven change in customer procurement preferences and launch of several D2C brands
- ▶ Except for FMCG, several sectors decreased their share of spends on digital advertising in 2021 as their spends on TV, print, radio and OOH - which had significantly reduced in 2020 due to lockdowns and supply chain constraints - started to recover

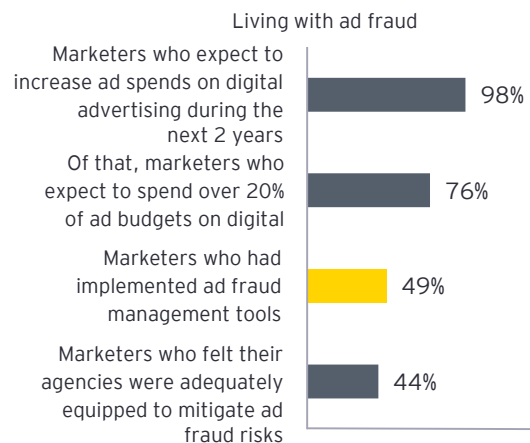
## FMCG and E-commerce contributed 60% of total digital ad spends



Dentsu Digital Advertising in India report 2022 and 2021

- ▶ Significant growth in digital ad spends by FMCG propelled it to the highest contributor in 2021 (does not include long-tail advertisers)
- ▶ The top three national advertiser categories contributed almost 2/3rd (65%) of total digital ad spends

## Marketers are learning to live with ad fraud



EY marketer survey 2022

- ▶ 42% of marketers we surveyed in January and February 2022 indicated that dealing with ad fraud was in their top two priorities for 2022 and 49% had implemented tools to monitor the same
- ▶ Despite the concern, 76% of survey respondents expected their digital ad spends to exceed 20% of their total ad spends during the next two years

<sup>45</sup> Industry discussions, Pitch Madison Advertising Report 2022, EY analysis

# Digital subscription

In 2021, digital subscription grew 29%

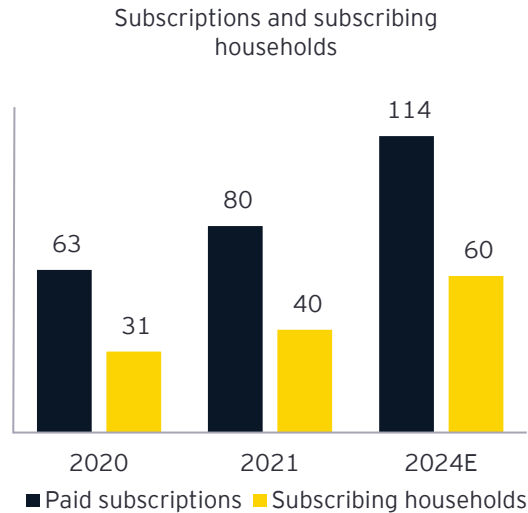
	2020	2021	2022E	2024E
Video	42.4	53.9	67.5	102.0
Audio	1.1	1.6	2.1	2.8
News	0.3	0.9	1.2	2.1
<b>Total</b>	<b>43.8</b>	<b>56.4</b>	<b>69.6</b>	<b>106.9</b>

INR billion (gross of taxes) | EY estimates<sup>46</sup>

- ▶ Video subscription revenues grew 27% in 2021 to INR54 billion, an amount which is around 50% of broadcasters' share of TV subscription revenues
- ▶ Paid video subscriptions had crossed 50 million for the first time in 2020 and further scaled up to 80 million in 2021, across almost 40 million households in India
- ▶ Audio subscription grew 49% in 2021 (albeit on a much smaller base) as paying consumers reached around three million
- ▶ News subscription reached around INR0.9 billion due to increased marketing focus by BCCL, HT Media, The Hindu, The Ken and moneycontrol.com amongst others
- ▶ The percentage of paying subscribers to total OTT consumers remained less than 10% and 2% for video and audio respectively
- ▶ We expect digital subscriptions to grow at a CAGR of 24% till 2024

## Video subscription

### I. 40 million households paid for 80 million video OTT subscriptions



EY estimates

- ▶ 40 million Indian households paid for 80 million OTT video subscriptions in 2021
- ▶ Actual OTT video users / audience could be estimated at 120 - 160 million individuals as subscriptions were shared amongst family and with friends<sup>47</sup>
- ▶ Over 2,500 hours of original content were created for OTT platforms - including over 100 direct to digital films<sup>48</sup> - which were extensively marketed, and led to increased demand for OTT subscriptions
- ▶ Other key drivers for growth included live sports, bundling, exclusive reality content (for TV shows which have deep fandom) and pricing changes

### II. Regional content travelled across India<sup>49</sup>

- ▶ Films releasing directly on OTT were watched across over 4,000 towns and cities in India, which compare favorably as against the erstwhile "mega movie releases" which peaked at 3,500 cinema screens
- ▶ 50% of viewers of regional language films on OTT platforms were from outside their home state
- ▶ Most large platforms adopted a strategy of 8 languages (Hindi, four southern languages, Bengali, Marathi, English) or more
- ▶ Dubbing and subtitling of movies across Indian languages led to further experimentation and acceptance of movies across state and cultural boundaries

<sup>46</sup>Amazon Prime Video revenues have been estimated using an apportionment of their total end customer subscription price between various bundled services

<sup>47</sup> EY estimates

<sup>48</sup> EY production audit team estimates

<sup>49</sup> Industry discussions with Netflix, Amazon, Zee5, Hungama, Hotstar, Eros Now, etc.

### III. The “sharing” opportunity

- ▶ Many consumers (and almost everyone we checked with!) shared their passwords with family and with friends
- ▶ We estimate that on average, a subscription was used by between 3 to 3.5 people; hence, our estimate of 40 million OTT households could have a potential reach of up to 120-140 million people, or even more<sup>50</sup>
- ▶ Hence, the number of OTT consumers is probably much higher than number of subscriptions; like how a newspaper is consumed by several people in a family or around a tea stall in smaller towns
- ▶ Enabling sharing is a good way to induce product trial and can be seen as an opportunity to target a wider base for subscription sales

### IV. Content bundling evolved<sup>51</sup>

- ▶ Telcos and aggregators provided premium OTT subscriptions bundled along with data and/or devices for as little as INR150 per month:
  - ▶ data + one or more OTT plans
  - ▶ data + one or more OTT trial packs of 3 or 6 months
  - ▶ a bouquet of OTT platforms
  - ▶ data + free access to live FTA and/ or pay television channels
- ▶ Up to 85%<sup>52</sup> of viewership volumes of certain OTT platforms were generated by telcos
- ▶ We estimate that 322 million subscribers consumed bundled content<sup>53</sup>
- ▶ We expect to see more bundled products like Amazon Channels (the SVOD version of the YouTube MCN), where platforms with large reach provide that to smaller/ boutique/ niche aggregators on a revenue share basis
- ▶ The amount telcos paid for content was around INR7 billion in 2020 (where they provided it for free to consumers) and this is expected to grow further
- ▶ We expect around 400 million consumers to consume content via telco and aggregator bundles by 2025 as data prices increase

## Audio and news subscription revenues<sup>54</sup>

### I. Audio subscription reached INR1.6 billion

- ▶ The number of monthly music streamers was around 197 million in 2021<sup>55</sup>
- ▶ The percentage of paid subscribers was just at 1.5%, due to the prevalence of several free options across all large streaming platforms and on YouTube
- ▶ We expect music streamers to cross 390 million by 2024
- ▶ However, so long as free options are available such as FM radio, YouTube, etc. it will be difficult for streaming platforms to grow paying subscribers, which may just about cross 7 million by 2024
- ▶ For more details on digital streaming, refer the music section of this report

### II. News subscription reached INR0.9 billion

- ▶ With the abundance of free news available online and through aggregators, news subscription was led by exclusive, premium content
- ▶ We estimate less than 1.5 million paid subscribers across all news platforms
- ▶ News brands have tried several types of bundles to increase subscription:
  - ▶ Physical products + e-papers
  - ▶ Physical products + premium app content
  - ▶ Bundles of different online news brands
  - ▶ Bundles with non-news products like OTT, e-commerce subscriptions etc.
  - ▶ Launch of specific subscription products around business news, stock market advice, crosswords etc.

<sup>50</sup> EY estimates

<sup>51</sup> EY estimates

<sup>52</sup> Industry discussions; EY analysis

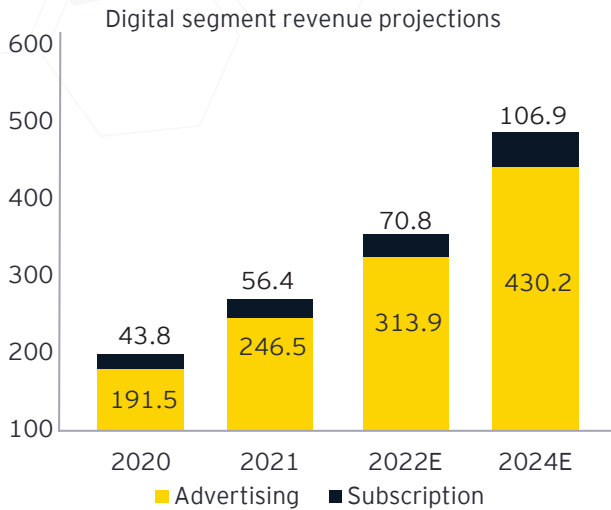
<sup>53</sup> EY estimates assume a household size at 4.4 subscribers

<sup>54</sup> EY Estimates

<sup>55</sup> Industry discussions; Comscore; EY analysis

# Future outlook

## Digital segment is expected to grow to INR537 billion by 2024



INR billion (gross of taxes) | EY estimates

- ▶ We estimate that the digital segment will grow to INR537 billion by 2024, at a 21% CAGR
- ▶ This amount excludes SME and long-tail advertising estimates
- ▶ The segment became the second largest segment in 2020, overtaking print, and we expect it to continue to reduce the gap with television as digital infrastructure (screens, broadband connections, e-commerce, digital payments etc.) continue to grow

## Digital ad growth will outpace all other segments

- ▶ Digital advertising overtook television in 2021 on an aggregate basis to become the largest contributor to Indian advertising; it will continue to grow at a 20% CAGR, to reach INR430 billion by 2024
- ▶ SME and long-tail advertising, not included in the above, will grow from INR117 billion in 2021 to INR200 billion by 2024 on the back of growth in SME advertiser base, access to national and global markets, continued fall in CPMs, etc.<sup>56</sup>
- ▶ E-commerce advertising will reach INR10 billion by 2025 as e-commerce players like Amazon, Flipkart, Jio Platforms, Tata, Zomato and others growth their reach and active users
- ▶ The CPT will emerge as the common metric for cross-media measurement and the M&E sector will need to provide models to measure it
- ▶ The metrics that matter will change from MAU to DAU and from audience numbers to engagement, loyalty and time spent, leading to platforms focusing on segmented audiences with deep engagement and community ownership
- ▶ More advertisers will implement ad fraud management solutions and validate ad spend efficiency as digital becomes a larger portion of their media mix

<sup>56</sup> EY estimates

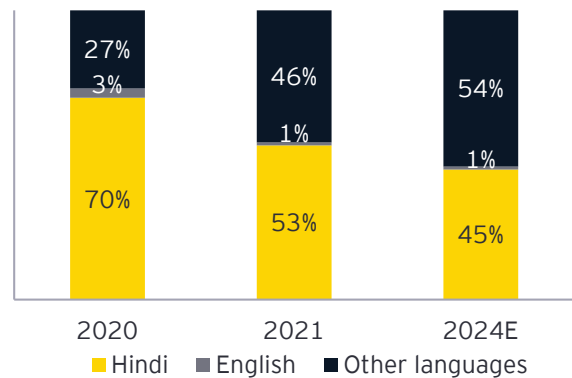


## Digital subscription will achieve scale

- ▶ Subscription revenues will grow at 24% CAGR as paid subscriptions grow to over 110 million by 2024, rivalling or exceeding the current share broadcasters earn from subscription sales
- ▶ Video OTT subscribing households will grow from 40 million in 2021 to 60 million by 2024
- ▶ Audio subscriptions will cross 7 million by that time, as subscription sharing gains scale
- ▶ Newspaper digital products will increasingly go behind paywalls and we expect news and related products to generate subscription revenues of INR2 billion by 2024
- ▶ The sharing economy will not pass by the digital media space - we could see group subscription products across families, friends, neighbors, colleges and corporates come into being
- ▶ Syndication opportunities will increase as telcos have started to increase data prices and will need to offer more content to justify the same
- ▶ E-commerce apps will provide a significant opportunity to license news, library and interactive content on to their platforms to increase reach and visitations

## OTT will break regional barriers in India

OTT titles produced by language



EY's production audit practice estimates

- ▶ Demand for original content will increase from 2,500 hours in 2021 to over 4,000 hours by 2024
- ▶ The share of other languages will increase to 54% of total content produced as regional OTTs flourish and scale on the back of dubbing and subtitling; this could also lead to increased costs for regional content production
- ▶ As production costs keep increasing, we expect to see the mix of high : medium : low budget content getting skewed towards medium and low cost production, as well as more IP co-ownership and sharing deals
- ▶ On the other hand, virtual production techniques and other technologies will gain adoption to keep costs in control, as will the use of a wider pool of talent
- ▶ Sports will play an increasingly important role in growing subscription revenues and this could lead to a growth in valuation of digital media rights and even rights getting more fragmented between platforms

## The “limited genre” barrier will be broken by OTT

- ▶ While mass distribution products like film and TV have typically focused on 8-10 genres of content, OTT with its ability to segment audiences can focus on a much larger number of genres
- ▶ We expect several new genres of content to be created for OTT such as medical dramas, political docu-dramas, comedy-horror, women achievement, urban noire, music-based content etc.
- ▶ Some of these could spawn dedicated apps or tabs on popular platforms

## Navigating a cookie-less world through a “collection of passions”

- ▶ In a world without cookies, OTT platforms’ data around viewers’ content consumption preferences, interests and purchase choices can be a powerful input for marketers
- ▶ While clearly first party data will be critical for advertisers, we can expect to see more powerful and value accretive data integrations and segmentation across OTT platforms

## News OTTs will focus on locality management

- ▶ One M&E CXO mentioned that “OTTs are now to be considered as traditional media” indicating the need for constant innovation in product and utility
- ▶ Given that a majority of new internet users are expected to come from non-metro markets, news companies will launch hyper-local news services to compete with the quality of multi-edition vernacular print products, through creation of massive stringer networks across their target markets
- ▶ By 2024, there will be more rural internet users than metro users<sup>57</sup> and hence locality and village perspectives and interactivity will become a USP for these news brands
- ▶ News gathering will become a platform-based process, sourcing content from wires, services and stringers, creating multiple monetization opportunities for them across media and across platforms

## Newer monetization models will be needed

- ▶ High investment is chasing low ARPU consumers in several OTT businesses today; this cannot sustain and hence there is a need to innovate around monetization models
- ▶ We believe TVOD services will gain scale to bring in audiences from a trial perspective, starting with sports, events and movies, and will be especially important for the audiences the Jio-Google low-cost smartphone will deliver
- ▶ AVOD models will evolve to include increased advertiser funded content and IP co-ownership, since break-even on pure advertising platforms can only be achieved if content cost is extremely low
- ▶ Bundling of various OTT platforms by ISPs and telcos will gain scale - they will in effect play the role that DPOs played in the television sector - but the customer will need to be provided with the choice of choosing different OTT platforms to bundle

<sup>57</sup>Industry discussions, TRAI, EY estimates

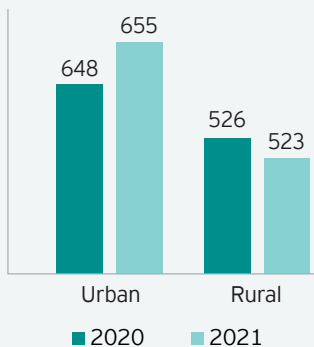
## India as the back office to the media and content world

- ▶ Indian creative talent will bring to media what India's engineers have brought to the technology sector
- ▶ We expect India to play a much larger role in “behind the camera” support for content production, which could be across:
  - ▶ Ad sales platform management
  - ▶ Analytics management
  - ▶ Animation
  - ▶ Content piracy solutions
  - ▶ Dubbing and music management
  - ▶ Formatting
  - ▶ Post-production
  - ▶ Promo creation and marketing
  - ▶ Release management and assurance
  - ▶ Rights management
  - ▶ Tagging
  - ▶ Titling, subtitling
  - ▶ VFX
- ▶ If India achieves even 5% of the global content market, the opportunity is over US\$15 billion

# Trends

# Digital infrastructure

Telecom subscriptions (in million)

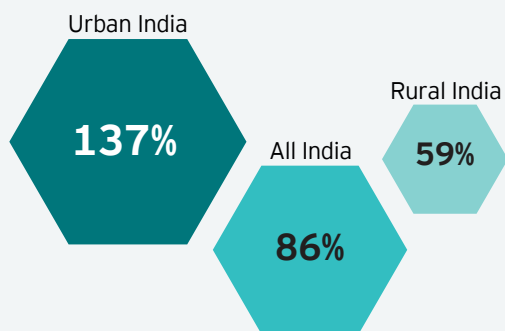


	Dec 2020	Dec 2021
Wireless	1154	1154
Wireline	20	24

There were **1.18 billion telecom subscriptions** in 2021  
Similar to 2020

Press Release No.6/2021 (as on Dec 2020) Press Release No.12/2022 (as on 31 Dec 2021)

**Tele-density** remained heavily skewed towards urban markets in 2021  
Similar to 2020



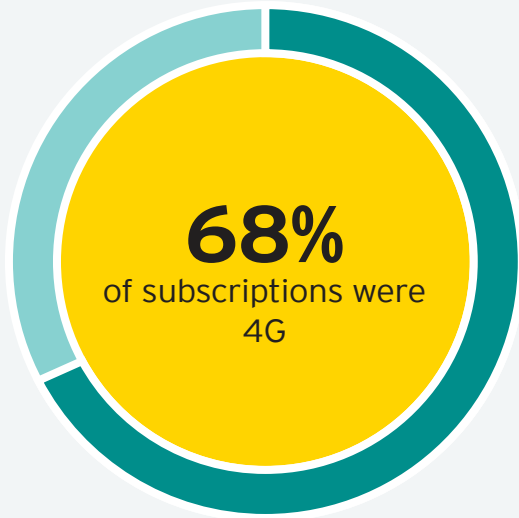
TRAI Press Release No.12/2022 (as on 31 Dec 2021)

	Dec 2020	Sept 2021
Total internet subscriptions	795	834
Narrow band subscriptions	48	39
Broadband subscriptions	747	795
Urban internet subscriptions	487	497
Rural internet subscriptions	308	337

The Indian Telecom Services Performance Indicators July - September 2021, The Indian Telecom Services Performance Indicators October - December 2020

**Internet penetration** grew 5%  
95% of internet subscriptions were in broadband



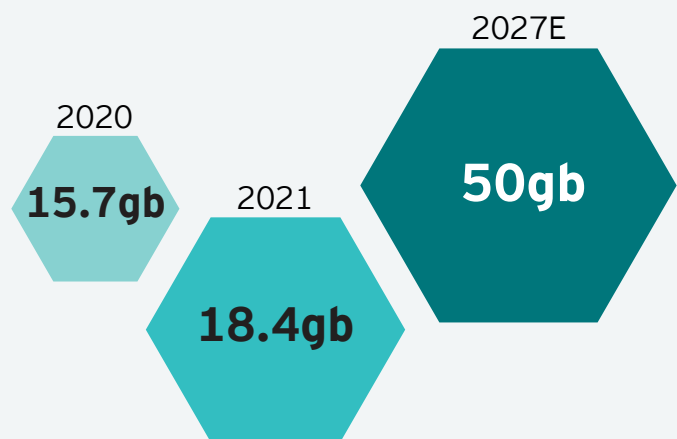


Ericsson Mobility Report, November 2021



Comscore, Ericsson Mobility Report, November 2021

**Average data consumption** per month per smartphone continues to show robust growth driven by rapid adoption of **4G** and people working from home during COVID-19

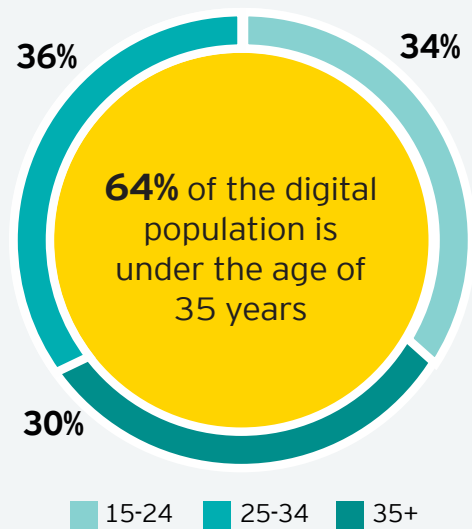
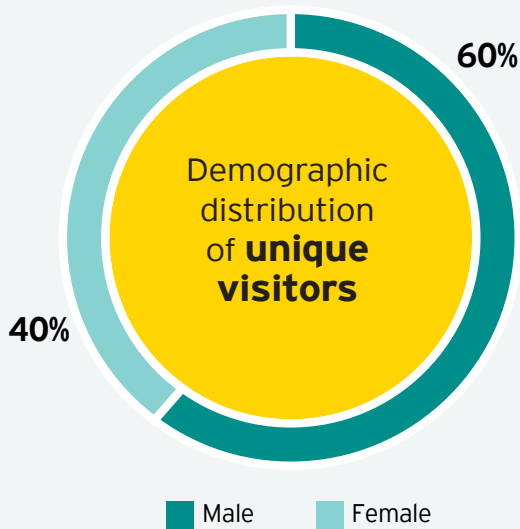


Ericsson Mobility Report, November 2020 and 2021

# Trends Digital

Powered by  comscore

## India's digital population at a glance



Source: Comscore MMX Multi-Platform, Nov 2021, India

	2019	2020	2021
Mobile users	385	448	461
Desktops users	94	101	107
Multi-platform users	406	468	485

In million

The smartphone (iOS and Android smartphone users) + tablets users are classified as 'Mobile' users  
Source: Comscore MMX Multi-Platform, Dec '21, India

Online audience crossed **480 million** in 2021

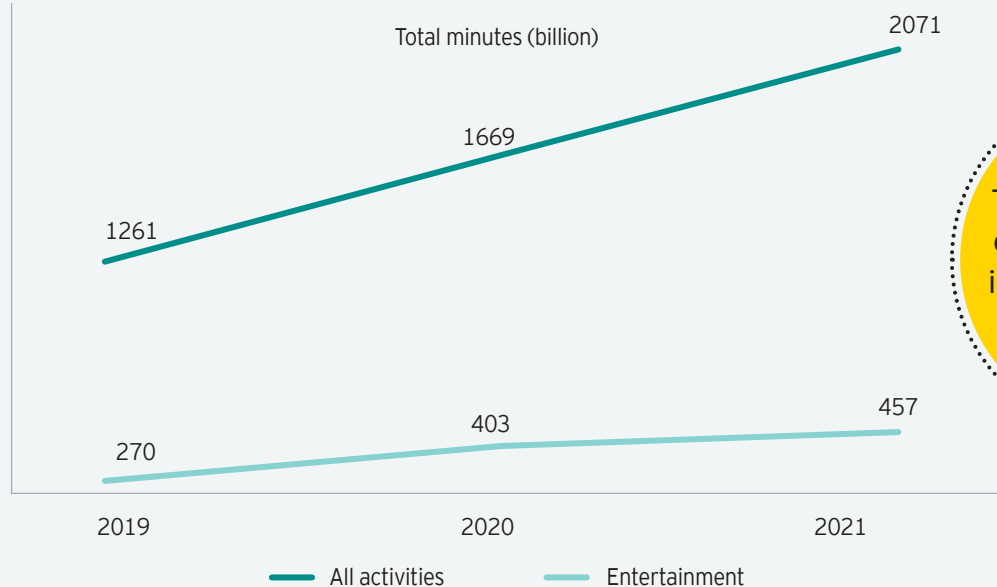
Online news and entertainment had the **widest reach**

	2019	2020	2021
Online entertainment consumers	392	450	467
Online news consumers	394	454	467
Online music consumers	217	205	197
Game consumers	219	245	237

In million

Game consumers includes online gaming and gaming information sites as well  
Source: Comscore MMX Multi-Platform, Top-Line Categories, Dec '19 - Dec '21, India

All data has been provided by Comscore and has not been verified by EY. It has been provided in summary form for representation purposes only.



Time spent online on entertainment increased in 2021 by **24%**

Source: Comscore MMX Multi-Platform, Total Minutes, Entertainment Category, Dec '19 - Dec '21, India

### Top 10 most visited online sites/ platforms by Indians

Property	Total unique visitors/ viewers	In million
		Total minutes
Google sites	462	591,943
Facebook	439	481,835
Times Internet Limited	409	34,591
Amazon sites	361	30,718
Flipkart sites	304	32,961
Zee Digital	251	3,836
Network 18	251	5,735
Truecaller.com	229	29,555
Paytm.com	217	8,338
Microsoft sites	204	18,874

Source: Comscore MMX Multi-Platform, Top 10 Internet Properties, Oct '21, India

# The Indian app story

Powered by  data.ai

**26.7 billion**  
New app downloads  
in 2021

- ▶ Growth of **41%** over 2 years
- ▶ > 799,000 apps downloaded per minute

**9.3 billion**  
Gaming app  
downloads

- ▶ Growth of **65%** over 2 years
- ▶ Over 35% of all apps downloaded in 2021

**US\$417 million**  
App store spend

- ▶ Growth of **12%** over 2 years
- ▶ >US\$555 spent per minute in 2021

**US\$165 million**  
Gaming app spend

- ▶ Growth of **11%** over 2 years
- ▶ Over 40% of total spend in India in 2021

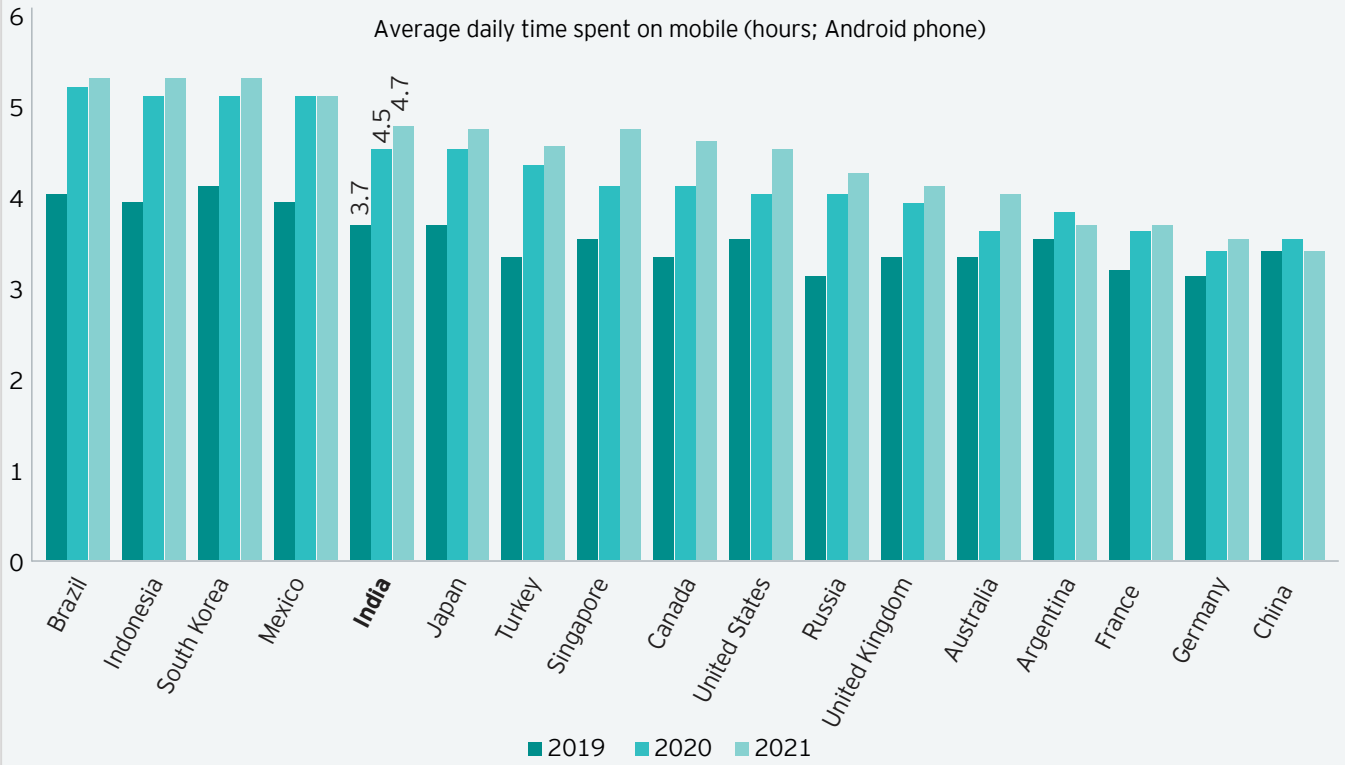
**4.7 hours**  
Daily time spent  
per user

- ▶ Growth of **27%** over 2 years
- ▶ 1/3rd of daily waking hours

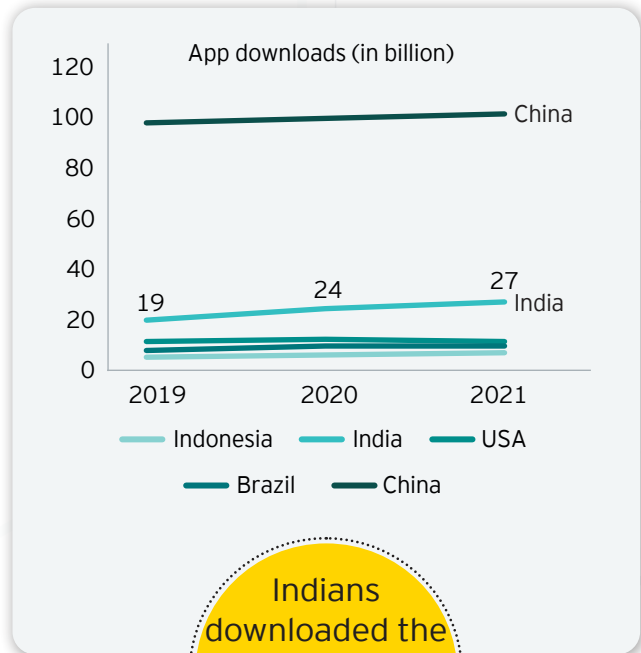
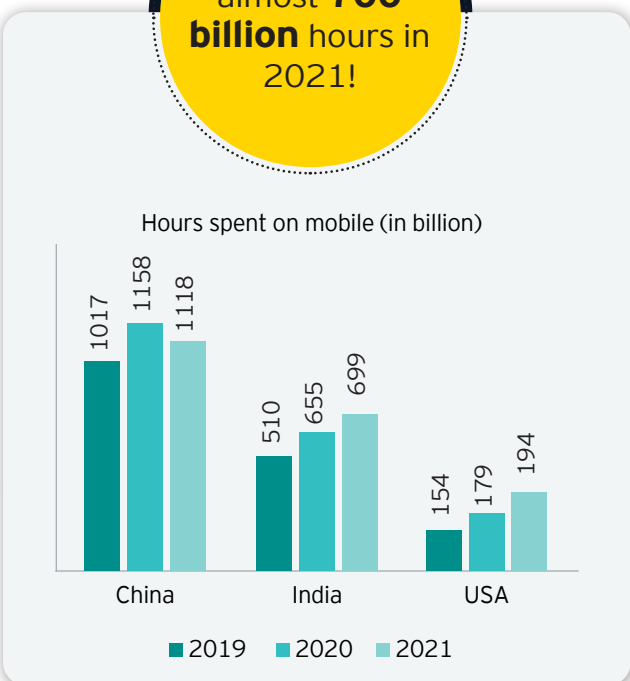
All data has been provided by data.ai and is based on their research. It has not been validated by EY, and presented in summary form for representation purposes only



Indians spent an average of **4.7 hours** everyday on their mobile devices...



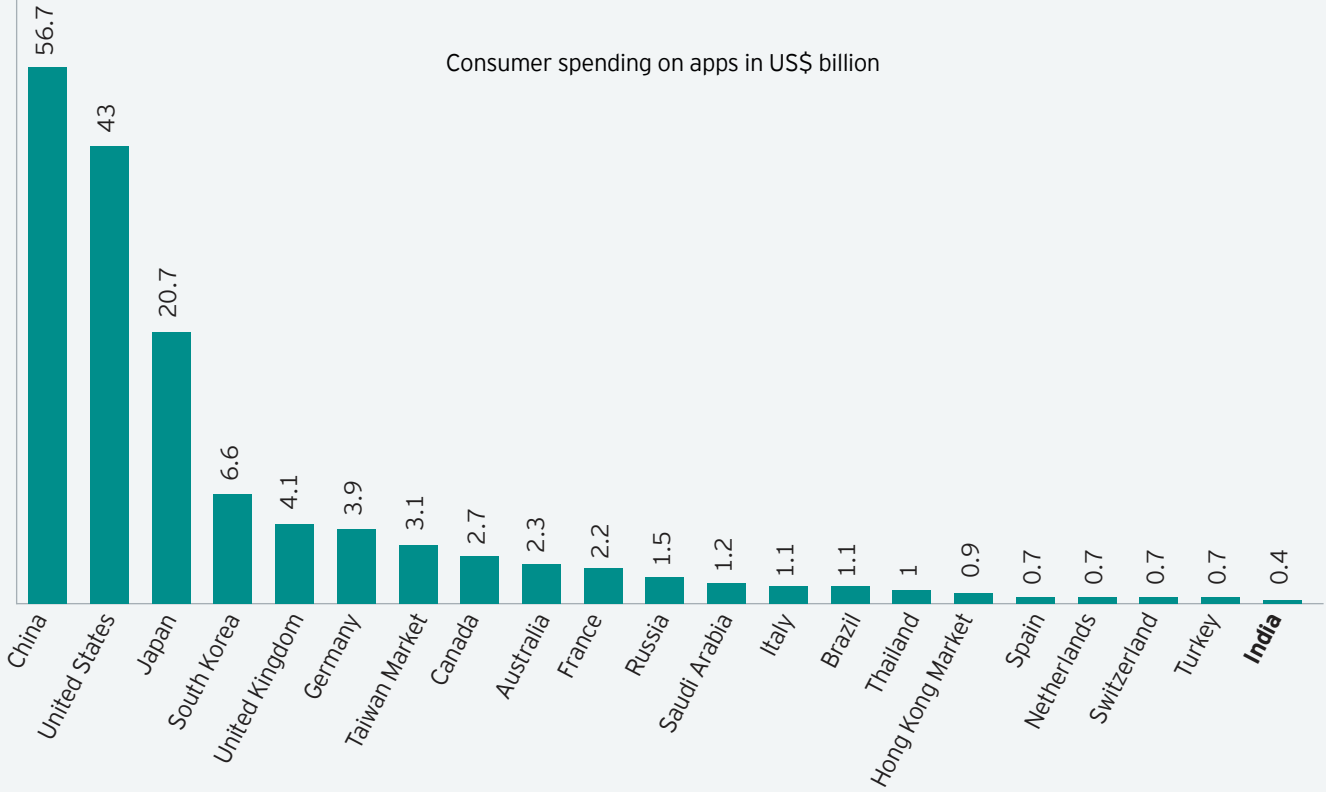
...aggregating almost **700 billion** hours in 2021!



Indians downloaded the **2nd** highest number apps in the world....

...but spent only **US\$0.4 billion...**

Consumer spending on apps in US\$ billion



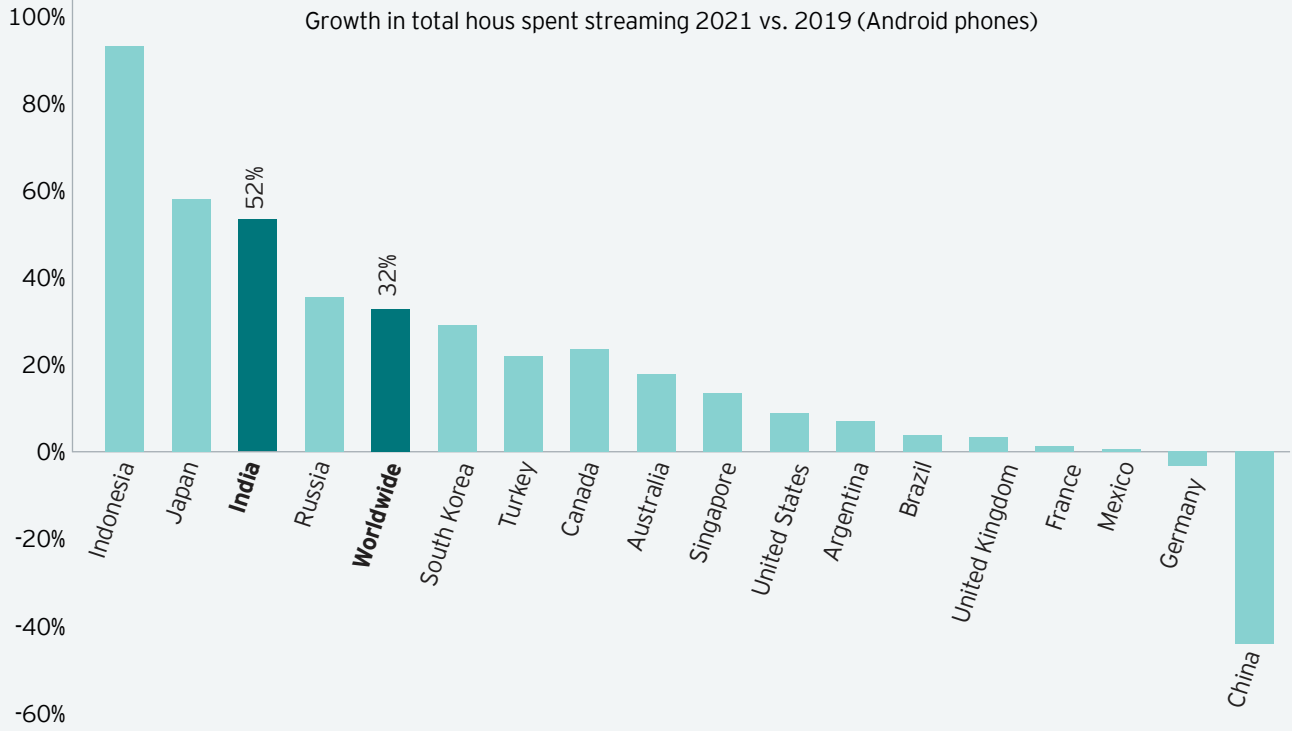
### Top apps 2021

Rank	By downloads	By monthly active users	By consumer spend
1	Instagram	Whatsapp Messenger	Hotstar
2	MX TakaTak	Facebook	Tinder
3	Facebook	Truecaller	LinkedIn
4	Snapchat	Instagram	Chamet
5	Meesho	Facebook Messenger	Tango Live
6	Moj	Amazon	YouTube
7	Josh	PhonePe	Truecaller
8	Flipkart	Flipkart	Sony LIV
9	PhonePe	MX Player	Google One
10	Share Karo India	MyJio	Zee5

Top 10 apps. Downloads and consumer spend based on combined iOS App Store and Google Play. MAU based on Combined iPhone and Android Phone Monthly Active Users; Excludes pre-installed apps. Market-level rankings

...mainly on **escapism, love and work!**

Total hours spent watching video streaming apps grew **52%** in India since pre-pandemic levels



### Top video streaming apps 2021

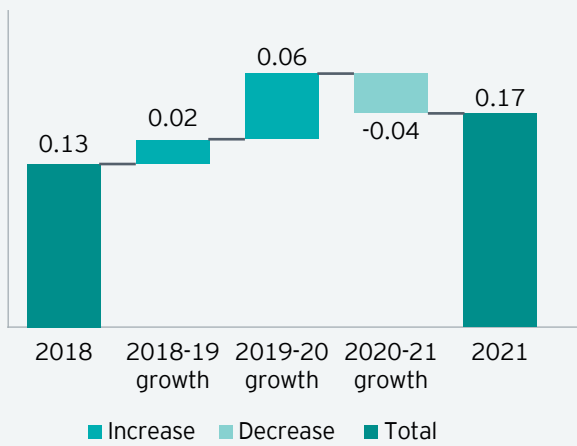
Rank	By downloads	By consumer spend
1	Hotstar	Hotstar
2	MX Player	YouTube
3	Zee5	Sony LIV
4	Dailymhunt	Zee5
5	Jio TV	Netflix
6	Amazon Prime Video	Voot
7	Sony LIV	ALTBalaji
8	Voot	Discovery Plus
9	BOOYAH Live	Viki
10	YouTube Kids	Sun NXT

Top video streaming apps covered a wide spectrum of genres

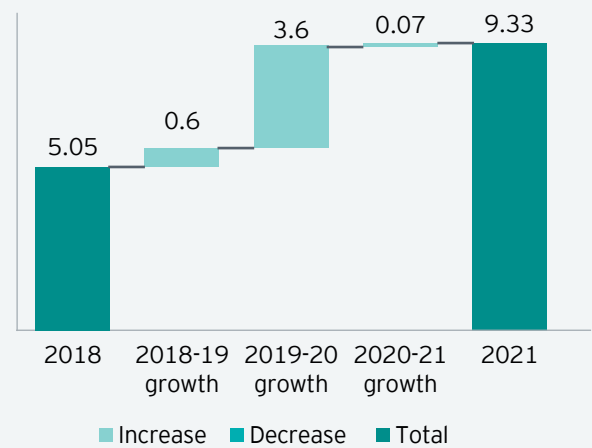
Video streaming apps custom categorized from the entertainment, photo & video, news, sports, news & magazines and video editors & players categories across iOS and Google Play. Downloads do not include pre-loaded apps. Consumer spend is via app stores only

Mobile game downloads remained stable, though spends could not keep up with the strong momentum gained during the pandemic

Mobile game consumer spend growth (US\$ billion)



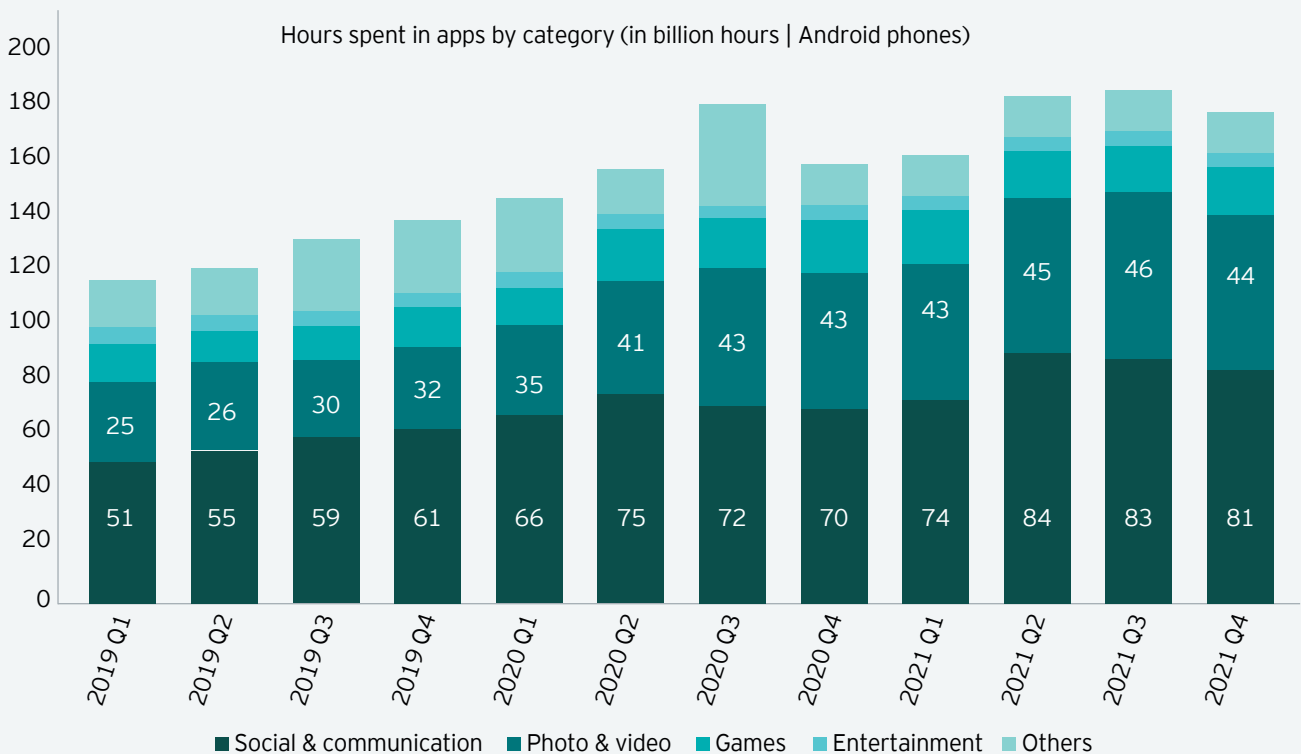
Mobile game downloads growth (billion downloads)



Spend is gross – inclusive of any percent taken by the app stores

Indians spent the **maximum** amount of time on social and communication apps...

Hours spent in apps by category (in billion hours | Android phones)



Rank	By downloads	By consumer spend
1	Instagram	Tango Live
2	MX TakaTak	Truecaller
3	Facebook	Who - Call & Chat
4	Snapchat	ShareChat
5	Moj	FanChat - Videochat with stranger
6	Josh	YoYo
7	ShareKaro India	Ola Party
8	Whatsapp Messenger	Facebook
9	Truecaller	imo
10	Telegram	DODO

Market-level rankings; Excluding dating apps

...with many social apps starting to monetize their reach



# Trends

# Meta India

## The largest social media network in India

**435 million**

Indians access Facebook every month (Q1 2022)

**272 million**

Indians access Facebook every day (Q1 2022)

**99%**

Indians access Facebook on their mobile phones

**6 million**

average reels produced daily in India

**175%**

Increase in Facebook DAU across last 5 years

## At the heart of the creator economy in India

**160%**

YoY growth in revenue earned on video content by monetizing creators and video publishers

**35%+**

YoY growth in number of monetizing Facebook creators and video publishers in India

**3<sup>rd</sup>**

India's global rank for its 234 mn game play sessions during July- August 2021

**530%**

YoY increase in viewership of live gaming sessions on Facebook in India

## Unlocking opportunity for businesses

businesses are on the WhatsApp for Business app in India

**300 million**

users have liked or are following an active India small business page on Facebook

**15 million**

Indian small businesses on Instagram are encouraging potential customers to contact them directly

**500k+**

small businesses are using Instagram to reach out to international customers by announcing 'worldwide shipping' in their bios

**45k**

posts and comments on Instagram during Sep-Nov 2021 to show support for small businesses and buying local

**1.2 million**

All data has been provided by Meta India and has not been independently verified by EY.

## The metaverse makes a promising beginning

### Vivo

worked with Spark AR to launch its V19 phone by creating a virtual unboxing experience

### Maruti

created a custom AR filter to provide consumers a virtual tour of the S-Cross SUV

### Lakmé

generated 18,000+ AR try-ons of its make-up products on Instagram in just 2 months

## Adding the social to social media

### 60 million

signed up to receive blood donation notifications on Facebook

### 80 million

people accessed WhatsApp chatbots for COVID-19 support

### 31 million

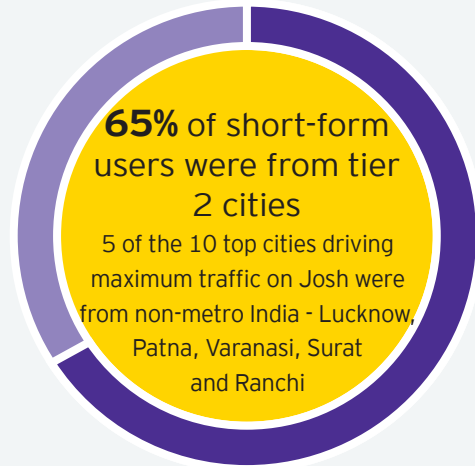
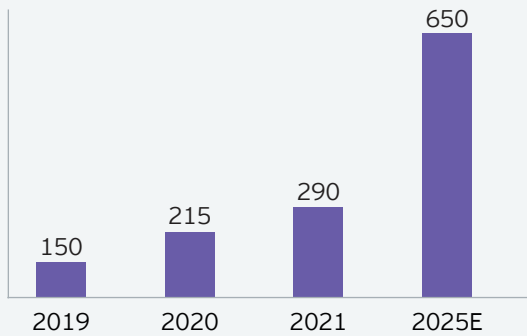
Vaccinations booked and 31 million certificates downloaded using WhatsApp chatbots (as of Feb 2022)

# Trends

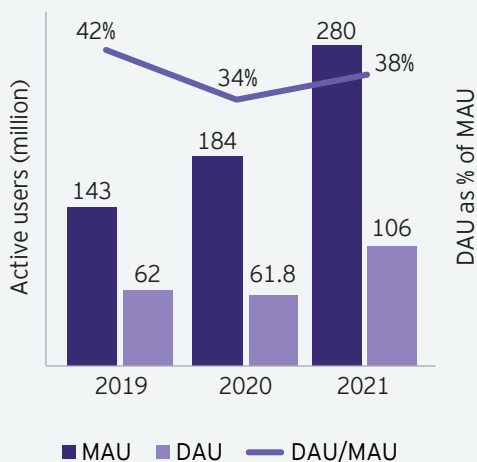
## Short video

Powered by VerSe Innovation

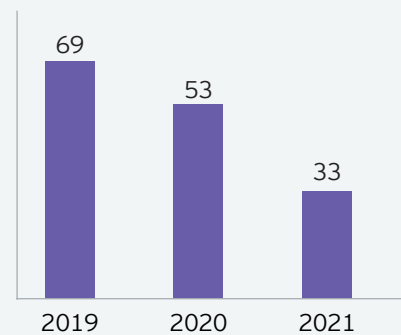
The popularity of short video platforms is increasing  
Yearly active users (in million)



User growth was accompanied by **healthy stickiness**



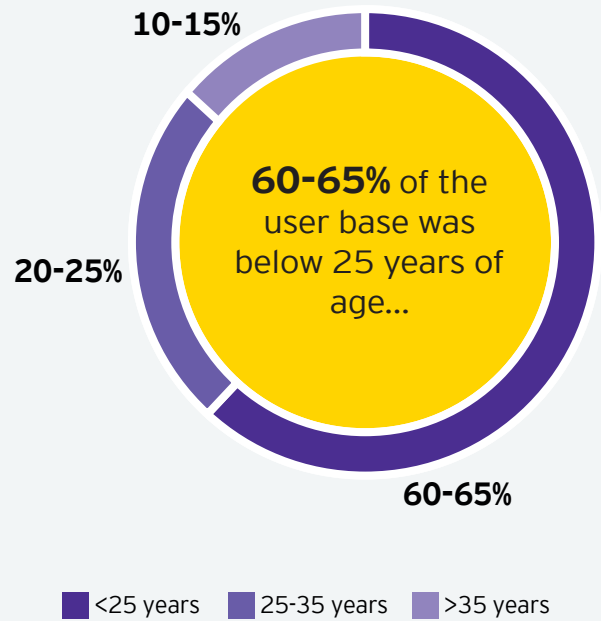
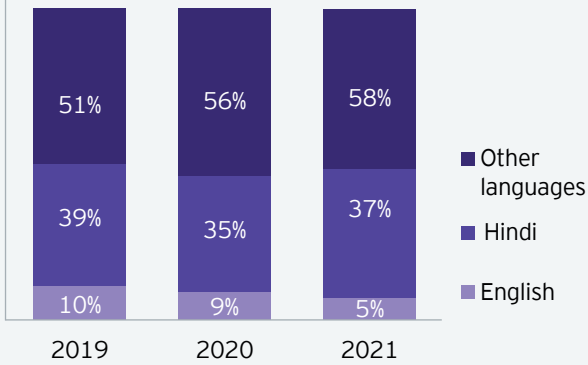
Average minutes per DAU per day



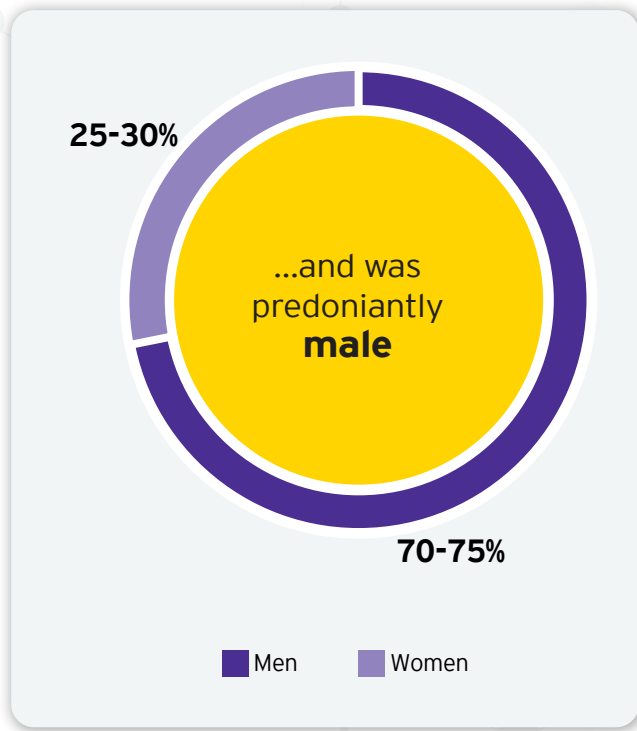
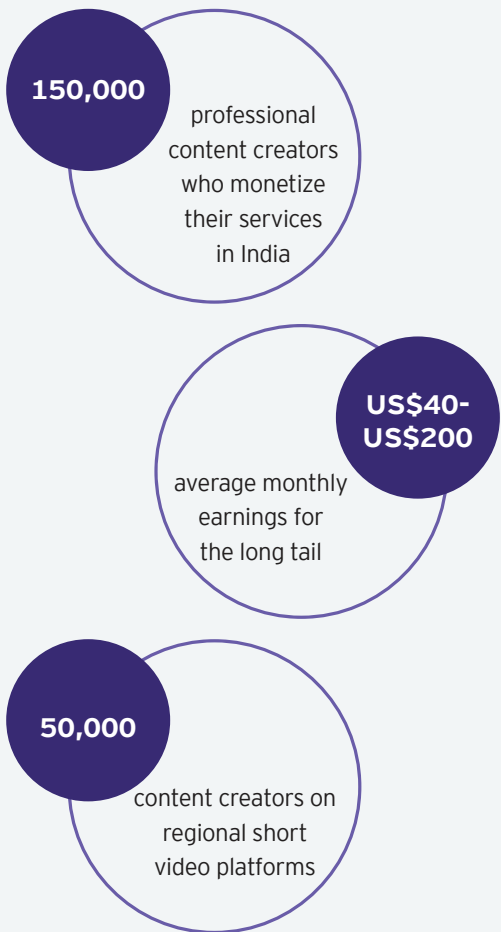
Average time spent per day on short video apps was over **30 minutes**

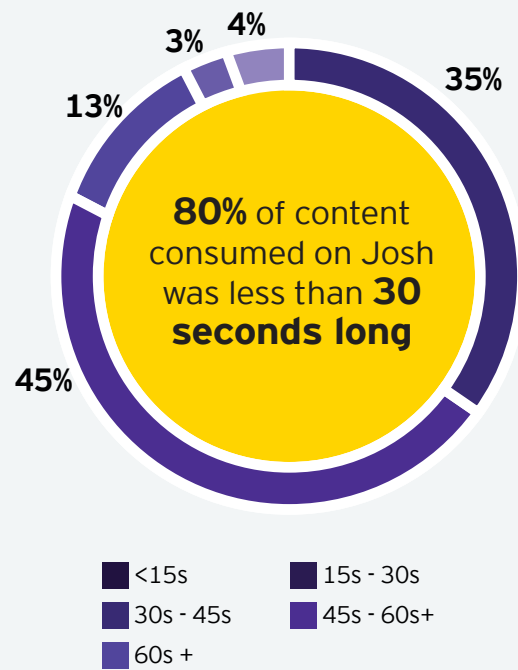
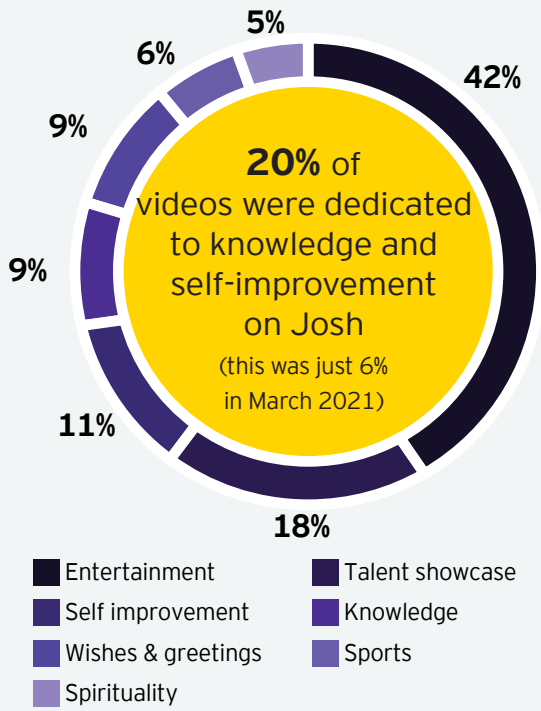
The data has been compiled by VerSe Innovation from various sources including RedSeer, GroupM, Kalaari Capital, Bain & Co, internal data and other reports. It has not been independently verified by EY. It has been consolidated and averaged for presentation purposes.

**95% of consumption** was in Hindi and other languages

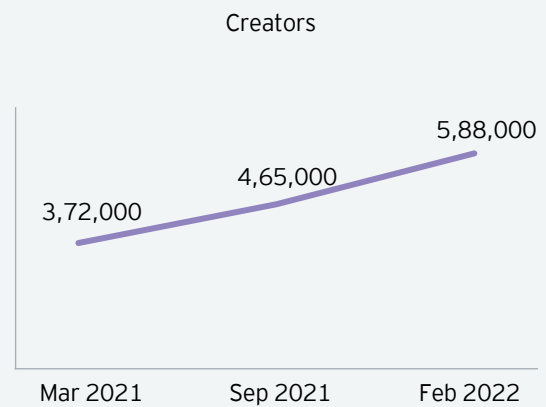
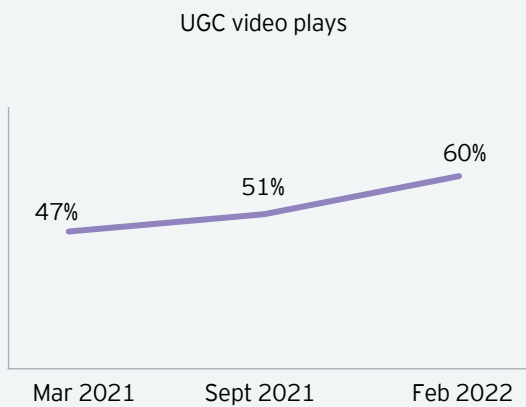


**Short video is creating significant employment opportunities**





**Contribution of non-influencer content to total video plays have been increasing over the last one year, as is evidenced by the growth in creators on Josh**







# Trends MX Media

Powered by  MXPLAYER

**1 billion**

Only Indian app to cross a billion downloads on the Google Play store

**300 million**

Global platform MAUs

**56 minutes**

Spent on the app per user per day

**20%**

additional data consumed by users with phones priced under INR20,000

**72%**

higher engagement from female users vs male users

**12**

languages in which content is served

## MX Original content

views of the MX Original, Ashram

**1.5+ billion**

**20%**

of MX Original shows have over 200 million views

All data has been provided by MX Media from their internal and external data sources and has not been verified by EY. It has been provided in summary form for representation purposes only. Since March 2022, MX TakaTak has been demerged.

## MX Games

Gamer engagement  
vs. video streamer  
engagement

2x

4.35  
billion

minutes spent by gamers  
on the MX app in 2021

## MX TakaTak

150+ million  
MAUs

55+ million  
video uploads  
/ month

450 million  
minutes per day  
on the app

# Expert speak

*“Digital surpassing traditional television is a capstone moment for a shift that, frankly, has been underway for quite a while. However, the real question for marketers to answer is not really about the most optimum way to split their marketing spend. It is about the extent to which they are understanding the implications of a huge shift in consumer preferences and deploying that understanding to build an entirely new way of building brands and fueling growth.”*



**Ajit Mohan**

Vice President and Managing Director, India at Facebook (now Meta)



*“2021 was a revolutionary year as streaming transformed a local Korean story into an unprecedented global phenomenon. The same power of streaming led to India discovering regional cinema and driving incredible fandom and business growth.”*



**Monika Shergill**

Vice President, Content Netflix



*“Portability driven by low cost smart phones and 5G will exponentially increase video consumption. The large Indian population will offer multiple profitable segments in terms of language, socio-economic and psychographics - direct to consumer content business will come of age with various customised subscription plans and advertising led subsidised content offerings.”*



**Danish Khan**

Business head SonyLIV



*“The video streaming sector has become the biggest contributor to the entertainment industry’s growth in the country. One of the biggest transformations this sector is bringing in is the expansion of the linguistic palette of the Indian video viewing customer – thereby not just expanding choice and selection of content for audiences, but also creating a much more expanded audience base and target market for creators. This change will help unlock tremendous value for India’s creative economy.”*



**Gaurav Gandhi**

Country Head, Amazon  
Prime Video India

*“The future of OTT will involve storytelling tailored to a combination of audiences and the devices that they will interact with..”*



**Sunil Rayan**

Head  
Disney+Hotstar

*“While concepts such as the metaverse will blur lines between the real and virtual in ways that we are yet to fully fathom and explore, one thing we do know is that the new order will ensure deeply empathetic and intuitive experiences. I believe that this will be an era of unprecedented leapfrogging in the area of individualization and customisation and organisations that invest today in solving for this holistically will walk away with the prize.”*



**Amit Goenka**

President, Digital Businesses  
& Platforms Zee Entertainment  
Enterprises Ltd

*“Video while democratizing access, is also helping democratize participation in the digital economy - more content creators while sharing their skills, talents and culture - are able to build sustainable business models.”*



**Satya Raghvan**

Director - YouTube Content  
Partnerships, India

*“The addressable OTT subscription universe will explode to include all connected consumers. As newer viewing habits develop, platforms will be forced to increase content diversity, to balance retention with an ongoing focus on new customer acquisition.”*



**Gourav Rakshit**

COO - Digital Ventures,  
Voot

*“Creating opportunities, empowering citizens and expanding economies within 60 seconds, that’s the promise of short-video content. Authentic, personalized and snackable – short-video content has revolutionized the way we consume content and the impact it can have. The data speaks for itself, short-video is truly the future of content.”*



**Umang Bedi**

Co- founder,  
VerSe Innovation



*Digital media and entertainment has entered its golden decade. Web 3.0 will usher in unprecedented opportunities across video, music, gaming and live experiences. From consumption and audiences to transaction and fractional ownership, the Metaverse beckons and India will lead the way with 500 million active consumers embracing web 3.0 by 2025.*



**Neeraj Roy**

Founder & CEO  
Hungama Digital Media

*“Audio streaming is at an inflection point with the highest level of consumption we’ve ever seen for music and podcasts in India, owing to a variety of genres, languages, and formats. More artists and podcasters are sharing their art with fans in India and across the world. The industry will thrive as more local talent reaches the global stage, and more listeners see the value of switching to streaming audio content.”*



**Amarjit Batra**

Managing Director- India  
Spotify

*“We expect digital advertising to grow strongly across the board on the back of the momentum we have experienced in the past year and a half and subscriptions across published ecosystem will gain strong traction for players to deliver differentiated value to their audience.”*



**Puneet Singhvi**

President - Digital & Corporate  
Strategy Network18 Media &  
Investments Ltd.

*“Post COVID, with the huge release line-up of Films, OTTs will be able to cater to additional cohorts of audiences. 5G and AR/VR going mainstream in the next few years will open new platforms and use cases for OTTs.”*



**Vishnu Mohta**

Co-Founder  
Hoichoi

*“We are excited about the opportunity that creator-driven LIVE commerce provides. It allows us to disrupt the way consumers get entertained today and provide a shopping experience that is more engaging and has a human touch. This also defines a new chapter in the ‘creator economy’ and provide several monetization avenues for the creator community.”*



**Mansi Jain**

Vice President & GM  
Roposo

*“The new and evolved consumer looks for impeccable storytelling and production values without the limiting filter of language and is genuinely curious about new cultures. The rise of South Cinema as a global phenomenon and that of us Indians watching foreign web-series are all just the tip of the iceberg - a trend that’s going to take regional content to the world stage and curate content from all corners of the globe.”*

**Archana Anand**

Chief Business Officer  
ZEE5 Global



*“Technology will eventually take center stage, and content will become more personalized, interactive, and immersive in the future. It will rise above language and cultural barriers to appeal to global & regional audiences. The M&E ecosystem will include all kinds of creators, artists, technology experts and platforms who will collaborate to enhance the overall consumption experience.”*

**Ali Hussein**

CEO  
Eros Now



*“Brands will need to relook at the core of consumer behavior and design content-rich experiences that respond to the way consumers interact with the world around them. Livestream commerce is the core of selling with every brand becoming an entertainment channel on its own assets.”*

**Sunil Nair**

CEO, India  
Firework



*“Video streaming apps have taken India by storm with 52% growth in total hours spent since pre-pandemic. Brands, advertisers and app developers will need to adopt a holistic app strategy to tap into this flourishing market.”*

**Cindy Deng**

Managing Partner, Corporate  
& Business Development and  
Industry Solutions, data.ai





Print



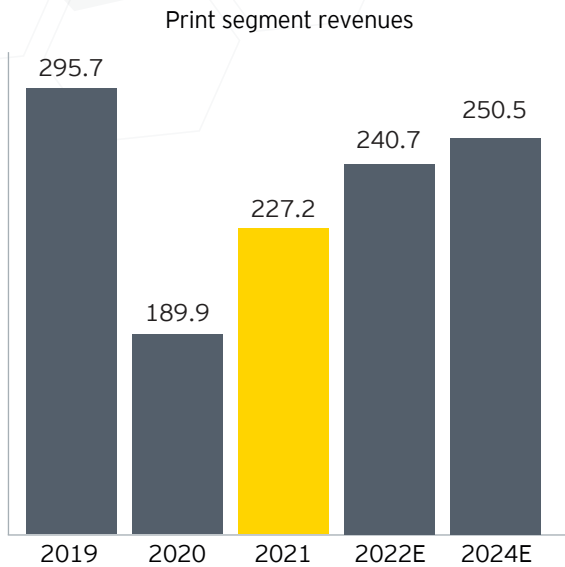






# Print

The print segment grew 20% in 2021 to reach 77% of pre-pandemic levels



INR billion (gross of taxes) | EY estimates

## Advertising grew 24%, while circulation grew 12% in 2021

	2019	2020	2021	2022E	2024E
Advertising	205.8	121.7	150.8	161.2	169.4
Circulation	89.9	68.2	76.3	79.5	81.2
<b>Total</b>	<b>295.7</b>	<b>189.9</b>	<b>227.2</b>	<b>240.7</b>	<b>250.5</b>

INR billion (gross of taxes) | EY analysis

## Newspapers grew 19% and magazines grew over 30%

	2019	2020	2021	2022E	2024E
Newspapers	285.7	184.9	220.5	233.8	243.4
Magazines	10.0	5.0	6.7	6.9	7.1
<b>Total</b>	<b>295.7</b>	<b>189.9</b>	<b>227.2</b>	<b>240.7</b>	<b>250.5</b>

INR billion (gross of taxes) | EY analysis

### Advertising revenues recovered 24% in 2021

- ▶ Overall advertising revenues were still 27% below pre COVID-19 levels
- ▶ Advertising in English publications recovered to 63% of pre COVID-19 levels, while advertising in Hindi and regional language publications recovered to around 78%
- ▶ FMCG, education, auto and real estate continued to be the largest spenders on print
- ▶ Ad volumes recovered 32%

### Circulation revenues recovered 12% in 2021

- ▶ Corporate/institutional circulation remains impacted by 60% across languages
- ▶ News stand and home delivery circulation seems to have recovered over 85% for most regional and Hindi print companies we interviewed
- ▶ Magazine publishers are planning a larger and more assured distribution network using technology and India Post

### Future outlook

- ▶ Print segment will reach INR250 billion by 2024
- ▶ Advertising will grow at a 4% CAGR driven by resumption of corporate sales, ability to reach SEC A audiences and events and activations business
- ▶ Subscription growth will be more muted at 1-2% CAGR, driven by cover price increases which will offset loss of reader base in metro markets
- ▶ We estimate that newspaper circulation will grow to reach 90% of 2019 levels by 2024
- ▶ Even though, magazine revenues recovered by 34% in 2021, we don't expect further significant growth in this segment



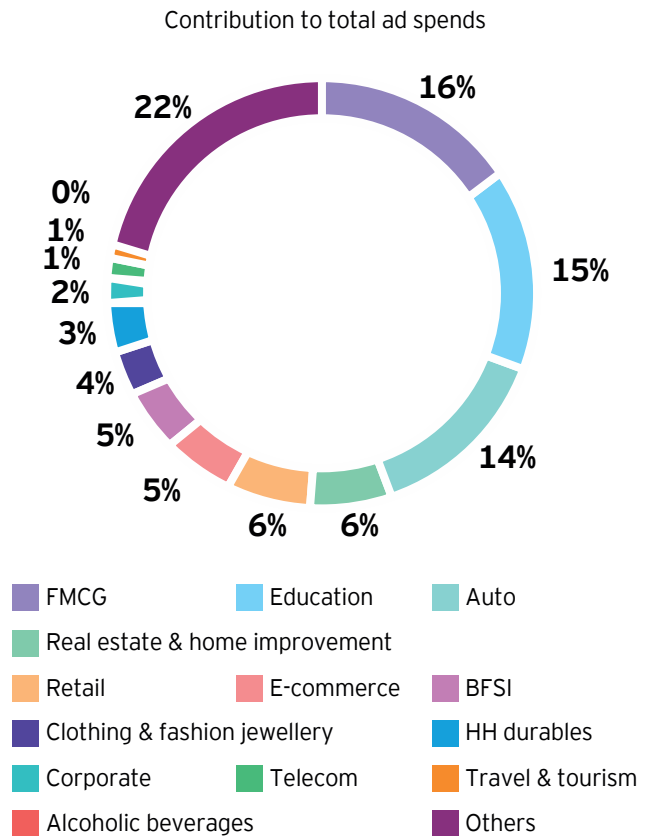
# Advertising

## Advertising revenues recovered 24% in 2021

- ▶ Overall advertising revenues were still 27% below pre COVID-19 levels
- ▶ Advertising in English publications recovered to 63% of pre COVID-19 levels, while advertising in Hindi and regional language publications recovered to around 78%
- ▶ Share of advertising to total income of print segment stood at 66%, up from 64% in 2020 but still below its 70% share in 2019

## Ad revenue analysis

FMCG, education, auto and real estate continued to be the largest spenders on print



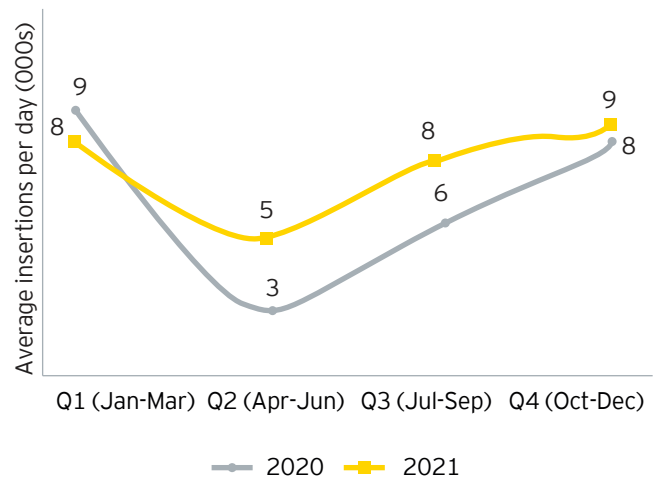
Pitch Madison Advertising Report 2022

- ▶ Top five categories of FMCG, education, auto, real estate and home improvement and retail contributed 57% of ad revenues
- ▶ They all spent over INR10 billion on print in 2021
- ▶ However, except for education, their spends were still below 2019 levels

## Largest growth was seen in e-commerce, corporate and retail categories<sup>1</sup>

- ▶ All categories saw growth on print ad spends as supply chains got reinstated and business opened up
- ▶ While the e-commerce category more than doubled its spends on print, highest absolute growth was driven by education and then FMCG
- ▶ The top three categories FMCG, education and auto contributed 45% of total print segment ad revenues in 2021 compared to 48% in 2020

## Overall ad volumes recovered 32%



TAM AdEX (which covers around 870+ publications)

- ▶ Average ad insertions per day fell 39% in the April - June quarter during the second wave of COVID-19, but recovered 1.8 times from there by the last quarter of the year
- ▶ There were 138,000 advertisers and 168,000 brands on print during 2021, a reduction from 170,000 advertisers and 210,000 brands on print in 2019

## Services became the largest sector on print (by volume)

Rank	Advertising sectors	Percentage share	
		2020	2021
1	Services	14%	16%
2	Education	14%	13%
3	Auto	18%	13%
4	Personal healthcare	8%	9%
5	Retail	7%	8%

TAM AdEX

- ▶ While the top five advertising sectors remained unchanged in 2021, services and education both displaced auto in terms of print ad volumes
- ▶ Top two largest categories by ad volume were from the auto sector in 2021 (2 wheelers and 4 wheelers)
- ▶ 180+ categories increased their ad volumes in print compared to TV, radio and digital of which the top categories were - eye care, commercial vehicles, theaters, televisions, cellular/ smart phones etc.

<sup>1</sup> Pitch Madison Advertising Report 2022  
<sup>2</sup> Industry discussions

## Five states contributed 50% of newspaper ad volumes

Rank	States	Percentage share	
		2020	2021
1	Maharashtra	14%	15%
2	Uttar Pradesh	12%	12%
3	Tamil Nadu	8%	9%
4	Karnataka	8%	8%
5	Andhra Pradesh	6%	7%
6	Rajasthan	7%	7%
7	Punjab/ Chandigarh	5%	5%
8	Gujarat	4%	4%
9	Madhya Pradesh	4%	4%
10	Kerala	4%	4%
	Others (13)	26%	25%

TAM AdEX

- ▶ No major variations noted in states with the highest ad volumes on print between 2020 and 2021
- ▶ Maharashtra, Tamil Nadu, and Andhra Pradesh improved their share of ad volumes, while no state witnessed a drop due to the overall ad volume growth

## English and Hindi publications garnered 65% of newspaper ad volumes

Rank	Publication language	Percentage share	
		2020	2021
1	Hindi	41%	40%
2	English	23%	25%
3	Marathi	9%	9%
4	Telugu	5%	5%
5	Tamil	5%	5%
6	Kannada	5%	5%
7	Gujarati	4%	3%
8	Malayalam	3%	3%
9	Oriya	2%	2%
10	Bengali	1%	1%
	Others (3)	1%	1%

TAM AdEX

- ▶ Even though Hindi continued as the largest contributor to ad volumes, given it has the largest reach of any language in India, its share reduced marginally by 1%
- ▶ English language publications grew in 2021 and have gained 2% volume share since 2020 as home deliveries in metros started to recover from steep falls
- ▶ The share of advertising volumes from vernacular language newspapers remained at 35% in 2021

## National publications earned 44% of magazine ad volumes

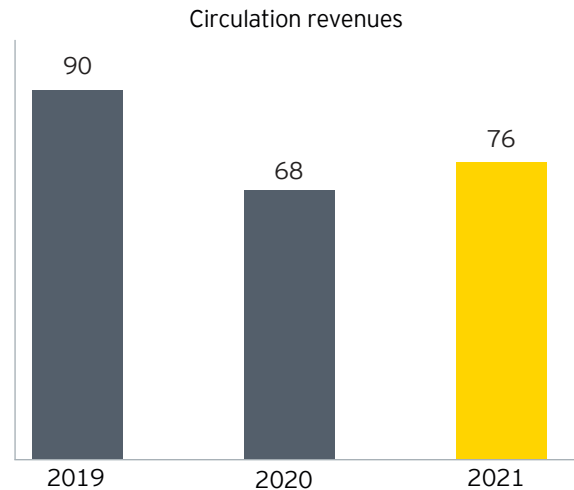
Rank	States	Percentage share	
		2020	2021
1	National	49%	44%
2	Maharashtra	10%	12%
3	Kerala	11%	11%
4	Tamil Nadu	8%	7%
5	West Bengal	6%	6%
	Others (6)	16%	19%

TAM AdEX

- ▶ National magazines continued to command the largest share of ad volumes, but reduced their share by 5% in 2021

# Circulation revenues

## Circulation revenues recovered 12% in 2021

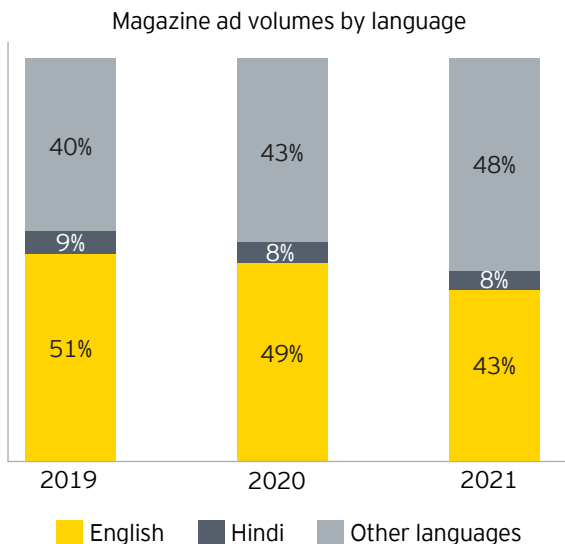


INR billion (gross of taxes) | EY estimates

- ▶ Industry interviews (in the absence of ABC data) indicate that print circulation remains below pre-pandemic levels
  - ▶ **Corporate/ institutional circulation** remains impacted by 60% across languages and a part of this could recover, but some portion - perhaps as high as half - could be a permanent fall
  - ▶ **News stand and home delivery circulation** seems to have recovered over 85% for most regional and Hindi print companies we interviewed; however, English language and metro market circulations are still at least 20-25% below their pre-pandemic levels in most cases
  - ▶ Consequently, it is estimated that 5-10% of the print circulation may have been lost permanently due to breakage in the daily reading habits, growth of digital news media adoption during the pandemic or other pecuniary concerns

- ▶ Maharashtra gained 2% share in 2021 to become the top state in magazine advertising with 12% share in ad volumes
- ▶ Circulation revival will be critical in 2021 for national magazines to regain ad volumes
- ▶ In addition, over 10 magazine publishers have come together to provide solutions to advertisers across several products/languages/geographies including both physical and digital options, to make a more compelling proposition

## Regional language magazine ads increased their share



TAM AdEX

- ▶ English magazines garnered 43% share of total magazine advertising, down from 51% share in 2019
- ▶ Four south Indian languages together contributed more than 25% share of ad volumes in 2021

## Events and activation revenues

- ▶ Revenues remained muted, though activity increased during October to December quarter
- ▶ The advent of the Omicron variant of COVID-19 in December again resulted in stoppage of activity
- ▶ Event revenues remained below 1-2% of the total revenues for most publications we interviewed

# Digital revenues

## Circulation innovations abounded

### I. Industry discussions noted several innovations in newspaper circulation during 2021:

- ▶ Longer term/ annual packs were introduced by publications at discounted rates
- ▶ Bundled offerings were introduced across:
  - ▶ different newspaper genres or languages
  - ▶ newspapers and magazines
- ▶ Physical print + premium digital news offerings
- ▶ Several newspapers took cover price increases to offset the increased costs of newsprint - and because many papers did it together, circulation recovery did not stop
- ▶ Increases in cover prices resulted in lower unsold copies in some markets
- ▶ Customer-wise mapping of those who stopped newspaper subscriptions led to customized offers being made through newspaper vendors
- ▶ Focus on hyperlocal news through increased number of local editions and a larger stringer network
- ▶ Bulk digital deals were introduced to replace lost corporate sales

### II. Magazine publishers, too, are planning a larger distribution network:

- ▶ Magazine publishers created an accreditation program for distributors to give comfort to advertisers on deliveries
- ▶ They have also tied up with India Post to enable efficient and traceable delivery
- ▶ Magazine publishers also plan to use the newspaper distribution network to sell magazine subscriptions

Annual subscriptions (in INR)		
Publication	Digital only subscription	Print + digital subscription
Dainik Bhaskar	199	-
Mint	2,949	-
Deccan Herald	1,992	1,699
HT Premium	999	1,399
Times of India +	599	-
Malayala Manorama	999	-
Jagran	249	-
ABP	Free	-
Hindu	899	-

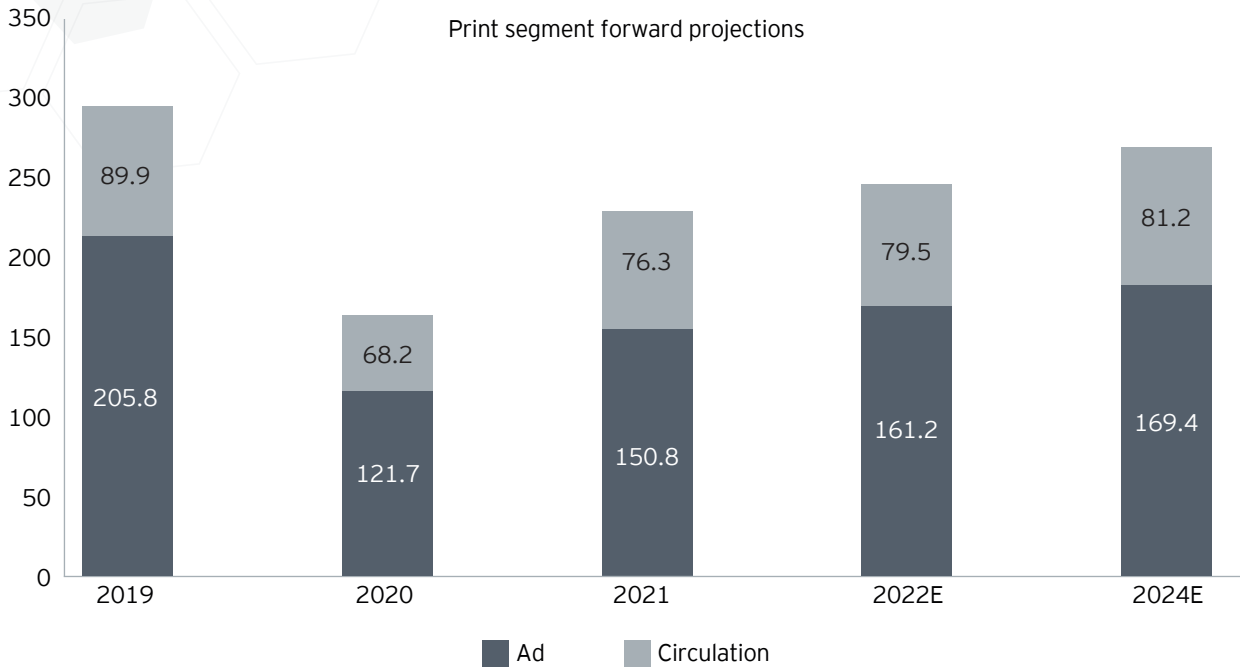
Sourced from publication websites and apps, February 2022

- ▶ With an estimated 467 million unique online news consumers in 2021 as per Comscore, the lockdown-induced surge in online news consumption showed no sign of slowing down
- ▶ Most print companies had a defined digital business, with a focus on products such as websites, apps, and e-papers
- ▶ Many companies had also launched stand-alone products like classifieds, crosswords, etc. to augment their digital incomes by capitalizing on their digital audiences
- ▶ Some news brands had forayed into unrelated online businesses like insurance, mutual funds, etc. where the focus was to earn transaction revenues
- ▶ Publishers also experimented with subscription plans around all access digital subscriptions, digital + physical bundles, metered content accesses etc.
- ▶ While publishers tried to position digital news as a premium, branded product, monetization remained a challenge with most print companies generating much less than 5% of total ad revenues from digital products<sup>2</sup>
- ▶ Digital events were conducted by several print companies to generate sponsorship revenues, a trend we believe will continue into 2024 across certain ad categories
- ▶ We estimate that total digital revenues generated by print companies were INR0.9 billion in 2021 (this report includes such digital revenues under the digital segment and not in the print segment sizing)



# Future outlook

## Print segment will reach INR250 billion by 2024



INR billion (gross of taxes) | EY estimates

- ▶ We expect the print segment to grow at 3.3% CAGR till 2024
- ▶ Advertising will grow at a 4% CAGR, driven by
  - ▶ Recovery from one poor quarter in 2021 (April - June)
  - ▶ Resumption of corporate/ office copies as work from home ends
  - ▶ Ability to reach upper SEC audiences who may have cut the cord with traditional TV
  - ▶ Resumption of the events and activations business
  - ▶ Correction in regional ad rates, on the back of increased GDP growth in language markets vs metros
- ▶ Demonstrating a rebound in metro circulation will be a key psychological factor for print ad revenue growth, as will the recovery of the SME/ retail advertiser base –which had started experimenting with digital during the pandemic
- ▶ Subscription growth will be more muted at 1-2% CAGR:
  - ▶ Increases in cover price will be necessitated by expected increases in newsprint prices; however, in the past cover price increases have led to reader base erosion and hence, cannot be – for most publications – significant in the next two years
  - ▶ The continued revival of the home delivery and newsstand business – which are currently still impacted by COVID-19, particularly in metros and which could be upto 10% for some languages
  - ▶ However, a large portion of the corporate/ institutional sales decline could be permanent due to hybrid work from home models
- ▶ While the dip in circulation has been more for English publications, we expect vernacular publications to ride out the impact of the pandemic with single digit falls (for most large brands) and over time, for market leaders to grow their circulation to pre COVID-19 levels on the back of literacy growth in India
- ▶ We have estimated that by 2022, newspaper circulation will recover to 88% of 2019 levels and further grow to reach 90% by 2024<sup>3</sup>

<sup>3</sup> EY estimates

## Utility enhancements will be key to retain audiences

- ▶ As mentioned in last year's report, the utility of the newspaper has declined with the advent of alternate news mediums like digital, podcast, special interest platforms, etc.
- ▶ The customer has clearly spoken, and we expect to see investments in enhancing the utility of print products, across
  - ▶ Exclusive news and content
  - ▶ Hyperlocal news
  - ▶ Interactivity
  - ▶ Ad integrations and D2C offers
  - ▶ Click to transact opportunities, etc.
- ▶ In addition, we expect to see more physical + digital news products, which provide a cogent news-through-the-day service for audiences

## Community ownership will be king

- ▶ We expect players will build out several multi-media communities in areas where they have their strengths
- ▶ These could be geographical, local news or interest based, leveraging existing radio, OOH, events, and digital capabilities most print companies already possess
- ▶ Community focus will also increase event revenue opportunities, particularly once the pandemic ends

## Ad sales will need to transform

- ▶ For most advertisers, print is used to create impact at scale in one or more markets
- ▶ There is a need to widen the use case of print to solve more problems of marketers, which can be possible through innovations such as
  - ▶ Sector-specific use cases
  - ▶ SME and retail products
  - ▶ D2C brand solutions
  - ▶ Products for readers and subscribers, etc.
- ▶ Ad sales processes and technology will need to transform to support the above, including
  - ▶ Online ad management platforms for retail and SME customers, small agencies
  - ▶ Common ad engine for digital, radio and print ads

- ▶ Programmatic integrations
  - ▶ Payment gateway integrations
  - ▶ Mobile first capabilities and analytics
  - ▶ Auto invoicing and evidencing of delivery, etc.
- ▶ We also expect more combined selling initiatives to be seen between newspaper and magazine players, particularly the latter, with a focus on solution sales [print + events + digital]

## Cost co-operation is on the cards

- ▶ With the expectation of increased newsprint costs and supply chain/ home delivery costs, there will be a need to optimize costs further
- ▶ We expect more partnerships around news gathering, procurement, production, distribution, and unsold copy management to optimize costs

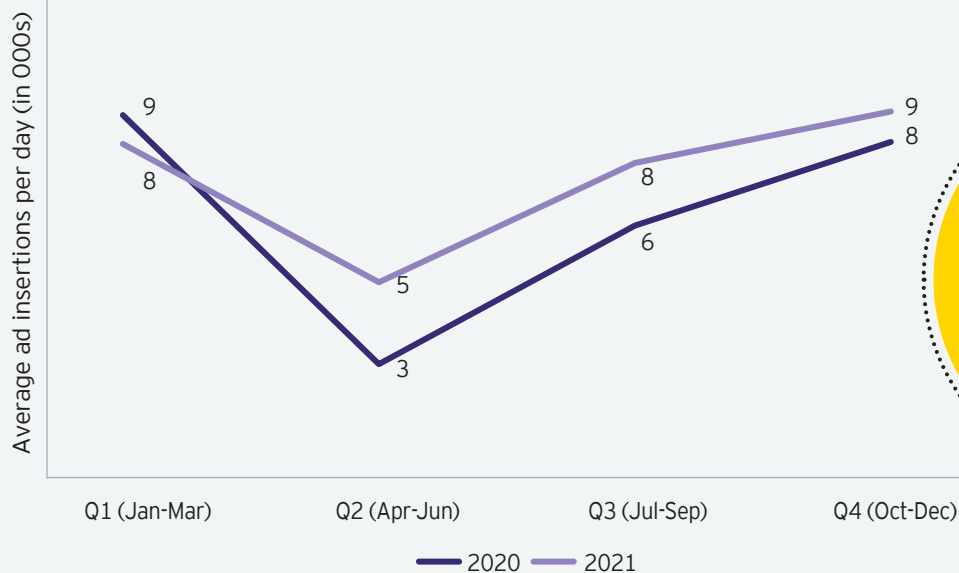
## Alternate revenue streams will grow

- ▶ As the print segment builds its digital video capabilities, we expect content production to become an important source of revenues, which will be monetized across several platforms
- ▶ With their news archives and deep regional content, print companies can bring documentaries and docu-dramas to life through their content businesses
- ▶ In addition, archives can be monetized on digital media, including through NFTs, online gaming, smart spectacles, etc.

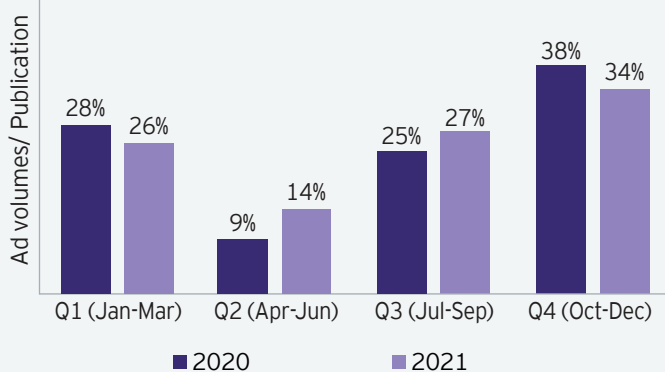
# Trends

## Print advertising

Powered by TAM AdEX  
(A division of TAM Media Research)



Print ad volumes grew **32%** in 2021 though the second wave of COVID-19 impacted Q2 volumes



Rank	Top 5 festivals	
	2020	2021
1	Deepavali	Deepavali
2	Navratri	Navratri
3	Durga Puja	Christmas
4	Christmas	New Year
5	New Year	Durga Puja

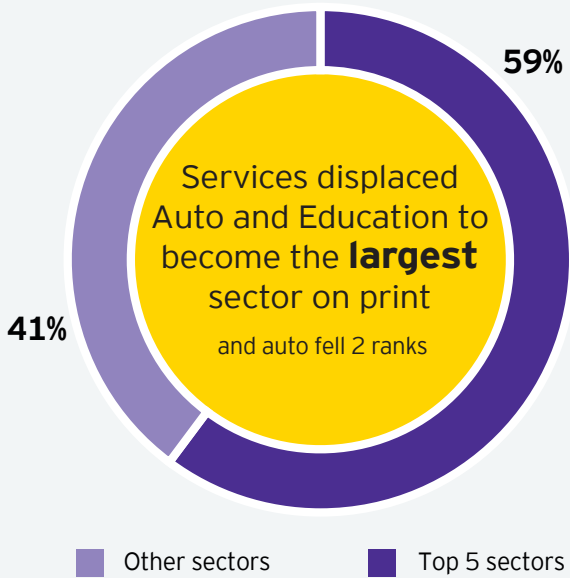
The festive season in **Q4** continued to be the **highest contributor** of ad volumes to print

TAM AdEX's data pertains to 870+ publications for January to December 2021. The data has been provided by TAM Media Research to EY and has not been independently verified by EY.

	2019	2020	2021
Product categories	730	714	715
Advertisers	170K	140K	138K
Brands	210K	170K	168K

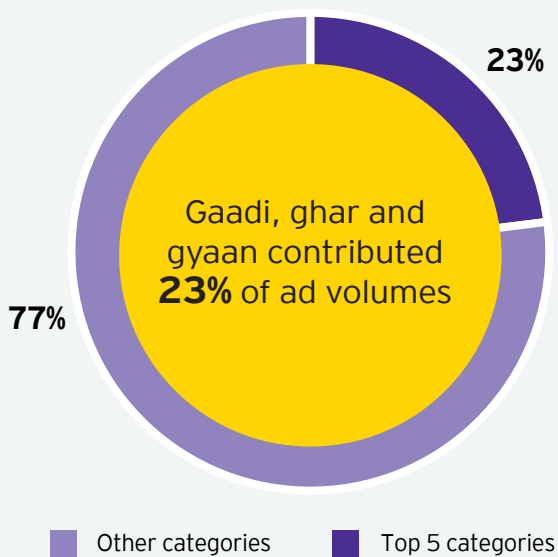
The number of brands and advertisers using print remained **below pre COVID-19** levels

Ad volumes



Rank	Sector	Share	
		2020	2021
1	Services	14%	16%
2	Education	14%	13%
3	Auto	18%	13%
4	Personal healthcare	8%	9%
5	Retail	7%	8%

Ad volumes



Rank	Top 5 categories	Share	
		2020	2021
1	Two wheelers	7%	5%
2	Cars	8%	5%
3	Properties/ Real estate	5%	5%
4	Coaching/Competitive exam centre	4%	4%
5	Multiple courses	4%	4%

Top 5 advertisers  
contributed **12%**  
of ad volumes  
in 2021

Up from 8% in 2019

Rank	2019		2020		2021	
	Top 5 advertisers	Share	Top 5 advertisers	Share	Top 5 advertisers	Share
1	SBS Biotech	2%	SBS Biotech	5%	SBS Biotech	5%
2	Maruti Suzuki India	2%	GCMMF (Amul)	1%	Maruti Suzuki India	2%
3	Hero Motocorp	2%	Venkateshwara Hatcheries	1%	LIC of India	2%
4	Honda Motorcycle & Scooter India	1%	Hindustan Uniliver	1%	Hero Motocorp	2%
5	Bajaj Auto	1%	Maruti Suzuki India	1%	Emami	1%

5 states  
contributed  
**50%**  
of newspaper  
ad volumes...

Rank	States	Share	
		2020	2021
1	Maharashtra	14%	15%
2	Uttar Pradesh	12%	12%
3	Tamil Nadu	8%	9%
4	Karnataka	8%	8%
5	Andhra Pradesh	6%	7%
6	Rajasthan	7%	7%
7	Punjab/ Chandigarh	5%	5%
8	Gujarat	4%	4%
9	Madhya Pradesh	4%	4%
10	Kerala	4%	4%
	Others (13)	26%	25%

Rank	States	Share	
		2020	2021
1	National	49%	44%
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3	Kerala	11%	11%
4	Tamil Nadu	8%	7%
5	West Bengal	6%	6%
	Others (6)	16%	19%

...while national  
magazines  
garnered just **44%**  
of magazine ad  
volumes

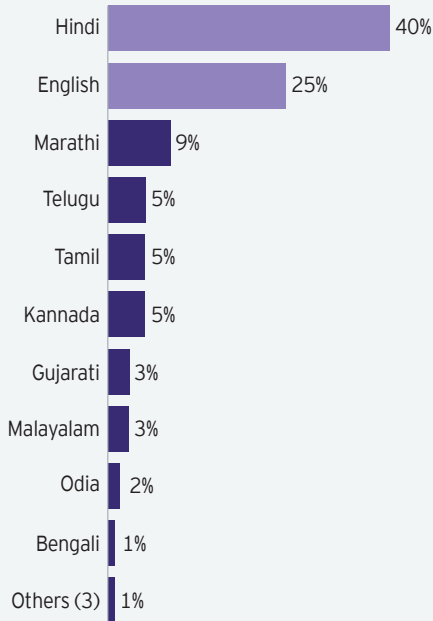
down from 49% in CY20



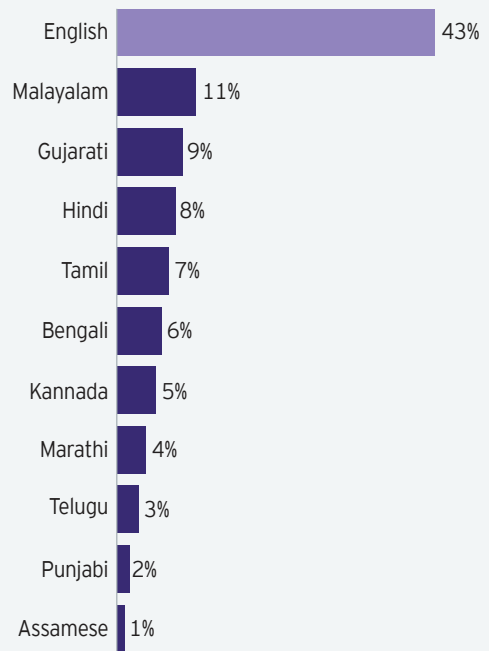
Hindi and English newspapers garnered **65%** of the total print advertising space in 2021

Share of English newspapers increased from 23% in 2020

Ad volumes by publication language (newspaper)

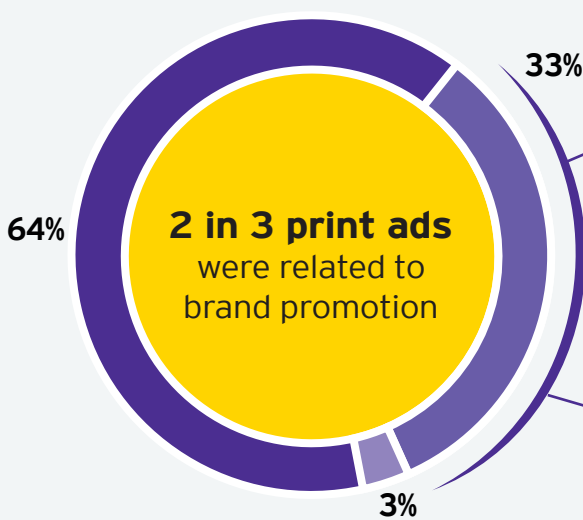


Ad volumes by publication language (magazines)

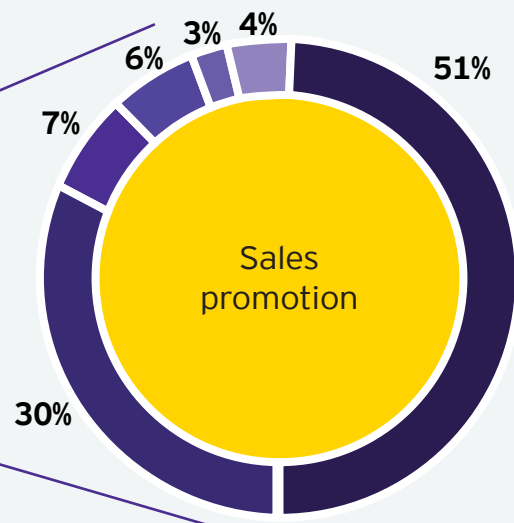


English language magazines garnered **43%** of ad volumes in 2021

They had contributed 51% of ad volumes in 2019



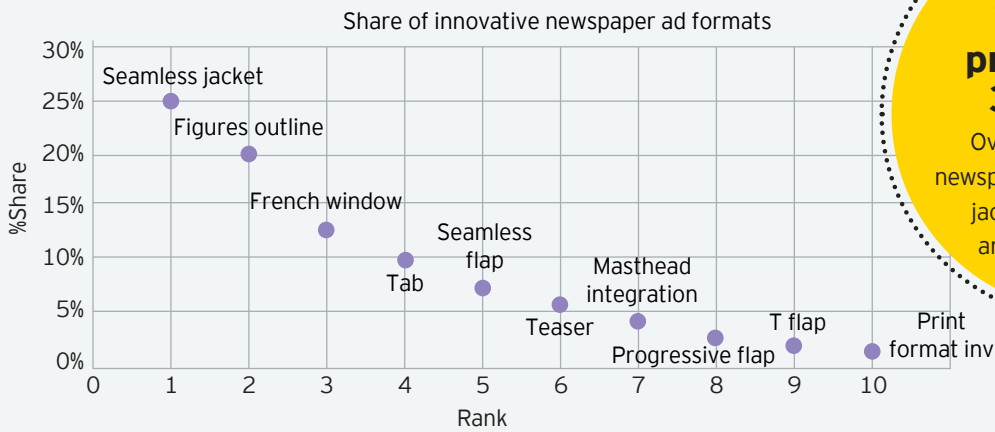
Brand promotion Sales promotion Others



Multiple promotion Add on promotion Contest promotion Discount promotion Volume promotion Others

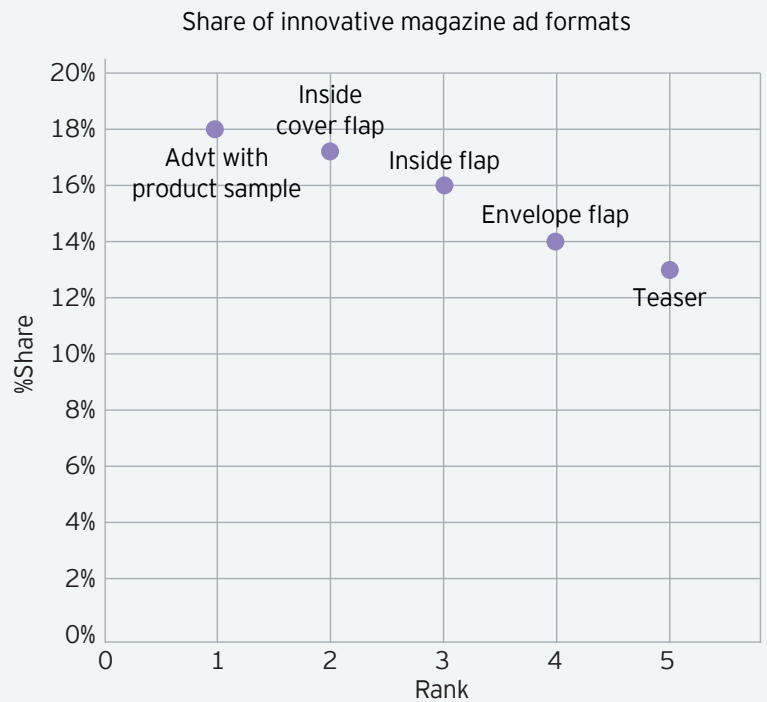
Share of **innovative print ads** grew **35%** in 2021

Over 60% of innovative newspaper ads used seamless jackets, figured outline and french windows...



... while magazines were used effectively for **product sampling**

Product trial increased share from 2% in 2020 to 19% in 2021





# Expert speak

*“Going forward, brand trust will a significant differentiator in the fast evolving newsmedia business. News brands powered by quality journalism will seek to leverage the trust of readers across digital platforms eventually creating the right advertising environments and contexts for better monetization.”*



**Sanjay Gupta**

Editor in Chief & Wholetime Director

*“The credibility and relevance of Print is extremely pertinent now because we see new sectors advertising in newspapers to establish their brands. They still need the strength of Print to reach pan-India.”*



**Jayant Mamen Matthew**

Executive Editor & Director  
Malayala Manorama Co. Ltd.

*The Pandemic created a permanent change in consumer attitudes and behaviours and there is a growing aspiration to Live life here and now. This fundamental shift in mindset would see exponential growth in convenience, consumption, consumerism. M&E industry which creates the right content and context facilitating consumer choices would garner a significant share of the growing pie both subscriptions as well as advertisement*



**Sivakumar S**

Chairman Executive Committee  
Bennett Coleman & Co. Ltd.

*“With the impact of the pandemic finally subsiding, the overall economic scenario has seen a significant fillip. Discretionary consumption is showing signs of revival which has resulted in a resurgence in advertising spends, especially in non-metros, that are growth engines of economic revival. This momentum will carry forward and will benefit players with strong reader-connect, widespread reach and product innovation.”*

**Girish Agarwaal**

Promoter Director  
DB Corp Ltd.



*“Print offers the simplest way of maximizing reach for it being a credible source and hyper-local in nature. It has a lasting impact and due to these qualities, the future looks promising.”*

**Pawan Agarwal**

Dy Managing Director  
DB Corp



*“We believe hyper-local is the future and everything has to be done keeping the reader in mind - what the reader gets out of the newspaper is key!”*

**Karan Darda**

Executive Director  
Lokmat Media Group



*Due to information overload from varied sources, credibility becomes an obvious need for customers as well as brands. Trusted content sources have a greater responsibility. The key to success would be a core focus on journalistic attributes with quick adaption of technology.*

**Tanmay Maheshwari**

Director  
Amar Ujala



*“Across news, entertainment and sports, I am expecting many profound changes in our industry over the next few years. I see big money backing formulaic content while audiences growing increasingly desperate for authenticity and format innovation. We could expect some overdue and healthy consolidation with clear winners and losers in our industry.”*

**Anant Goenka**

Executive Director  
The Indian Express Group



*“The divide between digital and other categories will continue to widen. In this evolving scenario the M&E industry need build on identifying audience and community trends, better quality targeting through first party data, partnering in the creator economy and therefore building out subscription and other affiliate models while continuing to reinvent ad sales will be key to growth.”*

**Praveen Someshwar**

Group MD & CEO  
HT Media Ltd





*The Association of Indian Magazines has set up an accredited agency network, a tech-enabled joint subscription sales solution and launch of 'Magazine Post' by Indian Post, that promises guaranteed and expedited delivery. Further, a brand solutions studio called Dastaan Hub has been launched across 100+ magazines and their websites with the potential to reach 150 mn readers.*



**Anant Nath**  
Executive Publisher  
Delhi Press Magazines

*"2022 promises to be a good year for the news publishing business with significant growth in both advertising and circulation revenue, headwinds of higher input costs notwithstanding. The focus on Digital business – reader revenue, advertising revenue and newer revenue streams will continue and the profitable outlook on the core business will enable investments in Digital for sustained and accelerated growth."*



**LV Navneeth**  
CEO  
The Hindu Group Publishing  
Private Limited



# Online gaming



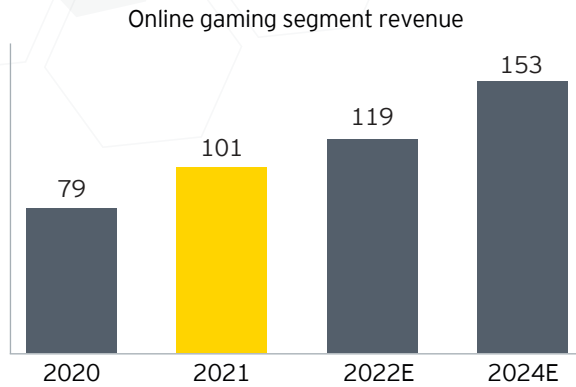




Harsh Kumar  
Technology Consulting  
Gurugram (EY LLP)

# Online gaming

## Online gaming grew steadily by 28% in 2021



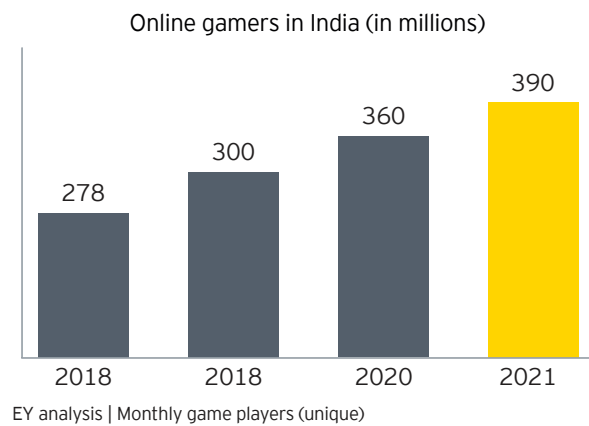
Game type	2020	2021	2022E	2024E
Transaction-based	57	72	85	108
Esports and casual	22	29	34	45
<b>Total</b>	<b>79</b>	<b>101</b>	<b>119</b>	<b>153</b>

INR billion (gross of taxes) | EY estimates

- ▶ Despite people going back to work as the effects of the pandemic receded, the online gaming segment grew 28% in 2021 to reach INR101 billion
- ▶ Online gamers grew 8% from 360 million in 2020 to 390 million in 2021<sup>1</sup>; daily player range however was 90-100 million<sup>2</sup>
- ▶ The propensity of Indians to pay for gaming increased:
  - ▶ Transaction-based game revenues grew 26% on the back of fantasy sports and rummy
  - ▶ Esport and casual gaming revenues grew 32% due to increased interest in esports and growth in in-app purchases
- ▶ The number of paying gamers increased by 17% from 80 million in 2020 to 95 million in 2021
- ▶ 94% of the casual gamers in India were mobile gamers<sup>3</sup>
- ▶ The number of esports players doubled from 300,000 in 2020 to 600,000 in 2021<sup>4</sup>
- ▶ Being a state subject, regulatory uncertainty in several states led to intermittent access to markets during 2021, impacting real money gaming revenues

- ▶ The Union Budget 2022 has proposed an animation, visual effects, gaming, and comic (AVGC) promotion task force to recommend ways to realize the potential of the segment and to build domestic capacity for serving domestic and global demand<sup>5</sup>
- ▶ The online gaming segment is expected to reach INR153 billion by 2024 at a CAGR of 15% to become the fourth largest segment of the Indian M&E sector, driven by innovations across NFTs, the metaverse and esports

## Online gamers grew 8% in 2021



- ▶ The count of online gamers in India grew to reach around 390 million in 2021 and is expected to reach over 450 million by 2023<sup>6</sup>
- ▶ Tier-III cities were a major contributor to this growth, with the top 30 tier-III cities reporting an increase of 170% of gamers than in 2020<sup>7</sup>
- ▶ Growth in gamers has been driven since the outbreak of the pandemic by increased work-from-home and school-from-home, and the consequent build-out of the laptop and mobile phone ecosystem
- ▶ In 2021, the lockdown in the April-June quarter and two states removing their bans on gaming led to growth in gamers
- ▶ However, as workplaces and schools opened up, many casual gamers returned to their earlier lives

<sup>1</sup> AIGF

<sup>2</sup> EY estimates

<sup>3</sup> India: casual gaming users by device 2021 | Statista

<sup>4</sup> Nodwin

<sup>5</sup> AIGF - Karnataka gaming ban: In a relief to Dream11, MPL, Karnataka HC strikes down major portions of state's online gaming law - The Economic Times (indiatimes.com)

<sup>6</sup> EY analysis

<sup>7</sup> Tier-3 cities in India see massive boom in mobile gaming in 2021: Study | Business Standard News (business-standard.com)



## Transaction-based game revenues grew 26%

	2020	2021
Rummy and Poker	31	40
Fantasy sports	26	32
<b>Total</b>	<b>57</b>	<b>72</b>

INR billion (gross of taxes) | EY estimates

- ▶ Large marketing campaigns, celebrity marketing, joining bonuses and customer acquisition mechanisms and surge in digital payment mechanisms have led to the increase in transaction-based gaming
- ▶ The propensity of Indian consumers to pay for online games is increasing as gaming gains social acceptance<sup>8</sup>
- ▶ India's percentage of first-time paying users increased 50% in 2021<sup>9</sup>
- ▶ In addition, several online gaming companies we spoke with mentioned that existing transaction-based gamers also spent more money on playing games, increasing their purse over time

### I. Rummy and poker

- ▶ Rummy grew 28% and Poker grew 23% respectively in 2021
- ▶ The user growth was fueled by an increase in the number of new gamers coming from northern India<sup>10</sup>
- ▶ Multiple key states like Karnataka, Tamil Nadu and Kerala removing the ban on transaction-based games will further boost this growth in 2022

### II. Fantasy sports

- ▶ Fantasy sports grew 26% on the back of domestic sporting events like IPL, Kabaddi, Football, hockey etc. restarting after the pandemic as well as a heavy cricketing calendar of 36 matches across formats in 2021
- ▶ The segment is on track for high growth, with the 2022 IPL season being played back in India after 2 years in UAE and with there being 2 new teams added in the league
- ▶ India is now the largest fantasy sports market in the world, with key players being<sup>11</sup>:
  - ▶ Dream11
  - ▶ MPL
  - ▶ CricPlay
  - ▶ Halaplay
  - ▶ FanFight
  - ▶ 11 Wickets
  - ▶ MyTeam11
  - ▶ BalleBaazi

<sup>8</sup> 2021 was the year people in India started spending money on mobile games (moneycontrol.com)

<sup>9</sup> Leveling up India's Gaming Market 2021 (redseer.com)

<sup>10</sup> Leveling up India's Gaming Market 2021 (redseer.com)

<sup>11</sup> Online Fantasy Sports: New tech fuels sports economy with skill, engagement, and recognition of other sports | Sports News (timesnownews.com)

## Esports and casual gaming grew 32% in 2021

	2020	2021
Esports	7.5	9.7
Advertisement	7.0	8.4
In-app purchases	5.5	7.7
Casual e-games	1.9	3.0
<b>Total</b>	<b>21.9</b>	<b>28.8</b>

INR billion (gross of taxes) | EY estimates

- ▶ 94% of the casual gamers in India were mobile gamers<sup>12</sup>
- ▶ Casual e-game revenues grew fastest at 58%, albeit from a small base
- ▶ 7-8% of gamers playing casual games are estimated to be paying users<sup>13</sup>
- ▶ Growth in In-app purchases was at 40% despite PUBG, one of the highest grossing games ever to be played in India, being banned for most of the year, clearly showing the willingness of Indians to pay within game environments as India based games like FauG and other international games like Free Fire (also subsequently banned in 2022) and Call Of Duty captured market share

### I. Advertising revenues

- ▶ Advertisement revenues grew 20% as digital advertising picked-up pace across the board, though at very low rates
- ▶ 85% of games by Indian publishers included advertisements on their platforms, as compared to an average of 73% for global games<sup>14</sup>

### II. Esports

- ▶ Esports revenue grew by 29% from INR7.5 billion in 2020 to INR9.7 billion in 2021
- ▶ The number of Esports players doubled from 300,000 in 2020 to 600,000 in 2021<sup>15</sup>
- ▶ Esports teams also grew by over 50% from 60,000 in 2020 to 100,000 in 2021<sup>16</sup>
- ▶ Esports in India is being considered as an area for investment. Krafton, the company behind popular action-based games like PUBG and BGMI, invested INR1.64 billion in Nodwin gaming, India's leading eSports provider<sup>17</sup>

Event	Game	Prize pool
Battlegrounds Mobile India Series	Battlegrounds Mobile India	10.0
Free Fire Indian Championship	Garena Free Fire	7.5
OneShot Showdown	Battlegrounds Mobile India	3.0
Skysports Championship	Battlegrounds Mobile India	2.6
Call of Duty: Mobile India Cup	Call of Duty	2.5
Red Bull M.E.O Season 4: India	Battlegrounds Mobile India	1.9

INR million  
Esports events in India with the highest prize pool

- ▶ India also saw multiple eSports events with high prize pools, including that of Battlegrounds Mobile India Series (BGIS) by Krafton, with a total prize pool of INR10 million, the highest so far in the country<sup>18</sup>
- ▶ The total prize money in 2021 crossed INR200 million<sup>19</sup>
- ▶ There is also a meteoric rise in viewership, from 600,000 hours in 2020 to 2 million hours in 2021<sup>20</sup>

<sup>12</sup> India: casual gaming users by device 2021 | Statista

<sup>13</sup> BCG & Sequoia report: mobile-gaming-market-opportunity

<sup>14</sup> <https://42matters.com/india-mobile-gaming-statistics>

<sup>15</sup> NODWIN

<sup>16</sup> NODWIN

<sup>17</sup> NODWIN Gaming receives £16m KRAFTON investment - Esports Insider

<sup>18</sup> How 2021 shaped Indian esports - Esports Insider

<sup>19</sup> NODWIN

<sup>20</sup> NODWIN

## Top mobile games in India - 2021

Game	Game type	Genre	Publisher	Ranks		
				Downloads	MAUs	Consumer spend
Bridge Race	Casual gaming	Racing	Supersonic Studios Ltd.	1	3	
FAU-G: Fearless and United Guards	Casual gaming	Adventure	Studio nCore	2		
Legend Squad 3D	Casual gaming	Shooting	FPS Shooting Games	3		
Hair Challenge	Casual gaming	Racing	Rolic	4	5	
High Heels	Casual gaming	Racing	Zynga	5	8	
Stacky Dash	Casual gaming	Casual	Supersonic Studios Ltd.	6		
Crazy Car Stunt Driving Games	Casual gaming	Casual	Hazel Mobile	7		
Going Balls	Casual gaming	Casual	Supersonic Studios Ltd.	8		
Phone Case DIY	Casual gaming	Role-playing	Crazy Labs	9		
Fashion Princess: Dress Up Time	Casual gaming	Casual	Dress Games for Girls	10		
Free Fire	Casual gaming	Action	Garena International		1	8
PUBG: NEW STATE	Casual gaming	Action	Krafton Inc		2	
WormsZone.io	Casual gaming	Action	Azur Interactive Games Limited		4	
Join Clash 3D	Casual gaming	Action	Supersonic Studios Ltd.		6	
2048 Cube Winner	Casual gaming	Puzzle	Flowerplasn		7	
Cricket League	Casual gaming	Sports	Miniclip.com		9	
My Talking Angela 2	Casual gaming	Role-playing	Outfit7		10	
Top War: Battle Game	Casual gaming	Role-playing	Topwar Studio			1
Genshin Impact	Casual gaming	Adventure	Cognosphere Pte. Ltd.			2
Evony	Casual gaming	Role-playing	Top Games Inc.			3
Match Masters	Casual gaming	Puzzle	Candivore			4
Kiss of War	Casual gaming	Strategy	Tap4fun (HongKong) Limited			5
Project Makeover	Casual gaming	Puzzle	Magic Tavern, Inc.			6
Yalla Ludo	Casual gaming	Family	Yalla Technology FZ-LLC			7
Roblox	Casual gaming	Adventure	Roblox Corporation			9
Art of War: Legions	Casual gaming	Strategy	Fastone Games			10

data.ai: State of mobile 2022 | Fantasy games and games which require payment for participation are excluded from the above table of downloads

- ▶ In India, 26 games across 23 publishers contributed towards top-10 rankings across downloads, monthly active users and consumer spend
- ▶ Action and racing oriented games remained the most popular in the top-10 rankings across all three parameters

## India-first games were on the rise

- ▶ India has continued banning Chinese apps, including hit games like PUBG and most recently Garena Free Fire amongst 53 others
- ▶ This, coupled with an increased push by the government for Atmanirbhar Bharat has created an opportunity for Indian players to fill this vacuum
- ▶ As per a Redseer report, 60% of the people are willing to play "India-first content" games<sup>21</sup>
- ▶ These are the games with an Indian central theme or with Indian characters (celebrities or mythological characters)
- ▶ Some of the popular games in this space are Kurukshetra: Ascension and Raji: An Ancient Epic

## Streamers' multi-game platforms reached scale

- ▶ In 2021, Netflix introduced their mobile gaming plans, starting with casual games like Shooting Hoops, Teeter Up and Stranger Things and has also acquired mobile game developers like Next Games
- ▶ The segment already has some players in India, with companies like MX Player, The Gaming Project, Zee5 and Sony Liv as competitors, including gaming sites developed by news brands such as Dainik Jagran
- ▶ Streaming companies are hiring talent who have experience in the online gaming industry to drive their go to market plans in gaming
- ▶ They face competition from established game developers as well as game streaming platforms like Google Stadia, Nvidia GeForce Now and Microsoft xCloud
- ▶ This segment has a growing acceptance in India, with 13% of smartphone-owning survey respondents subscribing to gaming platforms in 2021, up from 1% in 2020<sup>22</sup>

## Impact of state regulations on online gaming

- ▶ The Supreme Court has upheld fantasy sports format as a 'game of skill', in line with other judgements given by High Courts of states such as Punjab & Haryana, Rajasthan and Bombay<sup>23</sup>
- ▶ On August 3, 2021, the Madras High Court struck down the Tamil Nadu Gambling and Police Laws (Amendment) Act, 2021 as being "ultra vires"<sup>24</sup>
- ▶ On September 27, the Kerala High Court, relying on the Madras High Court order, struck down an amendment to the Kerala Gaming Act, 1960, which imposed a ban on online rummy<sup>25</sup>
- ▶ Recently, the Karnataka High court also upheld the ban imposed by the amendments to Karnataka Police Act that banned online gambling<sup>26</sup>

<sup>21</sup> Leveling up India's Gaming Market 2021 (redseer.com)

<sup>22</sup> EY India Gamer Survey 2022

<sup>23</sup> Supreme Court upholds Dream11 fantasy sports format as game of skill - The Economic Times (indiatimes.com)

<sup>24</sup> After Kerala & Tamil Nadu, HC strikes down Karnataka ban on online gambling | Cities News, The Indian Express

<sup>25</sup> After Kerala & Tamil Nadu, HC strikes down Karnataka ban on online gambling | Cities News, The Indian Express

<sup>26</sup> Karnataka HC lifts online gaming ban, big relief for fantasy sports | Business Standard News (business-standard.com)

## I. Summary of different positions held by states on online gaming

State	Fantasy gaming	Rummy	Poker	Relevant acts	Year of enactment
Karnataka	Not allowed	Not allowed	Not allowed	Amendment of the Karnataka Police Act, 1963*/ Karnataka Police (Amendment) Act 2021 (since struck down by State HC)	2021
Meghalaya	License needs to be obtained	License needs to be obtained	License needs to be obtained	Meghalaya Regulation of Gaming Act, 2021	2021
Tamil Nadu	Not allowed	Not allowed	Not allowed	Amendment of the Gambling and Police Laws, 2021*/ Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021 (since struck down by State HC)	2021
Andhra Pradesh	Not allowed	Not allowed	Not allowed	Amendment to the AP Gaming Act 1974/ The Andhra Pradesh Gaming (Amendment) Act, 2020 (under challenge before the state HC)	2020
Telangana	Not allowed	Not allowed	Not allowed	Amendment to the Telangana Gaming Act of 1974/ The Telangana Gaming (Amendment) Act, 2017 (under challenge before the state HC)	2017
Nagaland	License needs to be obtained	License needs to be obtained	License needs to be obtained	Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015	2016
Sikkim	Restricted to servers based in Sikkim	Restricted to servers based in Sikkim	Restricted to servers based in Sikkim	Sikkim Online Gaming (Regulation) Act, 2008	2009
Assam	Not allowed	Not allowed	Not allowed	Assam Game and Betting Act, 1970	1970
Odisha	Not allowed	Not allowed	Not allowed	Orissa Prevention of Gambling Act, 1955 (challenge before the state HC)	1955
Kerala	Allowed	Allowed	Allowed	Kerala Gaming Act, 1960 (since struck down by state HC)	2021
Gujarat	Allowed	Allowed	Not allowed	Gujarat Prevention of Gambling Act, 1887	2017 HC order on Poker; 1887

\*Overturned by the state's respective High Courts

## II. The Skill Game Council of India

- ▶ This body has been set up by the online gaming industry to work with state governments to create a mutually beneficial environment for the growth of gaming
- ▶ It aims to ensure interests of the government are not impacted, through licensing, monitoring game play, setting limits on game-play and age of gamers eligible to play, etc.



# Future outlook

## Expect online gaming to grow to INR153 billion by 2024

Game type	2021	2024E
Transaction-based	72	108
Esports and casual	28	45
<b>Total</b>	<b>101</b>	<b>153</b>

INR billion (gross of taxes) | EY estimates

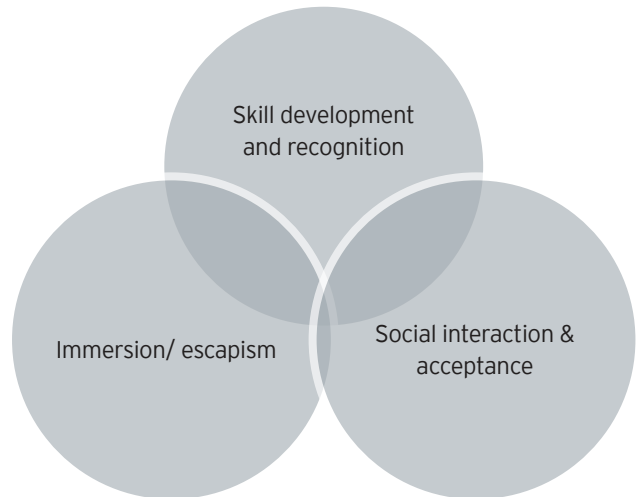
- ▶ We expect the online gaming segment to grow at a CAGR of 15% to reach INR153 billion by 2024
- ▶ Transaction based gaming will grow at a CAGR of 14% to reach INR108 billion of this, comprising 71% of total segment revenues
- ▶ Medium and hardcore gamers would grow from around 100 million today to over 175 million by 2024, or around 20-25% of online media consumers<sup>27</sup>
- ▶ Growth drivers will include increased internet subscribers, particularly the improvement of India's low tele-density in rural areas, vernacular language gaming options, continued low-cost data plans and sustained economic and per-capita income growth

## Creating games for the world, and by the world

- ▶ Several top-end international games are available in India for downloading and playing through various app stores
- ▶ Consequently, if Indian gaming segment is to grow, it must create games at an international level and quality, and learn to monetize those games globally
- ▶ We expect several global gaming studios to use Indian talent for game development and management
- ▶ In addition, game-building engines will democratize the creation of customized games, and the user generated game (UGG) era will gain scale

## Online gaming to be a key component of many metaverses

Utility of gaming in the metaverse



- ▶ In 2022, the metaverse refers to a fusion of video games, social networking and entertainment to create new immersive experiences like interacting and supporting your friends in games
- ▶ Games like Roblox, Fortnite and Minecraft become stepping stones to grow the medium
- ▶ Metaverse global market is predicted to grow to US\$800 billion by 2024<sup>28</sup>
- ▶ Metaverse will be enabled by fast internet connections (5G and 6G), powerful virtual reality (VR) headsets and a large audience of gamers
- ▶ We are already seeing adoption of several features / concepts related to the metaverse incorporated into gaming apps

Games/ gaming companies	Key features
LOKA	This Indian gaming app gives the ability to roam around at Connaught Place, Delhi and meet people while sitting at their home <sup>29</sup>
Microsoft	Microsoft with its \$68.7 billion acquisition of Activision Blizzard will make it the world's third largest games maker <sup>30</sup>
Grand Theft Auto: San Andreas	A built-for-VR version of Rockstar Games' classic Grand Theft Auto: San Andreas is in development for Quest 2 <sup>31</sup>

<sup>27</sup> Industry discussions

<sup>28</sup> The Economic Times

<sup>29</sup> <https://www.bgr.in/gaming/india-first-metaverse-loka-gaming-app-showcased-at-shark-tank-india-1033960/>

<sup>30</sup> <https://www.theguardian.com/technology/2022/jan/18/microsofts-activision-plan-shows-gaming-will-be-at-heart-of-metaverse>

<sup>31</sup> <https://www.oculus.com/blog/games-at-connect-2021/>

Games/ gaming companies	Key features
Fortnite	Hosted a virtual concert that was attended by over 12 million people, and a collaboration between Roblox and Gucci created a virtual Gucci Garden space that sold limited edition virtual bags. One digital bag sold for \$800 more than the actual, tangible version <sup>32</sup>
Roblox	Roblox allows people to create their own worlds and games within its wider metaverse. Brands including Nerf, Hot Wheels and Sony Music are partnering with Roblox and building their own immersive worlds to connect with customers
Owo (Spain-based start-up)	Owo has designed a jacket for immersive wearers which can be used in video games adding the sense of touch to video games where gamers can experience events like a gunshot, the wind or someone grabbing your arm <sup>33</sup>

## Non-fungible tokens (NFTs) - The in-game economic opportunity

- ▶ NFTs can be referred to as digital items inside a game such as collectibles, weapons, cosmetic skins, avatars etc. which are real world assets; these digital items can be further sold to other players or on marketplaces to create an internal game economy
- ▶ In Q3 2021 alone, NFTs witnessed US\$10.7 billion in sales globally, with game NFTs contributing 22% of the total<sup>34</sup>
- ▶ Gamers have shown interest to invest in virtual events, skins, avatars and so on making NFTs a key component of the Metaverse economy
- ▶ More than 500,000 Indian users have shown interest in NFTs as Bollywood celebrities and cricketers have entered the space<sup>35</sup>

- ▶ Spartan Poker is set to launch India's first ever gaming NFT in its upcoming flagship India Online Poker Championship (IOPC) 2022 event<sup>36</sup>
- ▶ There is no official law or legislation put in place by the Indian Government that forbids or restricts an Indian resident from buying or selling NFTs as of now. However, more visibility surrounding the legality of cryptocurrencies will promote NFT trading

Games	Key features
Decentraland	Decentraland, a virtual world powered by cryptocurrencies and NFTs, enables players to earn the MANA token for spending time there, with LAND being the NFT asset. Users buy and sell digital real estate in the game, and there are already users in South Korea who are making long-term plans for the real estate they own in the game <sup>37</sup>
The Sandbox	Launching their metaverse Alpha in November 2021, this virtual gaming world rewards gamers for spending their time and creativity in-game, enabling them to monetize time spent in the metaverse. With the platform forging partnerships with countless IPs, players have the freedom to create, sell, and own NFTs <sup>38</sup>
Turnip	Turnip allows gamers to build a community on its app, where they can stream live gameplay from their mobile devices, engage with their fans and monetize. Turnip plans to dabble with web3 as well. A token that could allow community operators to reward their members and accept payments and use cases for NFTs are being explored <sup>39</sup>
DeFi	In this equestrian-verse gamers buy horses, feed and train them and then even race them. The horses are NFTs which can be traded

<sup>32</sup> <https://www.telusinternational.com/articles/the-metaverse-and-the-future-of-gaming>

<sup>33</sup> <https://economictimes.indiatimes.com/magazines/panache/feel-hugs-punches-a-jacket-vr-glasses-that-will-teleport-fans-to-the-metaverse/articleshow/88755281.cms>

<sup>34</sup> DappRadar: Industry Report

<sup>35</sup> DappRadar: Blockchain Behavior Report: Interest in the metaverse and play-to-earn booming in Asia

<sup>36</sup> <https://timesofindia.indiatimes.com/gaming/spartan-poker-launch-indias-first-ever-gaming-nfts-in-the-upcoming-flagship-event-iopc/articleshow/89041535.cms>

<sup>37</sup> <https://www.pocketgamer.biz/comment-and-opinion/77694/the-metaverse-is-the-next-big-thing-but-what-will-it-mean-for-gaming/>

<sup>38</sup> <https://www.pocketgamer.biz/comment-and-opinion/77694/the-metaverse-is-the-next-big-thing-but-what-will-it-mean-for-gaming/>

<sup>39</sup> Secondary research

## Esports could reach 1 million players in 2022

- ▶ The growth seen in Esports is expected to continue in 2022, with the number of players reaching 1 million, out of which 20% would be women<sup>40</sup>
- ▶ As a result, the interest of brands in this segment is increasing, with 72 brands investing in 2021 (up from 45 in 2020) and expected to reach 100 brands in 2022<sup>41</sup>
- ▶ India is also set to participate in the first ever Esports competition in the 2022 Asian Games with games such as the EA SPORTS FIFA branded soccer games, an Asian Games version of PUBG Mobile and Arena of Valor, Dota 2, League of Legends, Dream Three Kingdoms 2, Hearthstone and Street Fighter V<sup>42</sup>

## Subscription gaming opportunity is growing

- ▶ There is growing public acceptance for subscription streaming based gaming in India
- ▶ Companies have started to realize this opportunity:
  - ▶ Google has launched an ad-free 'Google Pass' service at INR99 per month in early 2022
  - ▶ Airtel has plans to launch cloud gaming on mobiles in India<sup>43</sup>
- ▶ With 5G finally rolling out in India starting 2022<sup>44</sup>, it could disrupt the industry by enhancing the live streaming of games if the price will be right<sup>45</sup>
- ▶ High internet speeds, low latency and easy access to mobile phones will be the key drivers for mobile cloud gaming in India<sup>46</sup>

## Rise of the multi gaming platform

- ▶ Multi gaming platforms allow online gamers to play multiple games on smartphones by just downloading a single app
- ▶ It includes multiplayer support and offers chances to win money by playing games
- ▶ It has the potential to attract different types of online gamers across all age groups due to their diverse needs:
  - ▶ Players looking for escapism, in make-believe worlds
  - ▶ Players looking for social interaction with like-minded people
  - ▶ Players looking for validation of their skill level (by competing and winning games)
  - ▶ Players looking for the thrill of the unknown (by participating in games of chance)

## Play to earn; play to invest will become prevalent

- ▶ More and more gamers are realizing the career options provided by online gaming
- ▶ With blockchain enabled assurance, play-to-earn becomes an assured reality for many gamers
- ▶ With the support of crypto currencies, assets in the form of NFTs can be earned, spent and held in online gaming environments, and will unlock the in-app purchase opportunity many-fold

<sup>39</sup> NODWIN

<sup>41</sup> NODWIN

<sup>42</sup> Asian Games 2022: IOA meets ESFI to discuss Esports' roadmap for Asiad - Sportstar (thehindu.com)

<sup>43</sup> Airtel 5G is set to launch Cloud gaming Mobile in India (esportsgen.com)

<sup>44</sup> Expect in 2022: 5G roll out in India expected by year-end, prices could be similar to 4G - Technology News (indiatoday.in)

<sup>45</sup> Bhavin Pandya, Co-founder and CEO, Games 24x7 - 5G cloud gaming will disrupt India's mobile gaming industry - BusinessToday

<sup>46</sup> Airtel demonstrates India's first Cloud Gaming experience on a 5G network

# Gamer psychology

based on discussions with professional gamers

## Players select games for various reasons

- ▶ Gamers play to get recognition for their skill (game of skill) as well as for the thrill of the unknown (game of chance) but the best games combine both so that player egos don't get bruised
- ▶ Another reason for game play is escapism: living as an avatar (what the gamer wants himself to be perceived as) in a virtual world (different from where he currently lives)
- ▶ Several gamers consider it as a sporting activity (which can help them build their skills) and improve themselves
- ▶ Others consider it a social activity which assists them in making and/ or engaging with friends and like-minded people

## Players pay for their games, for vicarious reasons

- ▶ Players buy/ subscribe to games if there is celebrity pull, peer acceptance, limited-access challenges, etc.
- ▶ In-game purchases are driven by items which help achieve greater gaming success, create bragging rights/ social acceptance, or are rare (even time-limited) in nature that will not be available for purchase later

## New features and challenges keep gamers interested

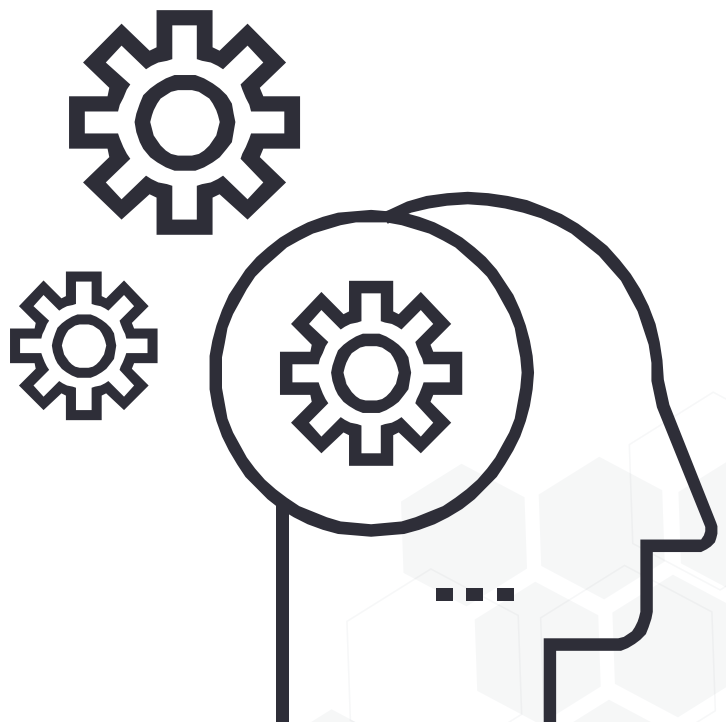
- ▶ Gamers like new playing modes and concepts to games to add variety to the gaming experience
- ▶ Gamers appreciate new challenging levels to their favorite games
- ▶ Companies optimize their games for bugs and hacks to improve gaming experience for the players
- ▶ A new game will have more bugs and glitches, so players tend to stick with older games which are more refined and optimized and have been receiving updates over time

## Gamers make the time to play their games

- ▶ Players take time out from their schedule to play games
- ▶ During the lockdown, time saved by staying at home allowed more game time
- ▶ Once people become hardcore gamers, they tend to sneak more time from their schedule, including time out from work

## Consequently, gaming companies:

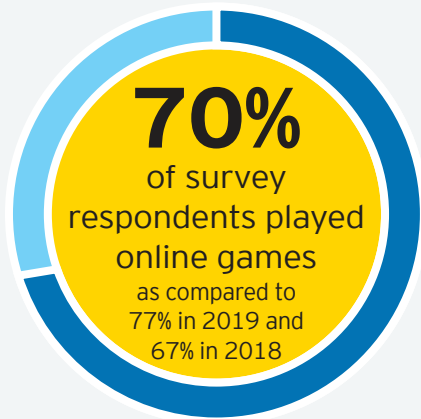
- ▶ Market games using celebrities, challenges, social opportunity, the thrill factor and peer acceptance
- ▶ Pay famous streamers to play their games on streaming platforms like Twitch and YouTube to gain popularity
- ▶ Build in extreme and differentiated escapism capabilities in game design
- ▶ Permit social interactions and celebrity moments
- ▶ Regularly update games with new features, levels, challenges and thrills
- ▶ Enable communities to provide a platform for bragging rights and social acceptance
- ▶ Create ranking and premium contests to build aspirational value
- ▶ Alleviate boredom through events, music, etc.



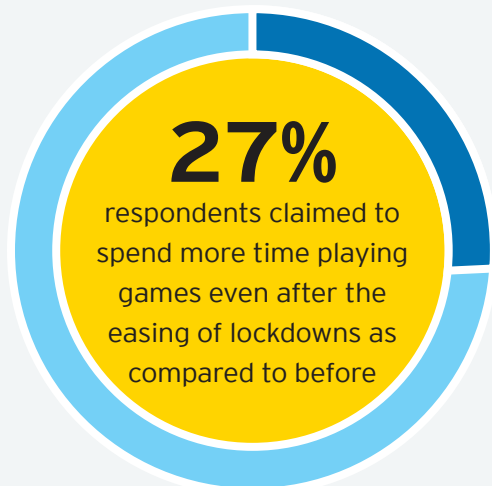
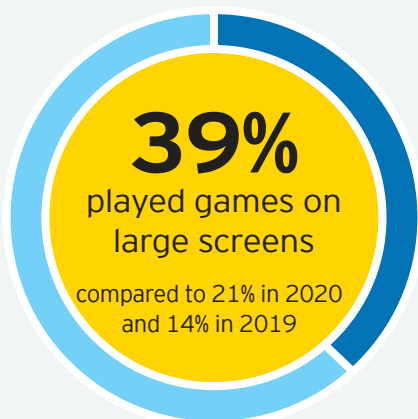
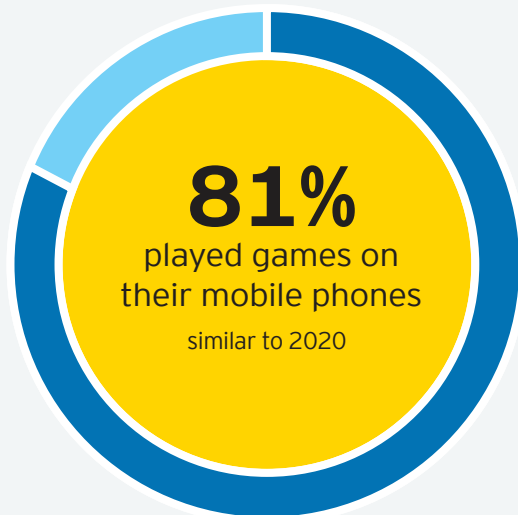
# Trends

## Indian gaming

EY survey of 2,105 smartphone owning adults

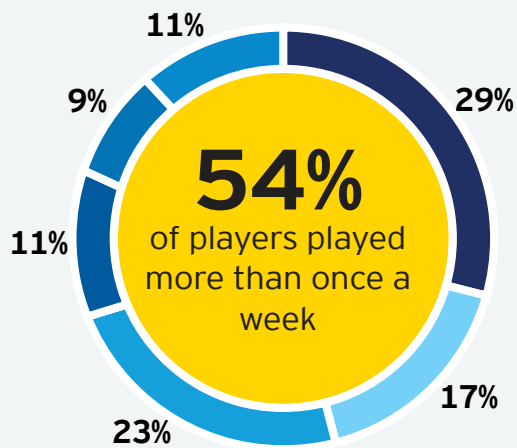


Lockdown relaxations and subsequent lesser time spent at home led to a fall in users playing online games.

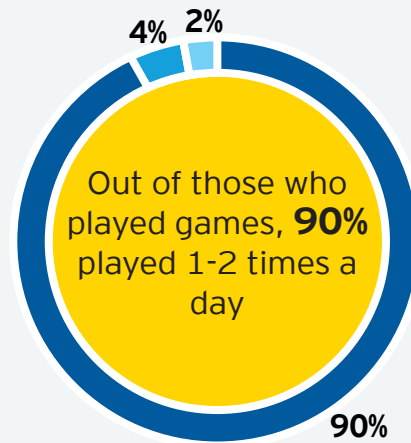




## Game play



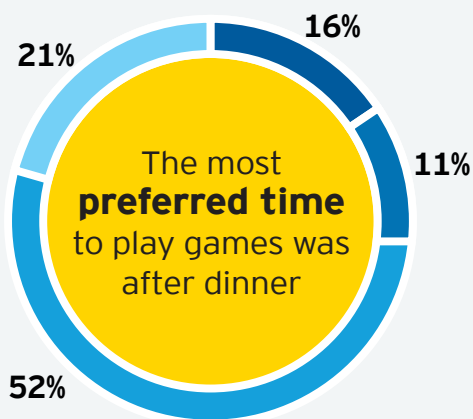
- Most weeks I don't play
- Less than once a week
- Once or twice a week
- Three or four times a week
- Most days of the week
- Every single day of the week



- 1-2
- 3-5
- >5

times/ day

67% of those who played did so for more than 20 minutes (up from 54% in 2020)

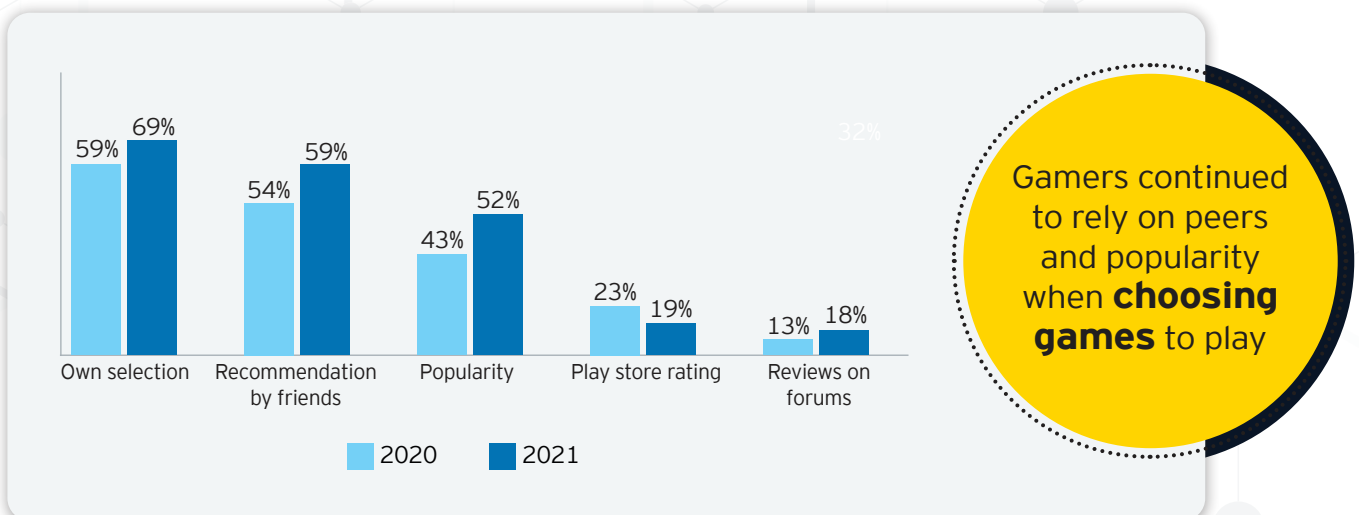
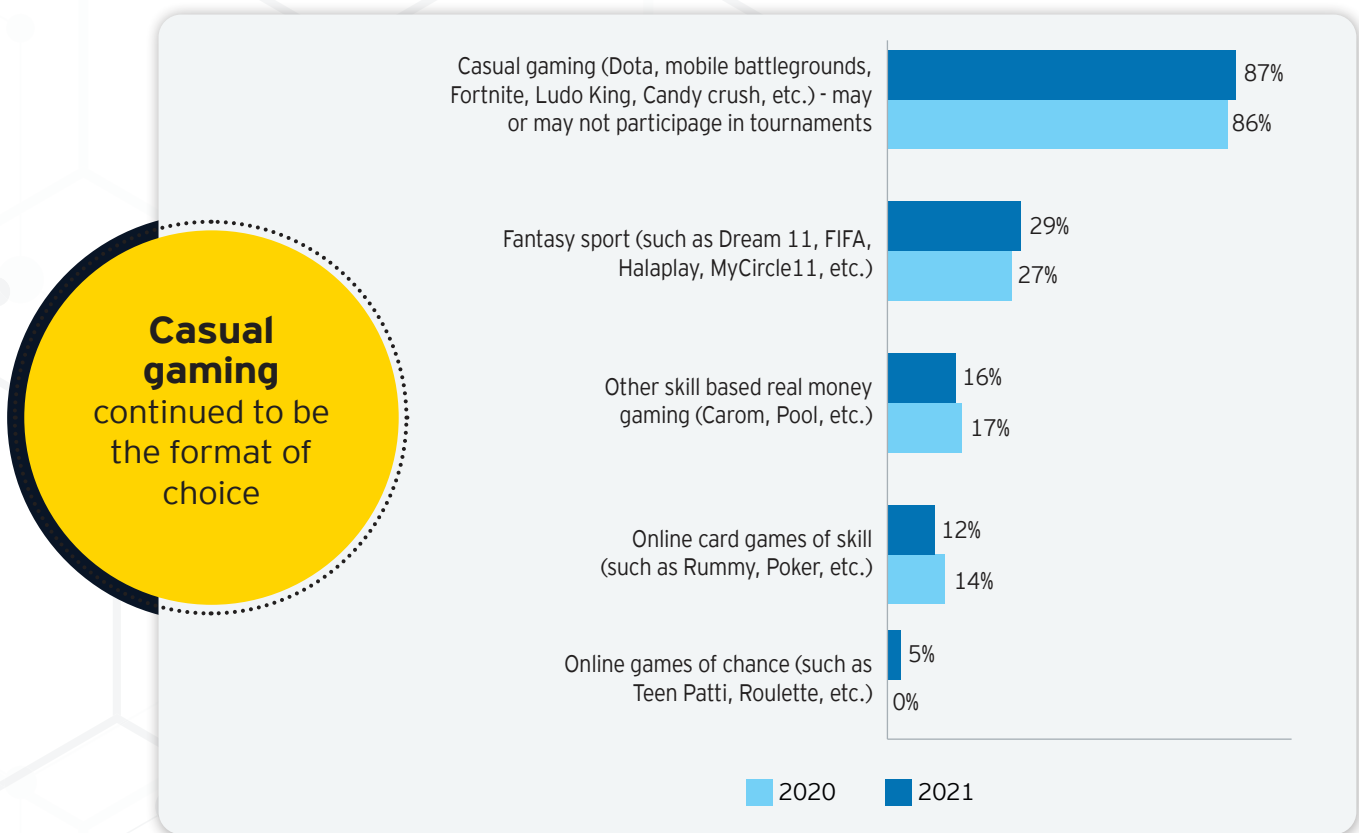
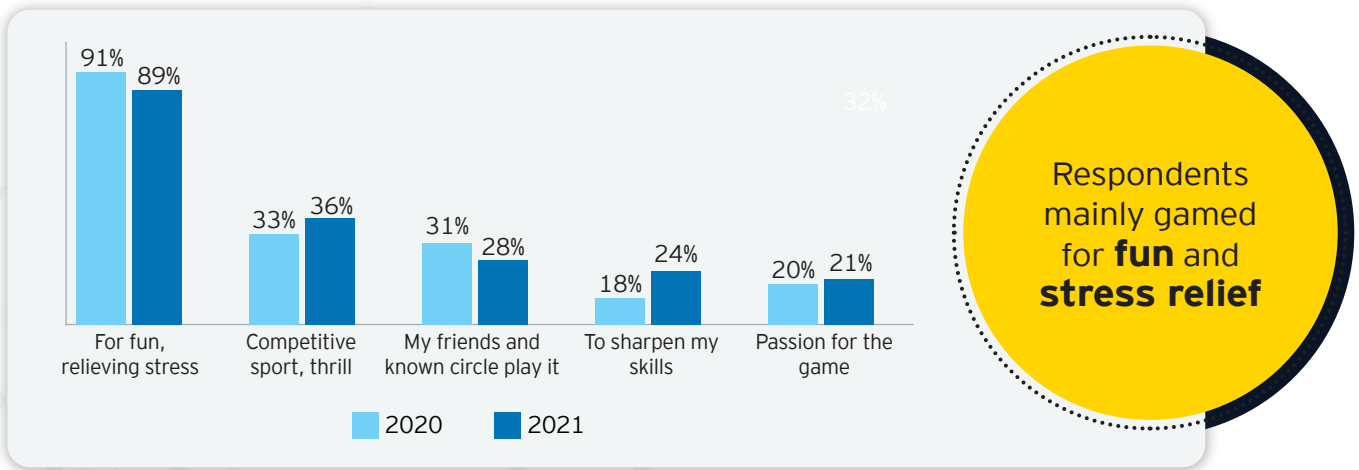


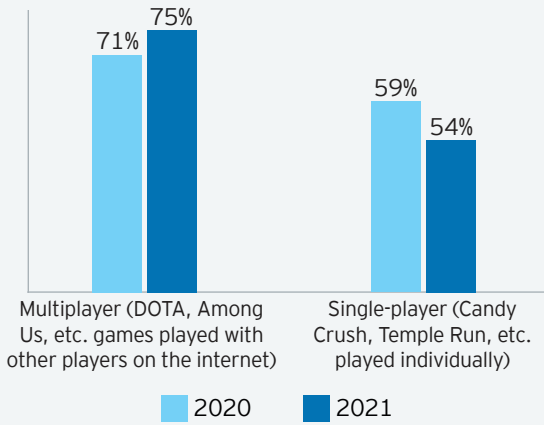
- Work breaks
- Travelling
- Post dinner
- Anytime in the day



- Not important
- Somewhat important
- Very important

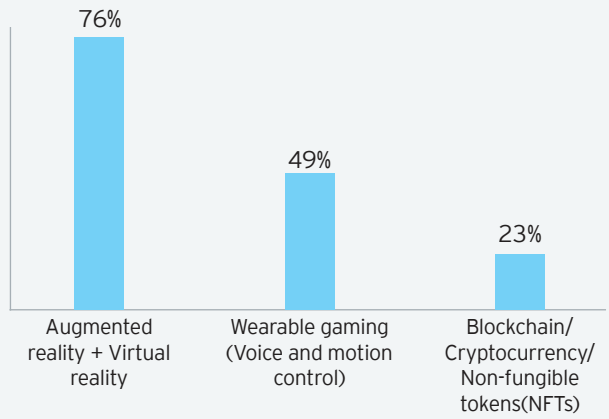
## Game types



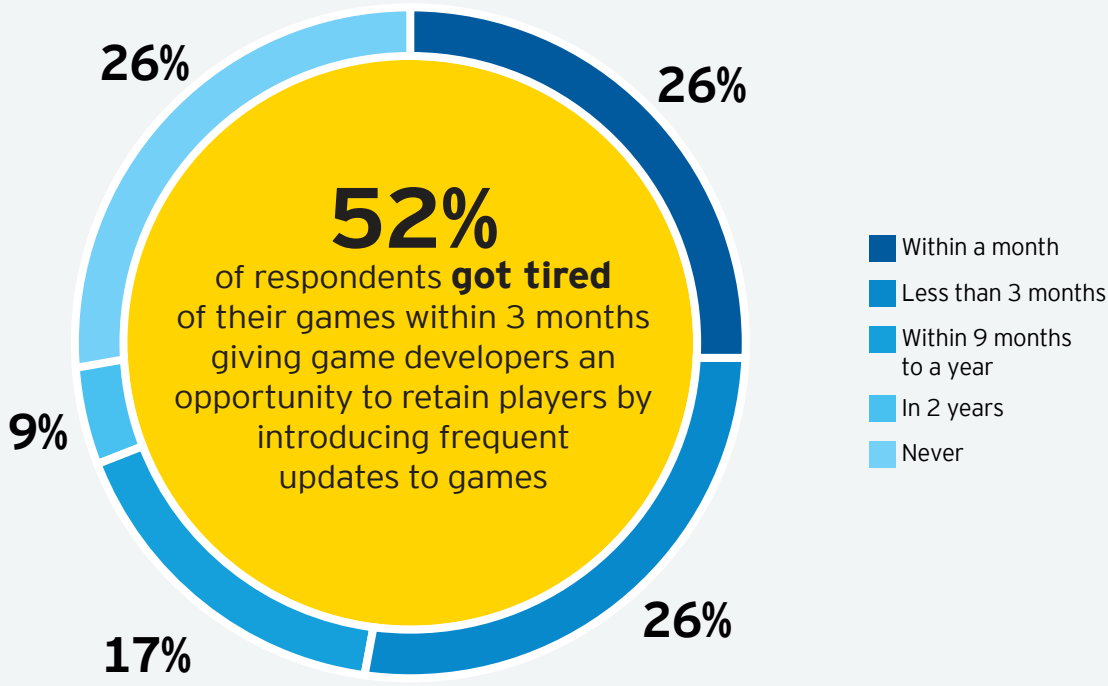


Preference is shifting towards **multiplayer games**

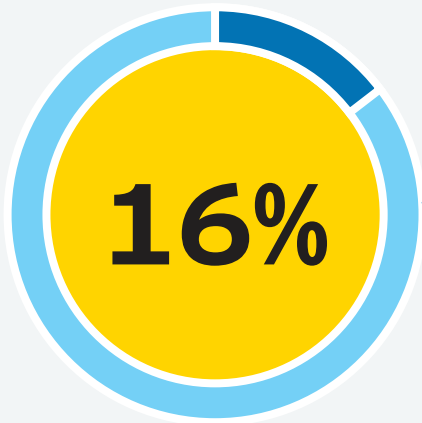
**Augmented reality and virtual reality** stayed the popular choice, with high interest levels in wearable gaming



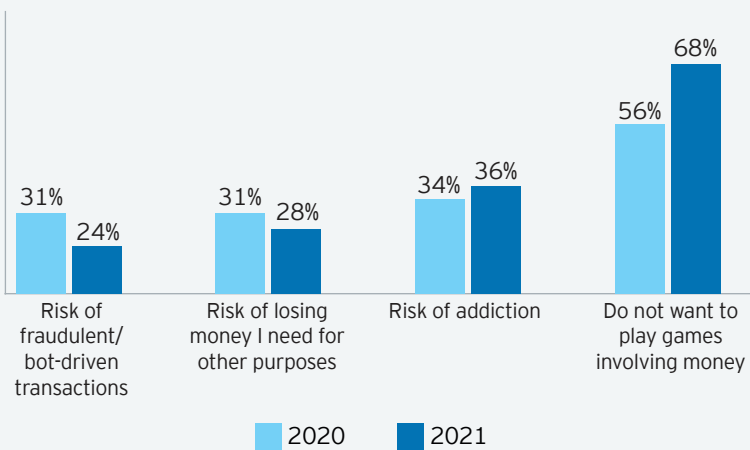
Percentage of respondents who would like to try...



# Game monetization

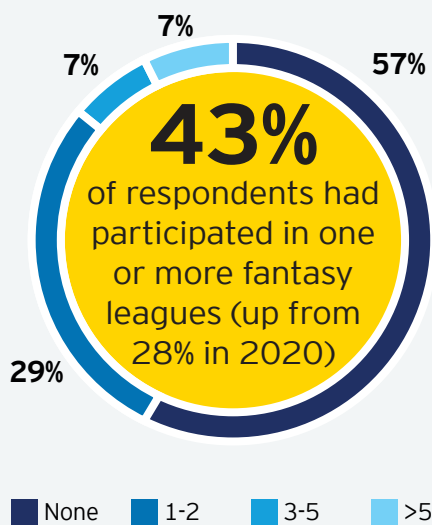


were willing to pay to play similar to 2020 and 2019

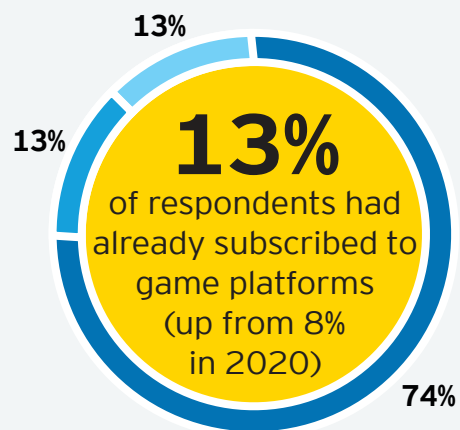


Top reasons why **84%** did not want to pay

Number of fantasy leagues participated in



Out of which only **6%** were willing to pay INR1,000 or more to play



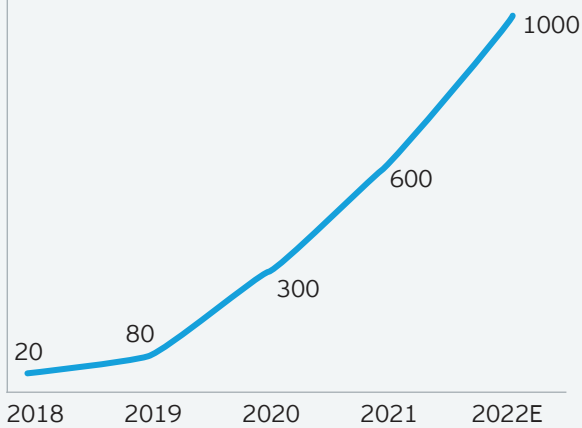
- No - unlikely in 2022
- Yes - propose to try a subscription in 2022
- Yes - have already subscribed





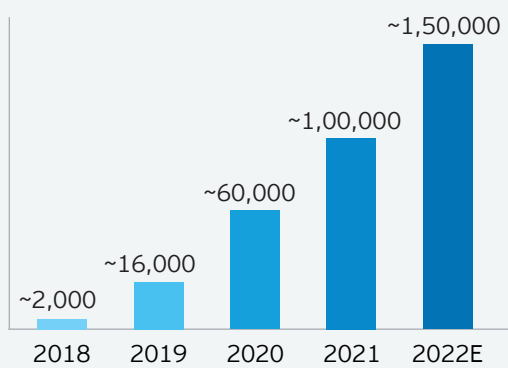
# Trends Esports

Powered by Nodwin Gaming

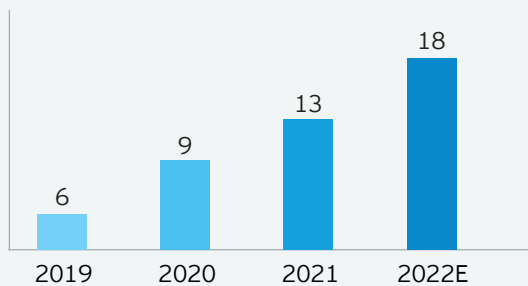


**Esports players doubled in 2021**

(across all competitive level games; 000s)



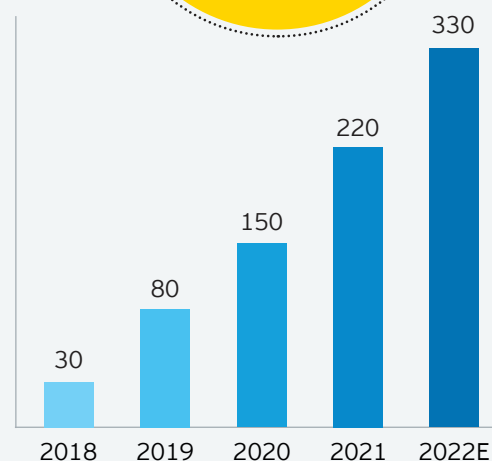
Number of esports teams increased over **50%** in 2021 (across all competitive level games)



There were **13 prominent** esports game titles

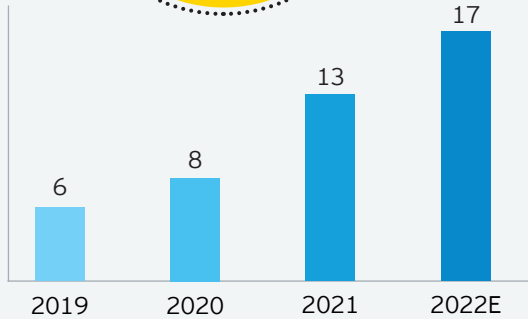
(mobile + PC + Console)

Prize money awarded crossed **INR200 million**



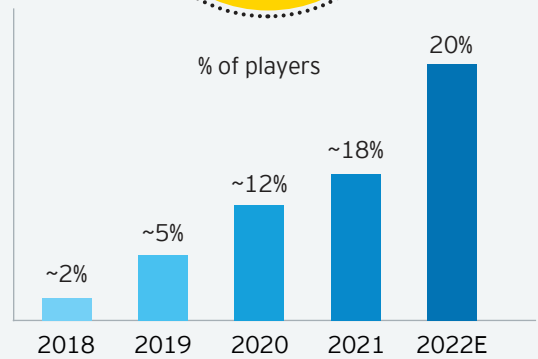
All data has been provided by Nodwin Gaming and is based on their research. It has not been validated by EY and is presented in summary form for representation purposes only.

**Broadcast platforms**  
continued to grow  
(OTT + Live streaming platform + Social + Television)

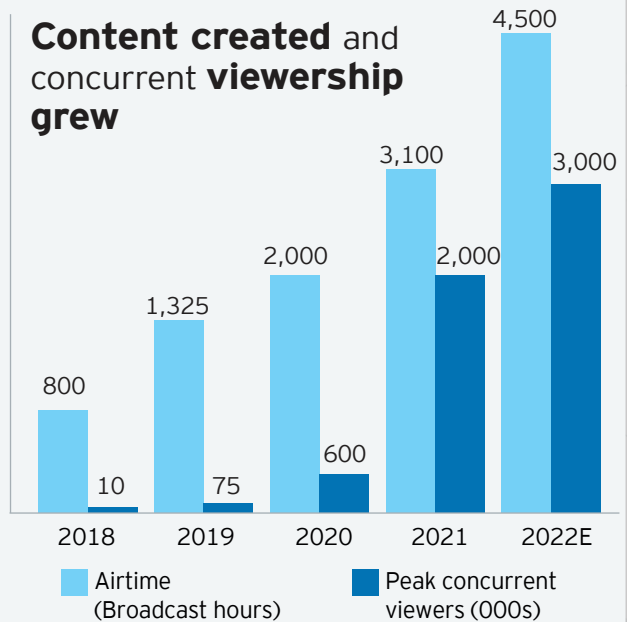


- ▶ YouTube
- ▶ Meta
- ▶ Disney+
- ▶ Voot
- ▶ Twitch
- ▶ Sony Liv
- ▶ Mx Player
- ▶ MTV
- ▶ Loco
- ▶ Paytm First Games
- ▶ Fancode
- ▶ Airtel
- ▶ Turnip
- ▶ Rooter
- ▶ Star Sports
- ▶ Sony Sports
- ▶ Booyah

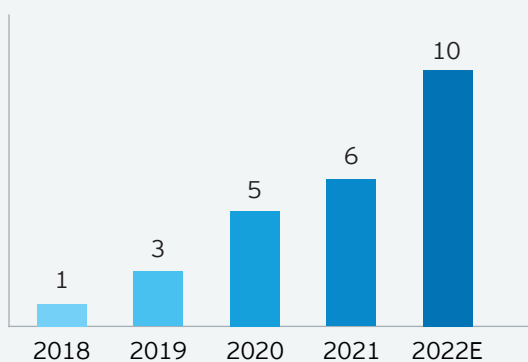
**Women audience in esports is on the rise**



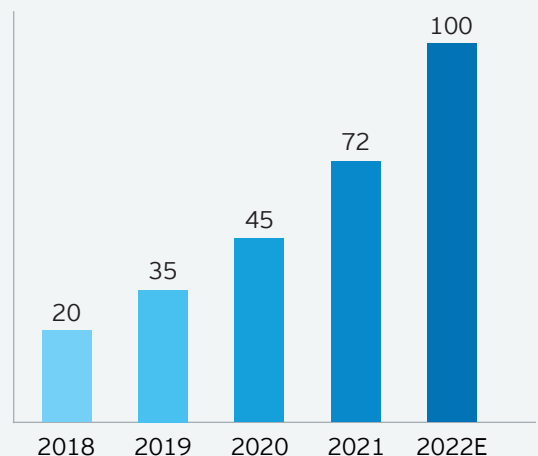
**Content created and concurrent viewership grew**



India is expected to have 10 **international esports teams** by 2022



Over **70 brands** invested in esports



# Expert speak

*“Due to stellar growth, positive regulatory movements and profitable unit economics, gaming businesses saw an enormous amount of capital inflow and companies matured in value. The segment now provides employment to over 50,000 bright minds and is poised to be bigger than most verticals in the country.”*



**Ankush Gera**

Founder, Jungle Games

*“After a multifold increase in viewership last year, game streaming platforms will see another record year as gaming cements itself as the favourite digital entertainment genre for Indian youth. With global publishers releasing multiple new mobile games and web3 providing new avenues for product innovation, consumers can look forward to enjoying fantastic new products.”*

- Loco Founders



**Anirudh Pandita/**

**Ashwin Suresh**

Pocket Aces

*“It is very encouraging to witness the growth that online skill gaming has achieved across the entire value-chain, the launch of innovative gaming products, backed by investors, revenues & valuations driven by gaming platforms as well as the massive adoption by consumers.”*

- CEO



**Roland Landers**

AIGF

*"India offers an amazing opportunity for global gaming companies to partner with local entrepreneurs across the value chain and become a part of the most exciting gaming market. The recent announcement of the AVGC taskforce will facilitate ease of doing business, build a strong audience and fan base, develop infrastructure, forge partnerships between Center-State, and support ancillary services for the rise of Metaverse and Web3.0."*



**Manish Agarwal**

CEO - Nazara Technologies

*"Player count is estimated to increase to 510 mn in 2022 from 360 mn in 2020. The market is predicted to grow at CAGR of 21% to INR290 bn by 2025. There are some legal challenges around online skill gaming but the growth opportunity is immense."*



**Nitesh Damani**

Co-Founder Khelgroup

*"The growing number of players on the various gaming related platforms, increased investment in R&D and technology using data sciences and AI, and the absolute realisation that as an industry there is need for regulation, will be the factors that will continue to define the sector's outlook. With 5G expected to roll out soon and the focus to ensure equitable access across all geographies in India, we expect the user base to increase."*



**Bhavin Pandya**

Bhavin Pandya, Co-founder & Co-CEO, Games24x7

*"The exponential growth witnessed by the online gaming industry in 2021 is extremely encouraging with over 100% increase in investments to nearly \$444 million. I am confident that a progressive tax regime, predictable regulatory framework and supportive funding policies will enable the Indian digital gaming sector to become a global powerhouse."*



**Sai Srinivas**

Co-Founder and CEO of Mobile Premier League (MPL)

*"We will see this industry growing 10X from its current USD1.3-1.5 billion as gaming becomes the main source of entertainment for Generation Z and Alpha, leading to it garnering higher entertainment wallet share and 5G availability making the games more immersive & social."*



**Shivanandan Pare**

CEO of Gaussian Networks (Adda52)

*"Gaming has hit escape velocity and become truly mainstream - there are 400m+ Indian gamers and a full blown ecosystem of businesses, jobs & career opportunities around it. With the convergence of Blockchain & Gaming it's time to witness an exciting new "verse" being written."*

- CEO | Sachiko Gaming



**Ankur Dewani**

Pokerstars



*"With the highest mobile game downloads globally and a shift in the need from merely consuming to interacting, India will create a distinct gaming identity globally. For India to continue to lead this explosive segment, deeper integration with Web3.0, AR/VR and emerging technologies is extremely critical."*



**Saumya Singh Rathore**

Co-Founder, WinZO

*"Gaming as a career is evolving in India, but the industry is yet to discover its true potential."*



**Ujjwal Chaurasia**

Techno Gamerz

*"As esports continue to integrate into popular sports culture, government, global investors, brands, media outlets, and consumers are all paying attention to the rise in popularity of esports in India. As we launched NESF'22, the national qualifiers to select the Indian esports contingent for the upcoming Asian Games 2022, we are committed to developing, supporting and growing the esports ecosystem in India."*



**Lokesh Suji**

Director - ESFI | VP-Asian Esports Federation

*"India will continue to consolidate its position as one of the world's largest markets for mobile-first eSports. This gestation cycle of 4 odd years has also led to a boom on gaming laptops that will put India in the top 5 markets for gaming laptop sales. These trends will lead to natural adjacent cultural affinities in Bollywood, cricket, music and comedy. We expect prize pools to break a million US\$ per event this year."*



**Akshat Rathee**

Managing Director & Co-Founder, Nodwin Gaming

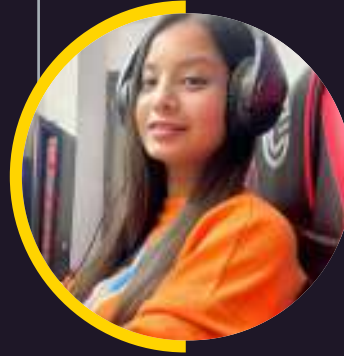


*"Most players around the world specialize in PC gaming, while Indian players can play both PC and mobile games."*

*"I am extremely elated to see that more and more women are challenging the status-quo and foraying into gaming in India. However, the number when compared to male counterparts is still low, and I am certain this will grow rapidly in the coming years. Experimentation is the key to scale through the gaming content creation world."*



**Ajay**  
Total Gaming



**Mansi Gupta**  
Techno Gamerz

Filmed  
entertainment





**B Bharat**  
Indirect Tax  
Chennai (EY LLP)

# Filmed entertainment

## Filmed entertainment segment recovered 28% in 2021

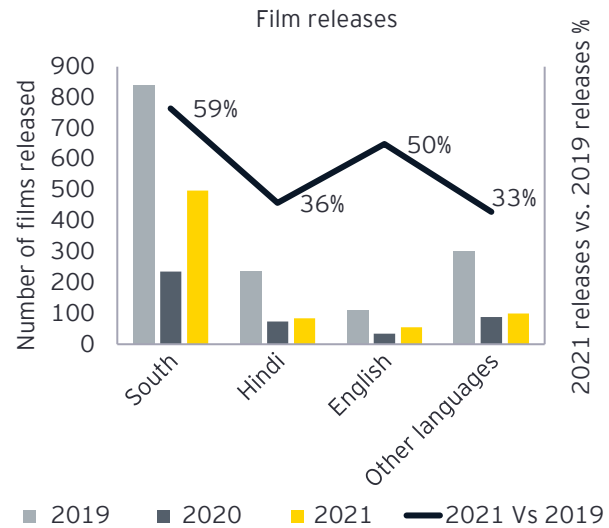
	2019	2020	2021	2022E	CY24E
Domestic theatricals	115	25	39	75	105
Overseas theatricals	27	3	6	12	16
Broadcast rights	22	7	7	14	19
Digital/ OTT rights	19	35	40	48	69
In-cinema advertising	8	2	1	2	3
<b>Total</b>	<b>191</b>	<b>72</b>	<b>93</b>	<b>150</b>	<b>212</b>

INR billion (gross of taxes) | EY analysis

- ▶ 2021 remained a subdued year for the filmed entertainment segment, with lockdowns and several restrictions on production and exhibition across states
- ▶ Despite the restrictions, over 750 films were released during the year, as compared to just 441 releases in 2020
- ▶ Over 100 films released directly on streaming platforms, a trend which seems here to stay for certain genres
- ▶ In 2021, the filmed entertainment segment grew 28%, but remained at around half its 2019 levels:
  - ▶ Domestic theatricals grew 57% but were still 66% below 2019 levels
  - ▶ International theatricals fared marginally better but remain almost 80% below 2019 levels
  - ▶ Digital rights grew to INR40 billion – over double their 2019 levels
  - ▶ Broadcast rights saw no growth this year due to the dearth of theatrical releases and softening prices
  - ▶ In-cinema advertising continued to fall

## Domestic theatricals

### I. Film releases were at 37% of 2019 levels



Comscore

- ▶ 2021 witnessed a growth of 71% in the number of films released vis-à-vis 2020
- ▶ A total of 757 films made it to the theatres in 2021 across languages
- ▶ The highest number of films were released in Telugu (204) and Tamil (152) and only 84 films were released in Hindi language
- ▶ South markets recovered faster due to fewer lockdowns, reaching 59% of 2019 release levels

### II. Screen count remained stable

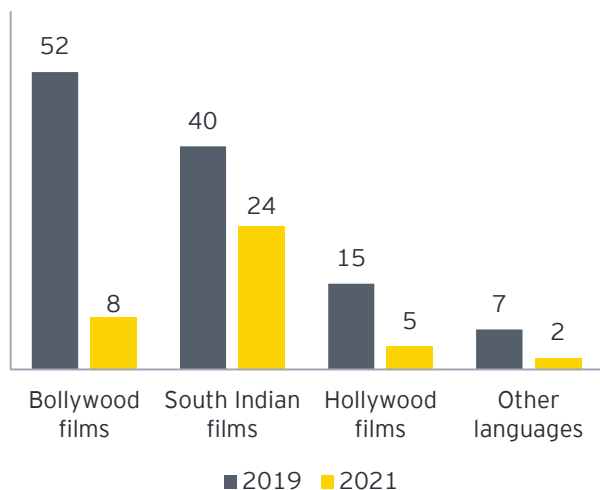
- ▶ Screen count was estimated at 9,423, a marginal decline over 2020<sup>1</sup>
- ▶ Some industry respondents believed that around 1,000 screens, which were at best open intermittently during the year, may not reopen again
- ▶ PVR added 27 screens including a drive-in cinema at Jio World Drive (Mumbai) as against 69 screens added in 2019 whereas Inox Leisure added 41 new screens as against 69 added in 2019<sup>2</sup>
- ▶ Screen count grew in 16 states and fell in 13 states

<sup>1</sup> UFO Moviez

<sup>2</sup> PVR and Inox Leisure BSE filings

### III. Box office revenues were dominated by South Indian films

Gross box office (INR in billion)

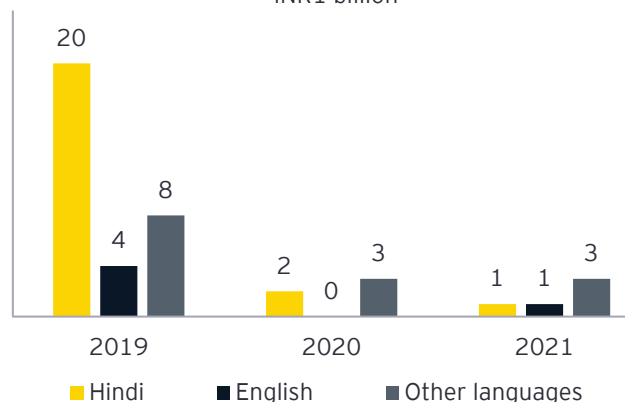


INR billion (gross of taxes) | EY analysis

- ▶ Gross Box office revenues increased 57% in 2021 to INR39 billion
- ▶ Film exhibition still seems to be far off from the “old normal” in terms of box office revenues—it was just 34% of 2019 levels
- ▶ The work-from-home and study-from-home that prevailed for over half the year impacted revenues; the impact was far worse in college and IT towns
- ▶ Given the expected scarcity of release windows once restrictions are removed on cinemas, we expect that smaller films will find it more difficult to get windows and only those which are high on concept or have unique content may succeed in doing so
- ▶ South Indian films, however, generated three times the box office revenues of Hindi films, with a total collection of INR24 billion on the back of more releases

### IV. Five releases grossed INR1 billion or more at the box office

Number of films crossing GBO collection of INR1 billion

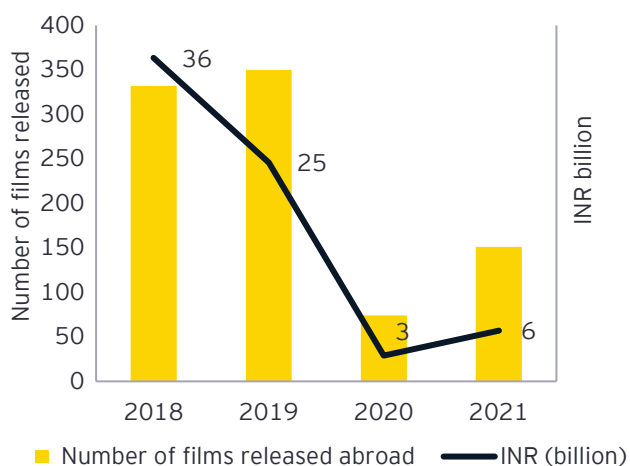


Comscore

- ▶ There were five such films in 2021 compared to 32 in 2019
- ▶ Only one Hindi and one English language film could enter the INR1 billion club vis-à-vis three films in south Indian languages

### International theatricals doubled over 2020

International theatricals



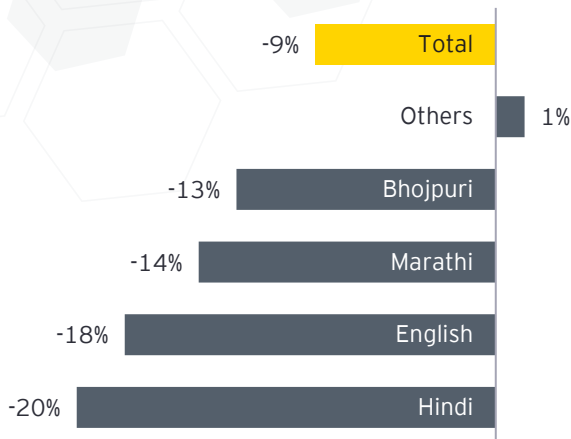
Comscore

- ▶ 151 films released overseas, contributing a gross box office collection of INR5.9 billion, thereby showing a growth of almost 50% as compared to 2020
- ▶ Geo-political tensions with China can impact one of the largest markets for Indian films



## Broadcast rights remained muted

Change in film channel viewership 2021 vs 2019

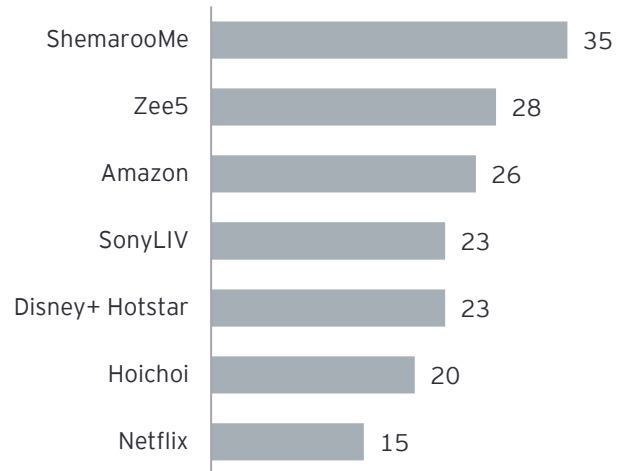


BARC | Change in AMA 2021 Vs 2019

- ▶ Broadcast revenues remained low due to several reasons:
  - ▶ Fewer films released on television in 2021
  - ▶ Cost pressures existed in the broadcasting segment
  - ▶ Continued rise of direct to digital movie releases
- ▶ Viewership of film channels fell 9% in 2021 as compared to 2019, with the largest fall noted in Hindi and English language channels
- ▶ Given the top 120-150 million Indians have access today to both cinema halls and OTT platforms<sup>3</sup>, viewership of film channels will become more mass, and we can expect to see satellite windows elongating to provide ample time for rights monetization on theatrical and digital platforms

## Growth in digital/ OTT rights continued unabated

Films released on select digital platforms



EY's production audit team estimates | Not a complete listing

- ▶ Our research indicates over 170 films released on digital platforms in 2021, from large films priced at over INR1 billion to small regional films available for as little as INR15 million
- ▶ This includes over 100 films which released directly on the platform without a theatrical release, a trend that has gained scale due to the pandemic
- ▶ Of the films released on digital platforms, only 31% were in Hindi while 69% were in other languages, primarily south Indian languages
- ▶ The release windows also stayed low – for most large films that released in theatres, the digital release window was usually between 0 and 8 weeks – reducing the urgency to catch a film in its theatrical run
- ▶ However, a number of producers we interviewed felt that theatrical releases were critical for high-budget films to generate adequate hype and marketing

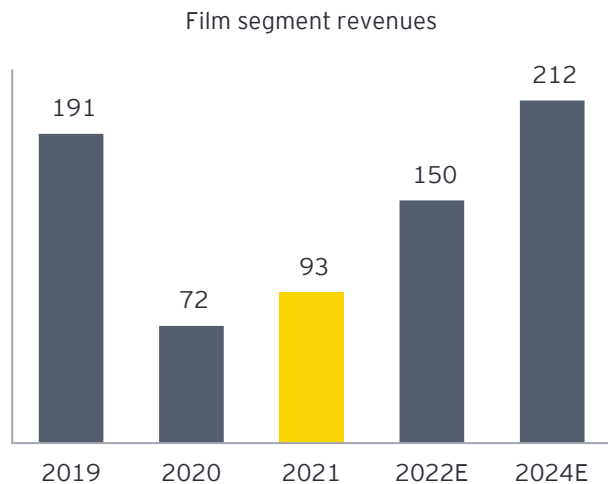
## Cinema advertising continued to fall

- ▶ With the dearth of film releases, and uncertainty in terms of film slate, in-cinema advertising continued to face pressure
- ▶ It fell further in 2021 to INR1 billion and is only expected to scale once film slates are finalized with a certain degree of confidence

<sup>3</sup> EY estimates based on industry discussions

# Future outlook

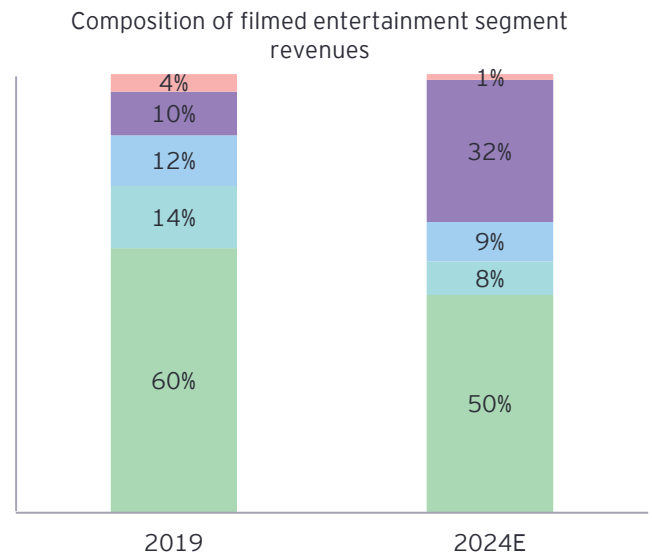
## The segment should recover lost ground by 2023...



INR billion (gross of taxes) | EY estimates

- ▶ As theatres opened in 2021, it was heartening to see that audiences returned in significant numbers - clearly showing that the "cinema experience" is something that is cherished
- ▶ Accordingly, we expect the filmed entertainment segment to recover its 2019 levels - assuming there is no further impact of the pandemic - by end 2023

## ...but its revenue composition would be different



INR billion (gross of taxes) | EY estimates

- ▶ Theatrical revenues will continue as the dominant revenue contributor of the filmed entertainment segment as people return back to cinemas, but with a few changes:
  - ▶ Top-end cinemas will become premium experience zones
  - ▶ "Janta cinemas" will come into existence for a lower priced but semi-premium experience across smaller towns and cities
  - ▶ Industry needs to work together to restart cinemas which shut down during the pandemic as well as work with real estate developers to create mini-plexes within residential complexes
- ▶ Digital / OTT rights could grow to 32% of segment revenues due to increased uptake of OTT platforms (refer the digital media section of this report) and growing consumption of dubbed and subtitled content on OTT platforms
- ▶ As TV audiences become more mass, the value of broadcast rights would dip from their pre-pandemic levels
- ▶ International theatricals could reduce in importance from pre-pandemic levels if access to the key Chinese market is not freely given; otherwise too, Indian content may not find too many takers outside of first- and second-generation Indian diaspora, unless content changes significantly

# The future of filmed entertainment

## Creators

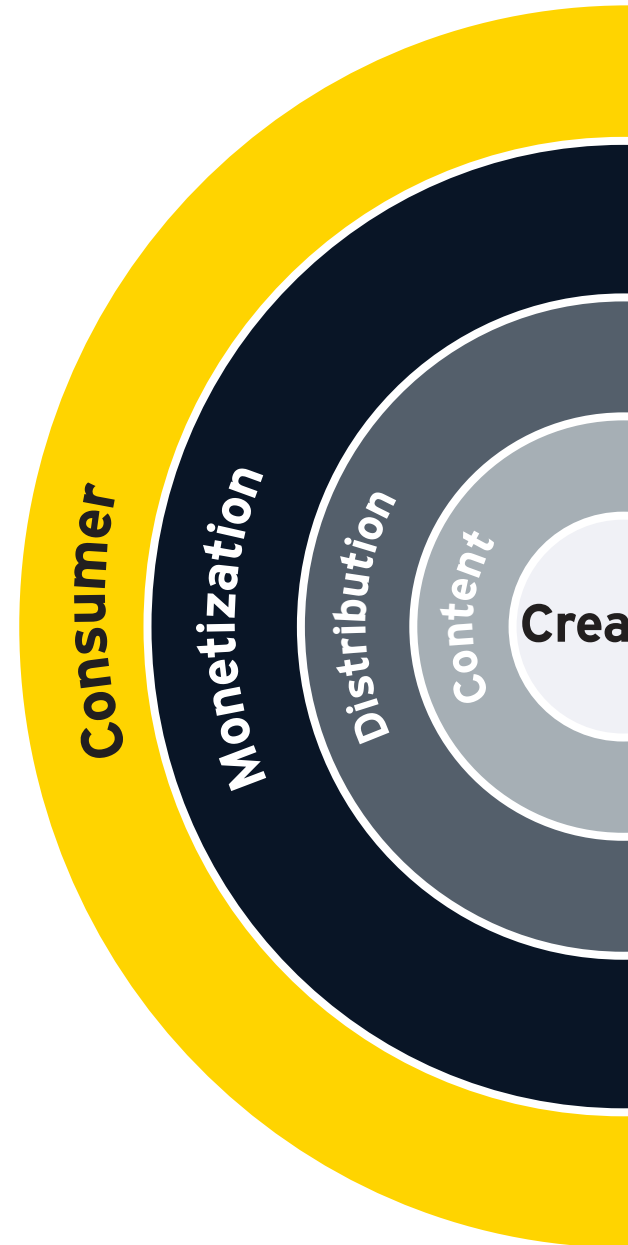
### Digital talent and trusted monetization

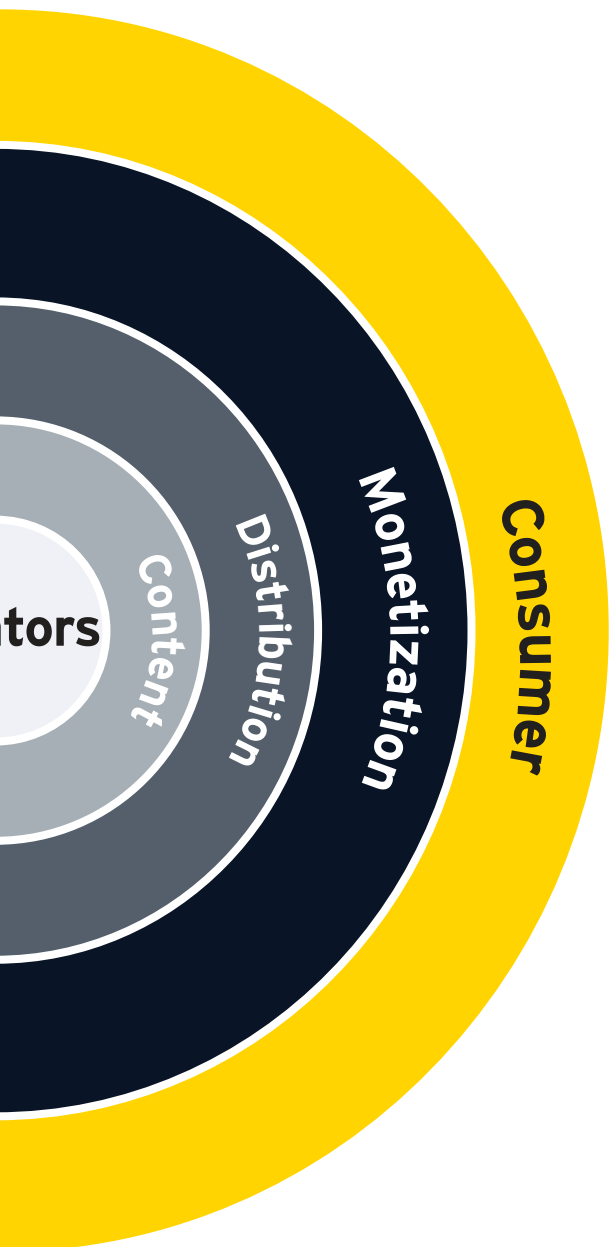
- ▶ Talent will be sourced from the wider creator economy
- ▶ Library, character and personal rights could become extremely valuable:
  - ▶ It is not difficult to imagine people wanting to relive movies with their favourite actors playing characters all enabled by technology
  - ▶ Digital doubles could 'virtually' carry out activities such as performance, concerts, character replacement, metaverse avatars etc.
  - ▶ NFTs will become an additional monetization opportunity
- ▶ Remuneration models will become increasingly transparent:
  - ▶ Talent will be tagged to their 'talent coin' which will be measured in terms of 'popularity to monetization' ratios
  - ▶ Blockchain-based processes will enable transparent revenue sharing and perhaps, one day, irrefutable GBOC!

## Content

### Mass tentpoles and curated home

- ▶ Creators will create stories based on what the consumer is looking to consume
- ▶ Virtual production will transform the way content is created - from actors to environments
- ▶ Creators will be able to give life to multiple threads to their story telling
- ▶ Content will curate itself based on the consumer profile and serve it; the days of everyone watching a movie of the same length (or even the same ending) may be over
- ▶ At one end, this would lead to more 'tentpoles' which could only be enjoyed in theatres to 'customised and curated content' delivered as "home entertainment"





## Distribution

### Multi-platform, but windowed

- ▶ Eventually, all films will be enabled across video, audio, text and experiential
- ▶ For video exploitation, multi-platform (cinema + TV + OTT) will be the norm - what will need to be agreed by stakeholders are the windowing strategies
- ▶ Theatres would evolve into experience zones – a place where multi-sensory content experiences could be had
- ▶ A multiplex may transcend from a facility housing 4-8 screens to smaller 'houses' with thematic content-based on consumer preference
- ▶ Evolution of 'rented seats' or 'rented houses' as individuals/ families/ friends/ communities come together to consume content of their liking from a jukebox

## Monetization

### Attract | Sustain | Transact

- ▶ **A for attraction:** AVOD business models will only work with low content cost, and we see them morphing in to marketing/ attraction tools
- ▶ **S for sustainable:** SVOD will be key for sustainable business growth, with (unlike current models) the need to link each content investment with new subscribers, or renewing subscribers
- ▶ **T for transaction:** TVOD will be crucial to increase monetization in "sachet friendly" India and for enhanced profitability through premium experiences

## Consumer

### Participative escapism

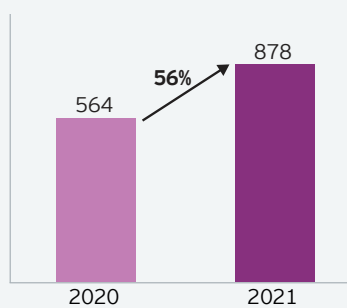
- ▶ Interactivity will be inseparable from content and content release will embed multiple threads of gaming, experiences, ecommerce etc., at the creation stage
- ▶ Technology will enable "participative escapism" where viewers can sit inside cars during car chase scenes, or even attend Bollywood parties

# Trends

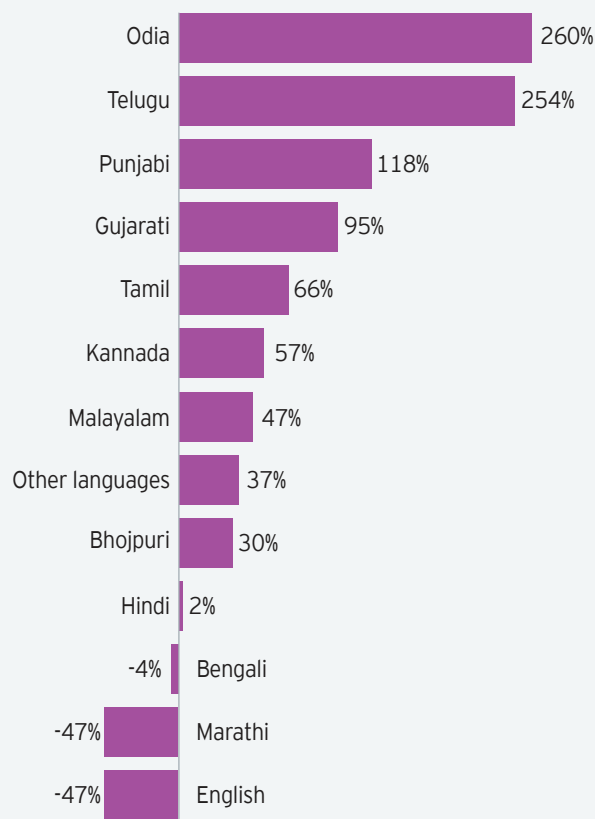
## Film exhibition

Powered by **UFO**  
CINE MEDIA NETWORK

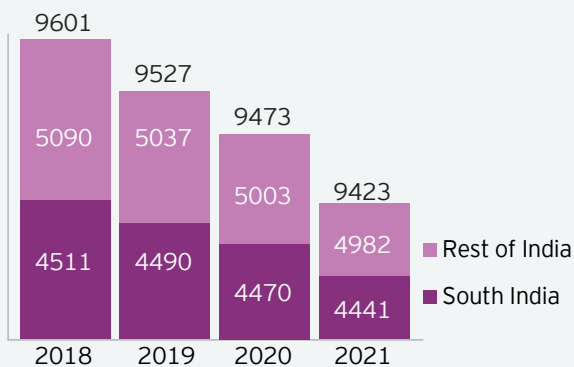
2021 saw **56%** more releases than 2020



% change in releases by language (2021 vs 2020)



Number of screens decreased **1%**

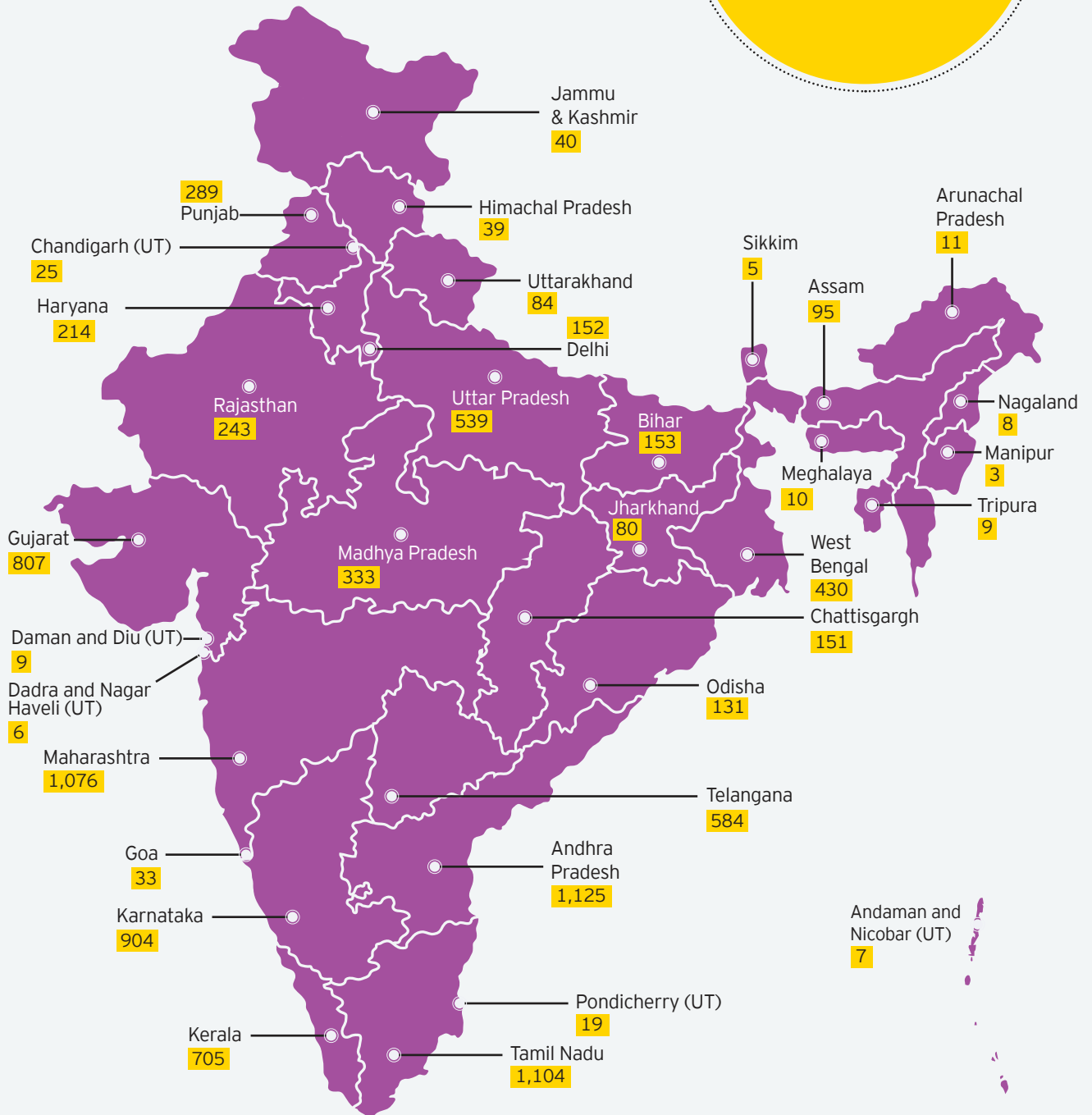


**More movies were released** in all languages in 2021 except Bengali, Marathi and English

All the data has been collated by UFO Moviez using its own data set and through market intelligence. It has not been verified by EY. It has been provided in summary form for representation purposes only.



**Number of screens in each state in 2021**

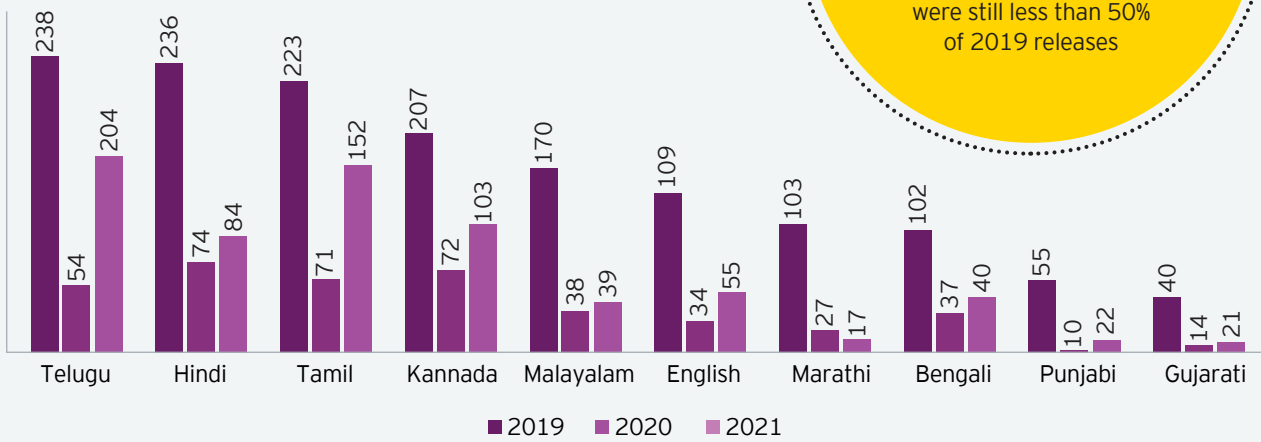


Powered by  **comscore**

With the pandemic easing, 2021 saw **71% more releases** than 2020

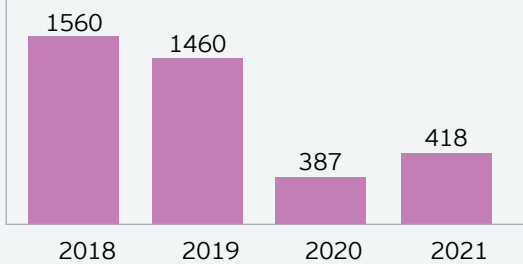
Though 2021 releases were still less than 50% of 2019 releases

Film releases as per language (including dubbed)

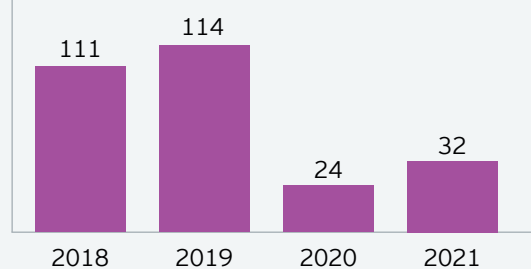


Though not at pre-COVID levels, **footfalls increased** in 2021...

Footfalls (million)



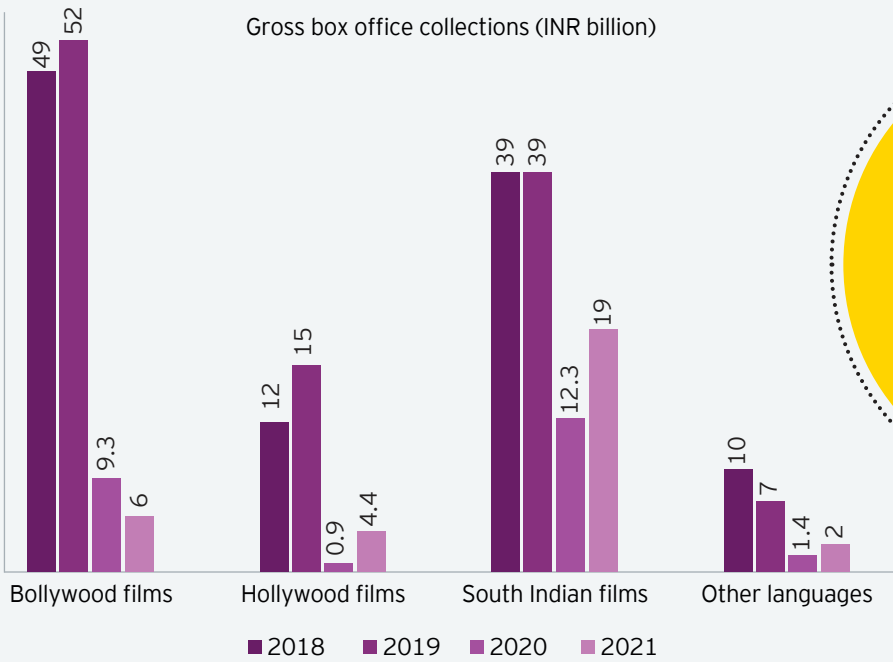
Gross box office collections (INR billion)



...as did **theatrical revenues**

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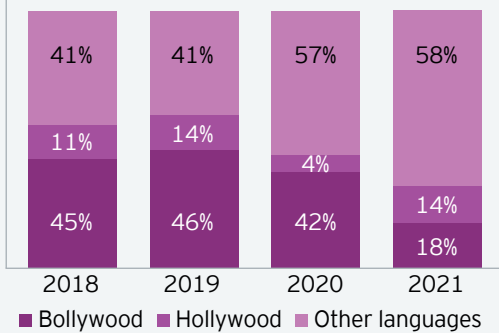
Gross box office collections (INR billion)



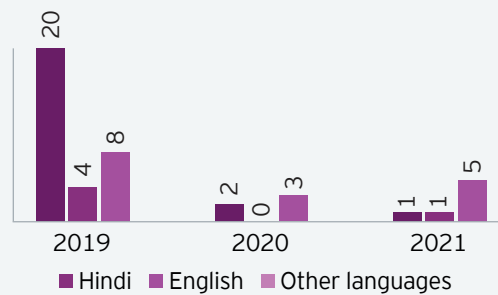
South Indian films generated **3x more** box office revenues than Hindi films

**58%** of Box Office revenues were contributed by regional language films...

Share of box office collection



Number of films crossing INR1 billion



...which had the **highest number** of hits in 2021

	2018	2019	2020	2021
Number of films released abroad	332	350	74	151
Gross box office collections including China (in US\$ million)	491	332	39	77

Overseas releases **doubled** in 2021

# Trends

## Box office

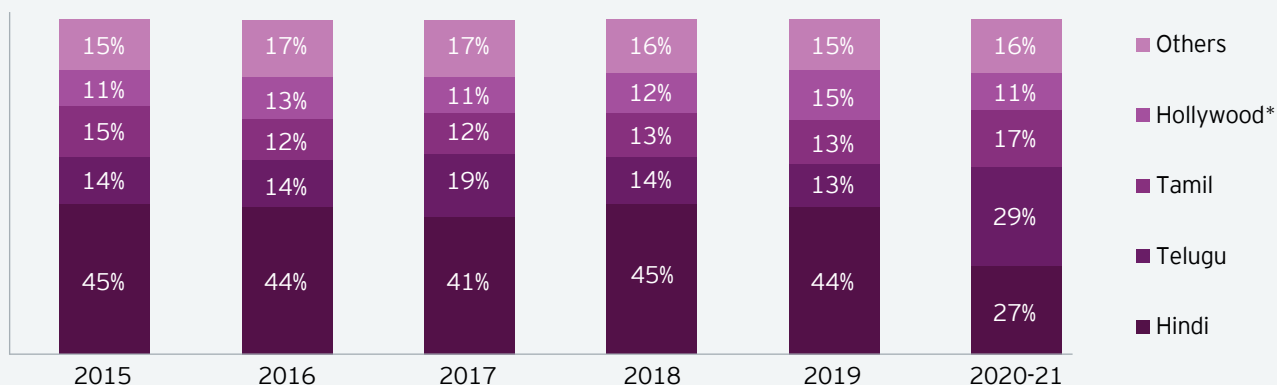
Powered by



South language films had a greater contribution than Hindi and Hollywood with Telugu emerging as the largest contributor to box office revenues

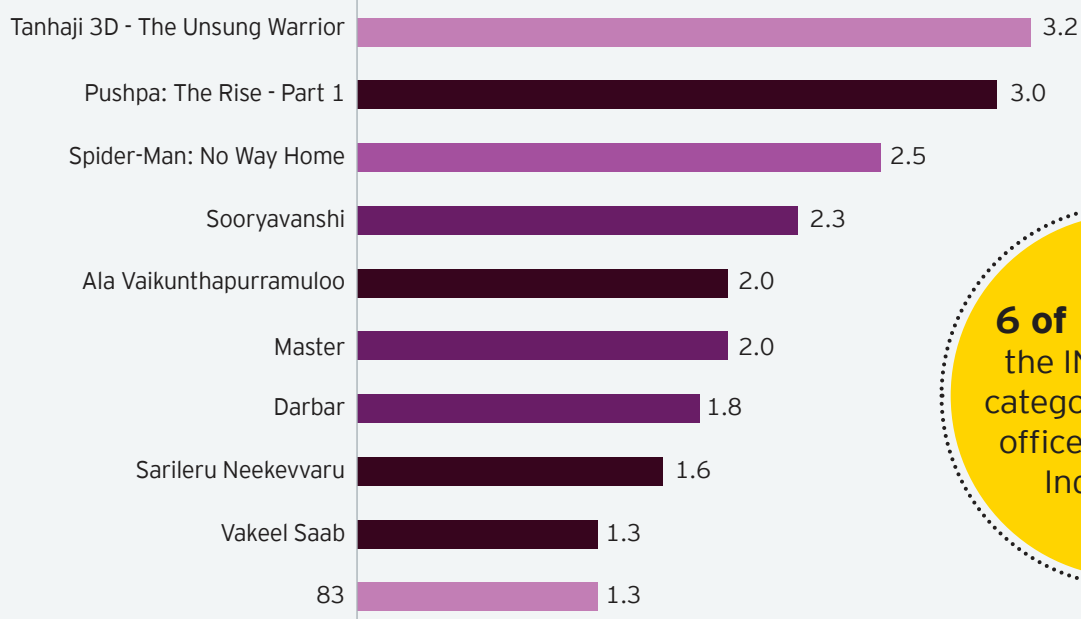
Telugu language films had the **biggest share** in box office revenues in 2020-21

Box office share by language



\*Hollywood includes all language versions

Top 10 films - 2020 and 2021  
Gross box office (INR billion)



6 of 10 films in the INR1 billion+ category at the box office were South Indian films

Legend: Hindi language film (light purple), English language film (medium purple), Telugu language film (dark purple), Tamil language film (darkest purple)

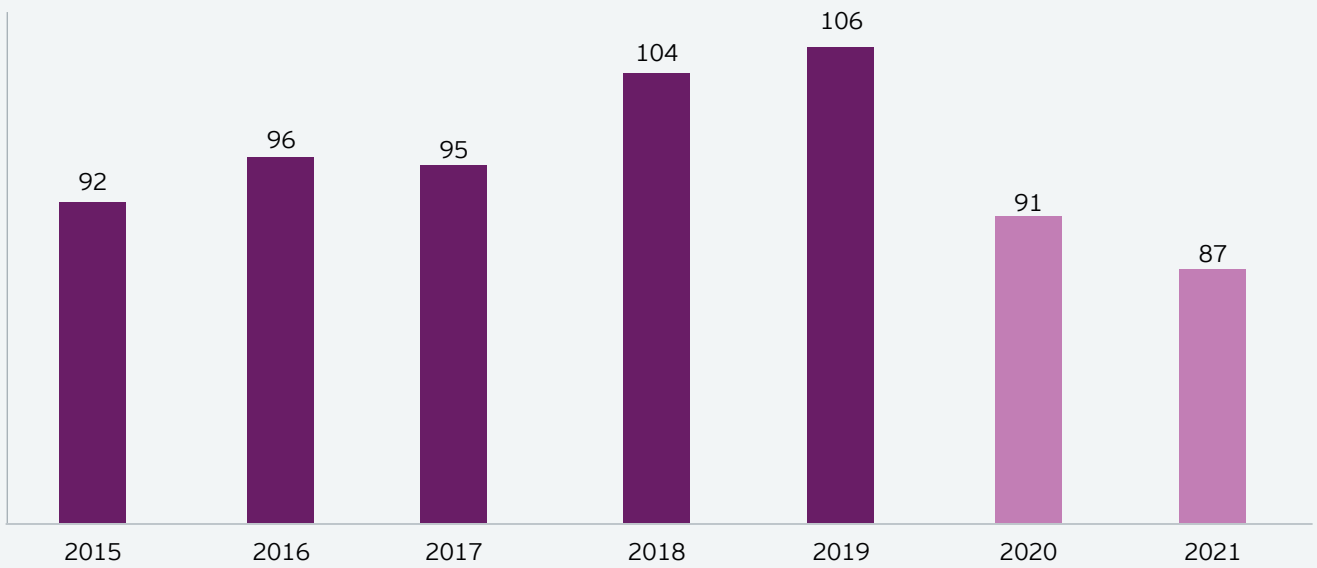
Cumulative box office revenues of each film in all languages in which it was released

All data has been provided by Ormax and has not been verified by EY. It has been provided in summary form for representation purposes only.

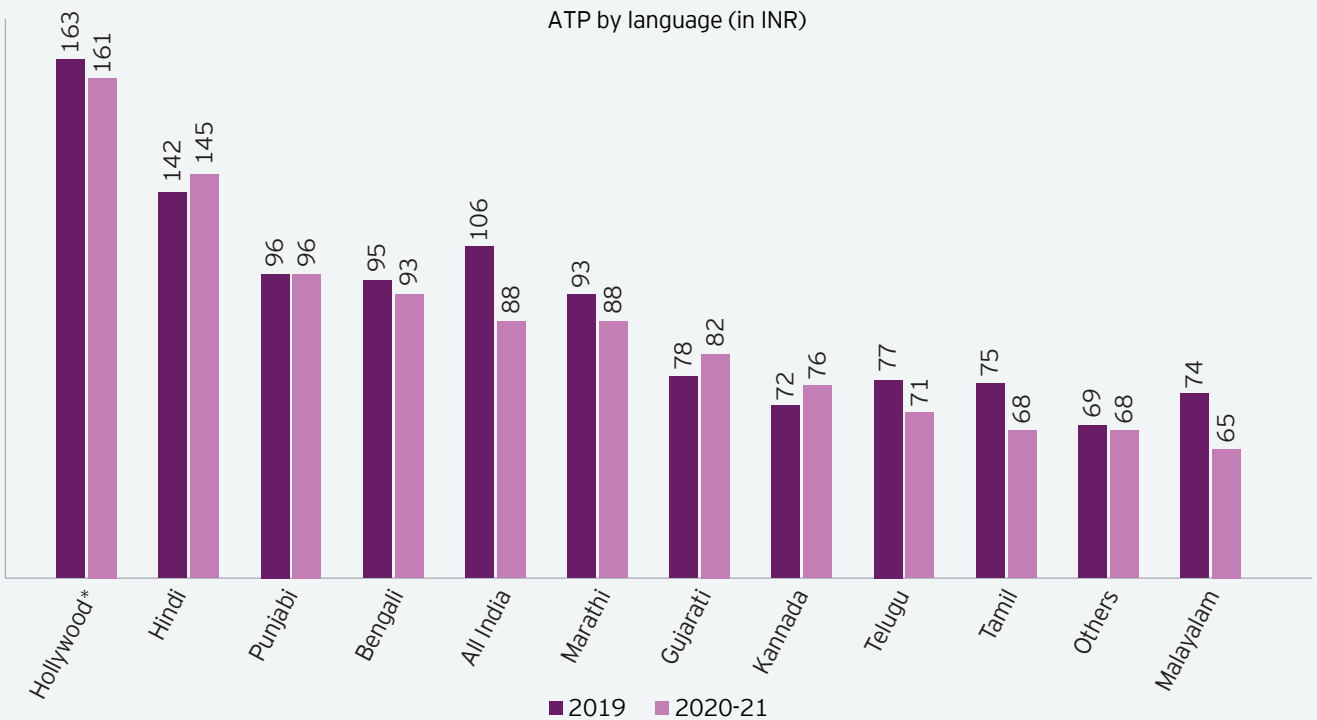
## Average ticket price fell during the pandemic years

due to greater contribution from south markets which have a lower ATP compared to Hindi and Hollywood

Average ticket price (ATP in INR)



ATP by language (in INR)





# Expert speak

*“The swift business recovery witnessed in the last few months has proven the resilience of the Cinema business in the face of once in a century event like COVID-19. We are looking at future with renewed vigor and remain optimistic as ever on the “Great Indian Cinema Growth Story”!*

**Ajay Bijli**

PVR Ltd.  
Chairman and Managing Director



*“The exposure to the scale and variety of content on OTT during the pandemic has definitely impacted viewing patterns of the audience. To now bring the audience to the theatres, creators will have to come up with compelling and unique cinematic content.”*

**Siddharth Roy Kapur**

MD - Roy Kapur Films



*“With new content in the offing across geographies, technology innovations and positive consumer sentiments, the cinema industry will bounce strongly in 2022. We are optimistic that the rest of the year will see ample vibrance and the film industry will replicate the success of 2019.”*

**Alok Tandon**

CEO  
INOX Leisure



*“Cinemas are an impactful medium of entertainment and the experience of watching a movie in cinemas is irreplaceable - a fact that is reflected in how quickly audiences have returned to cinemas post-pandemic. Thanks to easing restrictions in several states, viewers can now once again enjoy a complete cinematic experience. With a strong content line-up, 2022-23 is going to be a treat for cinema-goers”*

**Kapil Agarwal**

Joint Managing Director  
UFO Moviez India Limited



*“As our stories and storytelling styles become a lot more global in nature and the coming decade likely to establish India as an undisputed global superpower, in effect having a rub-off effect on soft power of content across the world, we are not far away from seeing export of content from India to the world.”*

**Rohit Jain**

Managing Director South Asia  
and Networks - Emerging  
Markets Asia Lionsgate



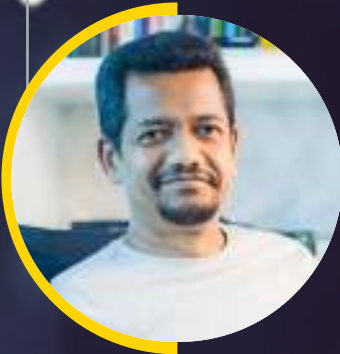
*“The twin forces – pandemic-induced economic disruption and consumer behaviour shifts - have advanced the Indian M&E industry towards a sunrise era. Ready for an absolute reshape – the future will leverage VFX, and AI-driven approach to create magnificent cinematic experiences.”*

**Apoorva Mehta**

CEO  
Dharma Productions



*“Across languages, formats and genres Indian content is travelling fast and wide. India’s M&E industry is uniquely poised to make big leaps across all segments: we are one of the biggest markets, serviced by the best creative minds”*



**Shibashish Sarkar**

Promoter & CEO  
International Media Acquisition Corp

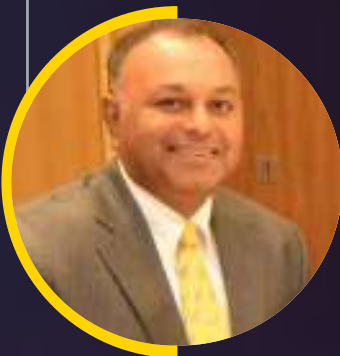
*“As we come out of the gloom of pandemic, exciting times lie ahead propelled by a rise in advertising spends. We need to be concurrent with technology and ever-evolving consumer viewing habits in the entertainment space across all platforms.”*



**Hiren Gada**

CEO  
Shemaroo Entertainment

*“The pandemic has accelerated the adaption of regional language content beyond its borders. The audience appetite for good stories is set to create a need for more universal stories across languages. Regional is truly becoming the new National.”*



**Naveen Chandra**

CEO  
Mumbai Movie Studios

*“While it does seem that the worst is behind us and we look forward to an upswing in theatrical revenues, there remains a degree of trepidation as previous COVID waves have crept up on us just when things seemed to be returning to normal. The ongoing Ukraine-Russia conflict also raises concerns of production cost escalation due to rising fuel prices and a depreciating rupee.”*



**Nitin Tej Ahuja**

CEO  
Producers Guild of India

*“The pandemic has refined the content palette of audiences as they have been at home watching content from all parts of India and also from Korea, Spain, Latin America etc. To draw audience to theatres content creators will have to create stories that are rooted in the cultural fabric and bring scale to the visual experience.”*



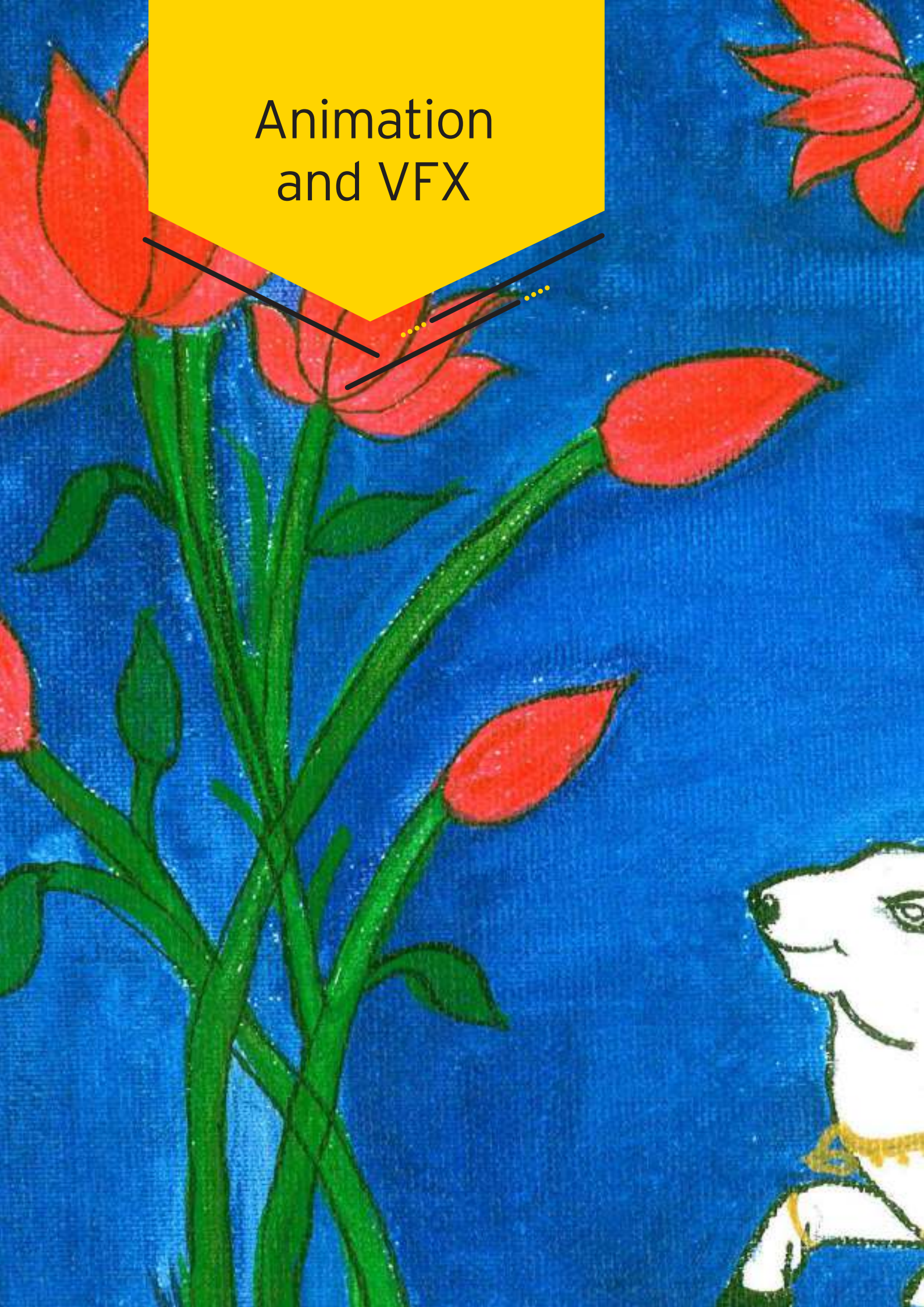
**Vivek Krishnani**

Managing Director &  
Co-Founder, Sony Pictures  
Films India





# Animation and VFX

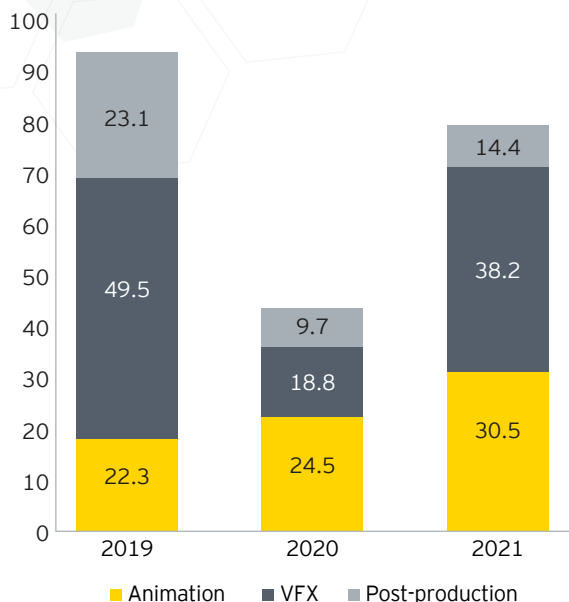






# Animation and VFX

The segment grew 57% in 2021



	2019	2020	2021	2022E	2024E
Animation	22.3	24.5	30.5	39.7	59.0
VFX	49.5	8.8	38.2	58.7	93.1
Post-production	23.1	9.7	14.4	21.4	28.3
<b>Total</b>	<b>94.9</b>	<b>53.0</b>	<b>83.1</b>	<b>119.8</b>	<b>180.4</b>

INR billion (gross of taxes) | EY estimates

## I. 2021 performance

- ▶ The segment recovered as content production resumed for television, OTT and film – it reached 88% of its 2019 levels

## II. Animation grew 24%

- ▶ The growth of kids channels' viewership led to an increased demand for animated content
- ▶ OTT platforms, too, continued to invest in Indian animated IP
- ▶ Indian comics got their due with many comic rights deals taking place during 2021
- ▶ Increased demand spurred investments into India
- ▶ Converging production pipelines opened new avenues

## III. VFX sector grew 103%

- ▶ OTT platforms sourced more Indian content, at global quality
- ▶ Forced work-from-home ended up becoming an advantage for studios

## IV. Post-production grew 49%

- ▶ Domestic demand revival spurred post-production
- ▶ The multi-language release formula led to increased volumes

## V. Talent and capacity

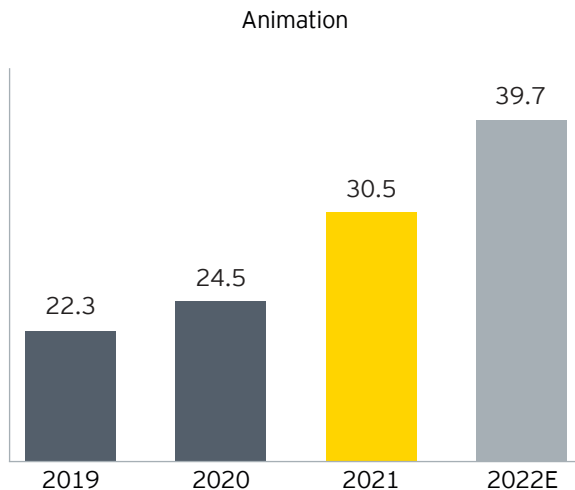
- ▶ Implementation of the government's AVGC policy critical for the segment to achieve its potential
- ▶ There are around 1,000 studios and 139 universities which exist to build and train talent

## VI. The segment is expected to reach INR180 billion by 2024

- ▶ Key drivers of growth will include:
  - ▶ Increased demand for higher-quality domestic film and episodic content
  - ▶ Content crossing language barriers –nationally and internationally
  - ▶ Increased adoption of virtual production and rising VFX budgets for content
  - ▶ Increased offshoring of projects to India as the global content economy expands with new OTT platforms
- ▶ Growth of NFTs and metaverse will open-up newer opportunities
- ▶ Animation will enter physical and virtual worlds at scale
- ▶ However, the key risk remains availability of quality talent, for which much needs to be done around training and upskilling



## Animation grew 24% in 2021 to reach INR30.5b<sup>1</sup>



INR billion (gross of taxes) | EY estimates

### I. Kids channels' viewership growth increased demand for animated content

- ▶ During the pandemic, the kids' genre viewership grew about 30% and co-viewership with parents also increased
- ▶ This led to new sectors being tapped for advertising like e-learning platforms, e-commerce, personal care and hygiene, home care and consumer durables
- ▶ Many food brands tied up with broadcasters to cash in on popular characters
  - ▶ Little Singham collaborated with Hershey's Jolly Rancher Lollipops
  - ▶ 99 Pancakes launched a limited-edition Honey Bunny Dosti special combo
- ▶ With the increased demand for kids' content, broadcasters continued to invest more in original IPs and tried to tap regional markets
  - ▶ POGO started a new Telugu language service to attract viewers from Andhra Pradesh and Telangana
  - ▶ ETV Network launched ETV Bal Bharat in 11 Indian languages and English with two new IPs, 'Abhimanyu - The Young Yodha' and 'Chotu Lambu and Robu'
  - ▶ IN10 Media Network's Gubbare launched their first IP 'Akki Jaanbaaz' in December 2021

- ▶ Toonz launched its maiden broadcast channel in Asia – Toonz Kidz– and it is the first exclusive kids' channel in Indonesia with programming in native Bahasa
- ▶ Toonz also launched new channels with Etisalat in Dubai, Indonesia, Pakistan etc.

### II. OTT platforms continued to invest in Indian animated IP

- ▶ With the success of Green Gold Animation's 'Mighty Little Bheem' on Netflix, more OTT platforms invested in original animated content
  - ▶ Graphic India's 'The Legend of Hanuman' launched on Disney+ Hotstar in February and had a second season in August
  - ▶ Netflix's 'Mighty Little Bheem' continued to gain worldwide recognition which led to UNESCO choosing the show to promote the cultural heritage of India in a series of fun short videos themed 'One Country, Incredible Diversity'
  - ▶ Green Gold also tied up with aha Kids platform for the show 'Maha Ganesha'
  - ▶ Parijat Animations' 'Captain Vidyut' made its way to Amazon Prime Video

### III. Indian comics got their due, finally

The year witnessed the acquisition of many comic book characters which will eventually be turned into animated series, films or shorts

- ▶ Applause Entertainment acquired the license to the Amar Chitra Katha catalogue, comprising 400+ titles which will be developed and produced into animated content
- ▶ Diamond Comic's 'Chotu Lambu' stories were adapted into animated series for ETV
- ▶ 'Dewali Dev' comics are also set to get their animated version produced
- ▶ There are also plans to do a series of animated films based on an upcoming comic series 'Ashwatthama'
- ▶ Raj Comics released an animated trailer for their comic book series 'Pralay ka Devta' featuring Nagraaj and Tausi as the lead characters
- ▶ Cosmos-Maya acquired more IPs from the library of Lotpot Group, the owner of Lotpot Comics and Mayapuri magazine, which contains characters like Natkhat Neetu, Janbaaz Deva, Minni, Faate Khan and Kaate Khan & Kaka Shree among various others. Cosmos-Maya will bring these IPs to life in 3D/2D formats, just the way the company did with the iconic comic brand Motu Patlu

<sup>1</sup> Based on various news articles from various sources including [www.animationexpress.com](http://www.animationexpress.com), other online sources and industry discussions

#### IV. Virtual production and computer-aided ad content increased

With several restrictions due to COVID-19, advertisers resorted to animated content which reduced costs related to travel and live action, while enabling film production during restrictions

- ▶ Fintech company Cred hired Bakarmax and launched an animated ad film, which had comic book characters Chacha Chaudhary and Suppandi, to promote financial responsibility and independence<sup>2</sup>
- ▶ Vaibhav More Films did the CG work in ads for brands like Google Pay, 7up, Fevistick, MPL, Glance App and Munch. The studios also worked on adverts for Nickelodeon's Save Paper Day, Pogo's Friendship Day and more<sup>3</sup>
- ▶ Vaibhav Studios worked on Kissan Ketchup and Kissan Jam, Pulse Candy, Havmor Ice Cream<sup>4</sup>
- ▶ India Today Group's SoSorry show raised awareness regarding COVID-19 via ads<sup>5</sup>
- ▶ Studio Fiction teamed up with different production houses and agencies to work on commercials and teamed up with agencies like Dentsu Webchutney and The Bigger Picture Films

#### V. Increased demand spurred investments

- ▶ As the demand for animated content increased across platforms, both in broadcast and in digital avenues like OTT, social media, video streaming etc., it led to renewed interest in the segment
- ▶ Combined with the cost-effective production capabilities in India, it led to investments in the animation segment:
  - ▶ NewQuest, a dedicated secondary private equity platform, backed by TPG, acquired a controlling interest in Cosmos-Maya. The transaction values Cosmos-Maya at over \$90 million
  - ▶ Japanese animation studio Polygon Pictures launched its wholly owned subsidiary in Mumbai

#### VI. Talent shortages plagued the segment

- ▶ Over the years, animation studios have felt that there is a lack of creative skillset being taught to students viz., the pure art of animation
- ▶ With increased work-load due to resumption of content production, talent scarcity became more acute in 2021, resulting in poaching and sometimes unsustainable salary hikes

- ▶ To fill this gap, studios took it upon themselves to train young minds:
  - ▶ Bengaluru-based Vaanarsena Studios started a free animation Vaanarsena School where they coach students from various backgrounds to pursue their careers and dreams in the field of animation
  - ▶ Mumbai-based Cosmos Maya also started their own academy Cosmos Maya Animation Academy

#### VII. Converging production pipelines opened new avenues

- ▶ Animation and gaming pipelines are distinct and require completely different skill sets. However, emergence of new revenue streams like NFTs, online gaming and content for the metaverse led animation companies to look at assets which will move across pipelines
  - ▶ Toonz Media Group along with the blockchain R&D company GuardianLink launched the world's first fully integrated NFT design lab known as Toonz NFTLabs. The lab will provide integrated services for artists, creators, collectors, athletes and brands to create curated digital assets and NFTs representing them<sup>6</sup>
  - ▶ Based on 'Chakra the Invincible', an Indian superhero comic book by Graphic India, created by Stan Lee and Sharad Devarajan, the Chakraverse limited-edition NFT collection was launched in December. More than 12K digital collectibles got sold out in less than one minute<sup>7</sup>
  - ▶ Paperboat is also looking forward to NFT and blockchain games with their partners Fantico and Vistas, they are planning to create international property around metaverse as well<sup>8</sup>
- ▶ This led to increased use of game engines to create animated content resulting in the same assets being monetized across avenues
- ▶ The biggest advantages of using game engines for animation are the high graphical quality and faster render times. By allowing instant feedback, it has enabled studios to produce high quality content at lower turnaround times:
  - ▶ Charuvi Design Labs created an hour-long animation 'Dastaan-e-Shahadat' using the Unreal Engine for the Theme Park Dastaan-e-Shahadat at Sri Chamkaur Sahib<sup>9</sup>
  - ▶ Gamitronics studio made use of this technology to bring to life the animated series 'Tarak Mehta ka Oolta Chashma' for Sony Yay which helped them cut the cost of animation production by 65%<sup>10</sup>

<sup>2</sup> <https://bakarmax.com/comic/a-cred-ad/>

<sup>3</sup> <https://www.vaibhavmorefilms.com/>

<sup>4</sup> <https://www.vaibhavmorefilms.com/>

<sup>5</sup> <https://www.youtube.com/c/SoSorrypolitoons/videos>

<sup>6</sup> <https://www.animationxpress.com/animation/guardianlink-io-launches-its-secondary-marketplace-and-aims-to-attract-one-million-wallets-soon/>

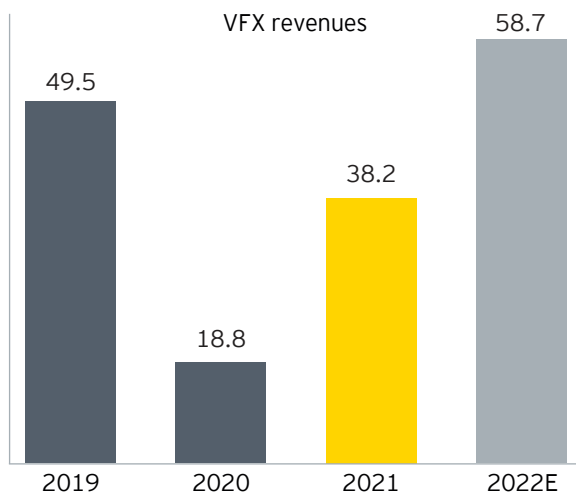
<sup>7</sup> <https://www.animationxpress.com/animation/stan-lees-nft-drop-chakra-the-invincible-sells-over-12k-digital-collectibles-in-less-than-one-minute/>

<sup>8</sup> <https://www.animationxpress.com/animation/vistas-media-capital-acquires-a-majority-stake-in-paperboat-design-studios/>

<sup>9</sup> [https://www.linkedin.com/posts/charuvi-agrawal-5b81b814\\_cdl-unrealengine-3danimation-activity-6886638204917833728-8V7u](https://www.linkedin.com/posts/charuvi-agrawal-5b81b814_cdl-unrealengine-3danimation-activity-6886638204917833728-8V7u)

<sup>10</sup> <https://www.unrealengine.com/en-US/spotlights/gamitronics-cuts-the-cost-of-animation-production-by-65>

## VFX sector grew 103%<sup>11</sup>



INR billion (gross of taxes) | EY estimates

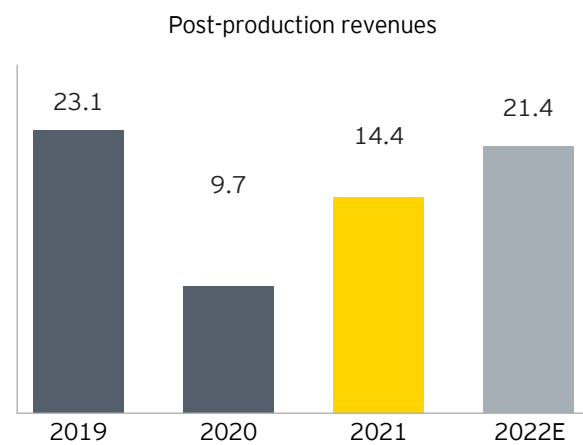
### I. OTT platforms sourced more Indian content at global quality

- ▶ Our production audit team estimated that over 2,500 hours of original content was produced for OTT platforms in India, up from around 2,000 hours in 2019, and this is expected to reach 3,500 hours by 2024
- ▶ The quality of Indian content has found resonance with customers across the globe, and therefore has automatically led to higher quality standards
- ▶ Earlier 5%-8% of a show's production budget was for VFX, which has now increased to 15%-20% of the production budget, whether for films or episodic content<sup>12</sup>

### II. Forced work-from-home ended up becoming an advantage for studios

- ▶ In 2020, Indian studios introduced work from home and hybrid pipelines, which they ensured got advanced using cloud and other technologies, got stabilized and artist friendly by the end of 2021
- ▶ This led to more Indian studios setting up shop internationally and international studios opening their branches in India
- ▶ But the key benefit was enhanced efficiency as these measures enabled studios to become more efficient
- ▶ Larger studios that got appointed as the main VFX studios for a project were thus able to take bigger pieces of work, and in turn they could sub-let the work to smaller studios all over the country, leading to job creation<sup>13</sup>

## Post-production grew 49%<sup>14</sup>



INR billion (gross of taxes) | EY estimates

### I. Domestic demand revival spurred post-production

- ▶ Direct to OTT film releases, higher quality OTT content and recovery in broadcast content demand led to the recovery of post-production revenues from domestic markets
- ▶ 75%-85% of the revenues of this segment were from domestic projects, where film production still lags pre-pandemic levels<sup>15</sup>

### II. The multi-language release formula led to increased volumes

- ▶ Platforms like Disney+ Hotstar, Netflix, Zee5, MX Player and Amazon Prime Video are releasing content in seven to ten different Indian languages
- ▶ This is giving a fillip not just to audio post-production business, but also dubbing, titling, sub-titling, promo creation etc.
- ▶ In addition, international platforms like Amazon Prime Video, Zee5 and Netflix are releasing Indian films in several foreign languages – a trend which should continue given the success seen by these products with international audiences
- ▶ Regional movies that were released in many countries played a vital role in the growth of local post-production industry along with broadcast and audio localization<sup>16</sup>

<sup>11</sup> Industry discussions; EY estimates

<sup>12</sup> EY analysis

<sup>13</sup> Industry discussions; EY analysis

<sup>14</sup> Industry discussions; EY estimates

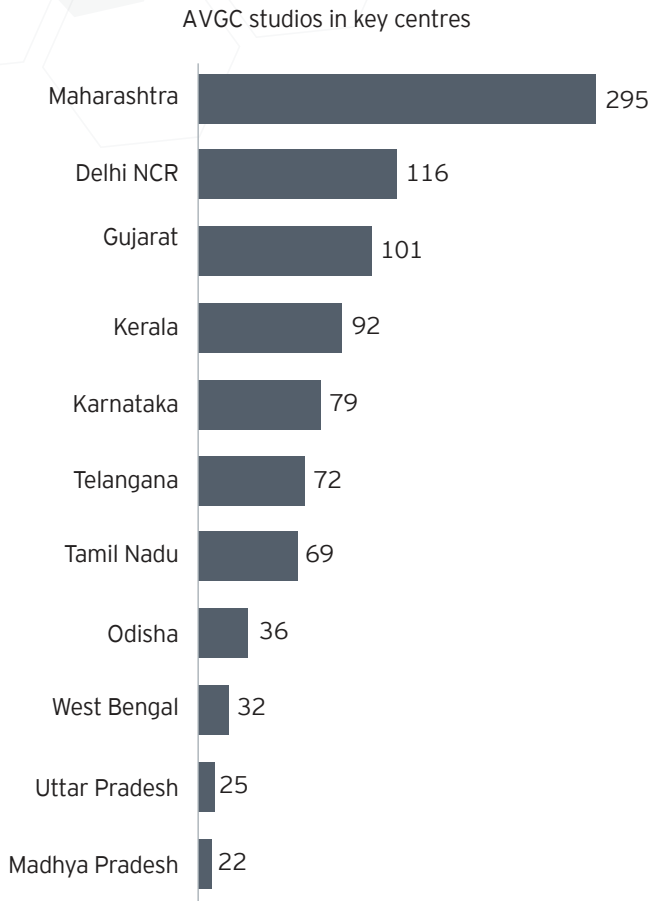
<sup>15</sup> Industry discussions; EY estimates

<sup>16</sup> Industry discussions; EY analysis



# Talent and capacity

## The segment has created several AVGC hubs across India



FICCI AVGC Committee estimates | Select key cities

- ▶ Several AVGC hubs have been created across India, with the largest being in Maharashtra, Delhi, Gujarat and Kerala
- ▶ Approximately 185k people work across these studios
- ▶ Creating hubs enables talent ecosystem to grow and provides more skilling and career opportunities

## Talent development has achieved scale

	Animation	VFX	Gaming	Total
Assam	1			1
Andhra Pradesh			1	1
Chattisgarh	3	1		4
Delhi	1	2	4	7
Gujarat	5	3	8	16
Haryana	6	2	7	15
Jharkhand			2	2
Karnataka	5	3	12	20
Kerala		1		1
Madhya Pradesh	4	1	1	6
Maharashtra	10	8	2	20
Odisha	2			2
Punjab	4	1	3	8
Rajasthan	5	2		7
Tamil Nadu	3	5	1	9
Telandana		1		1
Uttar Pradesh	3	3	4	10
Uttrakhand	2	3	2	7
West Bengal	1		1	2
<b>Total</b>	<b>55</b>	<b>36</b>	<b>48</b>	<b>139</b>

FICCI AVGC Committee estimates | Mainstream universities

- ▶ India now has 139 universities for animation, VFX and gaming education
- ▶ Maharashtra (Mumbai and Pune) and Karnataka (Bengaluru) have 20 institutes each
- ▶ Fees range from below INR100k to INR3 million depending on the facilities
- ▶ Post NEP 2020 the mainstream universities have opened up to creative programs specially AVGC and XR

# The Government has added on several new incentives in 2021

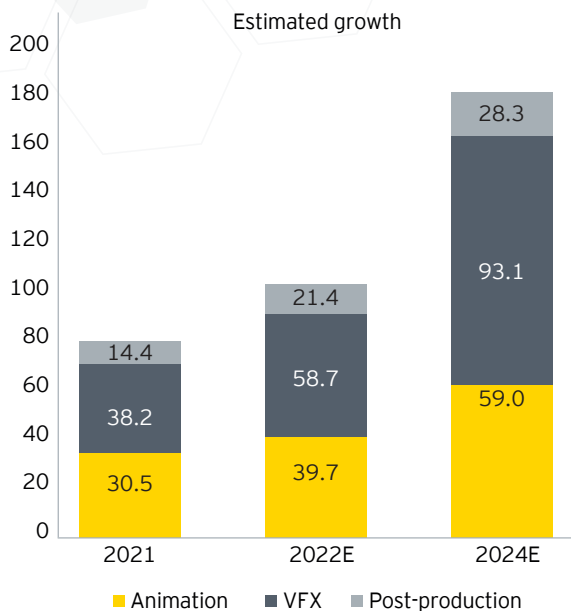
- ▶ With the support of State Governments, more people are evaluating the segment as a reliable career option:
  - ▶ One of the viable examples of Government support is the ABAI Center of Excellence (COE) based in Karnataka where the Government is pushing the segment further through multiple facilities like workshops, finishing school, incubator center, green screen room, photogrammetry, NCAM and other latest technologies, bringing together the creative community under one roof
  - ▶ The COE has also introduced a finishing school where a talented set of students are trained in technology and production since the COE has aligned itself with Unity and Unreal and has the relevant technology partnerships and certified programs<sup>17</sup>
- ▶ Facilities like motion capture, NCAM can also be used by various studios which aids even small-scale studios to make use of high-end technology without having to invest in the expensive set-ups
- ▶ In Budget 2022 it was mentioned that the Government will be setting up an AVGC Task Force to promote the sector which will help to further strengthen it
  - ▶ This task force will facilitate employment for the youth, build domestic capacity to serve the Indian markets and meet global demand
- ▶ Cryptocurrency and NFTs have been incorporated in the tax net which is a positive step
  - ▶ The introduction of the Central Bank Digital Currency (CBDC) using blockchain technology will spur micro-transactions
  - ▶ These announcements on virtual assets and CBDC signal the progressive mindset of the government, will spur the AVGC sector's growth and its contribution to the country's GDP
- ▶ The pace at which these announcements are implemented will play a paramount role in the growth of the segment, enabling SMEs to catapult and realize their full potential through technology development

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<sup>17</sup><https://www.animationxpress.com/latest-news/cii-summit-fx-charts-the-growth-of-karnatkas-avgc-scene-with-abai-center-of-excellence-case-study-panel/>

# Way forward

## I. The segment is expected to reach INR180 billion by 2024



INR billion (gross of taxes) | EY estimates

- ▶ The segment is expected to more than double in three years till 2024 to INR180 billion
- ▶ Key drivers of growth will include
  - ▶ Increased demand for higher-quality domestic film and episodic content
  - ▶ Content crossing language barriers – nationally and internationally
  - ▶ Increased adoption of virtual production and rising VFX budgets for content
  - ▶ Increased offshoring of projects to India as the global content economy expands with new OTT platforms
- ▶ However, the key risk remains availability of quality talent, for which much needs to be done around training and upskilling

## II. Growth of NFTs and metaverse will open-up newer opportunities

- ▶ The metaverse will require massive amounts of virtual content to be created, this time not just by media companies, but by brands, institutions, businesses, Government and institutes
- ▶ NFTs will require high amounts of design capability, animation, game-development and skinning, rendering in virtual worlds etc.
- ▶ Opportunities for creating virtual assets, character animation, converged pipelines for gaming assets and associated monetization options related to NFT sales, participation fees, virtual merchandise, subscription for virtual environments etc will open up

## III. Gaming will provide top-end and massively local opportunities

- ▶ With the advent for 5G at the top end, and the low-cost smartphone at the lower end, gaming is set to grow in various ways
- ▶ Top-end game design and animation will be required to re-create several existing popular game to cater to the two ends of the market
- ▶ Games in regional languages and multi-language and regional character skinned games will also increase in importance

## IV. Studios will open in-house training programs for cross development skills

- ▶ Indian animation and VFX studios are doubling down their efforts to start their in-house training program to overcome the shortage of skills present in the sector
- ▶ Also, spurred by a rise in demand for talent who can use the Unreal Engine, the Unreal Fellowship has been established to upskill experienced industry professionals in film, animation and VFX

## V. Simplified technology will help grow talent pool

- ▶ The pandemic brought technology to center of operations with distributed workflows, cloud computing, virtual production etc.
- ▶ The advancement in front end animation/ VFX tools in the recent years have made them less technical and more creative-user friendly
- ▶ Animators today need not understand as many technical details or coding to create complex sequences, which can help build a larger pool of talent for this segment

<sup>18</sup> Industry discussions; EY analysis

## **VI. Increase in adoption of real-time technology/ virtual production**

- ▶ Indian studios have started adopting virtual production and in the next 2 to 3 years, virtual production will become a far more common practice
- ▶ It is expected that around 50% of Indian animation and VFX studios will adapt to real-time technology/ virtual production by 2025<sup>18</sup>
  - ▶ Bigger studios have already started using software like Unity and Unreal in their pipeline
  - ▶ For smaller studios, this could be a challenge because of the kind of investments involved in implementing these technologies, and will probably be used for specific projects
- ▶ However, India needs to up its game in virtual production to stay relevant in the global content marketplace – education and training are necessary for the sector to achieve its growth potential

## **VII. Animation will enter physical and virtual worlds at scale**

- ▶ Augmented reality and related growth in advertising sector has brought animation into the physical world - advertisements now using augmented reality to engage with consumers from their TV screens, OOH billboards etc.
- ▶ Brands are also enabling trial of products (cosmetics, fashion, cars and the like) in virtual environments across social and e-commerce apps
- ▶ Smart phones with XR related capabilities as well as tools provided by short video platforms have led to the growth of videos with augmented animated content, which has grown at scale
- ▶ VR glasses and numerous metaverse

## **VIII. Expansion in use cases will lead to higher demand for animation**

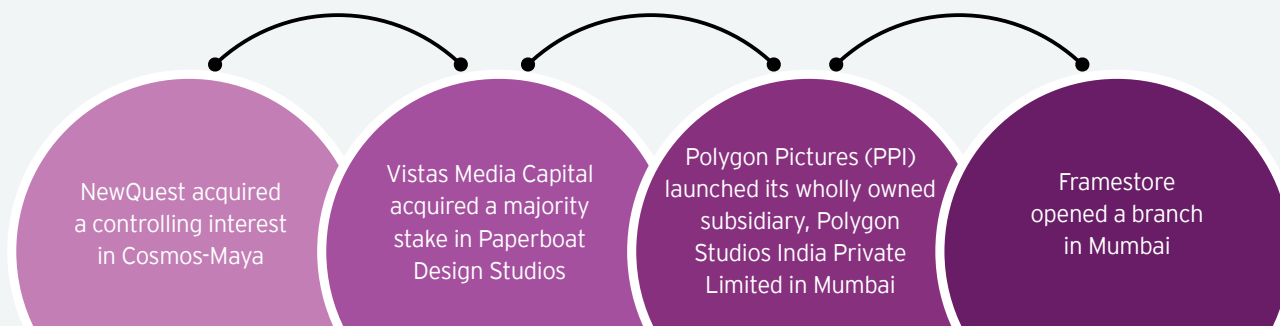
- ▶ Educational institutes and ed-tech companies started making use of animated content on a larger scale which got further amplified with gamified-learning across schools, degrees, career, life skills and language skills
- ▶ Social media and short videos platforms have enabled individuals and small studios to reach out to more audiences as snackable, small-size content is garnering higher eyeballs
- ▶ We expect use cases to move across industries to all digital platforms, be it cosmetics trials, furniture design, fashion/ retail experiences etc.

## Kids broadcasters/OTT platforms invested further in original animated IPs

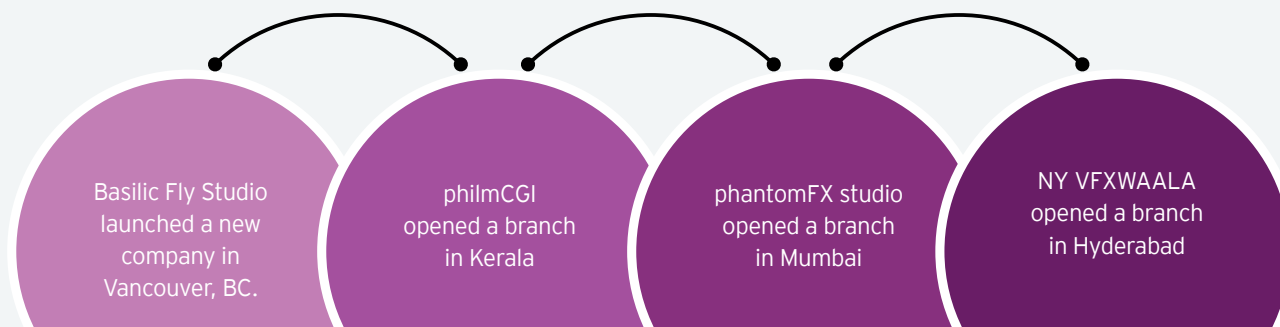
Cartoon Network	ETV Bal Bharat	Nickelodeon	Gubbare
<ul style="list-style-type: none"> <li>▶ Dabangg- The animated series</li> <li>▶ Ekans- Ek Se Bhadhkar Snake</li> </ul>	<ul style="list-style-type: none"> <li>▶ Abhimanyu- The Young Yodha</li> <li>▶ Chotu Lambu and Robu</li> </ul>	<ul style="list-style-type: none"> <li>▶ Chikoo aur Bunty</li> </ul>	<ul style="list-style-type: none"> <li>▶ Akki Jaanbaaz</li> </ul>
Sony YAY!	Disney+ Hotstar	aha Kids	Disney India
<ul style="list-style-type: none"> <li>▶ Taarak Mehta Kka Chhota Chashmah</li> </ul>	<ul style="list-style-type: none"> <li>▶ Legend of Hanuman (S1 &amp; S2)</li> </ul>	<ul style="list-style-type: none"> <li>▶ Maha Ganesha</li> </ul>	<ul style="list-style-type: none"> <li>▶ Dr. Tenali Rama HMKD*</li> <li>▶ Bhaiyyaji Balwan*</li> <li>▶ Twinkle Sharma #0007*</li> </ul>

\*Commissioned but yet to come on air at the time of preparing this section

## Venture capitalists and international studios invested in India



## Indian studios expanded their presence internationally and domestically





## VFX was used across small- and large-scale productions

Ray (Netflix)	Matsya Kaand (MX Player)
Aarya 2 (Amazon Prime)	Special Ops 1.5 (Disney+ Hotstar)
Minnal Murali (Netflix)	State of Siege Temple Attack (Zee5)
Dhamaka (Netflix)	Bombay Begums (Netflix)
Decoupled (Netflix)	Marakkar: Lion of the Arabian Sea (theatrical release)
Scam 1992: The Harshad Mehta Story (SonyLIV)	Roohi (theatrical release)

Redchillies.vfx delivered 1,375 VFX shots for the valorous biopic 'Shershaah' directed by Vishnuvardhan

Kabir Khan's biographical sports film '83' had around 3,600 VFX shots which were worked upon by ReDefine

## Virtual production gathered pace

Bollywood director Vikram Bhatt made use of Unreal Engine with LED walls for his film 'Cold' and 'Anamika' series

Most of the backdrops in the 'Kalavathi' song from the telugu movie 'Sarkaru Vaari Paata' were created using Unreal Engine.

'Radhe Shyam' film was also shot using virtual production

Whistling Woods International (WWI) joined the On Set Virtual Production (OSVP) to train and equip students with all aspects of virtual production

## Future trends

50% Indian studios will adapt to real-time/virtual production in the next 2-3 years

Metaverse and NFTs will be the new real estate

Institutes to open in Tier-2, Tier-3 cities to hone the creative talent available there

More studios to open in-house training programs

# Expert speak

*"The Indian AVGC - XR is poised to make a significant growth by 2030. The Indian AVGC-XR industry will require 10 times more skilled manpower from its present strength 185000 to be able to meet the target of reaching 5% to 6% of the global market which will be around 70Bn to 80Bn USD."*



**Ashish SK**

XX

*"Indian VFX in 2020 and 2021 has shown how the movie & TV world has been enhanced by new gravity defying CGI physics! Our crews have continued to work through the pandemic and deliver world class work. As studios come back to scale and roll out more magic moments, 2022 will see the floodgates open: content creation looks to grow significantly. Skilling talent is critical and the industry is working to make this happen to leverage the global opportunity."*



**Biren Ghose**

Founder, Technicolor creative studios

*"The Indian AVGC sector has been displaying a lot of resilience and has emerged as a beacon for the Indian M&E industry. Thanks to India's young population, AVGC has been accelerating in recent years. It is on its way to hyper-scale itself and become a sector to reckon with globally in the next five years."*



**Anil Wanvari**

Founder, Chairman and Editor-in-Chief  
AnimationXpress.com

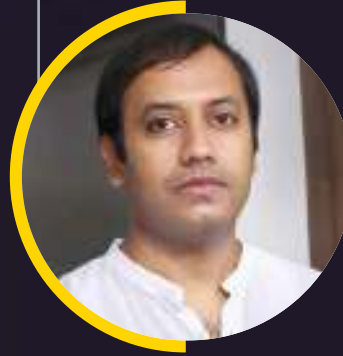
*“Earlier 5%-8% of the production budget was put in for VFX. But now VFX’s budget for long-format content - whether a feature film’s theatrical or OTT release - has gone up to the tune of 20% of the production cost. The Indian AVGC sector has a golden opportunity to leverage its skills and play a key role in content creation, both locally and abroad.”*



**Anant Roongta**

Director - Famous Studios

*“There is an upsurge in the kind of subject matter that is heavily reliant on CGI, VFX and animation to make it come alive. The industry is already bouncing back and it will definitely continue to see a huge rise in 2023. At the same time, there needs to be an industry protocol, industry rules wherein we could get better value from the work that we do; a need to set the standard of cost & value structure, cost & work structure, so that like the west we can have standardized production/industry norms to do work better.”*



**Suchit Mukherjee**

Founder, Famulus Media & Entertainment

*“Original content creation for OTT will grow exponentially over the near future as non-fiction reality content, live streaming of events and sports gets added to their content roster. Big picture: emerging technologies like virtual production and virtual immersive experiences (including the metaverse) will provide great opportunities for the industry to grow both in depth & width. India must up its game, both creatively & technically.”*



**Rahul Puri**

MD Mukta Arts

*“Animation will continue to grow stronger not just in the media & entertainment sector but in several other fields including education. Many new sectors are embracing animation and related emerging technologies in a big way.”*



**P. Jayakumar**

Toonz Media Group



Live events







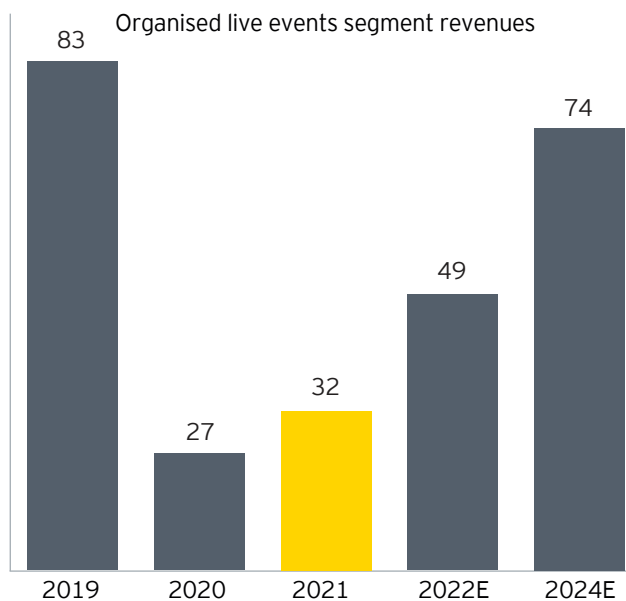
Moumita Roy  
Business Consulting  
Mumbai (EY LLP)



# Live events

This section is based on the findings of primary research conducted across more than 24 Indian events companies, marketers' perspectives and industry discussions conducted in January 2022.

## Organized live events segment revenues recovered 20% in 2021



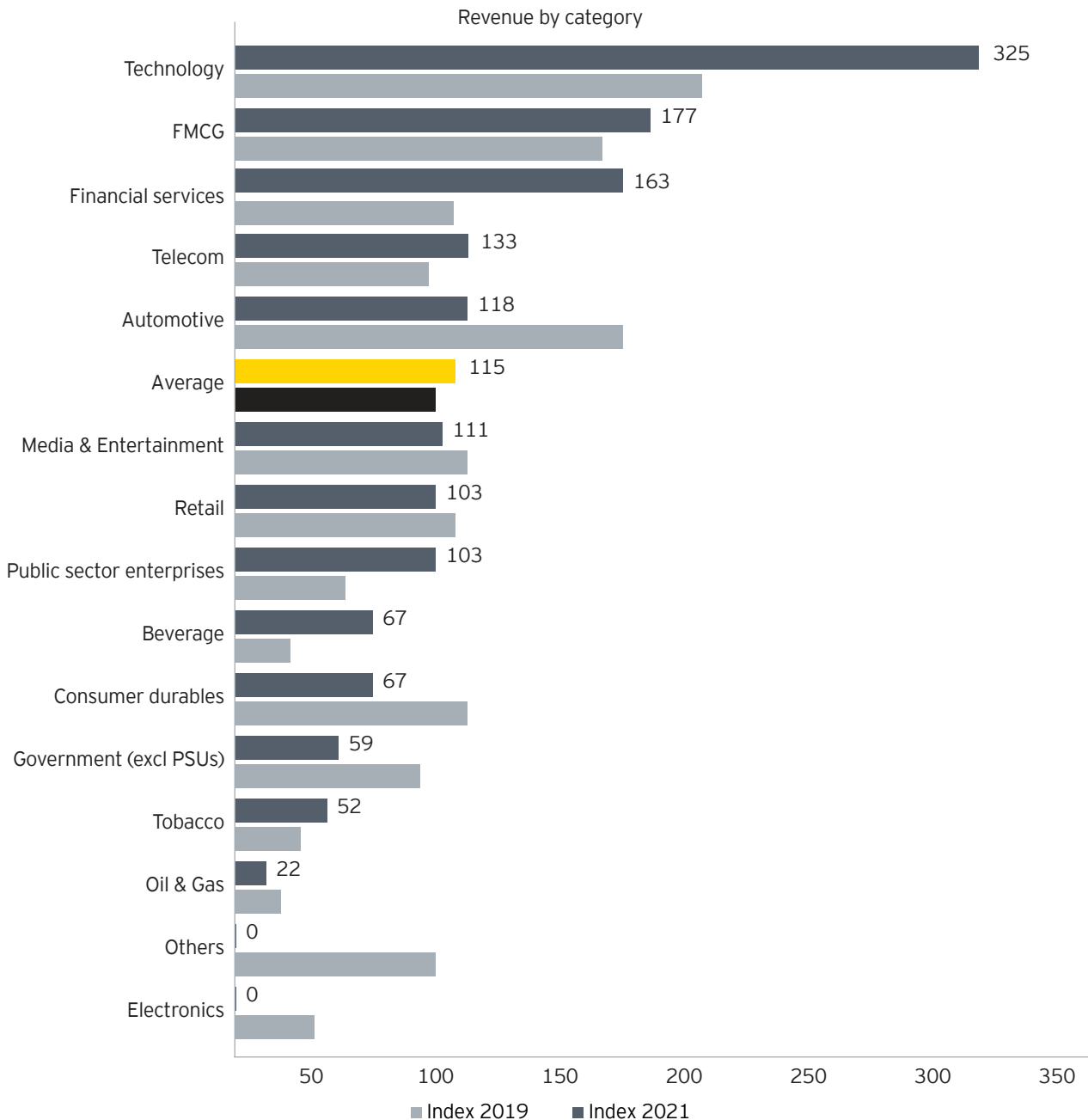
INR billion (gross of taxes) | EY estimates

- ▶ This growth was primarily due to the relaxation of event curbs in a few states and increase in vaccination rates; however, revenues remained less than half of the revenues of 2019
- ▶ Technology, FMCG and financial services were the top categories spending on events in 2021
- ▶ Pure digital events were the most popular event type, with 88% of survey respondents providing them (up from 27% in 2019)
- ▶ It appears that pure digital events are here to stay—pure digital events will eventually evolve into digital extensions of physical events. This will enable events industry to provide measurement metrics like reach and engagement
- ▶ However, low pricing will continue to plague pure digital events, unless consumer experience, RoI measurement and attribution improve
- ▶ We expect that, subject to no further impact of the pandemic, the segment will recover to pre-COVID levels by the last quarter of 2024/ first quarter of 2025, growing at a CAGR of over 30% over the next three years

## Note on sizing

- ▶ The events segment revenue represents the revenue of “organized” events and activation agencies and does not include the multitude of “unorganized” event companies spread across the country, as it is not possible for us to size them; survey respondents felt on an average that around half the Indian events and activation segment were organized
- ▶ The size estimate also does not include:
  - ▶ the value of media spends on and telecast rights of events (unless event IP was owned by an events and activation management company)
  - ▶ the value of meetings, incentives, conferencing, and exhibitions (MICE) conducted by pure travel companies
  - ▶ value of IPs not owned by event companies
  - ▶ the value of properties managed by in-house teams of advertisers, print, radio, and other M&E segments
  - ▶ weddings and other events which are paid for in cash in the unorganized segment

## Technology, FMCG and financial services were the top categories spending on events in 2021

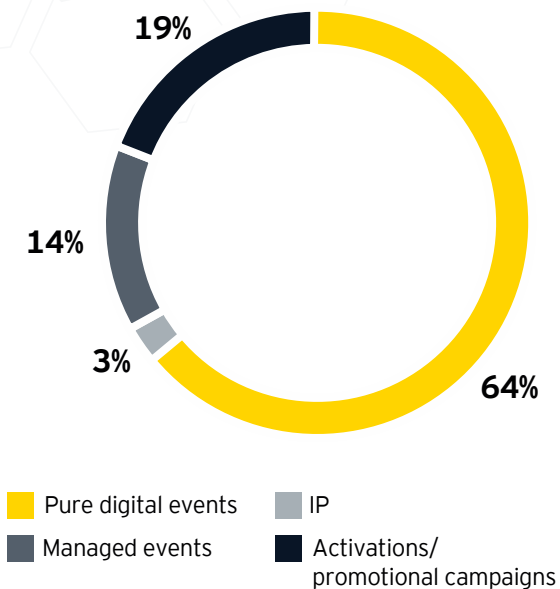


EY survey of event companies 2021 and 2019 | Indexed to average = 100

- ▶ Technology, FMCG, financial services and telecom categories were top contributors to revenues in 2021, being categories, which have made the shift to online and/ or hybrid event models
- ▶ Automotive and durables categories event spends saw a significant drop in importance from a revenue perspective as these categories were impacted by chip shortages, supply chain constraints, increasing input costs, etc.
- ▶ Government spending on events also reduced significantly due to re-prioritization of budgets towards COVID-19 areas

## Pure digital events were the most popular event type service provided

Type of events conducted by respondents

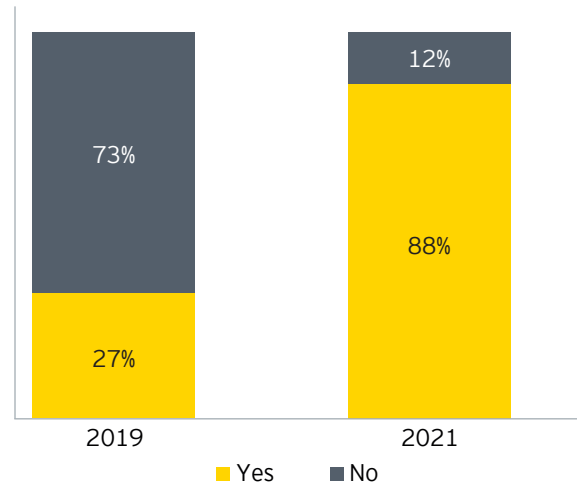


EY survey of event companies 2021

- ▶ Managed events, which used to be the mainstay of the segment, comprising over 50% of events conducted, reduced to just 14% due to curbs implemented on account of COVID-19
- ▶ Pure digital events continued to grow and were provided by 88% of respondents, compared to just 27% in 2019
- ▶ IP suffered a further drop from 2020 levels due an overall decline in sponsorship levels as events of scale could not be held

## Pure digital events appear to be here to stay

% of respondents who provided pure digital events

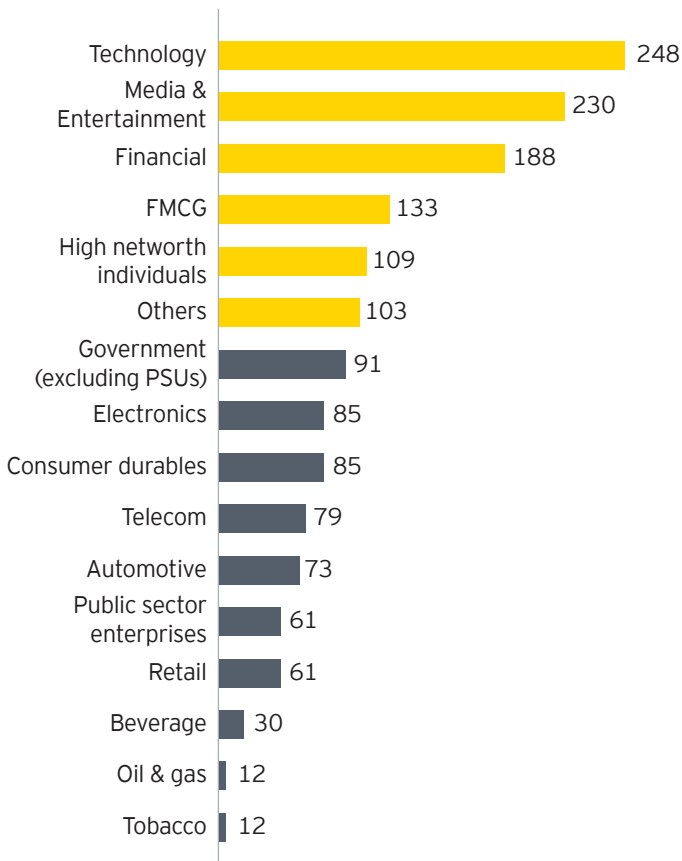


EY survey of event companies 2021

- ▶ 38% of our survey respondents generated more than 50% of their revenue through pure digital events
- ▶ Most respondents believed that pure digital events would continue in the long run for certain types of events viz, product launches, seminars, concerts, branded get-togethers, etc.
- ▶ However, the average ticket size of pure digital events was a fraction (around a quarter or even less) of the value of comparable live events
- ▶ Pure digital events are expected to augment live events once the latter start to take place, with several respondents believing that most events will possess a digital element
- ▶ Investments in virtual event platforms, use of augmented and virtual reality, event management platforms, etc., facilitated adoption of such events

## Services led the way in adopting digital events

Category spread of pure digital events

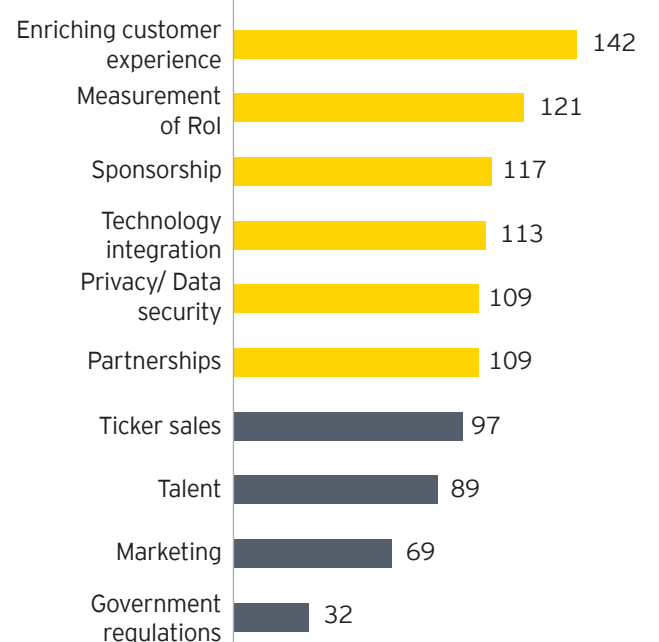


EY survey of event companies 2021 | Indexed to average = 100

- ▶ Digital event adoption was noted across categories, with Technology, Media & Entertainment and Financial services categories taking the lead
- ▶ D2C businesses took the opportunity to connect with partners and vendors
- ▶ B2B businesses used online events to connect with partners and vendors

## Low pricing will continue to plague pure digital events, unless...

Challenges in conducting pure digital events



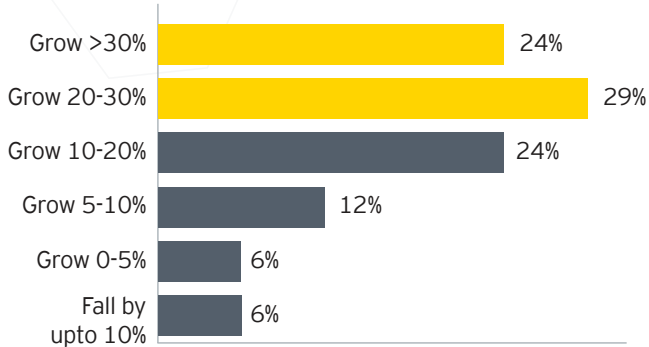
EY survey of event companies 2021 | Indexed to average = 100

- ▶ Enriching customer experience was the key challenge as the events and activation segment struggled to innovate around online marketing, audience engagement and overall audience experience
- ▶ Based on industry interviews, most respondents felt the need to invest in acquiring new-gen skillsets across content, platform, marketing, customer experience, product management, etc. paving the way for content creators and engineers to build the future of this segment
- ▶ Measurement of RoI - despite additional attendee information and interactivity - remained a challenge due to concerns around attribution, which led several marketers to aim for instant transactions, database creation and trial
- ▶ Addressing the consumer online event experience and accurately measuring RoI can pave the way for higher sponsorship values; several marketers we interviewed tended to compare RoI of online events with those of online commerce platforms
- ▶ Consequently, given technology differentiation typically has a limited period, content and experience creation need to be focused on to drive higher sponsorship values, which brings into focus the importance of AR/VR experiences, customized experiences, influencer and celebrity access, creation of digital assets, etc. to drive incremental value

# Future outlook

## Events and activation could grow at a CAGR of 20-30%

Expected CAGR of events and activation segment over the next 2-3 years

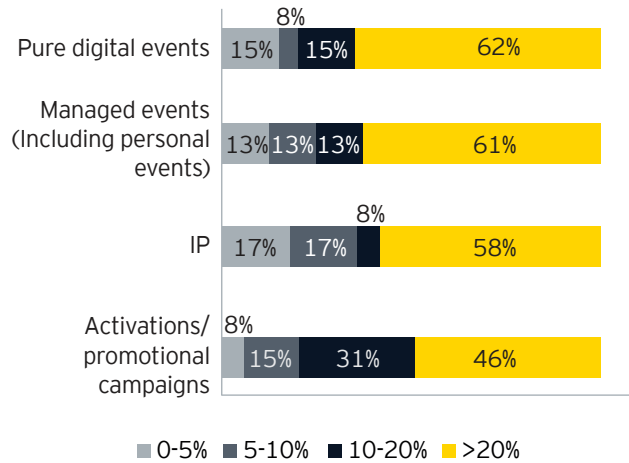


EY survey of event companies 2021 | Percentage of respondents

- ▶ The events and activations industry can see further recovery in 2022 on account of several factors, assuming no further impact of COVID-19:
  - ▶ Continuing relaxation of lockdowns will result in an increase in the number of on-ground events such as weddings, hybrid corporate events with a limited number of attendees, etc.
  - ▶ Marquee sporting events seeing the light of day in 2022 viz, IPL, PKL, ISL, Asia Cup, ICC events, National Games, etc.
  - ▶ Elections across four states in India and the build-up to general elections in 2023
- ▶ Confidence has grown due to increased vaccination, opening of many offices, relaxation of transport restrictions, and increased preparedness of medical facilities
- ▶ The need to meet physically for corporate teams which have been working largely from home is expected to drive MICE and managed events

## Pure digital events and managed events will drive future growth

Growth by type of events - next 2-3 years



EY survey of event companies 2021 | Percentage of respondents

- ▶ Survey respondents believed that growth would be witnessed across all types of events, but would be led by pure digital events and managed events
- ▶ Pure digital events will continue to be critical to support marketers' direct to customer businesses and community building initiatives
- ▶ In addition, 46% of respondents believed that there will be an increase in spends on rural events in the next 2-3 years to support campaigns initiated by the Government at central and state level to combat the impact and messaging around COVID-19, generation of employment, promotion of tourism, etc.



## New events opportunities in a post COVID-19 world

COVID-19 has impacted our world and consequently, consumer behavior has changed. Brands, therefore, are learning to engage with their audiences in new ways. We believe that this provides several opportunities for the experiential segment, some of which are detailed below:

### I. D2C community management

- ▶ With over 250 D2C brands across products and services, marketers have started to build connect directly with their consumer bases
- ▶ However, the ability to engage with audiences in a relevant and timely manner is something that needs the appropriate content, experiences and micro-services

### II. Escapism through virtual avatars

- ▶ More and more brands have started to get interested in the metaverse; which is expected to be the motherlode of online experiences
- ▶ With the growth of virtual avatars, their real life "owners" will need virtual spaces to use those avatars and live their second lives
- ▶ But what experiences need to be built in those virtual spaces? How to market them? And how to convert those experiences into revenue? All these questions remain to be answered and provide an opportunity to event companies

### III. Media property-led events

- ▶ As reality TV, online gaming and interactive OTT content increase their reach and appeal, the need to engage with live events in those environments is expected to increase several-fold
- ▶ Enabling contests and games amongst friends or communities through connected TV ecosystems, building exclusive and curated gaming experiences, and personal virtual events around sports or other impact properties can provide significant opportunities

### IV. Rural / Agriculture / MSME focus

- ▶ Credit growth in India is expected to be led by rural markets, agricultural sector and small businesses as they rebound from the effects of the pandemic
- ▶ Banks, financial institutions, telecom, technology and agri firms will need access to such markets in a meaningful and sustained way and events will be an important part of their media mix

### V. Premiumization of event experiences

- ▶ Top-of-pyramid audiences can afford international quality experiences and remain a core market for premium experiences
- ▶ They provide an opportunity to create premium and exclusive events across sports, concerts, business, fashion and lifestyle themes

### VI. Experiences for hybrid workforces

- ▶ Companies with large workforces - specially Indian tech companies - are pivoting into hybrid models with limited functions coming to office
- ▶ Yet workforce culture management and engagement remain critical - areas which will require experiences to teach, inculcate, remind and monitor them

### VII. Format fluidity

- ▶ Millions of hours of online event content is created each year, but is not limited to physical or real-time attendees
- ▶ Such content - particularly around medicine, technology, education, science - has a long shelf life
- ▶ The ability to go multi-media and asynchronous can enable CMOs to meet their brand needs through content innovations and integrations across social media and other means of communication

# Expert speak

*“The industry is ready to bounce back after two years of stagnation and de growth. Get ready for a spurt in live events and a hockey stick growth for the next 3 years”*



**Roshan Abbas**

Managing Director  
VMLYR Encompas

*“We are seeing transformative shifts in fan experiences and modes of engagement. Improved connectivity, cheaper data and digital literacy are taking sporting experiences to new users across linear and digital screens. Beyond serving new cohorts of fans, we continue to push the boundaries of personalisation, immersion, and interactivity to deepen the passion fans have for the sport.”*



**Sanjog Gupta**

Head of Sports  
Disney Star

*“The event industry has reset itself to be led by technology and creativity. Future experiences will be immersive and engaging, with technology enabling speed of augmentation and outreach to global audiences. The event-venue is no longer restricted by walls...the venue and the audience have become limitless.”*



**Sabbas Joseph**

Founder & Director  
Wizcraft International  
Entertainment Pvt. Ltd.

*“The events business is set to recover lost ground in 2022. Televised events will return to enable fans to engage with the stars they love. The international season for Bollywood artists has started-off well. There is a backlog of sporting events, too. And this time, events will be three-dimensional: physical, online and metaversical!”*



**Mohomed Morani**

Managing Director -  
Cineyug Group of Companies

*“The last 24 months have been a huge life lesson for us, both personally and professionally. On both fronts, we are strongly prompted towards introspection, innovation and collaboration. As Billy Ocean once sang, “When the going gets tough, the tough get going!”*



**Brian Tellis**

Director  
Fountainhead MKTG

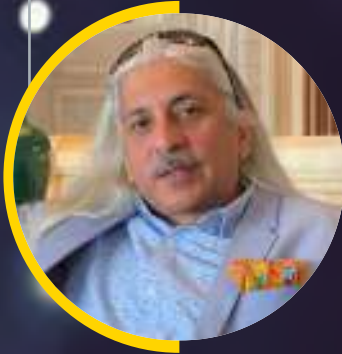
*“Event community needs to be as nimble as their audience. The last 2 years have not only accelerated the digital approach by brands but also created phygital behaviour. For the Event Industry this means mapping every consumer touchpoint and behaviour, and support the same with tangible insights to create concepts that earn consumer attention while respecting their privacy.”*



**Mandeep Singh**

MD & CEO - India, CPM - APAC  
Omnicom Group Company

*“The events industry is poised to rebound. Online fatigue has meant that people are looking to personalized & immersive experiences and the opening up of the sector. The need of the moment is to push for industry status and unlock the vast potential of the sector.”*



**Sanjoy Roy**

Managing Director  
Teamwork Arts

*“As the world reopens post-COVID-19, live events are coming back to life. The new reality that will continue to unfold is sure to be more immersive, more interactive and more alive with opportunities.”*



**Deepak Pawar**

Managing Director  
Midas Next Media

*“With the pandemic expediting digitalization, the value proposition that exhibitions offer will increase exponentially, combining the power of market access along with unique and boundaryless human experiences & connections”*



**Yogesh Mudras**

Managing Director  
Informa Markets in India

*“As long as we celebrate life, celebrations and events will never fade away. It’s time to invest into the future of event IPs that transcend geographies and physical spaces and look at inclusivity through live event with digital imprints too.”*



**Deepak Choudhary**

Founder & Director ( XPRNC, Dubai)  
eventfaqs & wwi school of event  
management

*“The landscape of the events business in India will change drastically over the next 2 to 3 years with Government events leading the pyramid to deliver an annual growth of more than 200 percent.”*



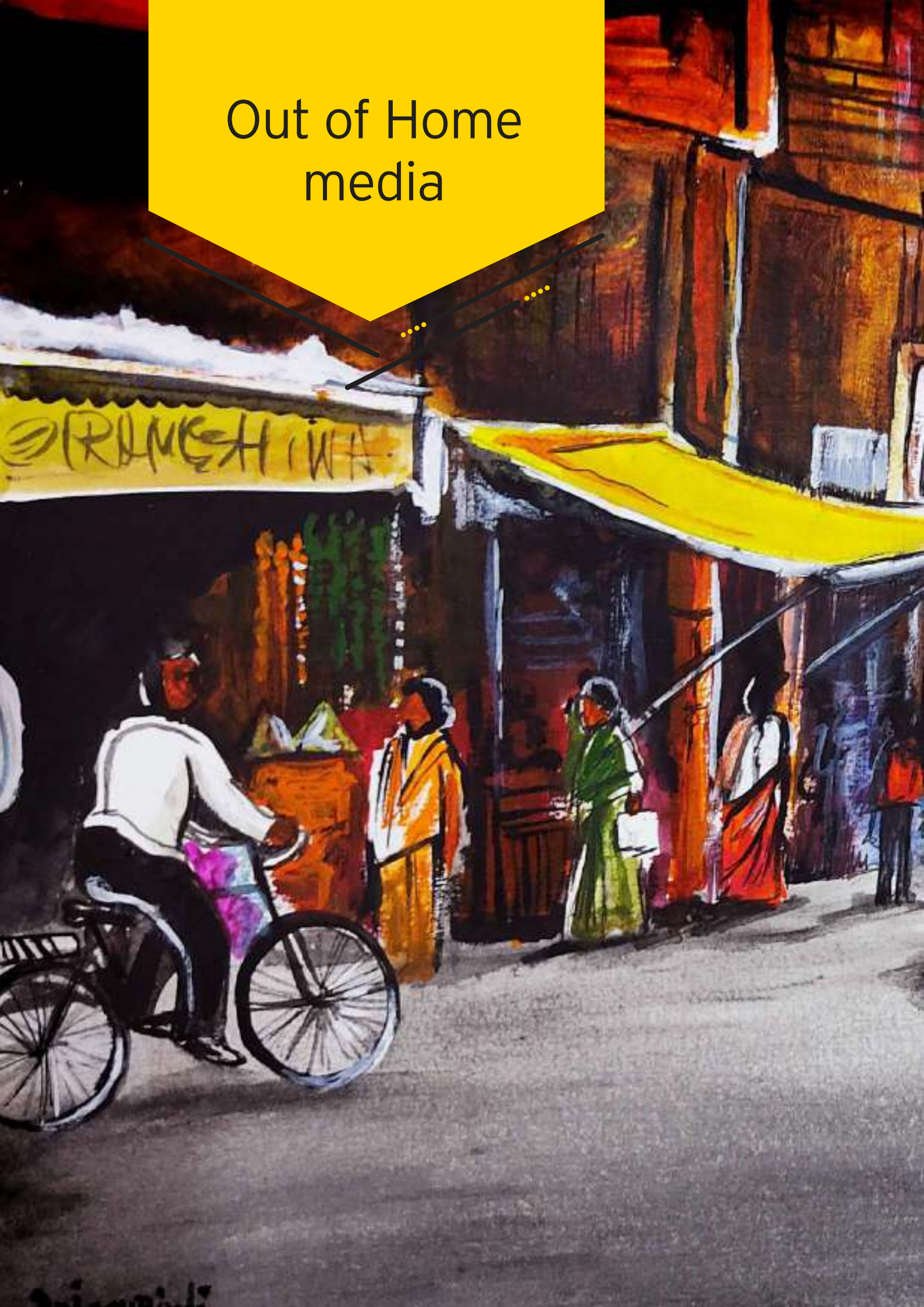
**Samit Garg**

Co-Founder & Director  
E Factor & SkyWaltz





# Out of Home media

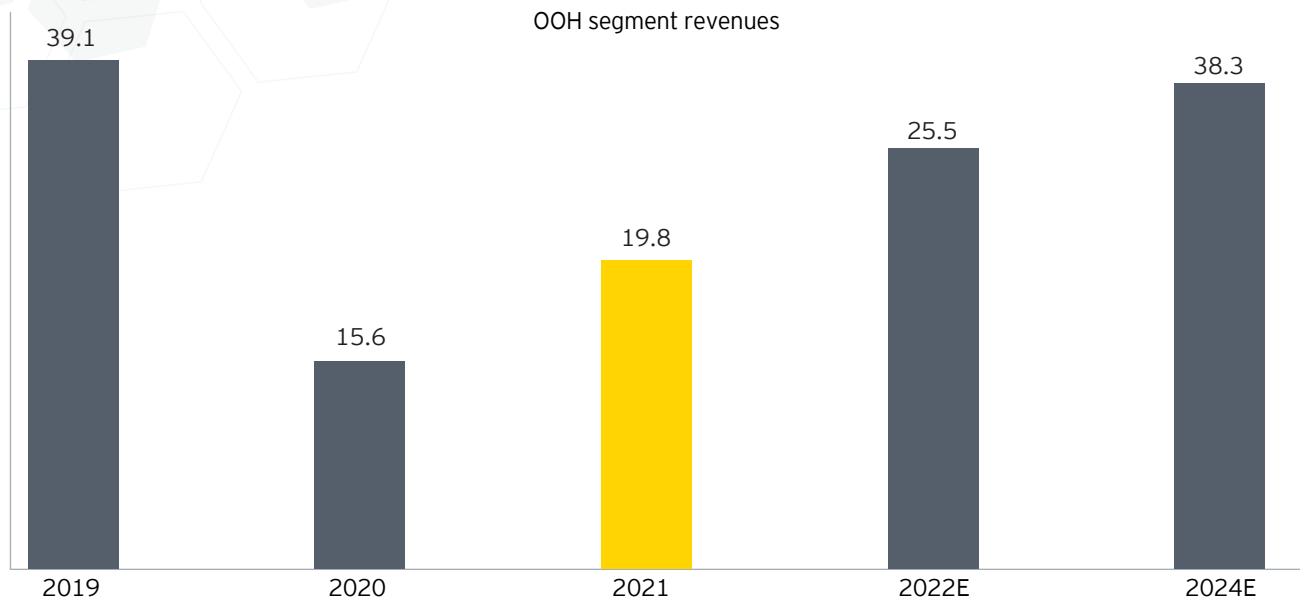






# Out of Home (OOH) media

OOH segment grew 27% in 2021



INR billion (gross of taxes) | EY estimates

- ▶ OOH media grew 27% in 2021 to INR19.8 billion, the value of which includes traditional, transit and digital media, but excludes untracked OOH media such as wall paintings, ambient media and proxy advertising
- ▶ The OOH segment remained over 30% below its 2019 revenue levels
- ▶ Real estate, organized retail and FMCG were the largest advertisers on OOH
- ▶ Traditional OOH comprised 55% of revenues and remained the largest segment
- ▶ Transit media comprised 39% of the sector as compared to 35% last year recovering gradually as travel restrictions were eased
- ▶ Digital media contributed 6% of the segment's revenues due increased number of screens across airports, metro stations, malls and even on billboards in large cities
- ▶ We expect the OOH segment to reach 2019 levels not before 2024



## Real estate and organized retail were the largest categories of the OOH segment<sup>1</sup>

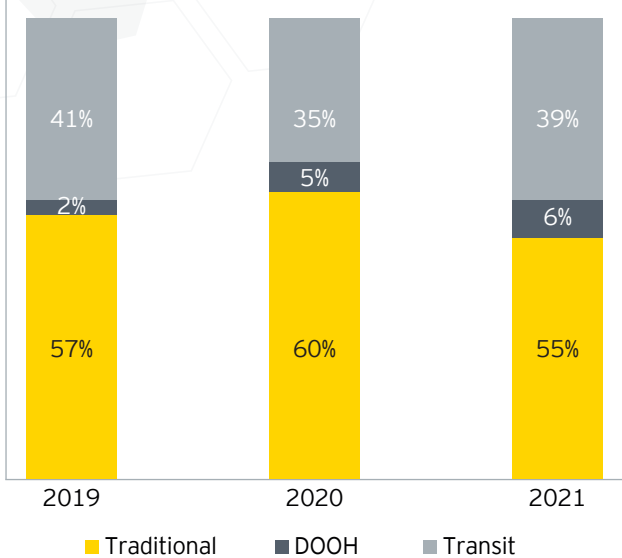
Sector	Contribution		Contribution to growth
	2020	2021	
Real estate and construction	21%	22%	23%
Organized retail	11%	14%	17%
FMCG	14%	13%	13%
Financial services	13%	13%	13%
Consumer services	11%	11%	11%
Media	10%	7%	3%
Automotive	7%	5%	2%
Telecom	5%	3%	-1%
E-commerce	2%	2%	2%
Electronic durables	2%	2%	2%
Pharmacy	0%	1%	1%
Petroleum	0%	0%	1%
Energy	0%	0%	0%
Others	4%	7%	13%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

- ▶ The top five categories contributed 73% of OOH spends
- ▶ Real estate and construction continued to be the largest category to spend on OOH with a share of 22%; improved consumer perception of owning a house, conducive home loan interest rates and government policies, such as reduced stamp duties, served as a catalyst for demand
- ▶ Other categories which drove growth included organized retail, FMCG, financial services and consumer services
- ▶ All categories registered an increase over 2020, except telecom which shrunk by 8%

<sup>1</sup> Pitch Madison Advertising Report 2022

## Traditional media continued to be the largest revenue contributor at 55%

Revenue by type of OOH

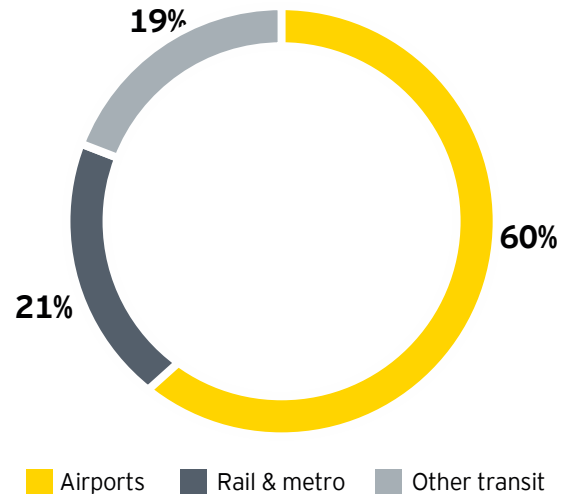


EY survey of event companies 2021

- ▶ Traditional media contributed 55% of total OOH media revenues, not counting ambient media, wall paintings, proxy media (like ads in automated teller machines) and the informal / unorganized sector
- ▶ The share of traditional media has shrunk by 5% over 2020 as only premium sites were in high demand and other sites had fewer takers despite discounts
  - ▶ Office OOH collapsed due to work-from-home policies
  - ▶ Cinema advertising remained impacted due to capacity restraints and lockdowns impact across different states
  - ▶ While mall traffic picked-up, ad volumes remained low and were focused on external façade advertising
- ▶ The share of transit OOH increased to 39% from 35% in 2020 as rail, metro and air, all witnessed considerable interest due to re-opening of offices and the easing of domestic travel restrictions
- ▶ Metro station co-branding and other ad rights is driving the growth of transit media
- ▶ DOOH - which includes digital screens across transit and billboards - share of revenues increased three times since the pandemic begin
- ▶ Introduction of large digital screens has helped the DOOH sector grow due to its attractive value and instant demand for such sites from OTT platforms, fantasy games, etc.
- ▶ Non-metros fared better in comparison with metros due to lower COVID impact

## Transit media recovered as travel restrictions eased

Composition of transit media revenues



EY Estimates based on industry discussions, ad agency reports

- ▶ Transit media comprised INR7.7 billion in 2021 (39% of total OOH) and we expect it to double to INR15.3 billion by 2024
- ▶ Air passenger traffic has seen a steady growth in 2021 - traffic increased by 63% in the four-month period, from August to November 2021<sup>2</sup>
- ▶ Increased waiting time due to the health check process has made transit assets more attractive for advertisers
- ▶ The absence of business and international travelers has resulted in lower profile of travelers at airports, keeping rates (and consequently margins) low

<sup>2</sup> <https://www.media4growth.com/ooH-news/air-passenger-traffic-volume-in-india-rises-629-in-aug-nov-2021-5985>



## DOOH is gaining prominence with brands

- ▶ DOOH now comprises over 6% of the OOH segment's revenues, up from just 2% in 2019
- ▶ DOOH is building a wider base of advertisers due to the ability to run shorter, smaller value campaigns on it, if required
- ▶ Apart from DOOH asset attractiveness, technological advancements like programmatic digital out-of-home (PDOOH) have increased access for brands, and brought in automation and transparency
- ▶ PDOOH extends beyond the automated process of ad serving and give buyers the opportunity to understand the ad impact post the campaign with audience insights and brand surveys as well<sup>3</sup>
- ▶ As DOOH ad networks gain scale and popularity, the utilization of DOOH assets will increase - across transit, billboard, corporate, mall / plex and other venues.
- ▶ Extra visibility via targeted DOOH, flexibility, real-time metrics and reporting at a glance, are some of the benefits that PDOOH offers to media buyers

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<sup>3</sup> <https://www.exchange4media.com/out-of-home-news/programmatic-dooH-a-winning-strategy-in-2022-117954.html>

# Future outlook

## We expect OOH to reach INR38.3 billion by 2024

- ▶ At INR38 billion, the sector should recover its pre-pandemic levels by 2024
- ▶ Apart from increased capacity utilization as business, travel and life normalize, several factors will drive the recovery in the OOH segment, such as:
  - ▶ technology driven measurement
  - ▶ upcoming infrastructure projects including transit hubs, smart cities, etc.
  - ▶ increased interest in DOOH assets and consequent D2C innovations

## Transit OOH will diversify

- ▶ Significant growth is expected in transit OOH where travel ad spend is expected to grow 31% over 2019 baseline<sup>4</sup>
  - ▶ 497 kilometers of under construction Metro routes; 472 kilometers of approved routes and 1,045 kilometers of proposed routes across the nation will aid revenue growth for transit media<sup>5</sup>
  - ▶ 400 Vande Bharat trains connecting different cities over the next three years will have a major bearing on the growth prospects of railway OOH business
  - ▶ Government of India is set to build 21 new airports as well as expand/ upgrade existing airports by investing INR250 billion by 2025<sup>7</sup>; naming of an airport terminal or some zones by brands is becoming an attractive proposition
  - ▶ Brands could engage with passengers to promote their brands/products through sponsored virtual experience or services aligned to passenger needs at prominent points like ticket counters, boarding gates, etc.
  - ▶ EV charging stations could bring in additional opportunities, providing users with immersive brand experiences, things to do around lists, retail offers, etc.
  - ▶ In cab / bus / train opportunity could reach over INR7 bn by 2025<sup>8</sup>

## Upscale and busy spaces will enable premium OOH assets

- ▶ Infrastructure is being created which will enable OOH asset development
  - ▶ Infra projects worth INR7,000 bn are planned over the next 2-3 years
  - ▶ Around 8,400 kilometers of greenfield expressways are being built as part of the Bharatmala Pariyojana<sup>9</sup>
- ▶ India's smart cities mission is focused on developing 100 cities on the "smart cities principle" - of using digital technology to improve the urban infrastructure and services
- ▶ Creation of premium spaces / hubs / districts within towns and cities with specialized / custom OOH structures are expected, on the lines of Times Square in New York will create a great impact as government is creating special hubs for tourism<sup>10</sup>

<sup>4</sup> <https://www.zenithmedia.com/travel-adspend-to-accelerate-from-24-growth-in-2021-to-36-in-2022>

<sup>5</sup> <https://themetrorailguy.com/metro-rail-projects-in-india/>

<sup>6</sup> Rail infra expansion, modernisation of train services will boost railway OOH (media4growth.com)

<sup>7</sup> <https://www.financialexpress.com/infrastructure/airlines-aviation/boost-to-aviation-sector-check-out-these-21-upcoming-greenfield-airports/2388073/>

<sup>8</sup> Industry discussions

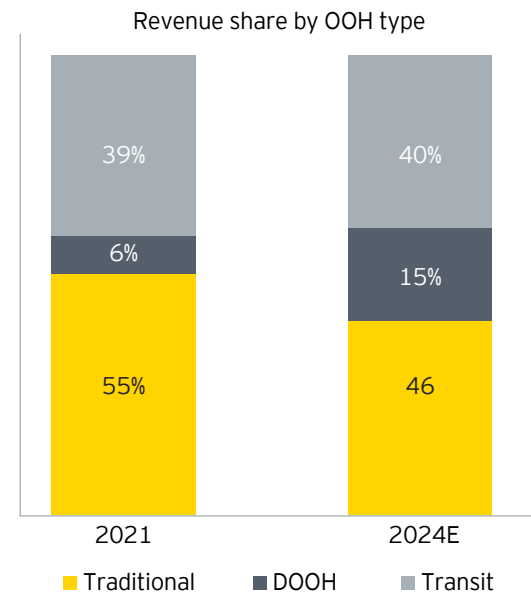
<sup>9</sup> <https://www.livemint.com/news/india/centre-plans-infra-projects-worth-7-tn-over-next-2-3-yrs-11639761285219.html>

<sup>10</sup> <https://economictimes.indiatimes.com/news/economy/policy/government-to-create-special-hubs-for-tourism-jagmohan/articleshow/29381286.cms?from=mdr>

## DOOH innovations will gain scale

- ▶ It is estimated that there were 60,000 connected screens in India as compared to 55,000 in 2020 and this is expected to reach 90,000 screens by 2025<sup>11</sup>
- ▶ But apart from just screens, several interesting innovations around DOOH will gain scale:
  - ▶ DOOH with geo-targeting has a potential to generate “follow-you” messaging and integrate with ads placed on mobile devices, as well as enable “location to store” tracking
  - ▶ Increased engagement through use of QR codes by OOH sites to build top-of-funnel interest-based consumer data
  - ▶ Audience detection technology can enable customized messaging - screens can be programmed to play out custom creatives based on the profile of the audiences viewing the screen
  - ▶ Potential to engage consumers by offering them augmented reality elements and custom offers using their phone cameras
  - ▶ User generated content displays to create increased engagement at tourist spots and bus stands
  - ▶ Utility-based call-to-actions related to shopping, directions, nearby restaurants, tourist places, events, etc. can be provided at town centers
  - ▶ Integration of OOH with social media feeds for creating an interactive experience on OOH assets through photos, short videos, comments, posts, polls, etc

## Share of DOOH revenues will reach 15% by 2024



EY estimates

- ▶ We expect significant capital investment in DOOH and transit OOH assets over the next few years
- ▶ We expect that investments will lead to transit OOH and DOOH growing faster than traditional OOH, from both a rate and volume perspective, together generating 55% of the segment's revenues by 2024
- ▶ The sector is expected to grow to INR25.5 bn by 2022 and achieve its 2019 revenues by 2024 or after
- ▶ Rate recovery is expected after approximately 12 months of normalization post COVID and will be assisted by the fact that growth in ad-free SVOD viewership will increase the importance of OOH as a means to connect with upper-SEC audiences

<sup>11</sup> Industry discussions

# Expert speak

*“Artificial Intelligence should be brought in for better results and it is the right time to penetrate deep into tier-2 & tier-3 cities which will bring more results.”*



**Sunil Vasudeva**

Chairman cum full time Director  
Pioneer Publicity Corporation



*“As the OOH industry climbs out of a crippling pandemic, we see a renewed sense of optimism for the future. Increased levels in consumerism is being driven by revenge spending and improved confidence due to a phenomenal vaccination drive. We expect a definitive uptick in overall economic growth leading to increased spending in advertisements. The easing in travel protocols and commencement of international flights, will result in a bounce back of corporate air travel & airport advertisement. Now may be the best time for advertisers to begin targeting their audience. pDOOH is likely to drive growths for early adopters. OOH advertisements is likely to exceed pre-pandemic levels in the coming financial.”*



**N Shekhar**

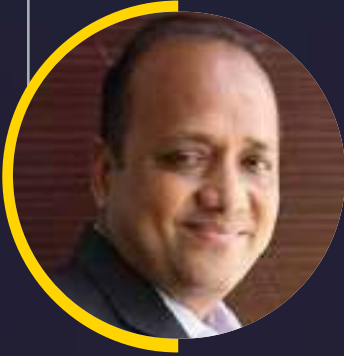
CEO  
Times OOH



*“As we move forward, apart from massive rise in DOOH and in turn programmatic buying, we will see lot of tech-based innovations in OOH leveraging AR, VR, 3D Projection mapping, drones etc. and use of immersive content like anamorphic and also convergence with mobile devices.”*

**Alok Jalan**

Managing Director  
Laqshya Media Group



*“The focus has shifted to tier II -III markets due to the high media cost in metros. The new emerging categories like Edu-tech and fintech unicorns are the latest entrants in the OOH sector and are likely to increase their spends in 2022 in OOH. Programmatic DOOH is increasing its share in the overall OOH media pie as it offers some number crunching options to advertisers. The industry must work towards syndicated research data in OOH to help advertisers in scientific OOH Planning and measuring ROI.”*

**Bharat Rajamani**

CEO  
US Advertising



*“Last 2 years have been challenging for OOH due to lockdowns with digital taking the major chunk of spends. OOH should grow around 30 percent on 2021 volumes and with measurement metrics coming in place should grow at an even higher pace.”*

**Pawan Bansal**

COO  
Jagran Engage



*“We strongly believe the next phase of growth in OOH will come in due to technology and innovative solutions for engaging and targeting the end consumers. Digital Out of Home, new green formats, technology and engaging content is going to really transform the OOH industry in the years to come.”*

**Rishabh Mehta**

Founder & CEO, LOCAD





# Music

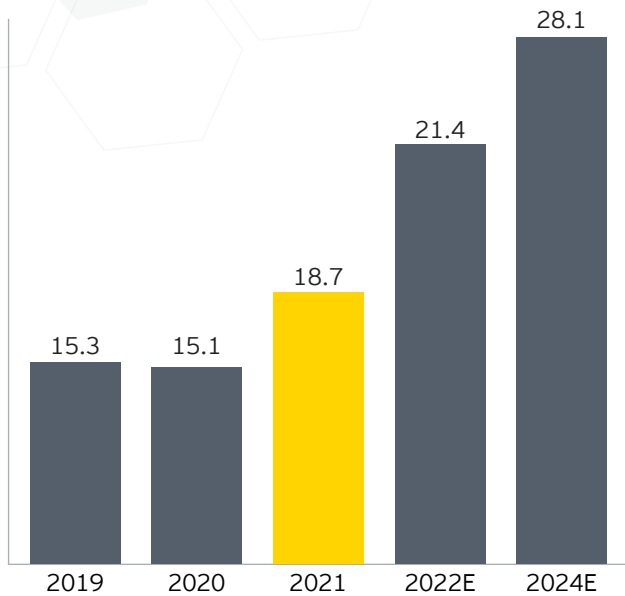




Payal Popli  
Brand, Market & Communications  
Gurugram (EY LLP)

# Music

Music segment grew by 24% in 2021<sup>1</sup>



INR billion (gross of taxes) | EY estimates

- ▶ The Indian music segment grew by 24% to reach INR18.7 billion in 2021
- ▶ Indian consumers spent an average of 21.9 hours each week listening to music
- ▶ 90% of the revenues were earned through digital means, though most of it was advertising led, with only three million paying subscribers
- ▶ 38% of online music was consumed in Hindi, while southern languages and international music contributed to another 35% of consumption
- ▶ Regional music gained share in 2021, leading to a flurry of deals to acquire regional labels
- ▶ YouTube accounted for 28% of labels' digital revenues, and 50% of music consumption<sup>2</sup>
- ▶ Performance rights witnessed a recovery and grew by 89% once the lockdown restrictions were lifted post the second wave of COVID-19
- ▶ The music segment is expected to grow at a CAGR of 15% to reach INR28.1 billion by 2024, on the back of increasing digital revenues, the pay subscriber base growing to over 7 million and continued recovery of performance rights as events and activations reach scale

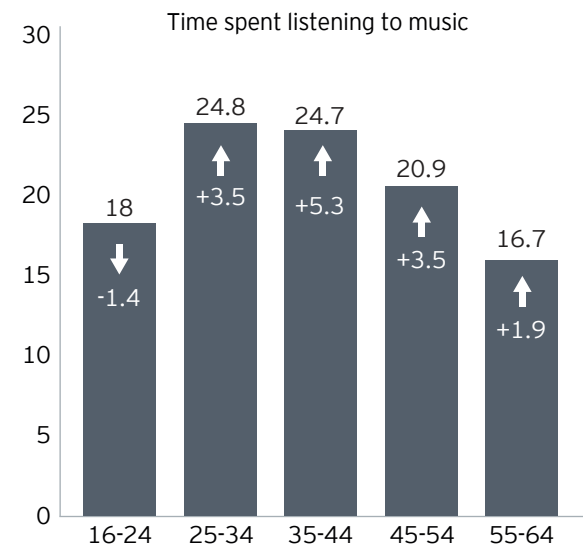
<sup>1</sup> EY estimates based on industry discussions

<sup>2</sup> IMI Digital Music Study Report 2021

<sup>3</sup> IFPI Engaging with Music report 2021, IMI Digital Music Study Report 2021

# Music consumption

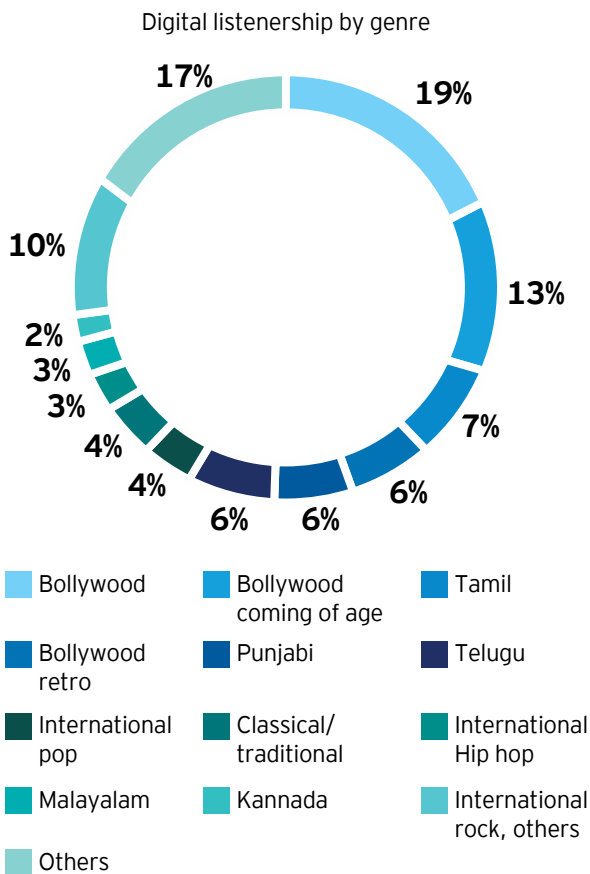
Indian consumers spent 21.9 hours/ week listening to music<sup>3</sup>



IMI Digital Music Study Report 2021 | Hours per week on music by age group

- ▶ India's average of 21.9 hours/ week is higher than the global average of 18.4 hours/ week
- ▶ Out of the above, average weekly music consumption on streaming services was 10.4 hours compared to 9.7 hours in 2019

## 38% of music streamed was in Hindi



IMI Digital Music Study Report 2021

- ▶ Bollywood aggregated 38% of total consumption, while south + international generated a further 35%
- ▶ Music consumed through paid audio streaming apps increased to 3.3 hours/week from 2.4 hours/week in 2019
- ▶ 83% of time spent was on domestic content in India, higher than the global average of 49%
- ▶ Average monthly stream count was over 12 billion streams in 2021<sup>4</sup>

<sup>4</sup> Industry discussions and interviews  
<sup>5</sup> Industry discussions

## Regional music gained

- ▶ The share of regional music consumption increased in 2021, as per discussions with industry personnel
- ▶ On streaming platforms, too, the regional music share has increased to around 40% of the total consumption
- ▶ While Punjabi and southern languages were most prominent, growth was also witnessed in Haryanvi, Bhojpuri, Gujarati, Assamese, etc.
- ▶ 2021 also saw the acquisition of several regional music labels

## Top five music channels on YouTube

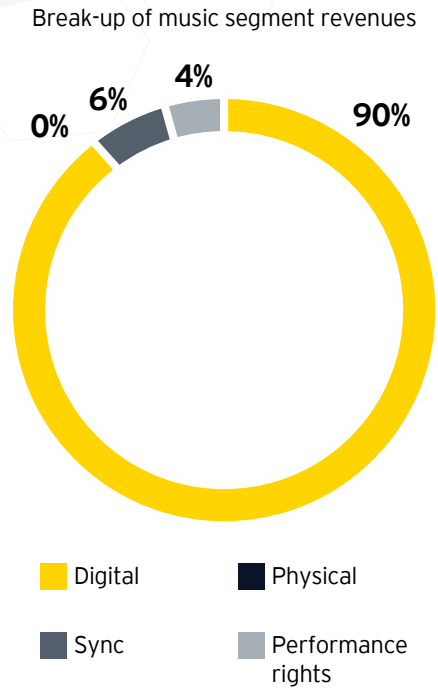
Rank	Subscribers		Video views	
	Label	Millions	Label	Billions
1	T-Series	209	T-Series	183
2	Zee Music	81.9	Zee Music	45
3	Shemaroo	58.6	Wave Music	35.3
4	Wave Music	50.8	YRF Music	26.7
5	Sony Music	49.9	Shemaroo	26.5

www.YouTube.com

- ▶ YouTube remained the platform of choice for consuming music in India
- ▶ Around 70% of music consumed was less than 18 months old<sup>5</sup>
- ▶ Several new platforms of significance have emerged and have seen music consumption of scale. These include Mauj, Roposo, Glance, Chingari, Instagram, Josh, etc.

# Music monetization

## Digital revenues were 90% of total music segment



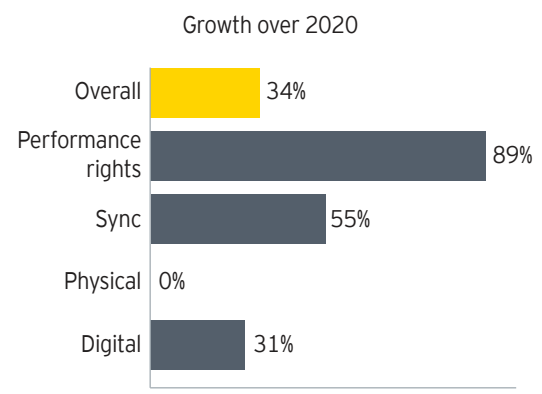
EY estimates

- ▶ Digital garnered 90% of music segment revenues, comprising revenues earned on music streaming platforms, on YouTube and from telcos
- ▶ Sync and performance rights grew 55% and 89% respectively over 2020 as the economy came back to normal
- ▶ Physical sales continued their decline; however, we have not considered the value of products like Carvaan from Saregama in this computation

## Audio streaming revenues grew 22%

- ▶ Music streaming apps (excluding YouTube) had a base of approximately 200 million active monthly users<sup>6</sup>, buoyed by the growth of passive listenership due to the work-from-home phenomena and older audiences trying out digital streaming
- ▶ Of the above, 18-20 million accessed music as part of data or other bundles, but the paid subscribers base was just around 3 million<sup>7</sup>
- ▶ Key drivers for growth included bundling with e-commerce and telco data plans, a strategy which remains key for category trial
- ▶ Industry discussions indicate over 150 billion songs were streamed online in 2021
- ▶ Streaming platform revenues (including YouTube) increased almost 22% in 2021 to INR12 billion, over 80% of which was advertising driven

## Revenue for music labels increased by 34%<sup>8</sup>



IMI

- ▶ Revenues at a label level increased from INR12 billion in 2020 to INR16 billion in 2021
- ▶ Share of label revenues attributable to digital were 90%, and they contributed 85% of the absolute revenue growth for labels
- ▶ Music labels earned revenues through branded content and in-video advertising, estimated at INR0.5 billion in 2021

<sup>6</sup> Comscore  
<sup>7</sup> Industry discussions, EY estimates  
<sup>8</sup> EY estimates based on industry discussions



# Future outlook

## Paid subscriber base could cross 7 million by 2024<sup>9</sup>

- ▶ So long as music is available for free on YouTube and other platforms, the music segment will find it difficult to increase paid OTT subscribers
- ▶ We expect paid music OTT subscribers to cross 7 million by 2024 and generate revenues of INR2.8 billion, at an average revenue of INR1 per day per paid subscriber in India
- ▶ The need for curbing free content supply could give rise to certain restrictions like limiting the number of free streams on platforms

## New monetization opportunities

### I. Bundled music for the smart TV

- ▶ Given that the smart TV base is expected to touch 40 million homes by 2025<sup>10</sup>, there is an opportunity to create curated experiences for music in the home
- ▶ This could be through partnerships with television OEMs, apps, aggregators, etc.

### II. Music for music's sake

- ▶ India always prefers to watch its music and hence music has been linked to films for the longest time
- ▶ However, as film consumption moves on to OTT platforms, and OTT content volumes cross 3,500 hours by 2024, the music they use in their content will begin to garner a larger share of listenership
- ▶ In addition, non-film music - particularly in regional languages - will keep increasing its share as well, driven by artist and song discovery on short video and social media platforms

### III. NFTs

- ▶ Given Indians' love for all things music and celebrity, there is a significant opportunity to use NFTs to market songs, crowd-fund them, or monetize memorabilia and shoulder content

### IV. Music in the metaverse<sup>11</sup>

- ▶ Currently, music in the metaverse is limited to gaming. However, as this platform grows, it opens numerous opportunities in music for creativity, monetization, and marketing
- ▶ A virtual environment could offer digitally rendered concerts, in-home concerts, virtual parties/weddings, music lessons etc.

### V. Custom and branded music

- ▶ After a strong start in 2020, branded music has grown, and is expected to increase as customer-centric music is created for weddings, functions, events, etc.
- ▶ In addition, brands will create audio experiences for their audiences and users across service delivery and other digital interactions
- ▶ In-video integrations with brands will enable mass reach through platforms like YouTube and other short video apps

<sup>9</sup> EY estimates

<sup>10</sup> EY estimates

<sup>11</sup> The Future of the Music Industry in the Metaverse | 411 Metaverse

# Expert speak

*“Investments in Artiste development, Marketing Talent and Data Analytics capability will be the key to success over the next decade in the Music Industry.”*



**Vikram Mehra**

Vikram Mehra  
SaReGaMa

*“The music segment is seeing growth in non-film music, both mainstream and regional and both of which will continue to grow. However Hindi film music & south film music will continue to lead the music consumption in India. It is time for Indian artists to genuinely break internationally.”*



**Neeraj Kalyan**

President  
T-Series

*“Indian music business is at a very exciting stage with the coming of age of music in multiple languages opening opportunities for young talent and listeners alike to explore new sound and genres at the touch of a button given the penetration and of smart phones and music streaming apps in the country.”*



**Rajat Kakar**

Managing Director  
Sony Music India

*“I’ve seen a post pandemic, almost fully digital streamscape arise both in audio, video and allied areas. The future will greatly be driven by non film music of all kinds & genres, short format social media & byte sized consumption buckets across media and finally music coming to us from other sources like OTT video, branded content & new generation platforms as they keep emerging in the confluence of gaming, fashion & entertainment. The regular growth engines like streaming & radio will continue to grow at an escalated pace as the music market transforms into a music & entertainment market. The next 5 years are what I’m forecasting to be the golden years of growth of our businesses.”*

**Devraj Sanyal**

Managing Director & CEO  
Universal Music Group, India  
& South Asia



*“While the internet is frequently associated with George Orwell’s dystopian novel ‘1984’, a better association would be with William Shakespeare. His “All the World’s A Stage”, is representative of the Global Recorded Music Industry today and the opportunity it presents for the Indian Music Industry.”*

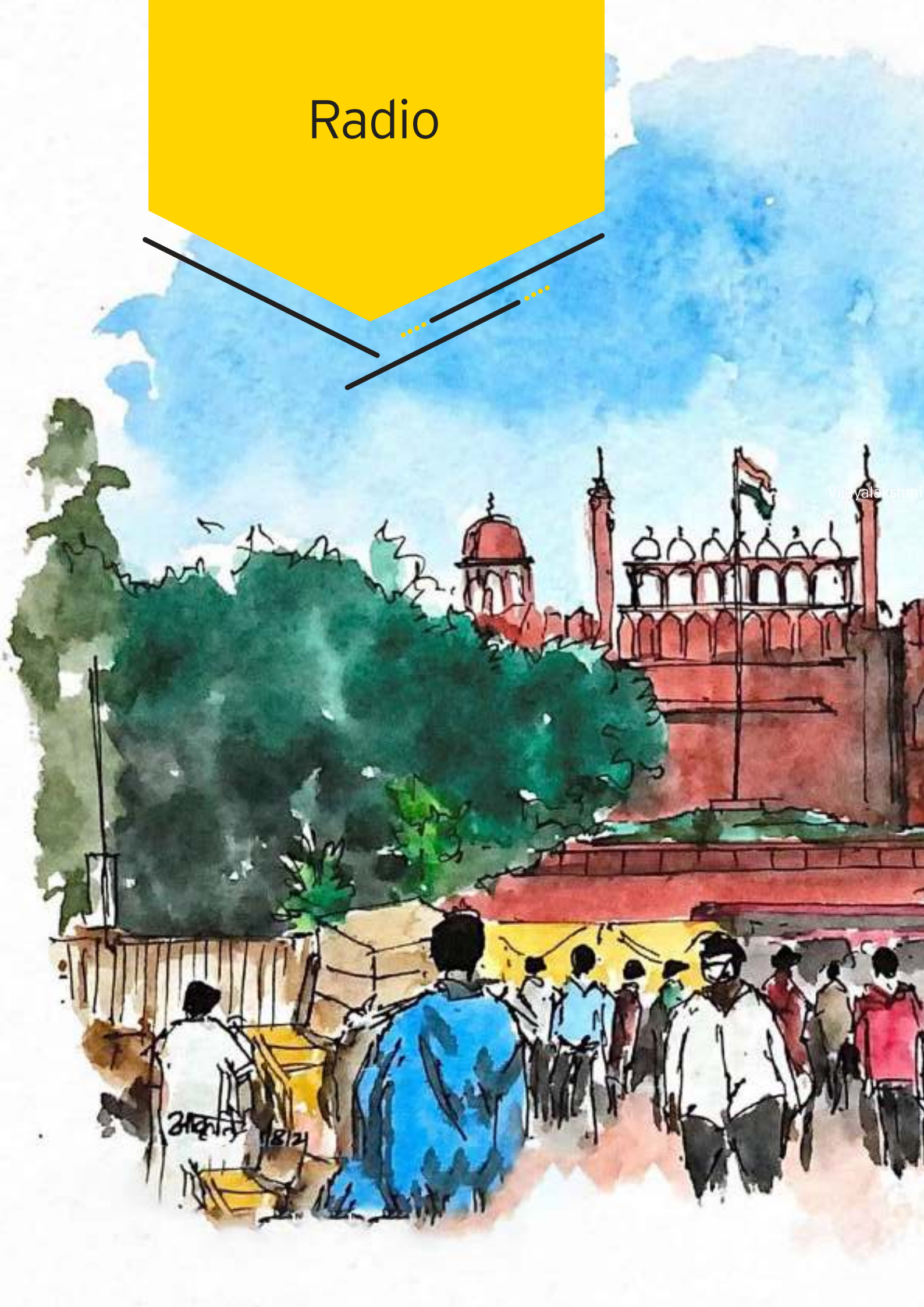
**Blaise Fernandes**

President & CEO  
Indian Music Industry





# Radio



Vishalakshmi

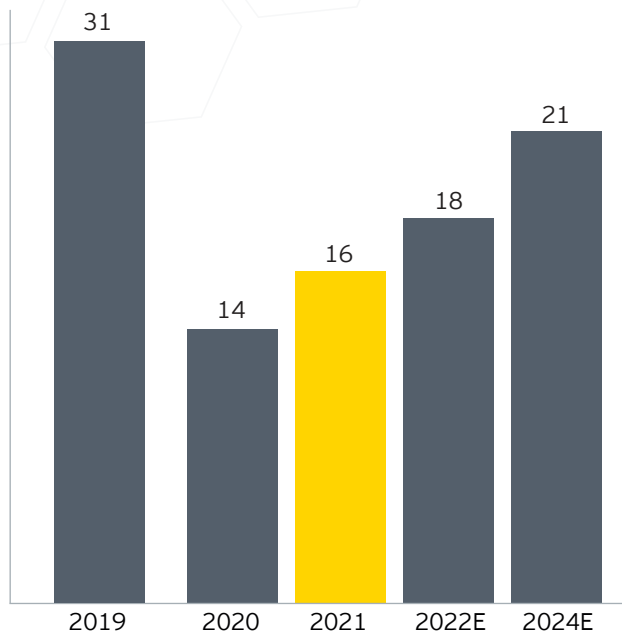


Rajshakar





# Radio segment revenues grew 12% in 2021



INR billion (gross of taxes) | EY estimates

- ▶ Radio segment revenues grew 12% in 2021 to INR16 billion (51% of 2019 revenues)
- ▶ India had 1,203 operational radio stations, including over 300 community radio stations
- ▶ Ad volumes recovered 29% over 2020 but are still 6% behind 2019 volumes
- ▶ Ad rates fell 13% on an average
- ▶ Non-FCT revenues comprised around 15% of total revenues as radio companies broad-based their services
- ▶ There is a need to address issues relating to measurement, online presence, perception, etc., for the sector to achieve its true potential
- ▶ We expect revenues to recover to INR21 billion by 2024, which will be around 70% of the revenues of 2019
- ▶ We have estimated an 8% CAGR on ad revenues, as rates are under pressure
- ▶ Non-FCT revenues would grow at a CAGR of 17% conservatively, but could be much faster for larger radio brands

## Reach

### India had 1,203 operational radio stations

- ▶ India had 34 private FM broadcasters in 2021, operating 385 FM radio stations across 112 cities<sup>1</sup>
- ▶ In addition, the public broadcaster Prasar Bharti's All India Radio service operates in 479 stations in 23 languages and 179 dialects, reaching 92% of the country's area and over 99% of India's population<sup>2</sup>
- ▶ India had 339 operational community radio stations as on September 2021<sup>3</sup>

### Radio receivers

- ▶ FM radio receivers were prevalent in around half of the top 10 phone brands sold in India<sup>4</sup>
- ▶ Radio sets were available in most car music systems
- ▶ An estimated 4 million cars also had radio sets capable of receiving digital broadcast radio<sup>5</sup>
- ▶ In addition, radio channels were also carried on DTH services and Prasar Bharti's News on AIR app

<sup>1</sup> [https://www.trai.gov.in/sites/default/files/PIR\\_21102021\\_0.pdf](https://www.trai.gov.in/sites/default/files/PIR_21102021_0.pdf)

<sup>2</sup> <http://allindiaradio.gov.in/>

<sup>3</sup> <https://www.mib.gov.in/broadcasting/list-339-operational-community-radio-stations-india>

<sup>4</sup> ICEA

<sup>5</sup> DRM

# Revenues

## Radio ad volumes increased 29% compared to 2020<sup>6</sup>

Quarter	2019	2020	2021
Q1 (January to March)	25%	32%	26%
Q2 (April to June)	24%	7%	11%
Q3 (July to September)	23%	23%	27%
Q4 (October to December)	28%	38%	36%

Percentage share of ad volumes | TAM AdEX

- ▶ 2021 ad volumes remained around 6% below 2019 (pre-COVID-19) levels
- ▶ SME ad volumes remained subdued and industry discussions indicate that this could take two years to revive
- ▶ Consequently, pressure on ad rates remained high and average yield reduced around 13% as bonus spots were widely offered

## 71% of radio ad volumes in 2021 were delivered by the top five advertising sectors

Rank	Sector	2020	2021
1	Services	26%	27%
2	Banking/Finance/Investment	12%	12%
3	Food and beverages	11%	13%
4	Auto	10%	10%
5	Retail	9%	9%
	<b>TOTAL</b>	<b>68%</b>	<b>71%</b>

TAM AdEX

- ▶ Top five sectors which advertised on radio remained the same as 2020
- ▶ Services sector was the largest sector by volume contributing over 1/4th of all ad volumes on Radio in 2021

## 47% of the ad volume share was contributed by non-metros<sup>7</sup>

- ▶ Maharashtra and Gujarat remained the states with highest ad volumes on radio
- ▶ Metros comprised only three of the top 10 cities which contributed to radio ad volumes
- ▶ Local advertisers' share of ad volumes increased 2% over 2020 to reach 39% of total ad volumes in 2021

## Share of non-FCT revenues increased

- ▶ Interviews with radio companies indicated that non-FCT revenues contributed an average of 15% of their total revenues
- ▶ Events (online and offline), content production, branded content, and syndication/curation were the top contributors to such revenues
- ▶ Brand extensions, like branded channels on music streaming apps and international radio operations, also commenced

## Podcasts became a popular audio alternative

- ▶ Many radio companies had started to experiment with podcasts, generating millions of listeners per month
- ▶ Popular categories included comedy, business, news, religion, and storytelling
- ▶ Monetization of this content, though in its infancy, commenced at a platform level for a bouquet of podcasts

<sup>6</sup> TAM AdEX data of 90+ stations  
<sup>7</sup>TAM AdEX

# Future outlook

## Revenues will continue to recover in 2022

- ▶ We expect radio revenues to continue recovering and, subject to further waves of the pandemic, reach at least INR18 billion in 2022
- ▶ Growth will be driven by the recovery of the SME advertiser segment, retail revival, growth in bank credit, re-opening of offices, and focus on non-FCT revenues
- ▶ We expect advertising to grow at a CAGR of around 8% over the next three years, while non-FCT revenues could grow at 17% or more
- ▶ Rate recovery will continue to be a challenge, and will happen only once retail advertising volumes increase which will require significant innovation and concept selling

## Key issues that need to be addressed

- ▶ **Measurement:** Given the limited coverage of RAM, and low frequency of the IRS in recent years, there is a need to enable a robust measurement system across cities with a million plus of population, demonstrating the power of radio through OEM-level or app-level tech integrations
- ▶ **Online presence:** Differences in music royalty rates prevent FM radio companies from creating and airing their radio channels on internet streaming platforms – an issue which the industry needs to resolve to mutually benefit broadcasters and music licensors – as curated content with RJ interactions are largely missing online, and migrant population cannot enjoy radio stations in the language of their choice
- ▶ **Availability of news:** While news is permitted across TV, print and digital, FM radio stations face significant restrictions in airing news
- ▶ **B2B perception:** Being a traditional medium and home to some of the most creative content and stories, radio should be evangelized to advertisers – to re-badge radio as a D2C medium, creating interactive and lean-forward experiences with audiences, building IP that resonates locally and generates social media conversation among like-minded communities
- ▶ **Limited genres:** Several more frequencies can be enabled by converting to digital broadcasting which can provide more listening options to consumers. The radio industry needs to work with all stakeholders to enable this change

# The digital radio opportunity in India

## Current state

- ▶ Globally, digital radio has surpassed 1.4 billion listeners
  - ▶ The UK, the US, China, Australia, Russia, and many European countries transitioned to digital radio almost a decade ago
  - ▶ There are three key technologies with proven successful transition worldwide
  - ▶ Consumers experience better quality audio and industry enjoys profitable growth
- ▶ In India, digital radio launched over 10 years ago but is languishing
  - ▶ Limited service in AM – approximately 3 hours per day by AIR which broadcasts across 35 medium wave and 5 short wave transmitters
  - ▶ Has not been rolled-out on FM and has no private participation

## Digital FM radio has benefits for the entire ecosystem

- ▶ Listeners:
  - ▶ 3x more channels are possible within the same frequency to provide more options to listeners
  - ▶ The technology is broadcast-centric and hence there are no data charges for consumers
  - ▶ It provides a better listening experience – audio quality and interface
- ▶ Broadcasters:
  - ▶ More ad inventory to sell with the ability to charge higher rates based on segmented audiences
  - ▶ The system can provide listenership data, which helps build trust and grow radio segment revenues
  - ▶ Transmitters use significantly less power as compared to analog radio transmitters
- ▶ Advertisers:
  - ▶ Ability to buy segmented audiences at scale, with regional language bifurcation
  - ▶ Ability to use programmatic ad delivery across national networks
  - ▶ Comfort on listenership to drive media planning

- ▶ Regulator:
  - ▶ Optimum use of scarce spectrum in the middle and long term
  - ▶ Increased taxes from increased revenues
  - ▶ Ability to use digital radio infrastructure for emergency warnings and traffic information

## Imperatives for a successful transition

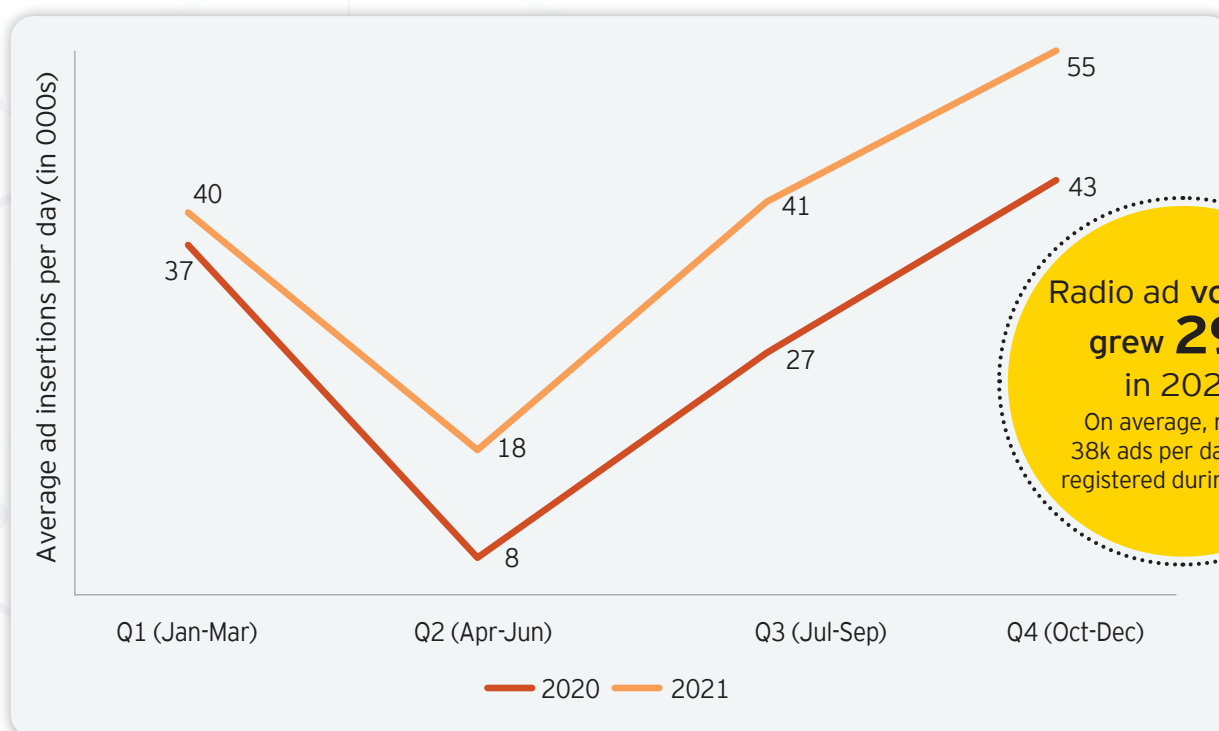
- ▶ Regulatory
  - ▶ Approve digital radio rollout by all FM operators in a simulcast mode to protect ad revenues
  - ▶ Bundle digital radio with other proposed technologies (eg. digital video broadcast) to optimize costs and reduce capex burden
  - ▶ Permit sharing infrastructure cost between AIR and private FM companies to reduce the capex burden with a progressive license fee regime during transition
  - ▶ A formal policy mandating automobiles/ mobile phone manufactures to include the required hardware in devices
- ▶ Technology
  - ▶ Bring the incremental cost of chipsets and antennas to a reasonable level so that mobile phone ecosystem comes into being at scale
  - ▶ Enable possibility of software upgrade to enable digital radio on handsets
- ▶ Implementation
  - ▶ Parallel roll-out along with linear FM for a few years till scale is achieved
  - ▶ Enable existing linear companies to transmit on digital frequencies without additional license fees in the short term to build consumer base
  - ▶ Permit new players to bid for additional frequencies to support this transition

# Trends

# India radio advertising

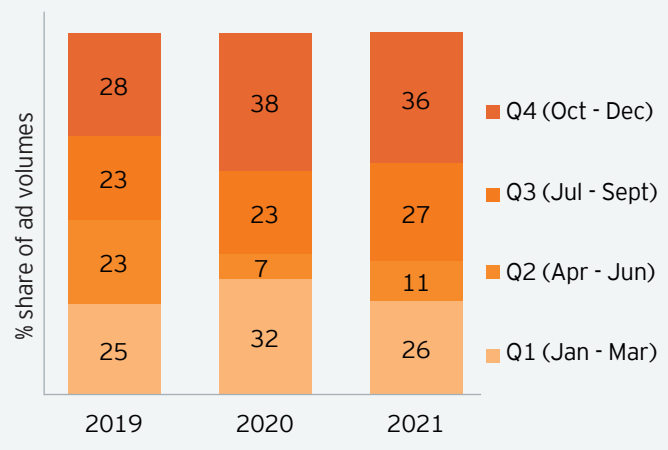
Powered by TAM AdEX

(A division of TAM Media Research) in association with RCS India



Radio ad volumes grew **29%** in 2021  
 On average, nearly 38k ads per day were registered during 2021

Radio generated **63%** of ad volumes in the second half of 2021  
 The pandemic impacted Q2 ad volumes in 2020 and 2021, but radio recovered in Q3 in both years



Source : TAM Media research. TAM AdEX's data pertaining to 90+ radio stations for Jan - Dec 2021. The data has been provided by TAM Media Research to EY and has not been independently verified by EY.



	2019	2020	2021
Categories	419	417	414
Advertisers	9,823	8,588	8,357
Brands	12,825	10,685	10,515

Over **10,000** brands advertised on radio in 2021

Services, F&B and BFSI contributed to over **50%** of ad volumes

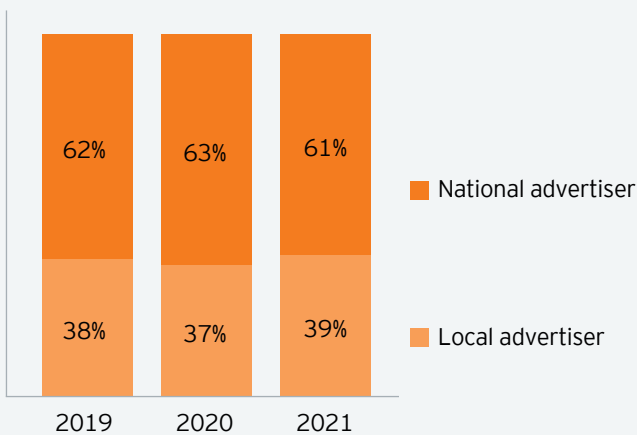
Top 5 sectors	%Share	
	2020	2021
Services	26%	27%
Food and beverages	11%	13%
Banking/ finance/ investment	12%	12%
Retail	9%	10%
Auto	10%	9%

Properties/ real estate continued to be the **top category** to advertise on radio

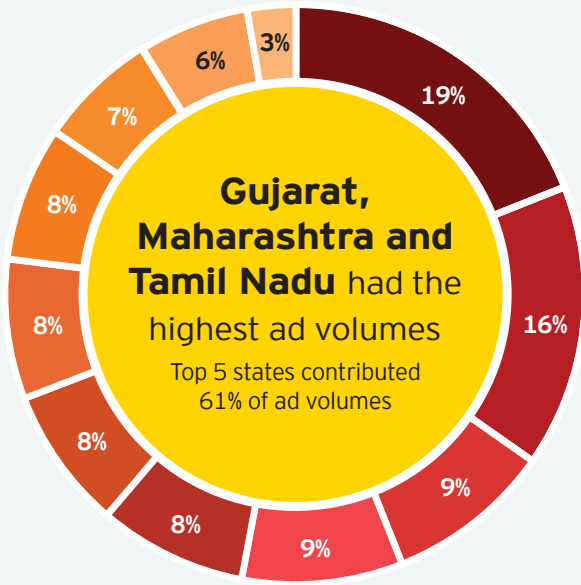
Top 5 categories	Rank	
	2020	2021
Properties/ real estate	1	1
Hospital/ clinics	4	2
Retail outlets - jewellers	5	3
Cars	2	4
Life insurance	3	5

Rank	Top 5 advertisers	%Share
1	Life Insurance Corporation of India	4%
2	Maruti Suzuki India	2%
3	Mother Dairy Fruit and Veg	2%
4	State Bank of India	1%
5	GCMMF (Amul)	1%

**LIC** was the largest advertiser on radio in 2021



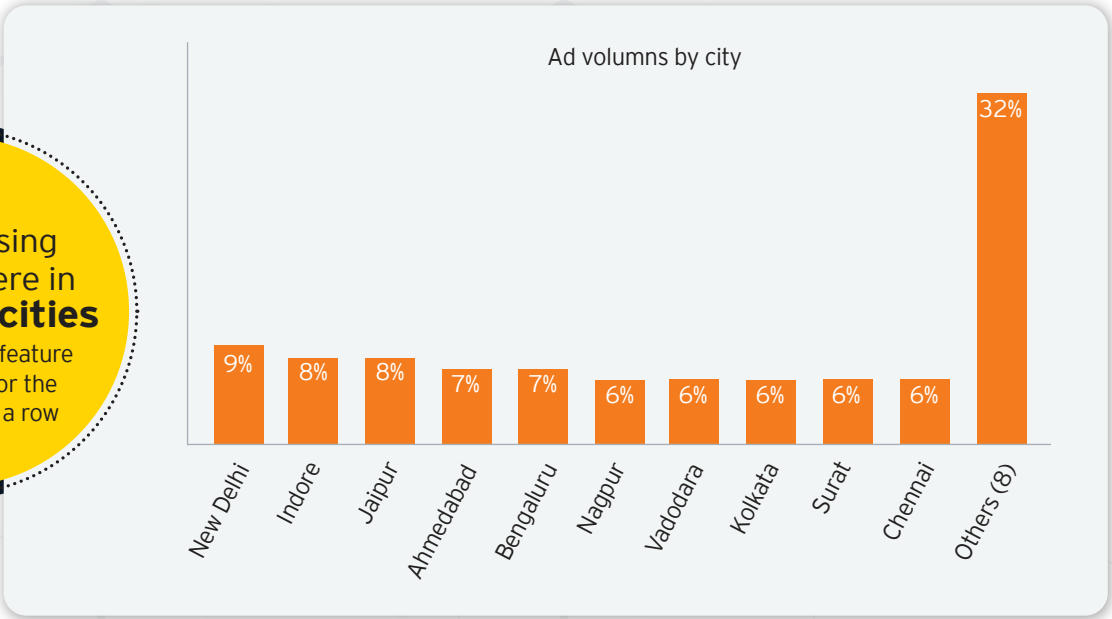
**National advertisers** continued to contribute a lion's share of ad volumes



States	2020	2021
Gujarat	1	1
Maharashtra	2	2
Tamil Nadu	3	3
Delhi	7	4
Uttar Pradesh	4	5
Andhra Pradesh	8	6
Madhya Pradesh	5	7
Rajasthan	6	8
Karnataka	9	9
West Bengal	10	10
Kerala	11	11

- Gujarat
- Maharashtra
- Tamil Nadu
- Delhi
- Uttar Pradesh
- Andhra Pradesh
- Madhya Pradesh
- Rajasthan
- Karnataka
- West Bengal
- Kerala

**68%** of advertising volumes were in the **top 10 cities**  
Mumbai did not feature in the top 10 for the second year in a row





# Expert speak

*“It’s important for radio industry to adopt a solution provider role and concentrate on integrated selling than mere FCT. We are hopeful that the industry will overcome challenges of being restricted by government policies and also overcome the problem of lack of research and absence of a proper currency.”*



**Nisha Narayan**

COO & Director  
RED FM and Magic FM



*“As the world is moving full throttle digital, I believe the future of radio is focusing on the amalgamation of radio + digital which I call ‘Radigitalization’ with radio at its core as the way forward. RJ influencers will continue building genuine relationships by engaging incredible conversations. This transformative and effective marketing tool will empower advertisers to optimise their marketing spends.”*



**Ashit Kukian**

CEO  
Radio City



*“With COVID receding, the FM radio industry along with its solutions and digital components, is looking at rapid growth beyond our pre-pandemic numbers! We’re now leaner and meaner and more profit focused!”*



**Prashant Panday**

Managing Director & CEO  
Entertainment Network (India) Ltd.

*“The M&E industry is seeing renewed vigour in advertising revenues, almost all categories are back on radio for their advertising needs especially in tier II & III markets where Radio has always been very effective in hyper-local connect & have bounced back to pre-COVID levels. Over the last few months, we have witnessed significant demand in advertisements and consequently rising inventory pressure. Look forward to a strong 2022-23.”*



**Rahul Namjoshi**

CEO  
My FM

*“The opportunity for radio lies in its local reach, high credibility, strong influence of RJs and the seamless amplification across digital audio platforms, podcasts and other storytelling formats.”*



**Abraham Thomas**

CEO - Reliance  
Broadcast Network Ltd.



# Sports



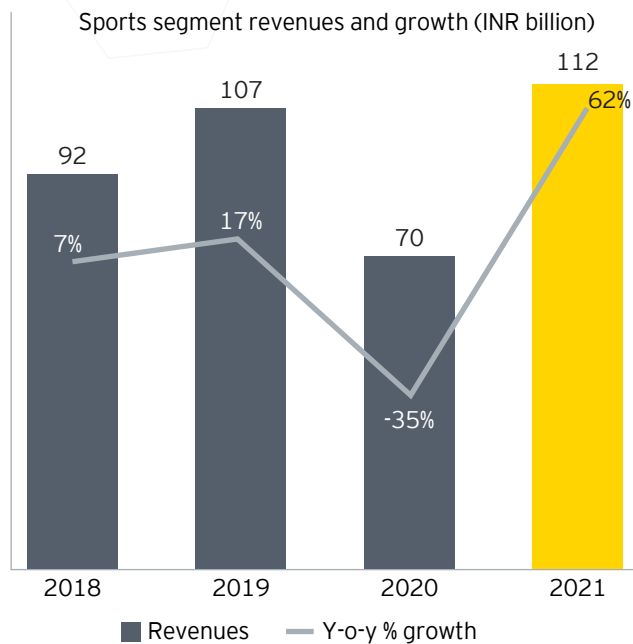




# Sports

Compiled by GroupM ESP

## Sports got back on the growth path in 2021



INR billion (gross of taxes) | GroupM ESP

After the setbacks of 2020, the sports segment bounced back strongly in 2021 even as the external environment posed quite a few challenges. As the IPL got underway in April, the COVID-19 situation turned from bad to worse necessitating astute display of crisis management skills from organizers.

The Tokyo Olympics gave Indian fans some incredible moments of joy, while the national cricket team had a busy season, making it a great year from a commercial perspective. Backed by strong advertiser confidence, 2021 saw a healthy 62% growth in sports media spends, making 2021 an eminently successful year for the segment.

## 2021 had an exciting line-up of marquee events

2020 ended with strong exit momentum, and with big properties lined up for action as a result of postponement from the previous year, 2021 held a lot of promise for sports fans. The most eagerly awaited sporting spectacle in the world was Tokyo 2020. The quadrennial event finally got underway in July 2021 and athletes across nations paraded their skills, delighting viewers in the process. India had a lot to cheer about at the games as our contingent did better than ever before.

One month before the Tokyo Olympics, Football lovers were treated to some amazing display of skills as the Euro was played across different nations in the continent. The success of the event gives ample demonstration of the fact that high profile tournaments between nations have a unique charm of their own even though football fans around the world are showing a strong propensity to show allegiance to the clubs they love.

Closer home, the Indian Premier League (IPL) faced several hurdles as it took off straight into the peak of the second COVID wave, forcing the governing body to halt the proceedings at the halfway stage. There was a phase of uncertainty all across, which was quelled with the announcement that the event will resume in September in the UAE. This second phase of the cricket carnival went as per plans and while Chennai Super Kings lifted the trophy in dramatic style in the desert, there was delight for cricket lovers and the entire IPL ecosystem consisting of media, franchises, sponsors, advertisers, and other stakeholders. In international cricket, the Indian men's team started 2021 with a bang, breaching Australia's Gabba fortress and winning the Border-Gavaskar Trophy. Other than the bilateral series we had against England, New Zealand, Sri Lanka and South Africa, the year also saw two ICC tournaments being concluded successfully, with the inaugural World Test Championships final being played at Southampton in June and the World T20 Cup that happened afterwards in the Emirates. It is fair to say that all the opportunity losses of 2020 were not permanent. Large portions of cancelled events came back and added more glitter to 2021.

## Dreams came true at the Olympics

In 2021, the Tokyo Olympics held in July gave Indians a number of proud achievements.

- ▶ In the men's javelin throw event, Neeraj Chopra won the first ever Track & Field Gold Medal for India in the history of the Olympics and the second ever individual Gold by an Indian sportsperson at the Olympics
- ▶ Weightlifter Saikhom Mirabhai Chanu won the Silver Medal in the women's 49 kg category
- ▶ Lovlina Borgohain won a boxing Bronze in the 69 kg category, to follow some inspiring performances from the country's ace pugilist Mary Kom across the years
- ▶ PV Sindhu smashed her way into an elite company of multiple Olympic medal winners when she won a Bronze in the women's badminton singles event, to add to the Silver she got five years back in Rio
- ▶ India won two medals in men's freestyle wrestling, thanks to the inspiring achievements by Ravi Dahiya who won the Silver in the 57 kg category, and Bajrang Punia who got us a Bronze in the 65kg event
- ▶ Tokyo 2021 was indeed an emotional moment for Indian hockey fans as our men's team edged out Germany for the Bronze in an edge of the seat thriller, making it our first medal in the event since 1980, when we had won our eighth men's hockey Gold in the Olympics

With seven medals (One Gold, Two Silver, Four Bronze) the Tokyo Games marked India most successful mission ever, and if we consider the fact that we had narrowly missed out on a few more medals, it is fair to say that this is a count that could have gone ever higher.

## It was a mixed year for the cricket team

The team played 36 international matches across formats in 2021, of which they won or drew 25, indicating a high success rate.

2021 included some incredible achievements as well as losses by the Indian men's cricket team:

- ▶ In the tour down under, with the series levelled 1-1, we first held off the Australian bowling attack on the final day of the third test in Sydney to manage a draw, and then pulled off an unlikely chase to win the final test played at Brisbane, winning the series 2-1
- ▶ Back in the country after the win, India prevailed over England in all three formats of the game, reinforcing the fact that home grounds represent strong citadels for Team India
- ▶ Following the defeat in the finals of the World Test Championships to New Zealand, the Indian cricket team continued its bilateral juggernaut with a 2-1 lead against hosts England in a series that is still to be completed, while a second-string team played a white ball series in Sri Lanka, winning the ODI leg and falling just short in the shorter format
- ▶ The World T20 tournament started off with disappointing losses against Pakistan and New Zealand, after which three consecutive wins against relatively weaker teams could not secure India a place in the knockout stage



## Successes are now inspiring the next generation of stars

- ▶ There was a long period of time when an Indian wins at the Olympics (in any event other than hockey) was seen as an exception to a rule
- ▶ However, since 1996, India has been winning medals at every edition of the summer games and Tokyo 2020 saw inspirational and emotional wins from our athletes
- ▶ 2021 was also a tremendous year for women athletes from India; PV Sindhu, Lovlina Borgohain and Mirabhai Chenu made headlines with wins at the Olympics, and along with stalwarts like Sania Mirza, Saina Nehwal, Hima Das and other Indian women athletes who have done the nation proud with their victories at the international level, are giving the much-needed confidence to a lot of young girls across the nation who will start believing in themselves as a very young age
- ▶ Even in cricket, while the men's team enjoys tremendous levels of fame and attention, we are beginning to see a new wave of appreciation for our women players too; prominent Team India cricketers like Mithali Rai, Jhulan Goswami, Smriti Mandhana, and Harmanpreet Kaur are among the well-known athletes in the country
- ▶ These wins and sporting heroes will not only raise the profile of sporting activities in the public eye but will also inspire a generation of youngsters to take up these disciplines

## The Indian sports segment grew 62% in 2021 to exceed pre COVID-19 levels

### TV garnered 84% of media spends on sports

	2019	2020	2021
<b>Media spends</b>	61.7	43.2	71.0
Ground sponsorship	23.7	10.0	20.6
Team sponsorship	11.0	7.7	10.6
Endorsement	6.4	6.6	7.4
Franchise	4.7	2.0	2.8
<b>Total</b>	<b>107.5</b>	<b>69.5</b>	<b>112.4</b>

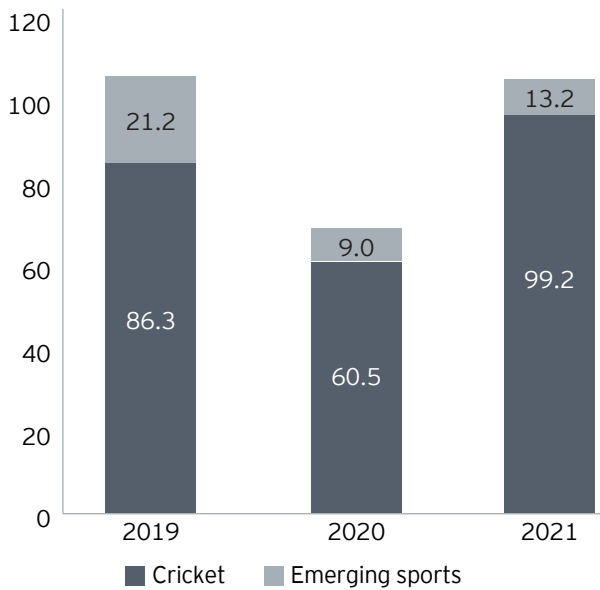
INR billion (gross of taxes) | GroupM ESP

- ▶ Media rights are most important for the sports segment and contribute 63% of total revenues
- ▶ The franchise model pioneered by cricket's flagship league has taken Indian sports on a path of commercialization, spurred by rising confidence of Indian business houses and even overseas investors, which saw ground and team sponsorships recover to almost their 2019 levels in 2021
- ▶ However, the action was led by cricket, which increased its contribution to segment revenues from 80% to 88%



## On ground sponsorships rebounded

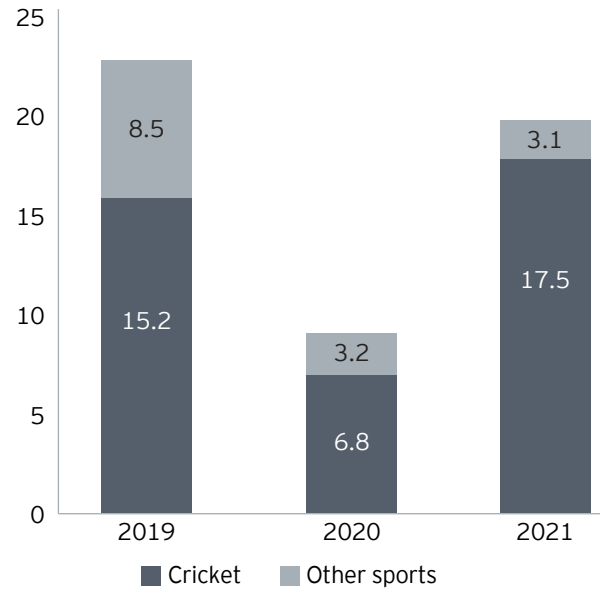
Revenue split: cricket vs emerging sports



INR billion (gross of taxes) | GroupM ESP

- ▶ New age brands like Paytm, BharatPe, PhonePe, Upstox, Byju's, Unacademy, Cred and other platforms used sports as an opportunity to build saliency with large consumer bases
- ▶ Almost two-third of the sports sponsorship spends came through advertising expenses, with a growth of 65% over 2020

On ground sponsorships



INR billion (gross of taxes) | GroupM ESP

- ▶ The rebound was led by cricket sponsorships, which exceeded their 2019 levels
- ▶ However, sponsorships for other sports, many of which were cancelled due to the pandemic, were still below half their 2019 levels
- ▶ While three prominent sports leagues (IPL, ISL and PKL) were held in 2021, Premier Badminton League, Pro Wrestling League, Pro Volleyball League, Indo International Premier Kabaddi League, Ultimate Table Tennis League, Big Bout Indian Boxing League and the XI Racing League could not be held
- ▶ There was considerable impact on other domestic and international sports competitions that were hosted by India such as the Maharashtra Open Tennis tournament, an ATP 250 event
- ▶ Looking ahead several sponsorship opportunities will come up in Cricket, including:
  - ▶ Sponsorship rights for the Indian National Cricket Team from 2022 to 2026
  - ▶ Title and central sponsorship of BCCI's home series will be up for renewal in 2023
  - ▶ IPL will see the sponsorship cycle coming up for the 2024-2028 seasons, both in terms of title rights as well as the central sponsorship
  - ▶ ICC ground sponsorship rights that will be up for renewal in 2024

## TV garnered 84% of media spends on sports

Gross	2019	2020	2021	Growth
TV	50.3	37.5	59.6	59%
Digital	10.3	5.5	11.4	105%
Print	1.1	0.1	0.1	0%
<b>Total</b>	<b>61.7</b>	<b>43.2</b>	<b>71.1</b>	<b>65%</b>

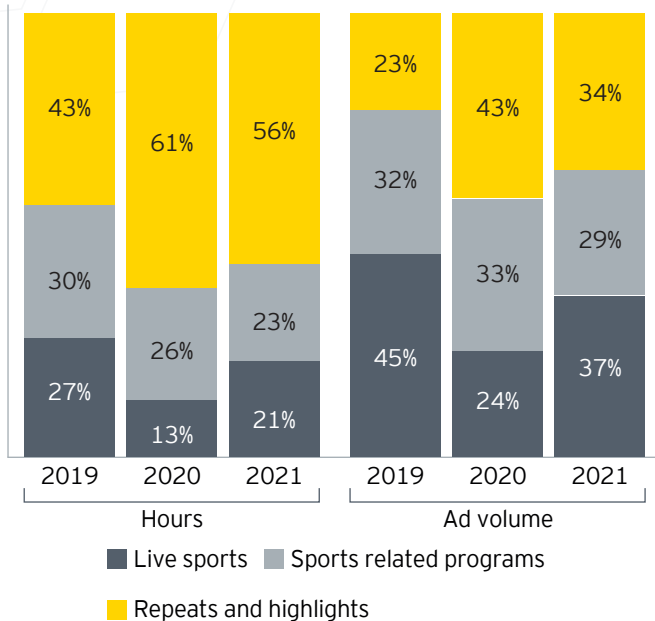
INR billion (gross of taxes) | GroupM ESP

- ▶ 84% of the media monies came through TV advertising, the digital medium contributed the balance 16% with the rising acceptance of OTT as a medium to watch live sports
- ▶ Both TV and digital ad spends on sports exceeded their 2019 levels
- ▶ The highest growth of over 100% was noted in digital ad spends

# Sports consumption trends

## Live broadcast programming grew 61% in 2021

Ad volumes generated by programming type



TAM AdEX

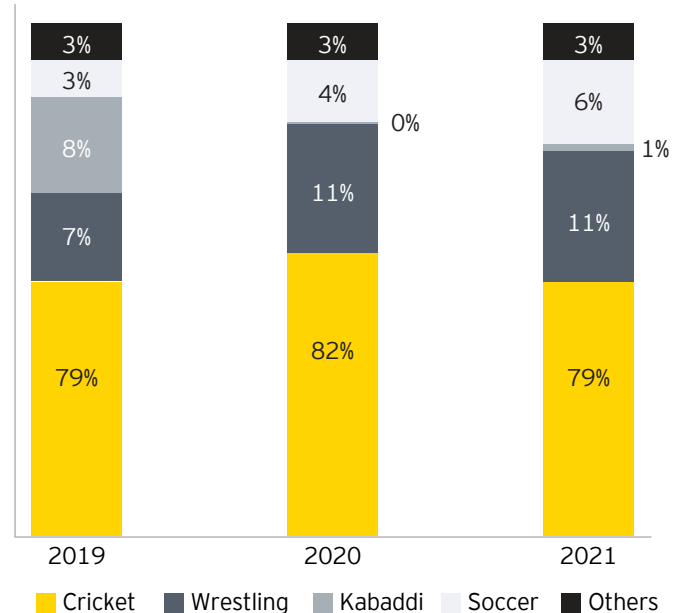
- ▶ Live sports programming again increased to 21% of total programming hours, from a low of 13% during the pandemic, though still below 2019 levels as several properties did not take place
- ▶ This in turn increased the share of high value live sports ad volumes to 37% from their 2020 level of just 24%

## Tipping point on the anvil as regards media rights

- ▶ The OTT space is likely to get more competitive in sports broadcasting as more platforms will be looking to enter the arena now
  - ▶ Amazon Prime has already acquired live cricket action in New Zealand, and it would not be surprising to see them looking for a bigger play in the sport
  - ▶ Viacom 18 has got the rights for the FIFA World Cup in Qatar and could become another player in the equation making it a multilateral competition
- ▶ With these changes in the backdrop, all eyes will be on the IPL media rights for 2023-2027, the BCCI home series rights and the ICC media rights
- ▶ We could well see the concomitant impact on advertising costs too

## Cricket contributed to 79% of TV viewership

Television viewership by sport



TAM AdEX | Not to scale

- ▶ Cricket retained the lion's share of viewership at 79%
- ▶ Wrestling continued for the second year to be the second most viewed sport, due to large amounts of content
- ▶ PKL did not take place for most of the year and hence soccer came in third with 6% of viewership on television

## Technology will be a key driver

2021 has seen some tech-related developments taking shape, and some of them are expected to evolve fast and introduce a world of exciting possibilities to the sports arena.

- ▶ Non-fungible tokens (NFTs) have entered the sports world and they are here to not just stay, but also to stir things up a bit. This blockchain-based technology is expected to have an immediate impact on the sale of limited-edition videos, digital memorabilia, and other collectibles while more applications will take shape and evolve over a period of time. NFTs have already come to Indian sports and can possibly lead to models like crowdfunding through fan tokens, faster adoption of cryptocurrency and other such opportunities. This is currently a volatile space and could see rapid churn before settling into robust business frameworks.
- ▶ Brands and sports properties are looking at merging digital and physical experiences in metaverses. Tokyo 2020 had partnered with Zwift, a platform that created the Olympic Virtual Series during the games, a property that had around 2.5 lakh participants for different virtual sporting events. In addition to the Olympics, Zwift had collaborated with Triathlon events too, showcasing a host of exciting possibilities to the sports world. With greater understanding of the 'verse', we can expect more players to join the bandwagon, further democratizing such properties and enabling a large number of people in their attempt to experience the fervor associated with such globalized events.
- ▶ Moving on to esports, 2021 had witnessed a burgeoning ecosystem, backed by an ever-growing gamer base and strong support from brands across the value chain. In a world that is getting more comfortable with video-conferencing and remote engagement, it is no surprise that esports tournaments are moving in the direction of being pure online events, with participation numbers rising to all-time high levels. Greater smartphone penetration and improved internet connectivity have contributed to a rise in the number of mobile gamers in India, and data indicate that there has been a significant rise in this count through habit formation caused by the lockdown. With esports being announced as a competitive discipline at the 2022 Asian Games, we can expect even more legitimacy and acceptance across sections of society which could in turn provide a boost to participation levels, prize monies, and investor confidence.
- ▶ In terms of event management, there is a need for more specialists to deliver superior production values than what game publishers could achieve. Today's innovation will be tomorrow core; what got incubated this year could scale up and become part of the mainstream very soon. Some of these tech-related developments could shape the nature of corporate investments in sports in the years to come.

## Sports has become a priority for our government

- ▶ In recent years, we have seen many flagship programs being rolled out by the Government to support junior level sports, like the Khelo India movement
- ▶ In 2020, the Central Government had announced an initiative to provide financial assistance for over 500 private academies through the Khelo India Scheme and in line with long-term goals at the Olympics, the 14 disciplines seen as priority for the 2028 games were identified as early beneficiaries of the scheme
- ▶ In spite of severe challenges caused by the pandemic, the Sports Authority of India was allocated INR6.6 billion in the Union Budget 2021-22 which was a significant increase from the previous year
- ▶ It is imperative that we develop a culture of sports in the nation and the need of the hour is for more entrepreneurs to come forward to support sports and for the administration to provide a favorable environment for them through policies and practices
- ▶ Post-COVID experiences have further reinforced the need for the industry players to work more closely with the government so that the right Private-Public Partnerships (PPP) can enable the development of better sporting infrastructure in India



**Vinit Karnik**  
*Business Head, GroupM ESP*

# Sports in the metaverse

You excitedly put your replica shirt on. Your beloved Liverpool are playing at home against Paris St. Germain in the European Champions League semi-finals. You have a special ticket to today's match, meaning you will be welcomed to Anfield by manager Jurgen Klopp, being taken on a tour of the stadium before the match and then walking out onto the pitch alongside the team. You then have a choice of any seat in the stadium to watch the match.

Mo Salah scores a goal in the first half to make it 1-0 and the crowd erupts. You capture the moment on your digital device so that you can share it with your friends. Your ticket provides you access to a half-time show where you meet some team legends and discuss the first half. For the second half, you have decided to watch the game from a different spot in the stadium so you take your seat and settle in. The tension builds as the Parisians are pushing for an equalizer. But with ten minutes to go, Liverpool break out of their half and score a stunning second goal to put the game out of reach. The stadium is awash with flags and the Liverpool anthem "You'll Never Walk Alone" rings out around Anfield. The atmosphere is breath-taking, and you sit back and drink it all in, knowing that you have captured it for playback later.

The final whistle goes and with your special ticket, you are given access to the pitch where you get to spend 10 minutes celebrating another famous win with the team, before you head off to join the Liverpool legends for some post-match analysis and chat.

It has been an incredible experience and one that you will remember forever, but you need some food so you head straight into the kitchen of your apartment in downtown Kolkata, where your husband has prepared you dinner and is waiting to hear all about your match day experience.

This is not a fantasy; welcome to sport in the metaverse where you can interact with the action like never before.

Touted as the successor to the internet, the metaverse is a shared, three-dimensional virtual realm where people interact with objects, the environment and each other through digital representations of themselves or avatars. A mainstay of science fiction novels for decades, the metaverse is not a new concept; early versions already exist (who remembers "Second Life"?). However, with the COVID-19 pandemic accelerating the convergence of physical and digital, coupled with the evolution of complementary and

emerging technologies, the metaverse seems poised to expand into every sphere of human activity.

Undoubtedly, the concept is still in its infancy, but glimpses are emerging into what the metaverse may look like, how people will use it and the opportunities it will unleash. The challenge for sport, businesses, governments, and society at large is successfully navigating this next technology epoch, and usher in the next frontier of human experience.

Unconstrained from the physical limits of time and space, the metaverse presents transformational new opportunities across sport. Similar to the mobile internet era, the immersive era demands a significant shift in the approach sport takes to fan engagement, branding, innovation and ultimately its entire business model. Many sports are already experimenting by leveraging existing gaming platforms to build virtual social spaces, selling virtual items like clothing or shoes, or creating digital twins of stadiums.

As the metaverse intersects with various facets of our physical and digital realities, five key questions emerge:

## How will the metaverse unfold and transform sport?

While converging technologies are unlocking the path to the metaverse, fully connected 3D immersive experiences present a rich opportunity landscape across sport. How will this shape the future strategy of sports organizations? What investments should sports organizations make today to be ready for the metaverse when it fully arrives? What new innovation models will emerge? What new skill sets will be required? How will it impact talent management?

Although the widespread use of the metaverse as the main fan engagement interface is several years away, sport needs to start factoring it into its strategic thinking today.

## How will the metaverse reframe human-centered experiences?

Successful experiences in the metaverse will hinge on understanding and adapting to fan behaviors and expectations. Moreover, as fans journey through the metaverse traversing many ecosystems, trust will become even more integral. How will this change the way sport designs and implements the fan journey? What will it take to deliver truly trusted experiences? And how will fan engagement and loyalty be redefined?

As the metaverse emerges, we also need to ask ourselves about its impact on potential technology addiction and mental health. Concerns already exist across these same topics for the current generation of social media technologies and the metaverse will make that experience even more engaging and potentially more dangerous.

## Are regulators ready for the metaverse?

Issues of personal data collection, privacy, deepfakes and more are significantly impacting the fabric of our society as well as how organizations interact with their customers and employees. Very likely, these challenges will be magnified by the metaverse.

In the near-term, our portal into the metaverse will be through virtual and augmented reality devices. Not only will they allow us to interact in the metaverse, but it will also allow organizations to track increasingly personal data such as, facial expressions, blood pressure, heart rates, eye gaze and more. Current laws and data regulations will need updating across multiple vectors ranging from equitable access to security, liability, IP, and digital rights as well as new ones like honest self-representation. What will good and fair regulation look like and what will it take for regulators to get ahead?

## What new dimensions will the metaverse open for sustainability?

Making the metaverse a technology reality will require a vast new infrastructure and to be embraced it will necessitate resilient, net zero solutions. Moreover, if the consumption of sport shifts disproportionately to virtual or digital, whilst it could significantly impact physical resource consumption and greenhouse gas emissions, what impact will that have on the physical experience in stadiums? While sport continued during the pandemic, sport in empty stadiums is very different to sport in packed and noisy arenas.

## How will implementations of the metaverse develop around the world?

The internet already operates under different rules in different parts of the world. Indeed, technology is becoming the new basis for global competition and the metaverse will not be spared. While globally recognized standards will surely emerge to enable interoperability, sovereign governments will likely intervene as they have done in today's internet world.

How will global geopolitics and rising trend of protectionism impact the evolution of the metaverse? Will similar fault lines appear? And what will it mean for sport, a sector that is increasingly multinational in its fandom?

## Complexities and challenges of a new reality

At the threshold of any new technology wave, there are competing visions of dystopia and utopia; the metaverse is no different. While we cannot fully imagine the entire gamut of benefits or risks that will emerge, for sport, the metaverse offers a fascinating new dimension for fan engagement. As always there will be winners and losers in the new paradigm, but one thing is for sure, sitting on the sidelines of this should not be an option.



**Tom Kingsley**  
*Sports Markets Lead, EY*



The great Indian  
content factory

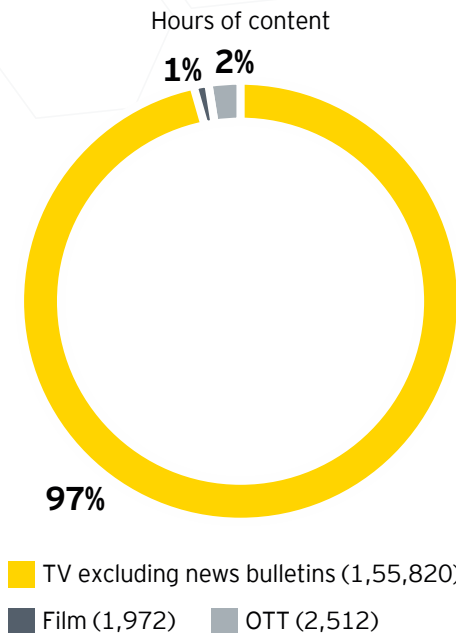






# The great Indian content factory

Total hours of content released for consumption in 2021 increased to ~150,000

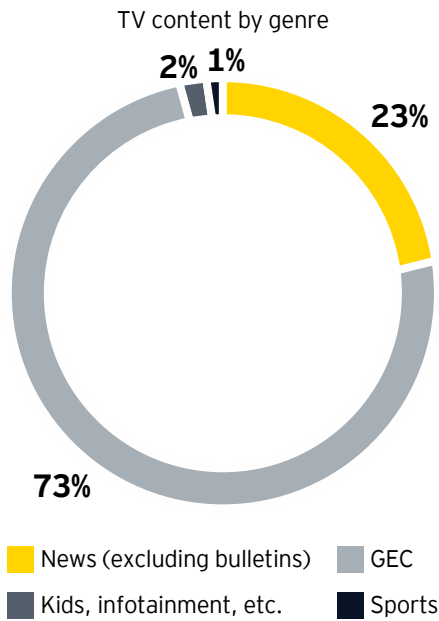


EY estimates | based on content broadcast, released in theatres or on OTT platforms; excludes creator economy, news bulletins and short form content

- ▶ TV production was the largest contributor, at 97% of the total content produced, and this value excludes over 400,000 hours of news bulletins
- ▶ OTT originals increased to 2,512 hours, far exceeding their 2019 levels of 2,033 hours
- ▶ Filmed entertainment remained impacted due to fewer releases on account of the pandemic



# TV content

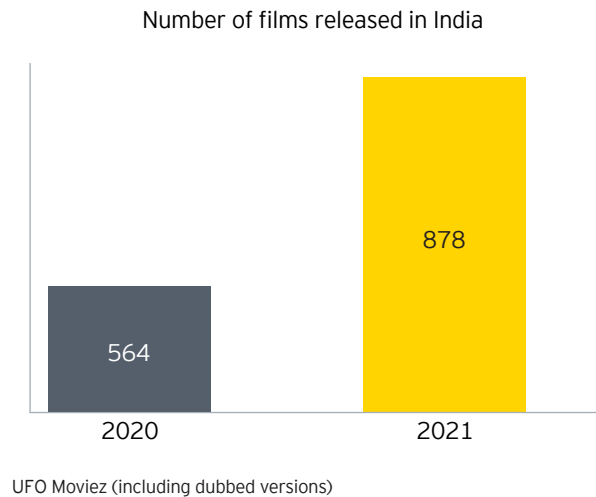


EY estimates | Excludes news bulletins, satellite films, etc., not produced for TV and includes dubbed content

- ▶ At around 155k hours, TV comprised 97% of the content produced
- ▶ Over 110k hours (almost 3/4th) of the content was produced for general entertainment channels
- ▶ News channels produced over 35,000 hours of non-news bulletins viz., news-linked content or specials
- ▶ Sports production was linked to sporting events held in India and our calculation excludes imported content such as F1, WWE, etc., which are not produced in India

# Films

2021 saw 56% more releases than 2020



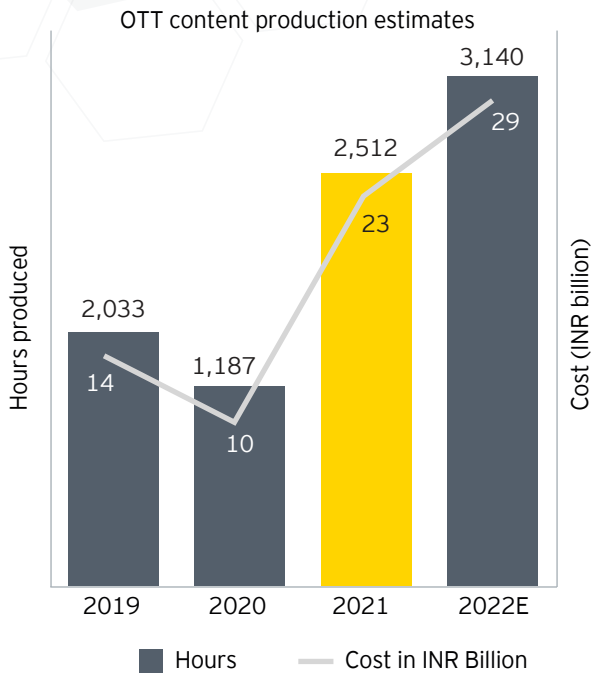
- ▶ While 878 films released in theatres in India (of which most were produced in India) approximately 170 films released on streaming platforms
- ▶ Of these films, 30% were in Hindi, while the remaining were in regional languages
- ▶ There were over 100 direct to digital film releases in 2021<sup>1</sup>

<sup>1</sup> EY production audit team estimates

<sup>2</sup> Industry discussions

# OTT content

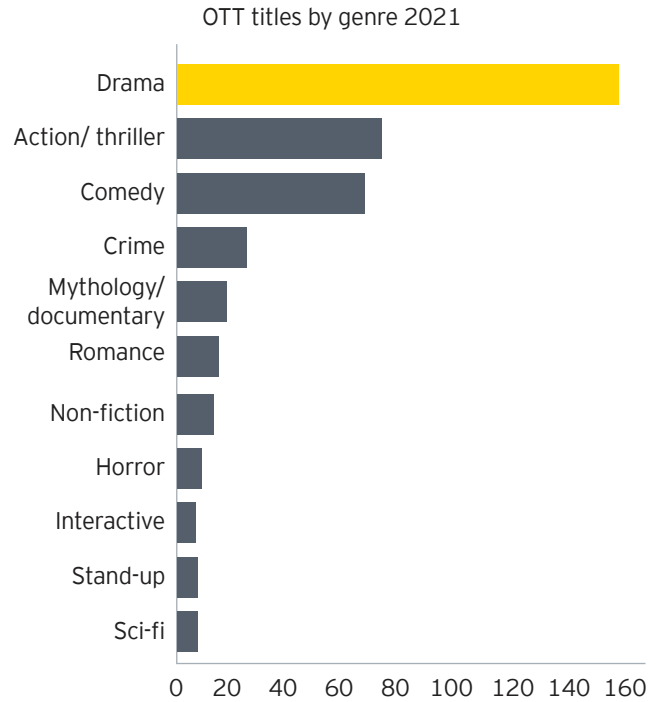
OTT content production reached an all-time high



EY production audit team estimates | Excludes imported content

- ▶ OTT original hours grew more than double from a subdued 2020 to reach an all-time high of 2,512 hours
- ▶ This value is around 20% higher than 2019 levels
- ▶ Cost incurred on these originals increased to INR23 billion, with an average price per hour increasing to over INR8 million (gross of taxes)

The most predominant genre on OTT was drama

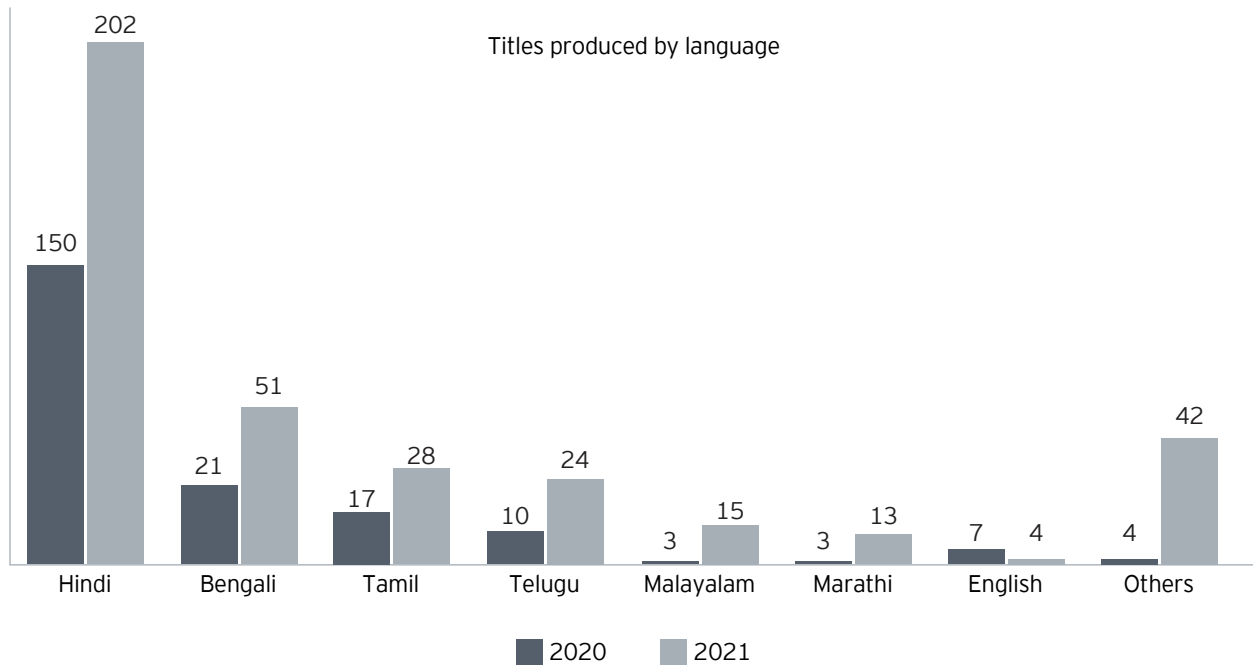


EY production audit team estimates

- ▶ Our analysis of 379 titles across major platforms indicated that drama remained the most popular genre of content on OTT platforms
- ▶ Drama, action and comedy were the top three genres, same as in 2020, with crime also playing an important role
- ▶ Large increases were seen in mythologies, documentaries, and non-fiction content categories as a widening base of genres was noted



## Share of regional OTT content increased in 2021



EY production audit team estimates

- ▶ Regional content increased from 27% of the titles produced in 2020 to 46% in 2021
- ▶ There were 177 non-Hindi titles in 2021, most content being produced in Bengali, Tamil, and Telugu

Disclaimer: Content estimates are based on EY production audit team projects, and industry interviews. These need to be looked at directionally, rather than in absolute numbers as these include estimates and extrapolations due to the fragmented nature of the content production ecosystem.

# The virtual production opportunity

## What is virtual production?

Virtual production (VP) is re-tooling of the filmmaking pipeline to create blended (live action + computer generated) moving pictures real time, on-set, in-camera. It is a merging of some of the activities which traditionally would be a part of production & post-production. This is done by combining traditional production tools of physical sets and props, actors, cameras and lights with game-engines, virtual sets, photogrammetry, LED walls, volumetrically captured or animated characters, virtual cameras, virtual lights and camera, object tracking and motion tracking.

There are three types of tech workflows in VP:

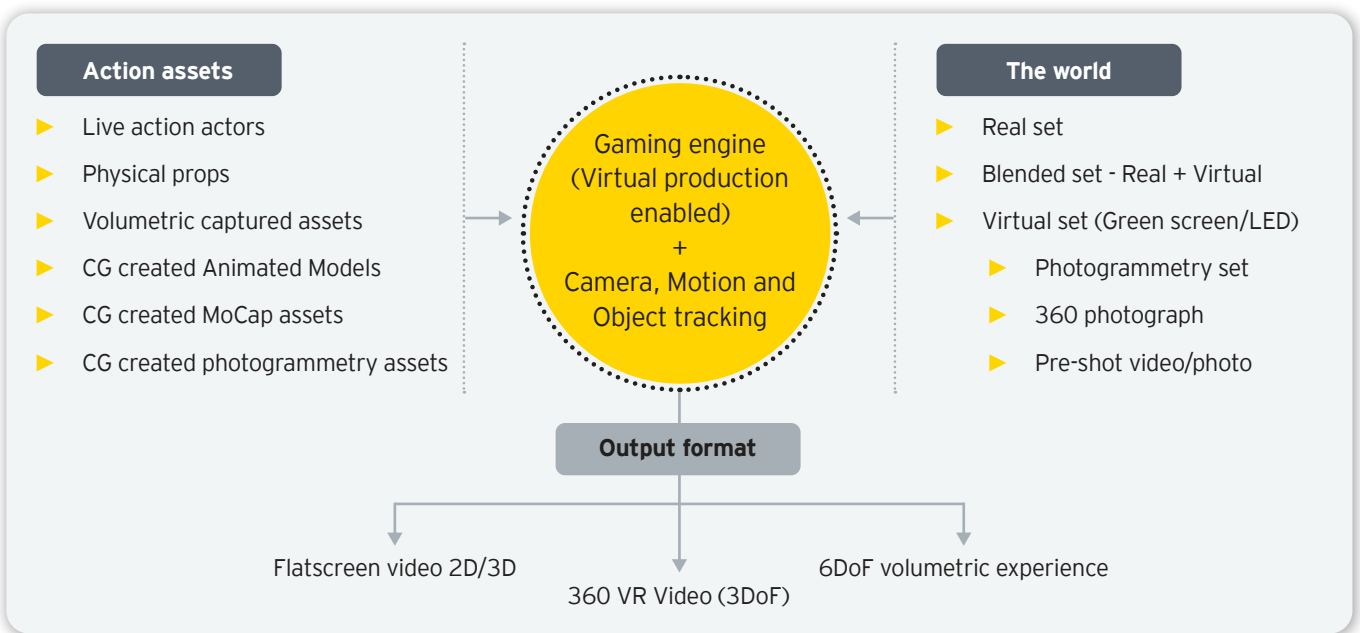
- ▶ **Full-computer generated virtual production**, in which all the content to be 'shot' is fully digitized/available as digital assets, and the production/shot-taking happens inside a game-engine. Examples of this type include The Lion King and some shots in Blade Runner 2049 and Greyhound.
- ▶ **On set virtual production (OSVP)**, where everything that needs to be 'shot' in live action is 'on set', in front of a green screen that is being replaced with a virtual set / virtual world in real-time inside the game engine. In this type of VP, digital assets created using animation or motion-capture can be included along with live action actors. Examples of this type of VP include most high-end live sports and other broadcasts as well as many shots in The Martian, Guardians of the Galaxy etc.
- ▶ **In-Camera VFX (ICVFX)**, where the background of the shot is an LED wall where the 'world' that the shot is set in, is played back and the images change based on movements of the camera to maintain fidelity of point-of-view and parallax. Examples of this type include filmed content like The Mandalorian, Rogue One, etc.

There is significant work underway around the world by M&E technology companies, film institutes and industry associations to mainstream VP through defining standards as well as creating training content.

Since VP is still an emerging tech workflow, terminologies are still being defined. Just recently, the Visual Effects Society and the American Society of Cinematographers released a comprehensive glossary of all things virtual production at [www.vpglossary.com](http://www.vpglossary.com). This will continue to be updated going forward.

Further, the Society of Motion Pictures and Television Engineers released a wall chart which gives a big picture overview of the virtual production pipeline, data flow, key job roles, key skillsets and broad infrastructure used for the same, viewable on <https://bit.ly/3LMVrFr>.

If you look at the smallest unit in content creation - the shot (as reduced from the scene) - then this is what the content creation pipeline of VP looks like:



## Applications of VP

VP fulfils two major function - enables more efficient, faster, and cheaper production than previously done and helps creators imagine content that one would not have been able to conceptualize otherwise.

That said, it is important to note that VP is only **one** out of the many filmmaking pipelines that exist today. VP and each tech workflow within, has a specific function, a specific use for specific types of shots, and that is what it should be used for. The biggest mistake that the industry can make is to assume that all content should be produced using this pipeline.

The corollary to this is that VP is not meant just for big productions like Avatar or The Mandalorian, etc. If used appropriately, even smaller films, TV and OTT can (and do) make use of the VP pipeline to greatly augment its impact and production values.

Television is where virtual production has been used for the longest, primarily in broadcast/streaming of sports with virtual sets, graphics overlay on live video as well as multi-location Q&As. Of late, VP has been used for the first time in a performance-based reality show called 'Alter Ego' streaming on Hulu where real-time motion-captured avatars of the contestants 'perform' on the 'stage' and the in-person attendees, on-set judges as well as watchers at home can see the composited blended (live-action + virtual) content real time. The show is a huge hit. Virtual production was also extensively used recently in a joint music video by Coldplay & BTS named 'My Universe' where they appeared in the same frame but were captured separately.

Financially, Virtual production can end up with almost a 50-70% saving in both time and production costs due to the saving of travel time as well as heavy post-production time. It will also enable shortening of the window between 'shooting' and 'release' of content, which is especially valuable for OTT and TV content as they always require high-quality film-like VFX, but doesn't always have the post-production time required to achieve the same in traditional VX pipelines.

However, these benefits require some effort. VP needs much more effort being put into pre-production - both creatively and technically. Having all the action-assets (as indicated above) ready and well prepped as well as extensive time spent in digital scouting of 'the world', will enable everyone involved in the VP shoot to arrive on set with little or no technical or production-related worries. The production team can then focus on ensuring that the shot is augmented both qualitatively and quantitatively with as many visually creative variations that may be needed and can be taken with little or no change required in the actors, the sets, or the lighting.

Lack of pre-production work and the temptation to use the virtual production pipeline for any and every shot in a film are the two big pitfalls.

The Insight Partners have estimated the global VP market to grow from USD1.5 billion in 2021 to USD4.7 billion in 2028, a CAGR of almost 16%. This envisages VP to be used across not just films, but also commercial ads, online video, and TV / web series.

## VP in India

As of now, there is not nearly enough work happening in VP in India. Whistling Woods International, in its emerging media lab, has built VP education into its graduate and post-graduate programs. There are a few other volume stages too, both in Mumbai as well as down South. Star Sports has been doing extensive work in the live-OSVP pipeline for a few years now and would easily compete with the best global OSVP pipelines. However, we still have a long way to go for ICVFX - both in terms of technical proficiency and talent availability.

Over the next five years, just as is expected in the global industry, we should see the adoption curve of VP in filmed entertainment and OTT productions in India rise steeply too. It will, however, depend on the industry's ability to re-skill and upskill itself, talent availability and finally, cost efficiencies.

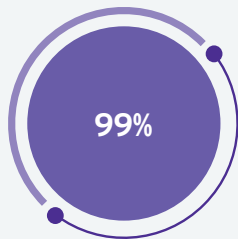


**Chaitanya Chinchlikar**

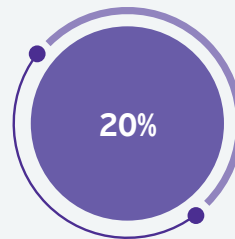
*Vice President,  
Whistling Woods International, Mumbai*

# Amazon Prime Video India

## India is one of the fastest growing locales worldwide for Amazon Prime Video



of Indian pin codes generate viewership for Prime Video in India



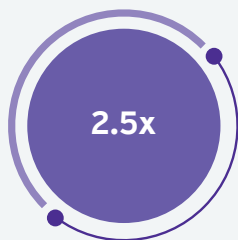
of viewers for Indian originals come from outside India



number of Indian cities and towns in which Prime Video is watched



was the most watched Indian film on Prime Video in 2021

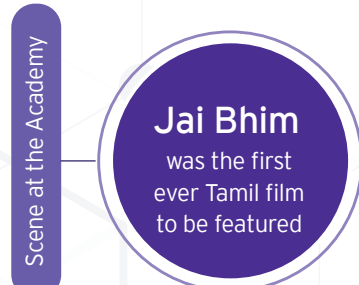
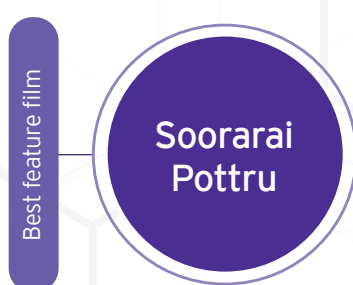
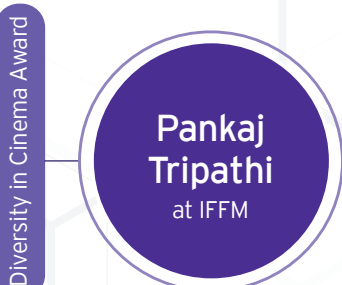
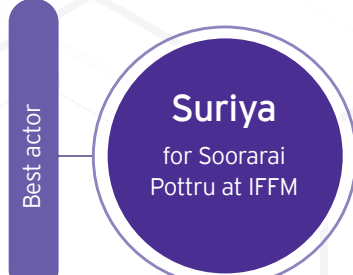


growth in hours watched on the service across 2 years



was the most watched local Indian Amazon Original on Prime Video, both within the country and internationally

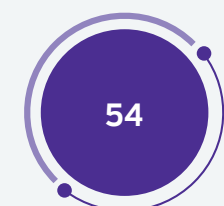
## Indian content and talent gained international recognition



## Original series were a hit...



## ...while direct to digital movie releases were the new buzzword!



direct to digital movie releases in the last 22 months



languages in which direct to digital movies were released



viewership for regional language films was from outside their home states

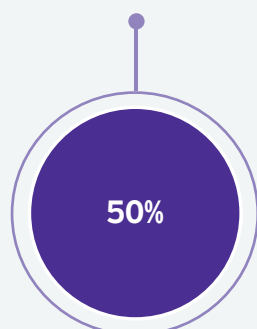


peak reach delivered by direct to digital movies Shershaah and Jai Bhim on the service

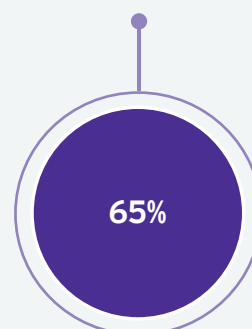
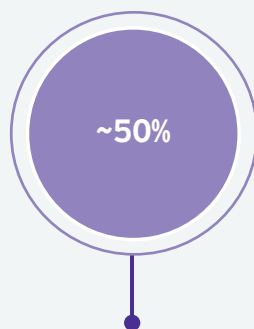


## Fresh and diverse talent fuel the content factory

of launched shows had fresh talent; this is 67% for proposed shows



of writers' rooms for proposed shows have women



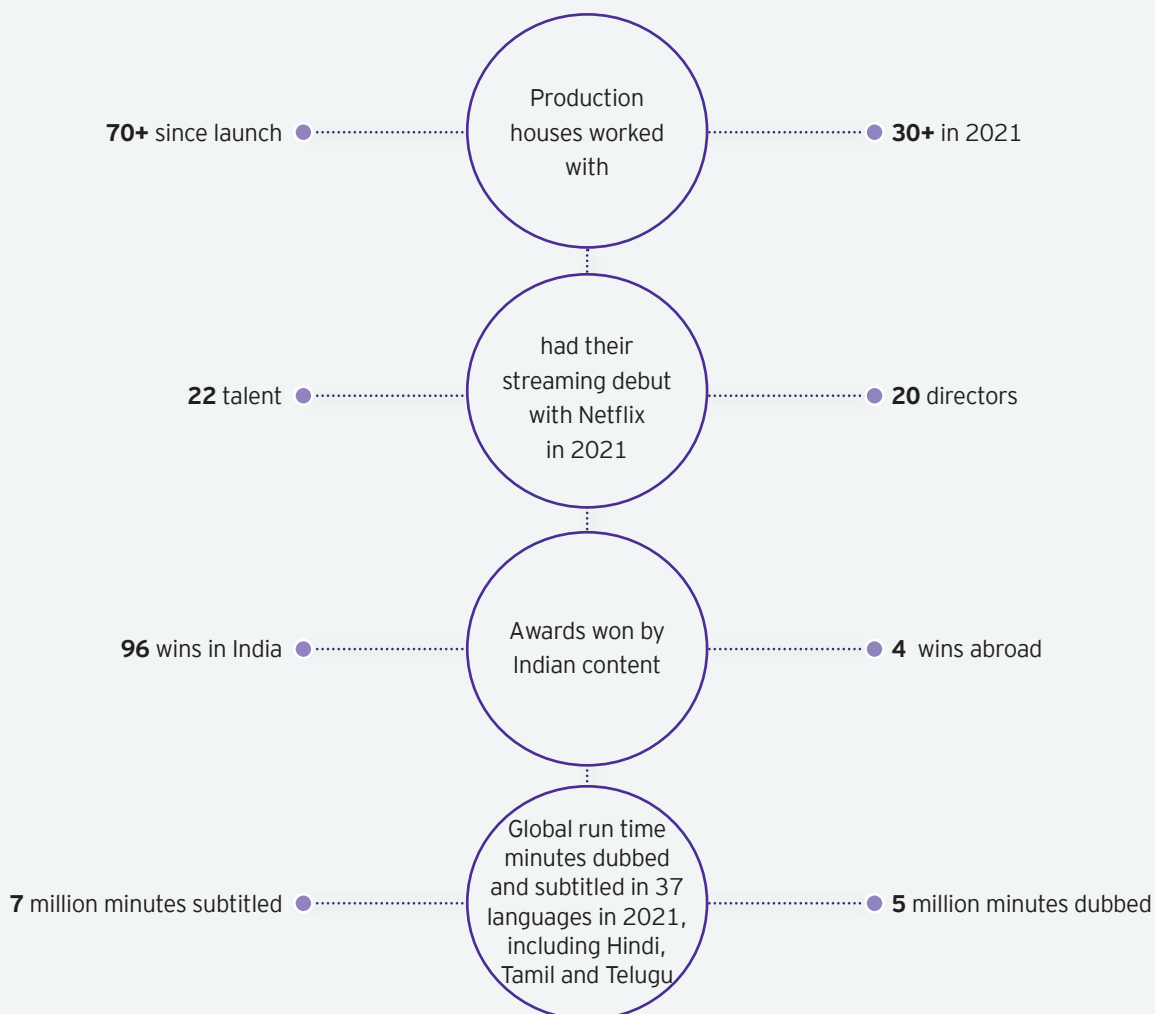
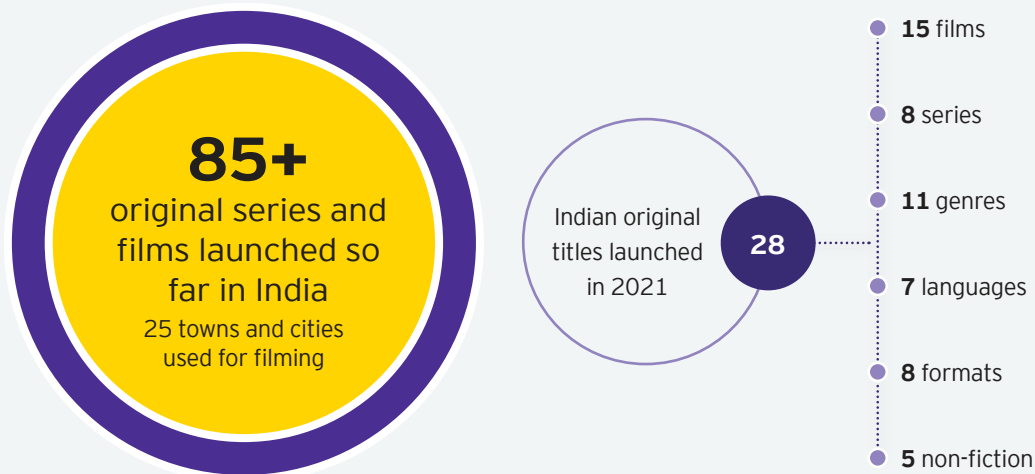
of the shows' creators/ executive producers/ creative producers are women



# Trends

# Netflix India

## Creating Indian content...



All data has been provided by Netflix India and has not been independently verified by EY.

## ...that resonated across the world...

**25 Indian titles**

featured in the top 10 lists of countries outside India

featured in the top 10 lists in 10 or more countries

**11 Indian titles**

**13 Indian titles**

including 6 original films made the global top 10 non-English films or series lists including 6 original films

**Minnal Murali**

featured in the global top 10 (non - English) films list for 4 consecutive weeks. It was also no.1 in 4 countries and in the top 10 in 30

## ...creating a cultural exchange

Most popular Indian films and series abroad	Most popular international content in India
Aranyak	Money Heist
Decoupled	Squid Game
Minnal Murali	Red Notice
Dhamaka	The Witcher
Meenakshi Sundareshwar	Army Of The Dead
Thalaivii	Lucifer
Mimi	Never Have I Ever
Haseen Dilruba	You
Navarasa	Lupin
Sooryavanshi	Cobra Kai
Pagglait	Don't Look Up

Global Top 10 data available from launch in July 2021

# Expert speak

*“Content, in all its myriad forms - entertainment, news, sports, music, movies, factual, snacking, social - is the water, oil and electricity that flows through the distribution networks. Without the content, these are dumb pipes. Ad & Sub revenues are the outcomes of great content. The growth of the Indian M&E industry will be driven by the exponential increase in quality and scale of content, and the global ambitions of our creators.”*



**Sameer Nair**

CEO  
Applause Entertainment



*“The process and organisation of the content industry has to be re imagined to match the amazing benefits that digitalisation has brought to consumer acquisition. That’s the main challenge facing us.”*



**Nachiket Pantvaidya**

Group COO  
Alt Balaji



*“The future will belong to creator ecosystems that will embrace three new skills to complement their creative brilliance - An ability to develop deep insightful knowledge about the ever evolving viewer for whom they are creating for, the ability to take leaps of creativity into story and character inspired by these insights, and finally, the agility to embed new technologies into the entire process of content creation. And yet, one thing will still remain inviolate - the supremacy of the creative human mind to tell fresh, engaging and inspiring stories.”*



**Punit Misra**

Chief content officer  
Zee Entertainment Enterprises Ltd.



*“Subscription based VOD services have changed the entertainment & content consumption landscape in India, empowering creators, challenging producers creatively, giving world class cinematic local content & helping break geographical boundaries.”*



**Sameer Gogate**

General Manager  
BC Studios -India Productions



# Advertising







# Advertising in 2022 and beyond

Resilient, booming, transformed

## Indian advertising recovered to 94% of 2019 levels in 2021

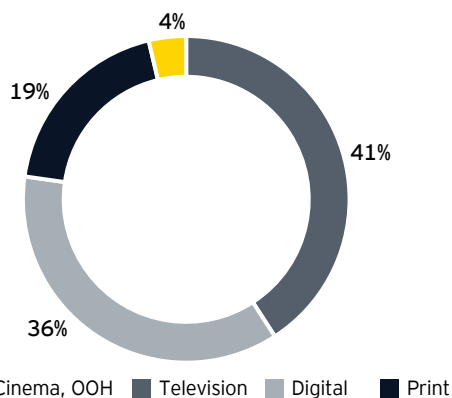
Segment	2019	2020	2021	2022E	2024E
Television	320	251	313	344	394
Print	206	122	151	161	169
Radio	31	14	16	18	21
Cinema	8	2	1	2	3
OOH	39	16	20	26	38
<b>Total traditional</b>	<b>604</b>	<b>404</b>	<b>500</b>	<b>551</b>	<b>625</b>
Digital	191	191	246	314	430
<b>Total</b>	<b>795</b>	<b>595</b>	<b>746</b>	<b>865</b>	<b>1,055</b>

INR billion (gross of taxes) | EY estimates

- ▶ Despite COVID-19 disruptions, advertising revenues in India bounced-back from a 29% degrowth in 2020 to a dramatic 25% growth in 2021
- ▶ They are now barely 6% short of their 2019 numbers

## However, the recovery was uneven

Growth in 2021 ad spends



EY estimates | Share of absolute growth in ad spends in 2021

- ▶ Traditional media grew 24% while digital media – which did not witness a drop in 2020 – grew a further 29%
- ▶ The recovery in media was uneven:
  - ▶ TV contributed INR62 billion growth (41% of the recovery)
  - ▶ Digital added INR55 billion (36%)
  - ▶ Print contributed INR29 billion (19%)
  - ▶ Radio, cinema and OOH together added just INR6 billion (4%)

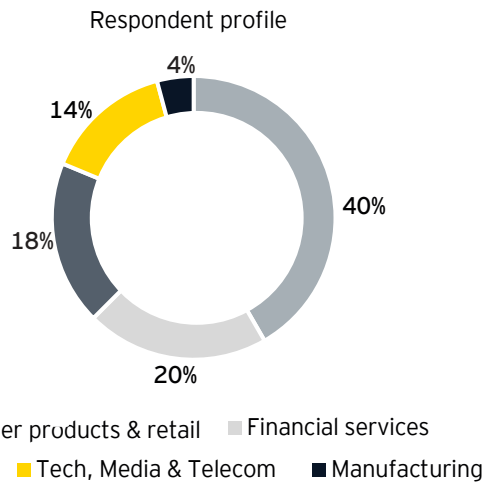
## Indian advertising will grow at 12% to reach INR1 trillion by 2024

- ▶ The growth momentum is expected to continue in 2022 with a projected growth rate of 16%, taking overall advertising revenue to INR865 billion
- ▶ Advertising is expected to grow at a healthy 12% CAGR till 2024, with digital media growing at 20% and traditional media growing at 8%
- ▶ Key aspects which will drive growth include:
  - ▶ **TV:** efficient CPRP, improved ad performance measurement, maintaining pay households
  - ▶ **Digital:** data charges, smartphone penetration, vernacular content, rich consumer data to enable segmentation, attribution accuracy
  - ▶ **Print:** revival of metro, English language, and office circulation
  - ▶ **OOH and Radio:** resumption of office commute, non-FCT revenues
  - ▶ **Cinema:** a steady slate of theatrical releases

## Digital share to reach 41% (or 50%) in 2024

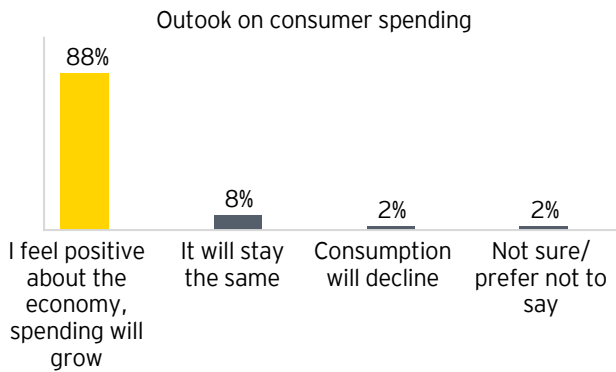
- ▶ Digital media comprised 24% of total ad spends in 2019, which increased to 33% in 2021
- ▶ Digital advertising is expected to reach 41% in 2024
- ▶ Digital ad numbers that we have considered do not include the SME and long-tail digital advertising spends of INR117 billion in 2021 as we are unable to size the same accurately
- ▶ Were these to be included, digital advertising would be the largest segment in 2021 at INR363 billion and contribute 42% of the total advertising, increasing to INR631 billion in 2024 (50% of total advertising)

# EY's marketer survey 2022



EY conducted a survey of 50 marketers across 10 sectors in February 2022. This section focuses on insights from their responses.

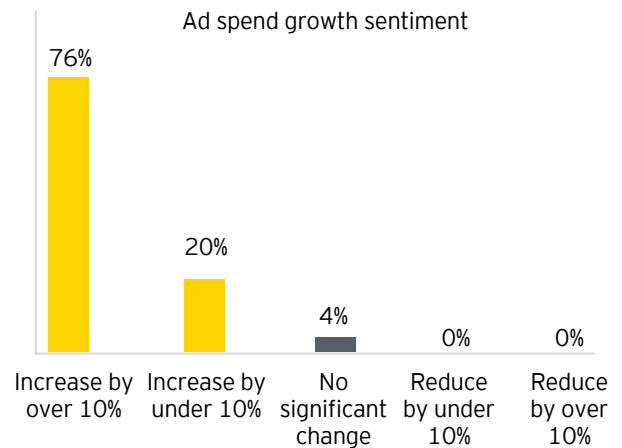
## Over 80% marketers were positive about growth in consumer spending



EY Marketer Survey 2022 | % of total respondents

- ▶ Optimism in the marketing community is high with 88% of marketers believing that consumer spending will grow, while 8% are of the opinion that ad spends will stay the same
- ▶ The optimism seems to be based on several factors:
  - ▶ Upcoming critical state elections
  - ▶ IPL media rights sale in 2022
  - ▶ Increase in the number of unicorns and continued PE funding
  - ▶ FMCG, education and media-entertainment taking over online video
  - ▶ Pharma and e-commerce search boom post-COVID-19
  - ▶ Launches in the auto sector

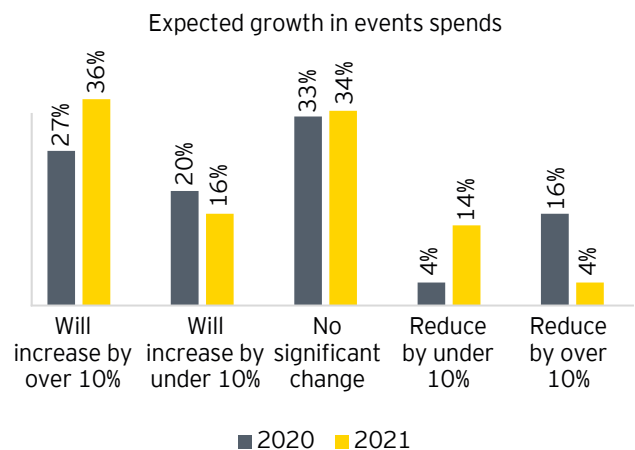
## 96% of marketers expect to increase ad spends



EY Marketer Survey 2022 | % of total respondents

- ▶ 96% of marketers expect to increase their ad spend in the next two years as against 66% last year
- ▶ Interestingly, not a single respondent expected to reduce ad spends in 2022, displaying an undisputed sentiment of growth

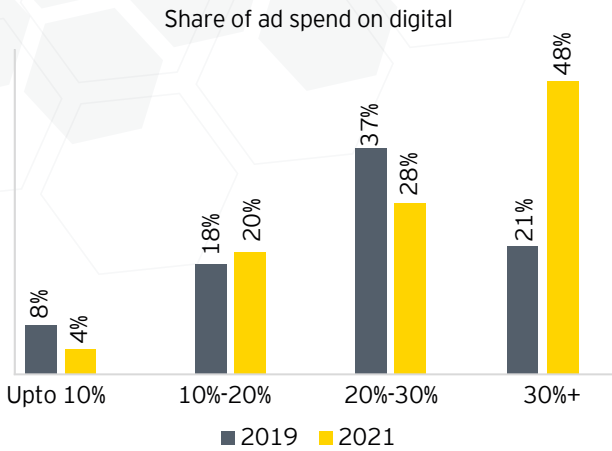
## Marketers remained bullish on events spends, too



EY Marketer Survey 2022 & 2021 | % of total respondents

- ▶ A higher number of marketers who responded to our survey expected to grow their event spends in 2022 as compared to 2021
- ▶ In addition, fewer respondents expected to reduce their event spends by over 10%

## All marketers surveyed used digital advertising

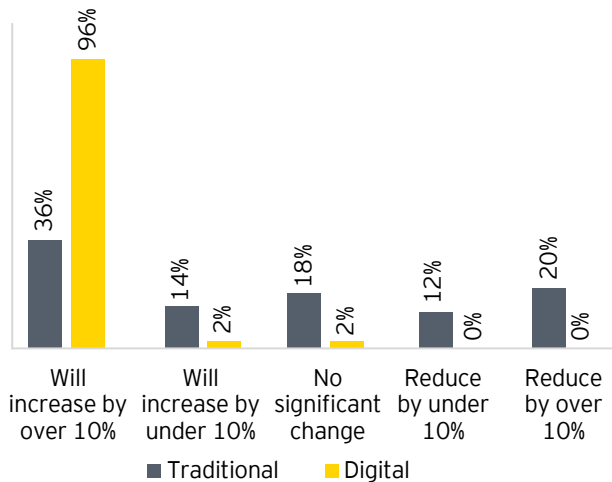


EY Marketer Survey 2022 & 2020 | % of total respondents

- ▶ 48% of marketers spent over 30% of their media spends on digital which revalidates the forecast of maximum growth emerging from digital
- ▶ In our 2020 survey, average spends on digital were far lower and 16% of respondents did not have any digital spends

## 96% marketers expect to increase their spends on digital; only 50% expect to grow their traditional media spends

Expected growth in media spends over the next two years



EY Marketer Survey 2022 | % of total respondents

- ▶ 98% of marketers surveyed expect to increase spends on digital media in the next two years
- ▶ Correspondingly, only 50% of marketers surveyed expect to increase their traditional media spends in the next two years

## Only half the marketers monitored digital ad fraud and brand safety – despite dramatic growth in digital spends

Organizations leveraging tools to monitor brand safety deviations and ad fraud



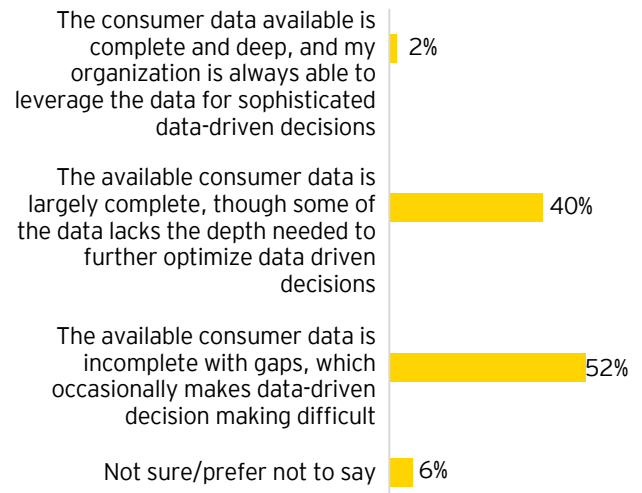
■ No ■ Yes

EY MMA Brand Safety Marketer Survey 2022 | % of total respondents

- ▶ With 29% growth in digital ad spends, marketers are clearly not in a mood to stop spending more on digital advertising
- ▶ However, marketer dependence on tools and technology to manage digital wastage is divided with 49% marketers leveraging tools to monitor brand safety and ad fraud

## Over half of marketers missed depth and completeness in consumer data

Depth of the consumer data to drive decision making

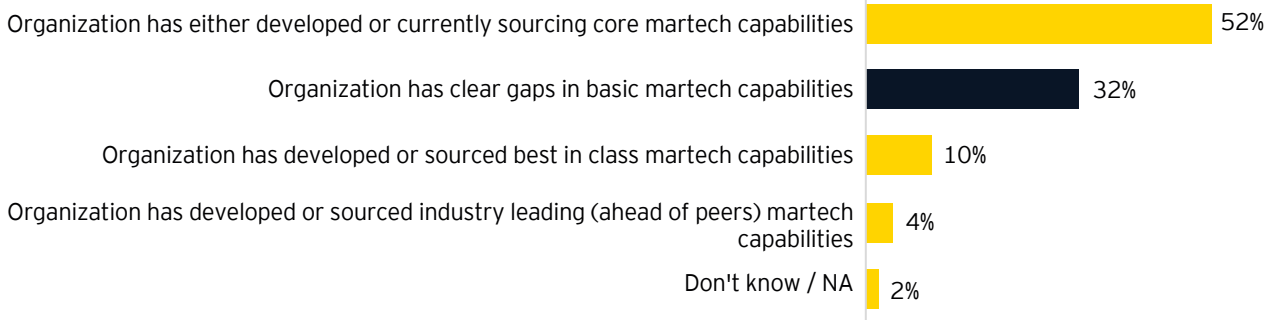


EY Marketer Survey 2022 | % of total respondents

- ▶ Despite the need for depth in consumer data for effective marketing, 92% of survey respondents admitted to lack of depth (40%) and gaps (52%) in their consumer data, which impacted decision making

## 32% of marketers believe there are gaps in their martech capabilities

Martech capabilities vs best in class

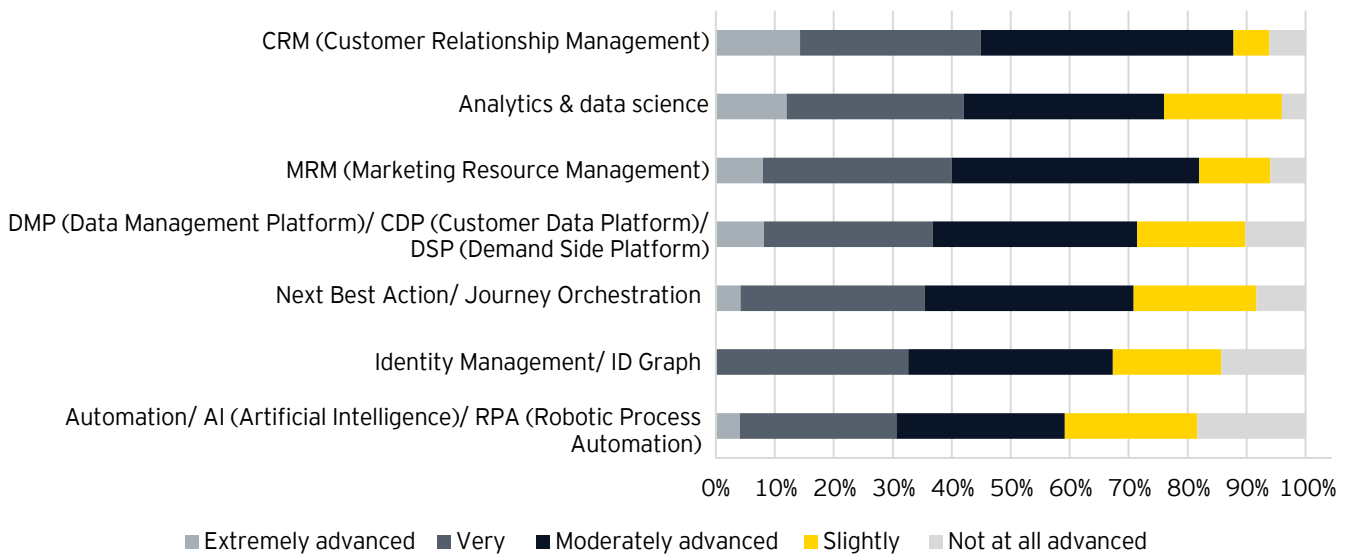


EY Marketer Survey 2022 | % of total respondents

- ▶ 32% respondents believed they had clear gaps in basic martech capabilities
- ▶ 66% had either developed or sourced their martech capabilities from vendors or agencies, of which 14% believed their capabilities were leading practice or ahead of peers

## Martech maturity was the highest in CRM and analytics

Martech maturity



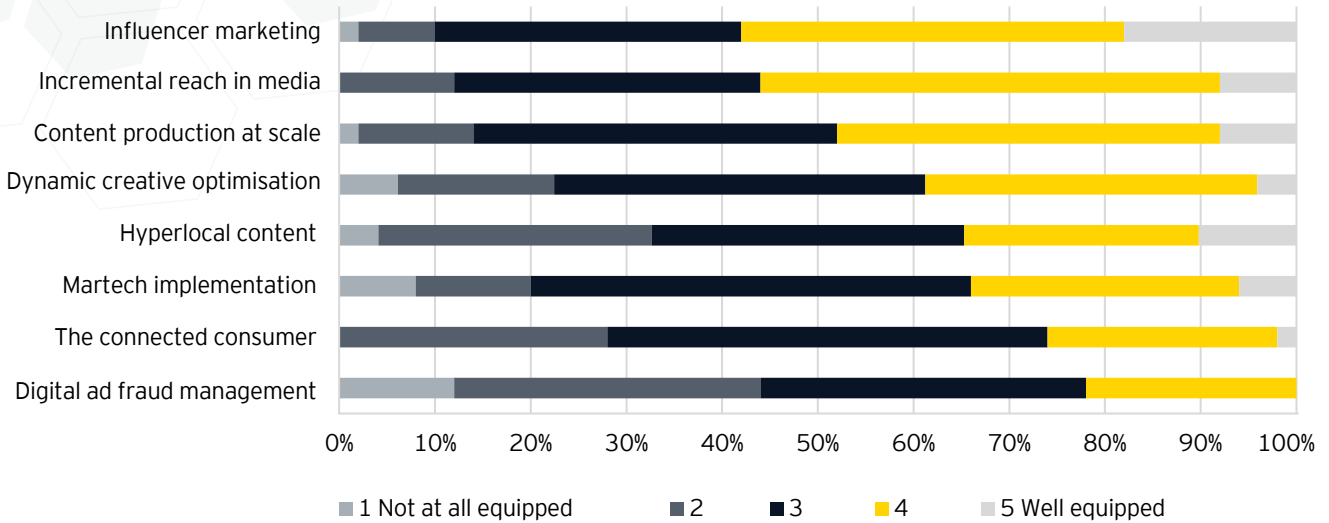
EY Marketer Survey 2022 | % of total respondents

- ▶ Respondents believed that their martech capabilities around customer relationship management, analytics and data science, and marketing resource management were most mature amongst the adopted technologies
- ▶ Automation, ID management, journey orchestration/ next best action were areas where more respondents believed they needed to improve their capabilities



## Marketers' expectations from agencies in post-pandemic marketing have evolved

How ready is your agency to manage new ecosystem challenges?



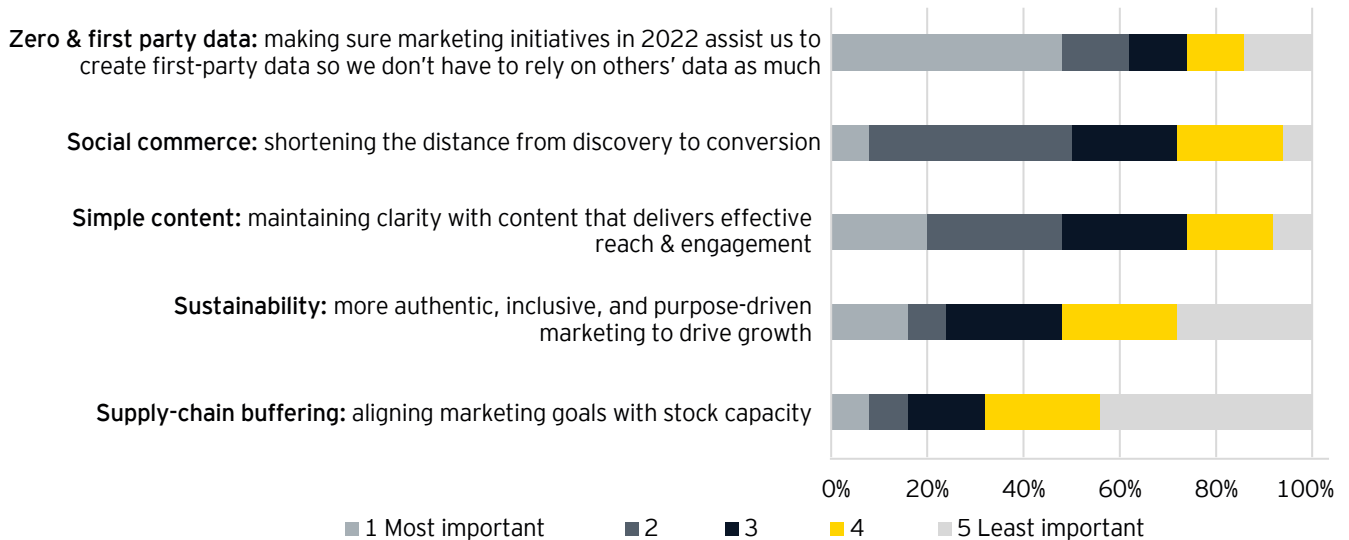
EY Marketer Survey 2022 | of total respondents

- ▶ Half or more of survey respondents believed that their agencies were well-equipped to manage influencer marketing, incremental reach in media, and content production at scale amongst the many challenges that have emerged post the onset of COVID-19 pandemic
- ▶ A large section of respondents believed their agencies lacked the ability to manage digital ad-fraud (44%), help with hyperlocal content (32%) and enable connected consumer strategies (28%)

# 2022 priorities for CMOs

## Zero and first-party data is by far the most important priority for 2022

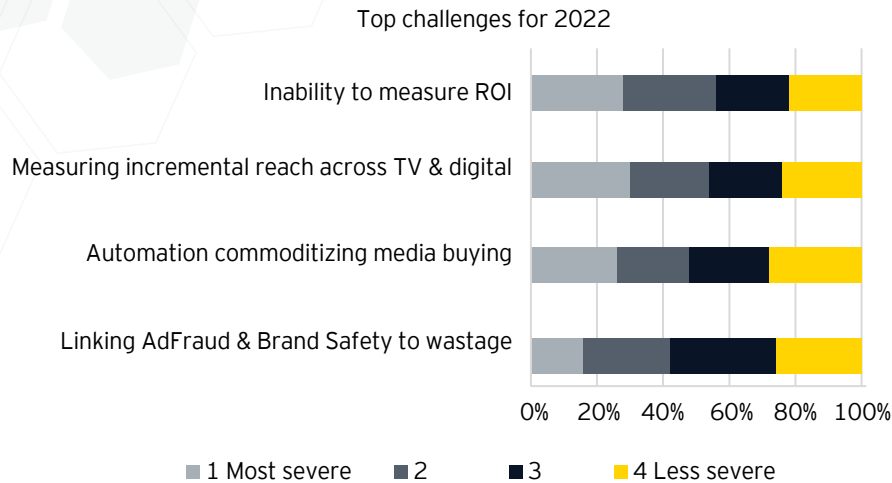
Top priorities for 2022



EY Marketer Survey 2022 | % of total respondents

- ▶ Most Important amongst marketer priorities for 2022 was creating zero and first-party data to enable efficient targeting of consumers, particularly given the challenges posed by cookie-less advertising and data privacy regulations
  - ▶ Suggestion 1: Create a fair value exchange for your consumers
  - ▶ Suggestion 2: Step up interactivity and gamification
- ▶ Social Commerce has become an effective way to reduce the time between discovery and conversion and marketers need to understand its nuances and implement social sales channels for their brands at scale
  - ▶ Suggestion 1: Create automatic bot check-outs
  - ▶ Suggestion 2: Maximize role of influencers, tracking their RoI
- ▶ Interestingly, many respondents identified effective content (and its ability to build reach and engagement) as a key priority for 2021
  - ▶ Suggestion 1: Make content purposeful and personalized, based not on what people are searching for, but why
  - ▶ Suggestion 2: Challenge yourself to think about the way stories are being presented [voice, video, visual via mobile and social], while keeping the art of storytelling alive [the heart of the message]

## Inability to measure ROI continues to be most severe challenge for marketers



EY Marketer Survey 2022 | of total respondents

- ▶ Despite the overload of data generated by digital media, respondents identified measurement of marketing ROI as their number one challenge for 2022
  - ▶ Suggestion 1: Build SMART (specific, measurable, achievable, relevant, time-bound) objectives to justify investments in full-funnel marketing, linked to clear KPIs and use evolved attribution models
  - ▶ Suggestion 2: Designate independent, objective owners of the ROI tracking technologies and processes
- ▶ The lack of a common metric across TV and digital campaigns has most marketers evaluating their campaign performances separately, and this led to concerns on the genuine incremental reach provided by digital to TV campaigns:
  - ▶ Suggestion 1: Invest in modeling that provides directional guidance on investment strategies
  - ▶ Suggestion 2: Build ways to collect deterministic data sets (actual households or individuals associated with an ad exposure) as a reliable way to control frequency
- ▶ Over 70% of respondents had ad fraud management in their top 3 challenges for 2022; yet the problem of linking ad fraud and brand safety to wastage is seen as least severe amongst marketer problems. In there, lies an opportunity that must be addressed by the industry at large
  - ▶ Suggestion 1: Continuously detect and protect against fraudulent traffic; boosting standards of measuring digital effectiveness
  - ▶ Suggestion 2: Certify platforms that can demonstrate a proven ability to prevent fraud



# Martech imperatives for 2022 and beyond

Powered by



The role of marketing has always been to connect a brand and its consumers. Over the years data and technology have played a pivotal role in bridging this gap. Many would argue that technology has evolved to become the backbone for driving effective and efficient marketing solutions. In this section, we put a spotlight on key areas of Martech that may see a momentum in the years to come.

## Leveraging privacy-first data to build stronger consumer connections

On January 25, the Google Chrome team announced that they were replacing the FLoC Privacy-Preserving API proposal with a new “Topics” API proposal, which presents an updated approach to supporting interest-based advertising via the Chrome Browser. Google’s pivot from FLoC to Topics indicates a key shift in Chrome’s approach to enhancing its Privacy-Preserving advertising solutions.

**We believe in a future where multiple privacy-preserving solutions will help create a more responsible advertising ecosystem - there is no single solution to manage Cookie deprecation:**

- ▶ Marketers have already dialled up their focus on first-party data and significant interest in building a Customer Data Platform (CDP)
- ▶ We see broad-based use cases emerging out of first-party data and going beyond personalization
- ▶ The role of panel-based data will grow as it will bring unique and differentiated signals to the mix
- ▶ The way the data comes together is evolving in terms of technology and techniques used to combine various signals
- ▶ Data ethics will become increasingly important for brands and agencies. New AI and/or blockchain-based tools will emerge to address concerns around data ethics.

## Advance Intelligence to power full-funnel marketing

Humans are unable to process the volume, variety and velocity of marketing and digital data points that are generated every second. Advance Intelligence is the savior in this digital marketing and advertising data explosion.

The use of AI and ML will lead to advanced data processing capabilities bringing excellence in execution by automating, auditing, reporting and analyzing digital signals. **Marketers will accelerate the use of the algorithms to find numerous permutations and combinations to deliver performance and return on ad spends, as customers demand relevance and resonance from the advertising they see.**

**Automated content analytics** will be required to understand what content works for what audiences to what is trending in the marketplace on all types of public content. In 2022, **many advertisers will move away from last-click/mile attribution models;** and ensure that media money spent on Top and Middle funnel are accounted for performance on how it influences conversions or outcomes.

**A full-funnel marketing approach is a combination of brand building and performance channels through interlinked teams, measurement systems, joint KPIs and effective handshake between Martech and Adtech.**

Through the full-funnel approach, marketers can have one view of their customers - moving from the nascent digital adoption stage to an interconnected multi-moment one - where life-time value, hyper localization, hyper-personalization, federated learnings and new customer funnel can be improved.



## Creativity and human intelligence: a force multiplier

Marketing as an art and a craft will continue, certainly through the 2020s, constantly evolving based on consumer and cultural trends. However, technology will increase its abilities to assist humans in the creative process.

Marketers need to embrace AI to boost personalization at scale. **Feeding an algorithm with historical and real-time data and then letting the AI program analyze, build and serve a hyper-personalized message to each user is now possible.**

However, approaching this as a technology solution may help automate the process, but it will give a very mechanical output. It is not just about tactical changes in the message to drive personalization but to think 'technology first' yet build a very human experience to connect with consumers.

Last Diwali, Cadbury launched a new campaign and created a hyper-personalized ad featuring Bollywood superstar Shahrukh Khan, using generative AI technology. Using these templates, small store owners across India (as per mapped pin-codes) could be featured in the Cadbury Celebrations Diwali campaign, hyper-personalized to each viewer, and also able to generate an ad for their store featuring the superstar! The campaign helped not only in boosting topline growth but set benchmarks for purposeful, effective and modern marketing to effectively engage with both consumers and trade partners.

## The next generation of digital experience will be driven by decentralization

Web 3.0, metaverse, NFTs and cryptocurrency are all making headlines with pundits and promoters using these terms to communicate visions of a decentralized and virtual-first future. **Fundamentally, these emerging technologies are harbingers of a developing cultural shift that may unfold over the next decade as a generation of consumers, who live primarily in virtual worlds, come of age.**

Web 3.0 - the next stage of the web's evolution - aims to make the internet more intelligent and process information with near-human-like intelligence. In Web 3.0 users would not distinguish between physical and digital experiences. They will expect work, friends, goods and experiences to be connected virtually. This interconnected, live, persistent virtual world is also popularly known as the metaverse. Brands would start leveraging this virtual world as well as components powering the virtual world to build brand experiences and assets, drive consumer connect, associate with the cause, build loyalty, own a moment or drive real or virtual sales.

## Carbon neutral digital footprint

**Carbon footprint of the internet, millions of connected gadgets and the supporting ecosystem is higher than the global aviation industry and estimated to double by 2025.**

A BBC article on this topic estimates that if every adult in the UK sent one less "thank you" email, it could save 16,433 tons of carbon a year - the equivalent to taking 3,334 diesel cars off the road.

In response, brands are overhauling their websites to lower the carbon footprint and even evaluating media plans from the lens of environmental impact. This is in line with shifts we have already seen in markets like the US and UK and will involve strong partnerships between agencies and media owners to drive this.

Brands and marketers are placing a great deal of focus on sustainability and we expect carbon-neutral websites and digital assets will increasingly be part of marketers' RFPs in India. As we move into metaverse and more immersive digital experiences, sustainable practices in the virtual world will be more important than ever.

# Brands in the metaverse

There are quite a few people who believe that the latest paradigm shift for the internet is already well underway: the metaverse, they say, is almost here. When companies investing in a space and the media declare a moment, it is reasonable to take a beat and see whether the reality can live up to the hype. But, if this is *the* “meta” moment – that is, if it offers something that people really want – it is safe to assume that a lot of companies are wondering what the metaverse really is and whether they should be a part of it. **For brands thinking about how to navigate this new frontier, even knowing where to start can be daunting.**

The basic idea of the metaverse is not complicated. Put simply, the metaverse includes any digital experience on the internet that is persistent, immersive, three-dimensional (3D), and virtual, as in, not happening in the physical world. **Metaverse experiences offer us the opportunity to play, work, connect or buy (and just to make things extra fun, the things we buy can be real or virtual).** It is also perhaps a misnomer to say “the metaverse” as if it were a monolithic, connected, or even interoperable universe, because it is not. **Each entity that creates a virtual world does so with its own access, membership, monetization rights, and formats of creative expression, so the business and technical specifications vary widely.** The metaverse refers more to the concept across these individual worlds and experiences and the acknowledgement that we are entering into a more substantive, immersive landscape than ever before.

**A handful of businesses are already shaping their landscape, with entertainment and gaming companies leading the way.** Major console and PC gaming titles, such as Fortnite, from Epic Games, have normalized playing and socializing with people in virtual settings. Newer gaming platforms, such as Roblox, allow people to create and play across immersive worlds created, and often monetized by users. Decentraland is an entire 3D virtual world owned by its users, allowing them to create virtual structures – from theme parks to galleries – and then charge users to visit them, all powered by Ethereum blockchain technology. Other companies, such as MetaVRse and Unity, are creating engines to power brand and gaming studios and accelerate development of AR and VR content creation.

The immersive environment of the metaverse is not just an opportunity for consumer-facing companies, however. **From training future surgeons to rolling**

**out product demos to retail employees, there are plenty of business applications.** For example, the leadership of the tech company, Nvidia, believes that investing in metaverse simulations of such things as manufacturing and logistics will reduce waste and accelerate better business solutions. And Microsoft is positioning its cloud services to be the fabric of the metaverse, using its Mesh platform to enable avatars and immersive spaces to thread into the collaboration environments, such as Teams, over time. **With post-COVID hybrid or remote working environments, many of these more creative virtual business experiences are likely to become even more relevant to how companies connect to their people and to their customers.**

For companies still waiting on the sidelines, it is important for each brand to find its place and balance the risk-reward equation. Doing so requires grasping what is possible, and the companies that are leaning in fast can both offer inspiration and act as test cases. For example, **there are plenty of brands taking full advantage of the gaming part of the metaverse with branded experiences that are essentially virtual and immersive sponsorships.** While Nike is a highly established brand, it is certainly leading the charge at the assertive end of the metaverse spectrum, filing for patents for **virtual goods and the opportunity to build virtual retail environments to sell those goods,** as reported by CNBC. More recently, they acquired a company called RTFKT that creates virtual sneakers and collectibles for the metaverse.

The commercial applications of the metaverse are further heightened by the new behaviors surging around buying products and services directly from social experiences, also known as “social commerce”. Social commerce is becoming a larger percentage of the US e-commerce over time and is projected to be US\$36 billion in 2021 alone, following growth patterns like those in China.

In response, the social media landscape is keen to capitalize on the intersection where people connect and buy not only in a traditional internet context, but also in a 3D, immersive metaverse. **Virtual showrooms, fashion shows, and dressing rooms suddenly have the potential to shift from fringe experimentation to mass adoption.** And people are not just selling physical goods – in fact, Sotheby’s recently announced its own metaverse gallery for curated virtual art, housed in Decentraland. New business models for influencers, virtual goods –

including non-fungible tokens (NFTs), which are one-of-a-kind creations traded and secured on a blockchain – and commerce on physical goods purchased in virtual worlds will all emerge in importance as capabilities scale.

Brands should always be in a test-and-learn mode, and the digital landscape in particular requires intellectual curiosity. **The metaverse is potentially the next iteration of how humans use the internet to connect, communicate and transact** – sitting on the sidelines too long is not likely to be an option.

Here's what brands can do right now:

## Pick your targets

Think about how much your target audiences/customers are spending time in the metaverse and calibrate your speed of attack appropriately – **brands focusing on younger demographics, for example, probably do not have the luxury of sitting out the metaverse for long**. Who are your target demographics, and what behaviors are trending with your current and prospective consumers right now that are indicators of how fast to move into the metaverse?

## Watch the competition

Start talking about moments when peer companies do things in the metaverse – like a showcase at a leadership meeting just to get the conversation going across the executive team. So much of the space can be intimidating, particularly when seemingly indecipherable concepts, such as NFTs or blockchain, are involved. **Can you create a champion for these topics to bring approachable, tangible examples to every meeting?**

## Look for applications

See whether the metaverse gives you opportunities as a company to not only try new things, but also accelerate your purpose or long-term goals like sustainability, which is well suited to many applications of the metaverse. Almost every CMO already has made, or will soon make, a public commitment to sustainability related ESGs, and they will soon be measurable. **What can you pilot in the metaverse that allows you to test more sustainable approaches to serving your customers?**

## Plan your entrance

**Ask your agency team to begin formulating a point of view on how your brand should show up in the metaverse and when it might make sense.** Holding companies and independent agencies are both keenly watching mass media behaviors and emerging trends, so it is a great opportunity to ask them what they are seeing across their client portfolio. What tests could they put in place to enable you to get your brand exposed to the metaverse comfortably?

## Keep your balance

If you are already in it, prepare for the fact that all new spaces present risk and reward; manage accordingly, knowing that it may be super-unpredictable and lacking in standards. The good news is that the recent pandemic made us all way more agile than ever before. To state the epically obvious, **there will be experiments that fail**. Second Life offered the promise of the metaverse years ago and did not take hold, but the risk for brands that participated was not significant or long term. So, if this is the right time, it is important to consider how to be there.

**Most importantly, people in brand marketing or leadership roles should start thinking about how to unleash their creativity and storytelling.** If the creative palette expands dimensions in the metaverse, we should be excited to create experiences at any point in the customer journey, from acquisition, to engagement, to transaction, to customer support, which have the potential to be both spectacular and stickier than before. And, someday, we will likely want to move from real to virtual worlds seamlessly. That will be the next frontier.



**Janet Balis**

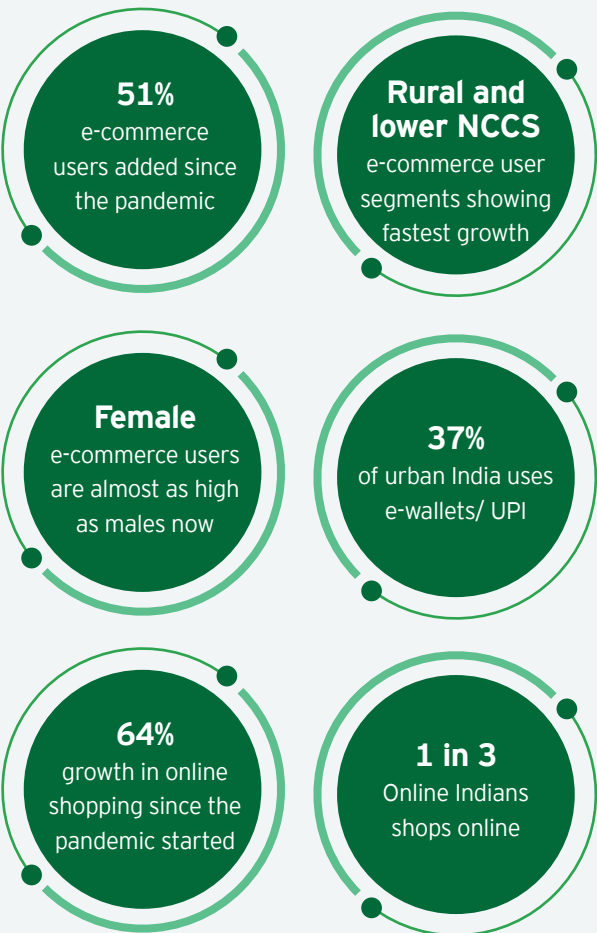
*Partner, EY, Marketing Practice Leader*

# Trends

## Decoding the Indian social commerce landscape

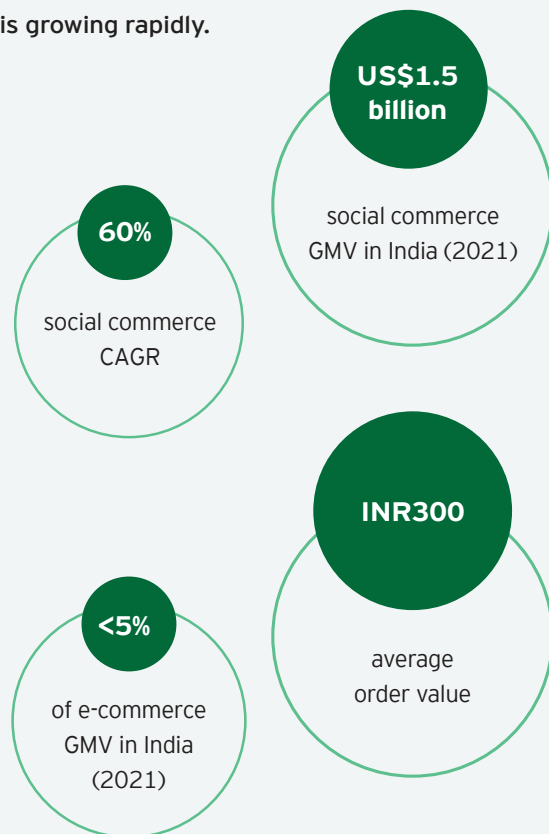
Powered by **WPP**

### Online shopping in India

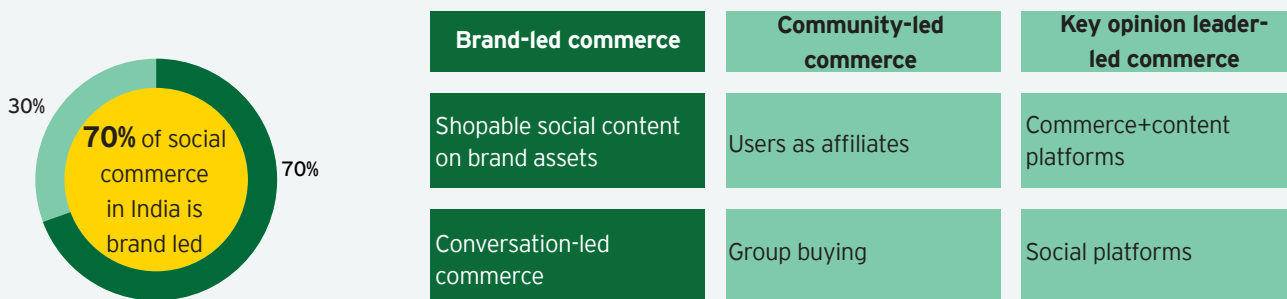


### How is the social revolution democratizing commerce?

Social platforms were entry points for everything internet users do online- news, entertainment and communication. Commerce has joined this mix and is growing rapidly.



### How is social commerce developing in India?



All data has been provided by WPP. It has not been independently verified by EY.

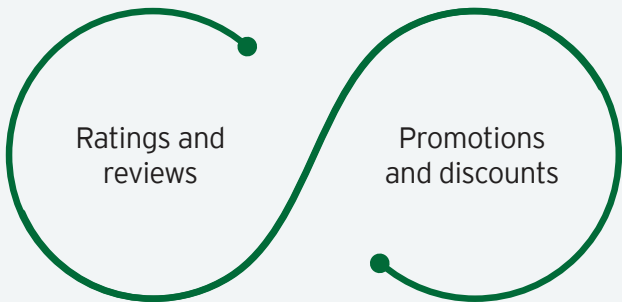
## What are the learnings from social commerce?

Category	% Consumers
Beauty	39%
Food delivery/ takeaway	30%
Grocery	29%
Household items	29%
Home electronics	25%
Apparel	25%
Luxury	18%
Furniture	17%

Social commerce shopper insights survey by Essence Global - A groupm, WPP agency



### Invest in top motivating factors influencing decision making



### Segment audiences and serve them at speed

GenZ	Millennials
▶ Apparel	▶ Household items
▶ Food delivery/ takeaway	▶ Furniture
▶ Beauty	▶ Luxury
Women	Men
▶ Apparel	▶ Grocery
▶ Beauty	▶ Hardware
▶ Food delivery/ takeaway	▶ Home electronics

## What should brands do to succeed?



**Make it live:** Livestreams with D2C website links or native purchase feature are force multipliers for engagement and add to cart metrics.

Social commerce shouldn't be limited to lower-funnel activity. Brands must **focus on sustainable growth** by raising brand awareness on a consistent basis.

**Be available, be visible and be profitable** - the mantra on social commerce remains similar to traditional e-commerce



# Expert speak

*"After a tough two years it is good to see the media and entertainment industry bounce back with growth across all mediums and not just digital."*



**Shashi Sinha**

CEO  
Mediabrands India

*"India is entering a golden period thanks to a growing economy, better physical and digital infrastructure, business friendly policy and a vibrant start-up eco system. We should seize the moment to take our place as the Innovation centre of the M&E world."*



**CVL Srinivas**

Country Manager India  
WPP

*"Future Media Platforms are all about 'Momentization' – capturing audience attention through short duration content, monetizing it with integrated brand communication & leveraging sales through instant transactions – an RoI gained in 'Moments of Time!'"*



**LV Krishnan**

Chief Executive Office  
TAM Media Research

*“The best is yet to come. The M&E Industry in India is at the forefront of technology and this will help it exploit the emerging opportunities at great benefit to itself.”*



**Sam Balsara**

Chairman  
Madison World

*“The advertising and media industry is poised for significant growth over the next decade in India. Of course, this will largely be driven by the growth in digital but at the moment we are seeing the entire ecosystem transform. There will be winners and losers and the winners will be the ones who handle digital transformation better.”*



**Ashish Bhasin**

Former CEO APAC  
& Chairman India  
Dentsu

*“The pre and post COVID worlds are completely different. As we say in our Meaningful Brands study if 70% of the global brands disappear no one would care. So, while the future looks extremely dynamic, only the brands who continue evolving and embrace newer trends like metaverse, NFT will stay relevant and meaningful.”*



**Rana Barua**

CEO  
Havas Group India

*“Technology and digital are disrupting the way consumers and marketers behave. The world is betting on India given the growth potential as well as the talent advantage it has. No wonder it is the Unicorn factory of sorts, with last year seeing an unmatched number of Unicorns being born here. The segment is well poised for a strong growth, and companies which are willing to adapt to the seismic shifts will surely gain the first mover advantage.”*



**Anupriya Acharya**

CEO  
Publicis Groupe South Asia

# NFTs in M&E







# NFTs in the M&E sector

## What are NFTs?

- ▶ NFTs or non-fungible tokens allows users to buy and sell ownership of unique digital items and keep track of who owns them using a blockchain
- ▶ NFTs can contain anything digital, including art, animated GIFs, music, video clips, or items in video games
- ▶ An NFT can either be one-of-a-kind or be a part of a pack, like trading cards
- ▶ The blockchain helps keep track of the authenticity as well as ownership of the asset
- ▶ NFTs allows consumers to go from watching and consuming content to owning a piece of content that they feel connected to
- ▶ Further, attaching rarity to NFTs allows them to appreciate over time, allowing fans to trade the assets subsequently to earn profits

## What are the benefits of NFTs?

- ▶ **Authenticity:** Storing NFTs on a blockchain allows the token to be independently verifiable and offers a 'single source of truth' for asset ownership
- ▶ **Safety and security:** Digital assets stored on a blockchain are relatively cheaper to store and cannot get damaged, unlike a physical collectible
- ▶ **Secondary sale benefits:** NFTs have a feature that you can enable that will pay you a percentage every time the NFT is sold or changes hands, which allows original creators / artists to benefit from any secondary sale of their works

## What is the total NFT market size?

- ▶ The global market for NFTs touched the US\$2.5 billion<sup>2</sup> mark in the first half of 2021, up from US\$13.7 million in the first half of 2020
- ▶ NFTs generated over US\$24 billion in trading volume in the year 2021, compared to just US\$94.9 million the year before

## Where can I buy NFTs?

- ▶ NFTs can be bought and sold on online marketplaces
- ▶ Some of the major marketplaces include OpenSea, Rarible, Foundation, Nifty Gateway, and WazirX
- ▶ OpenSea, a leading NFT marketplace, has been valued at over USD13 billion<sup>1</sup>

<sup>1</sup> <https://www.nytimes.com/2022/01/04/business/opensea-13-billion-valuation-venture-funding.html>



## What are the NFT use-cases for the M&E sector in India?

### I. NFTs as collectibles

- ▶ NFTs have found a use-case as collectibles, similar to trading cards that were popular among early teens
- ▶ One of the most popular collectibles projects is NBA Top Shot, a blockchain-based trading card system launched by Dapper Labs where each card is essentially a special moment or highlight reel from the NBA. NBA Top Shot has generated over \$230 million<sup>3</sup> in gross sales. Majority of this amount has come from secondary sale of the NFTs
- ▶ Another example is Sorare, a fantasy football game, where players buy, sell, trade, and manage a virtual team with digital player cards that are sold as NFTs. 215 football clubs<sup>4</sup> have officially licensed their content to the Sorare platform for monetization as NFTs
- ▶ The International Cricket Council (ICC) has also launched NFTs in partnership with Faze Technologies. These NFTs shall act as exclusive digital collectibles of the greatest moments from ICC events available for cricket fans to purchase<sup>5</sup>
- ▶ Another platform, Rario, enables buying, selling, and trading of officially licensed cricket NFTs on a cricket-focused marketplace. The platform has procured NFT rights to five international leagues and almost 600 international cricketers<sup>6</sup>

### II. NFTs as exclusive club memberships

- ▶ The CryptoPunks project has resulted in the explosion of profile picture (PFP) projects. These are 10,000 uniquely generated characters. No two are exactly alike, and each one of them can be officially owned by a single person. The proof of ownership of these NFTs is stored on the Ethereum blockchain<sup>7</sup>
- ▶ Bored Ape Yacht Club (BAYC) is one of the most popular NFT projects. It consists of 10,000 pieces of digital art which are essentially apes with attributes having different levels of rarity. Owning a BAYC NFT serves as a ticket to an online community, with the benefit of using the art as your avatar or social media profile picture. Steph Curry, Eminem and even the Adidas brand have used Bored Ape NFTs as profile pictures. BAYC has also organized meetups in New York and California along with get-togethers in Hong Kong and the UK for NFT owners<sup>8</sup>

### III. NFTs for audience engagement

- ▶ Superstar DJ and music producer Steve Aoki launched his own metaverse and NFT membership platform, The AOK1VERSE. Membership of the platform offers token holders, exclusive access to both physical and digital opportunities from Steve Aoki as well as his network of brand partners and NFT collaborators. This includes concert tickets, early access to future NFT releases as well as friends and family projects, private events, metaverse experiences, apparel, digital wearables, physical toys and digital collectibles<sup>9</sup>
- ▶ Michael Jordan has plans to launch an athlete focused NFT platform called Heir in 2022. Athletes will sell a limited number of 'seats' that will give fans access to NFTs and other digital assets built on the Solana blockchain network. Users will also be able to join an athlete's 'huddle', which will offer perks including exclusive drops and immersive experiences<sup>10</sup>

<sup>2</sup> Rediffusion NFT report 2022

<sup>3</sup> <https://www.cnn.com/2021/02/28/230-million-dollars-spent-on-nba-top-shot.html>

<sup>4</sup> <https://sorare.com/>

<sup>5</sup> <https://www.icc-cricket.com/news/2327876>

<sup>6</sup> <https://economictimes.indiatimes.com/tech/funding/dream-capital-in-talks-to-lead-100-million-funding-in-nft-platform-rario/articleshow/89806624.cms>

<sup>7</sup> <https://www.larvalabs.com/cryptopunks>

<sup>8</sup> <https://www.cnet.com/how-to/bored-ape-yacht-club-nfts-everything-you-need-to-know/>

<sup>9</sup> <https://www.musicbusinessworldwide.com/steve-aoki-launches-his-own-metaverse-and-nft-membership-platform-the-aok1verse1/>

<sup>10</sup> <https://www.inputmag.com/style/michael-jordan-heir-nft-platform-athletes-metaverse-2022>

#### IV. NFTs as concert tickets

- ▶ Music festival, Coachella, launched their NFTs, which gives buyers the chance to own lifetime festival passes, unlock unique on-site experiences, physical items, and digital collectibles<sup>11</sup>

#### V. NFTs in gaming

- ▶ A new class of games is emerging where playing is an investment opportunity – and even potentially a way to earn a living. ‘Play-to-earn games’ like Axie Infinity and The Sandbox have been exploding in popularity recently
- ▶ Axie Infinity is a Pokémon-style game created by Vietnamese developer, Sky Mavis. It has some 350K DAUs, about 40% of whom are in Philippines, with Venezuela and the US, the next two biggest markets. The game revolves around creatures called Axies, which players breed, acquire, train, use to complete challenges, and do battle with online. The objective of this game is to obtain small love potions (SLPs). SLPs double as cryptocurrencies that can be bought and sold on a crypto exchange. Top players are reportedly earning SLP1,500 (\$435) per day from their Axies. Monthly trading volumes for all Axie Infinity NFTs currently stand at \$170 million<sup>12</sup>
- ▶ Zed Run is a horse-racing game built on blockchain where digital horses can be bought and sold as NFTs. The platform launched in early 2019 with horses selling for as little as \$30. Now, horses are sold on the secondary market for upwards of \$150,000, with complete stables full of horses topping \$225,000.<sup>13</sup>
- ▶ NFTs are also coming to game streaming. Eternal, backed by Mark Cuban and Coinbase, is an NFT marketplace for trading Twitch streamer clips. The platform will allow streamers to sell top clips as well as videos from their social media, thus ‘immortalizing’ the moments on the blockchain<sup>14</sup>

#### VI. NFTs in music

- ▶ Music NFTs made news when 3LAU, a popular EDM artist raised \$11.7 million<sup>15</sup> by releasing his songs as exclusive NFT drops. This paved the way for artists and platforms to explore NFTs as an option for monetization of music content
- ▶ One such platform - Royal, allows artists to sell song rights as NFTs to their fans and, as such, has become a crowd-funding mechanism. This allows fans to earn royalty along with the artist<sup>16</sup>

#### VII. NFTs in TV shows and movies

- ▶ Stoner Cats, an animated show, funded itself by selling NFTs. The show stars Mila Kunis, Ashton Kutcher, Chris Rock, Jane Fonda, and Ethereum co-founder, Vitalik Buterin. The show sold 10,420 tokens for 0.35 ETH each, in under 35 minutes, making over \$8 million. Only the NFT holders are given access to watch the show – another proof-point of NFTs shifting from collectibles to utility<sup>17</sup>
- ▶ Time Studios is also focusing on NFT-inspired kids’ TV content. The studio is developing two new animated franchises based on NFT projects, with a goal to become the de facto studio for the web3 era<sup>18</sup>

#### VIII. Traditional Indian media companies are embracing NFTs

- ▶ Zee Studios became the first film studio in India to launch NFTs, as they offered digital collectibles of their film content. The NFTs were launched on NFTically, powered by the Polygon blockchain<sup>19</sup>
- ▶ T-Series has partnered with Hefty Entertainment, a division of Hungama Digital Media, to launch NFTs for their films<sup>20</sup>
- ▶ Viacom18 has also set foot in the NFT space, with the launch of their own marketplace in partnership with GuardianLink. The marketplace aims to offer digital art across their network brands<sup>21</sup>
- ▶ On the news front, The Associated Press<sup>22</sup> has launched its own NFT marketplace for photojournalism to sell NFTs of its photojournalists’ work in collaboration with a company called Xooa. The marketplace is built on the Polygon blockchain<sup>23</sup>

<sup>11</sup> <https://nft.coachella.com/>

<sup>12</sup> <https://www.fastcompany.com/90658838/your-next-job-might-be-playing-a-video-game>

<sup>13</sup> <https://www.miaminewtimes.com/news/what-is-zed-run-the-digital-horseracing-nft-12320002>

<sup>14</sup> <https://techcrunch.com/2021/09/28/mark-cuban-and-coinbase-back-eternal-an-nft-marketplace-for-trading-twitch-streamer-clips/>

<sup>15</sup> <https://www.forbes.com/sites/abrambrown/2021/03/03/3lau-nft-nonfungible-tokens-justin-blau/?sh=6ddebe1a4643>

<sup>16</sup> <https://royal.io/>

<sup>17</sup> <https://www.vice.com/en/article/k78kay/mila-kunis-stoner-cats-cartoon-is-making-millions-selling-nfts>

<sup>18</sup> <https://www.hollywoodreporter.com/business/digital/time-studios-nft-kids-smilessvrs-dougs-toy-boogers-1235074301/>

<sup>19</sup> <https://www.nftically.com/blog/zee-studios-launches-its-first-ever-nft-on-polygon-powered-by-nftically/>

<sup>20</sup> <https://economictimes.indiatimes.com/industry/media/entertainment/t-series-set-to-launch-nfts-of-films-and-music-arts-in-hungamas-metaverse/article-show.89084143.cms?from=mdr>

<sup>21</sup> <https://timesofindia.indiatimes.com/business/india-business/viacom18-gets-into-nft-space/articleshow/89264496.cms>

<sup>22</sup> <https://www.theverge.com/2022/1/10/22876993/associated-press-ap-nft-marketplace-xooa-blockchain-photo-journalism-funding>

<sup>23</sup> <https://apmarket.xooa.com/p/community-market>

## What does the future hold?

### I. NFT adoption in India could skyrocket

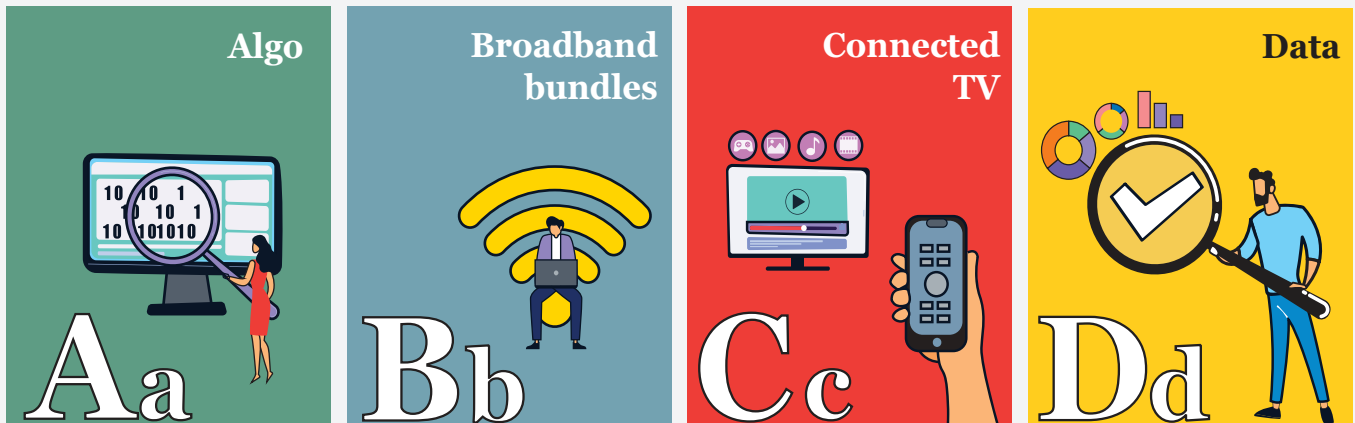
- ▶ Indian media consumers have always been ambassadors of fandom – we love our heroes! In a country that lines up outside an actor's bungalow to catch a glimpse of their idol, or stand in queues for hours for an autograph, NFTs offer a great use-case for fans to feel part of a homogeneous community and bring them one step closer to the artists they love and admire
- ▶ For IP owners and brands, NFTs offer an avenue to directly connect with their audience and build fan engagement and communities at scale
- ▶ Considering that the monetary benefits accrue to IP owners as well as NFT holders, NFTs offer a win-win proposition to everyone across the board. However, it would be important to educate consumers on the benefits of NFTs to enable large-scale adoption
- ▶ Appropriate pricing of NFTs will be critical for initial adoption. Brands could initially launch NFT projects purely as marketing campaigns to spread awareness about upcoming IP releases and the consequent curiosity would, over time, increase adoption at scale

### II. IP owners need to think through the opportunity

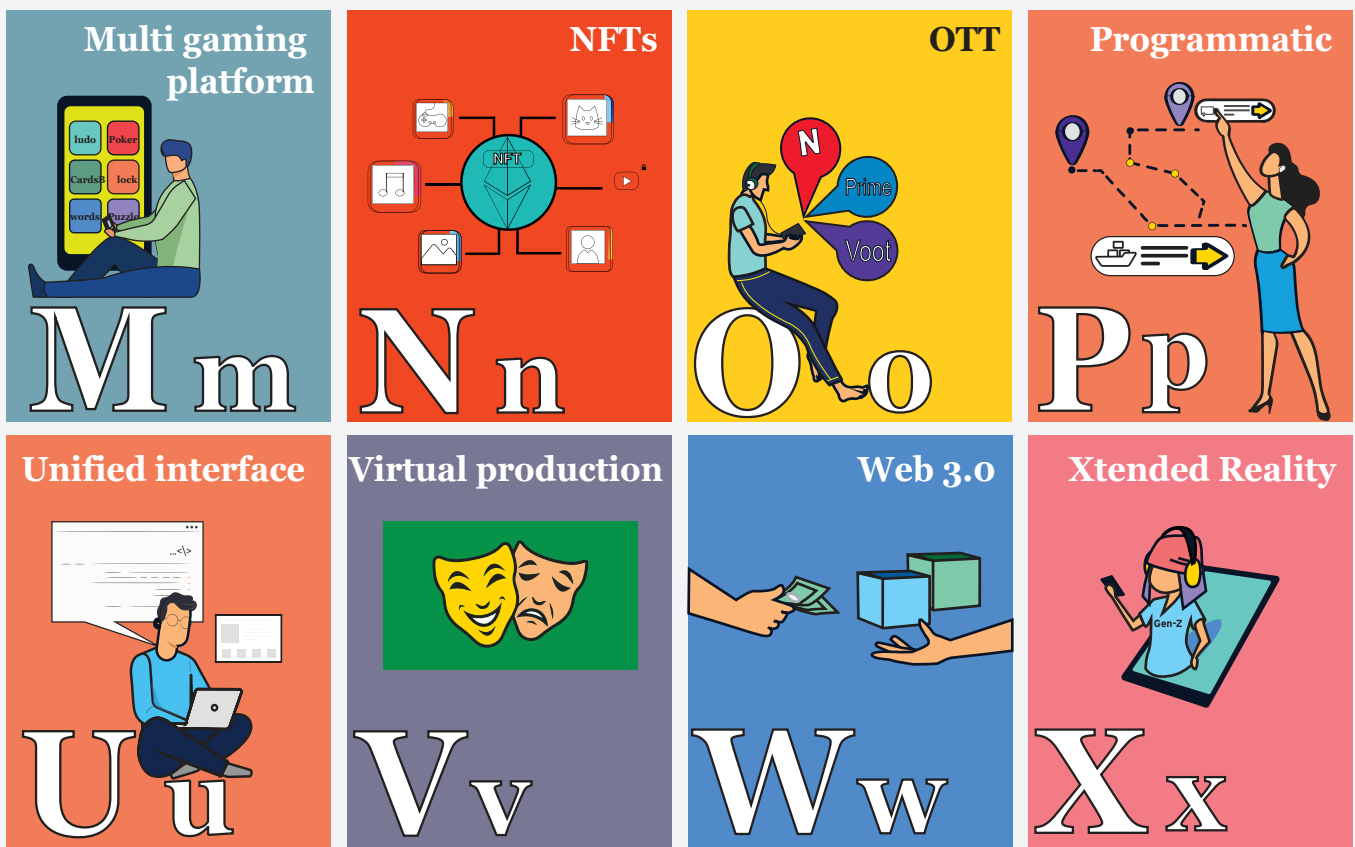
- ▶ NFTs offer a completely new revenue stream for IP owners across the M&E sector. This includes owners of fresh content as well as popular library content which have a high recall, nostalgic, patriotic, or religious value attached
- ▶ Apart from original content, NFTs could also be derived out of shoulder content around owned IP. This could include original scripts, autographed posters, behind-the-scenes videos, unreleased footage, etc. – primarily, any content that is exclusive, rare and would be rated highly in a community of super-fans
- ▶ Considering that benefits of NFT sales to original creators continue with secondary sales, IP owners would like to hold on to NFT rights for perpetuity. Building this clause into their IP sharing and sale agreements
- ▶ We could also see content production houses increasingly motivated to hold on to the rights to the content they have produced in lieu of transferring them in entirety to studios, broadcasters, and OTT platforms

### III. Areas requiring clarity and collective industry thinking

- ▶ The **regulatory environment** is probably the largest hurdle that needs to be crossed for NFTs to become mainstream in the future. Considering majority of NFTs are traded in cryptocurrency, there will be a need for regulatory clarity around legality and taxation to allow consumers the comfort of investing in NFTs
- ▶ While regulatory clarity is awaited, some platforms have enabled partnerships with online payment gateways to allow purchase and sale of NFTs using **fiat currency** and / or using credit cards
- ▶ It is critical to determine the processes, **risks and security aspects** given that dealings will include significant personally identifiable information being used across third party platforms, which could be international as well
- ▶ Tax structuring of the assets, platforms and transactions needs to be evaluated in light of the **levy proposed by the Budget 2022-23**
- ▶ Being based on blockchain technology, NFTs are also criticized for **impacting the environment** on account of the electricity consumption required to run and operate certain blockchains. A conscious switch to renewable energy will be required to reduce dependence on fossil fuels



# Operating environment

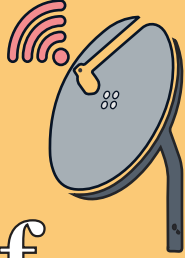


Engagement



Ee

Freedish



Ff

Global reach



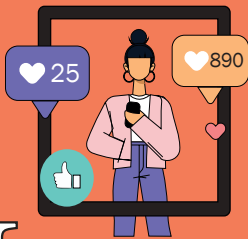
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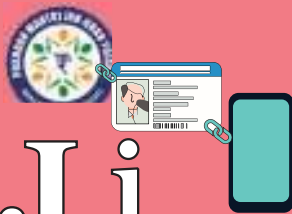
Hh

Influencer



Ii

JAM  
(Jandhan,  
Aadhar, Mobile)



Jj

K-POP



Kk

Likes



Ll

Quality of service



Qq

Recommendation  
engine



Rr

Social  
commerce



Ss

Time-shifted



Tt

Youth



Yy

Zero budget  
marketing



Zz

Sharing



#

Attention span



@



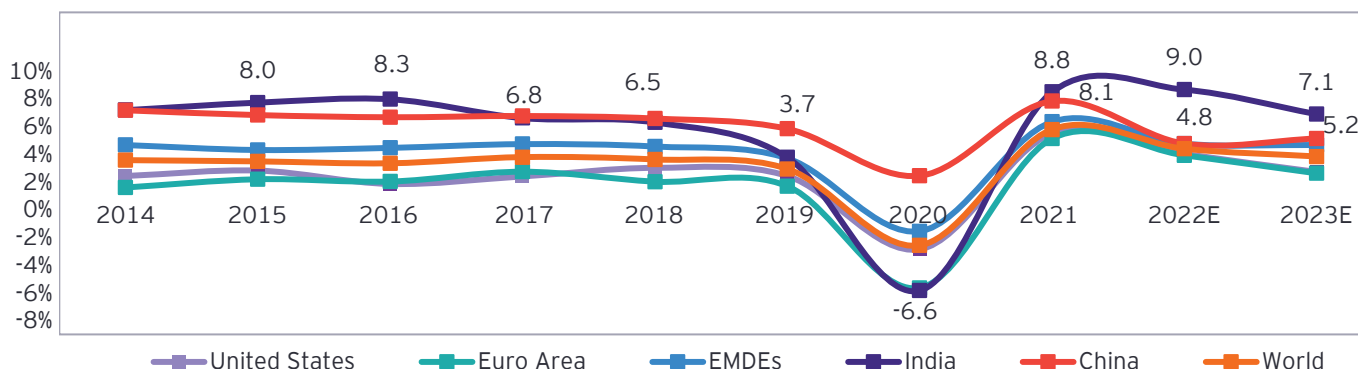
# India's economy



# Indian economy and its impact on M&E

## India is expected to regain its position as a global growth leader beginning 2021-22

Chart 1: Real GDP growth: cross-country comparison



IMF World Economic Outlook October 2021; IMF World Economic Outlook January 2022 update; NSO, MoSPI  
 Note: Growth for India from 2014 till 2021 is taken from data provided by NSO, MoSPI. Growth for 2022 and 2023 is as per projections by IMF in its World Economic Outlook January 2022 update. For India a year represents the fiscal year. For instance, the year 2014 refers to the fiscal year 2014-15.

- ▶ The National Statistical Office (NSO) estimated India's real GDP growth at 8.9%<sup>1</sup> in FY22, following a contraction of (-)6.6% in FY21
- ▶ The IMF in its January 2022 issue of the World Economic Outlook Update projected India's growth at 9.0% in FY22 and FY23, moderating slightly to 7.1% in FY24
- ▶ With this growth profile, India is expected to lead global growth beginning 2021 (FY22). As per the IMF, India's growth is expected to exceed that in China by 0.7% points. India's growth is also forecast to be higher than that of Emerging Markets and Developing Economies (EMDEs)<sup>2</sup> by 2.5% points (Chart 1)
- ▶ India's estimated growth rebound in FY22 would offset the contraction in FY21 with a marginal growth of 1.8% over FY20
- ▶ FY23 is expected to be the first normal year after the onslaught of COVID-19 which virtually eliminated meaningful increase in economic output during the two-year period covering FY21
- ▶ As per the IMF, India's growth prospects for 2023 (FY24) are supported by expected improvements in credit growth, investment, and consumption, while building a better than anticipated performance of the financial sector

## Per capita nominal GDP is projected to grow by 16% in FY22

- ▶ India's per capita nominal GDP is estimated to grow by 16% in FY22 to INR1,69,574<sup>3</sup> (US\$2,282.3<sup>4</sup>) after suffering a contraction of (-)2.4% in FY21. In the case of China<sup>5</sup>, per capita nominal GDP growth is estimated to have increased by 9.8% to Yuan 79,670 (US\$11,891.2) in 2021 from 3.2% in the pandemic year 2020
- ▶ The IMF forecasts India's per capita nominal GDP growth at 13.1% in 2022 (FY23), gradually slowing to 10.1% by 2026
- ▶ Higher growth envisaged in India's per capita income in nominal terms is expected to support consumption growth including that in the media and entertainment sector

<sup>1</sup> This estimate is based on combining MoSPI's first advanced estimate for FY22 released on 07 January 2022 with the first revised estimate for FY21 released by MoSPI on 31 January 2022

<sup>2</sup> IMF World Economic Outlook October 2021

<sup>3</sup> IFPI Engaging with Music report 2021, IMI Digital Music Study Report 2021

<sup>4</sup> Second advance estimates of National Income 2020-21 released by MoSPI on 26 February 2021

<sup>5</sup> Assuming an average exchange rate of INR74.3/US\$ which is the average over the period April 2021 to January 2022

## India is expected to be the sixth largest economy in 2023 (FY24)

**Table 1 : Nominal GDP in US\$ and PPP dollar terms: cross country comparison**

Country	GDP 2023			
	Nominal (US\$ billion)	Rank	PPP (\$ billion)	Rank
United States	25,938	1	25,938	2
China	19,994	2	31,661	1
Japan	5,735	3	6,200	4
Germany	4,774	4	5,412	5
United Kingdom	3,582	5	3,689	10
India	3,515	6	12,387	3
France	3,282	7	3,699	9

Source (basic data): IMF

- ▶ India accounts for 17.8% of the total world population (2020) and 2.5% of the world's surface area (2018)<sup>6</sup>
- ▶ According to IMF's World Economic Outlook (October 2021 edition), India's nominal GDP, measured in nominal US\$ market exchange rate is estimated at US\$3,515 billion in 2023 (FY24), accounting for 3.3% of global GDP and making it the sixth largest economy in the world (Table 1)
- ▶ When measured in purchasing power parity (PPP) terms, India is estimated to be the third largest economy at PPP\$12,387 billion in 2023

## Advertising recovered far better than India's GDP in 2021

Chart 2: M&E sector vs. nominal GDP growth



Advertising & M&E sector revenue: FICCI M&E reports | Nominal GDP growth: First Revised Estimates, NAS dated 31 Jan 2021 and Advance Estimates, NAS dated 26 February 2021, NSO, MoSPI

Note: While advertising and M&E sector revenues are estimated for a calendar year, GDP estimates are for a fiscal year

- ▶ M&E as a sector normally grows and outperforms India's nominal GDP, but being by nature, a discretionary spend, the M&E sector fell much higher than India's nominal GDP. India's nominal GDP grew by 6.2% in FY2020 and fell (-)1.4% in FY2021
- ▶ When GDP recovered 19% in FY2022, M&E recovered 16% in 2021, while advertising recovered 25% - outpacing GDP growth
- ▶ The advertising to GDP ratio increased from 0.30% to 0.32% in 2021 and we expect it to reach 0.36% by 2024

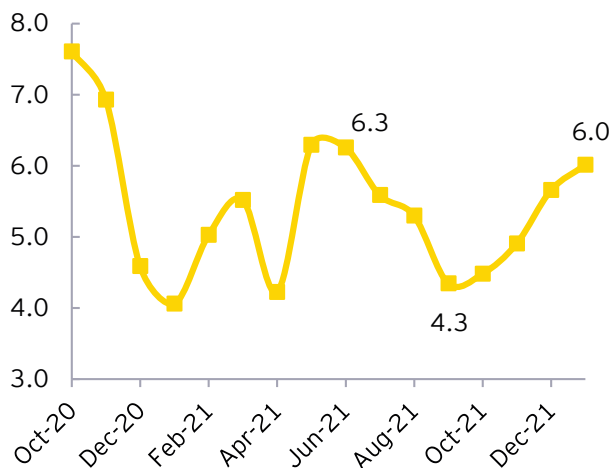
<sup>6</sup> Estimates as per World Bank



# Forward trends

## RBI projects inflation to ease in FY23

Chart 3: Monthly CPI Inflation trend

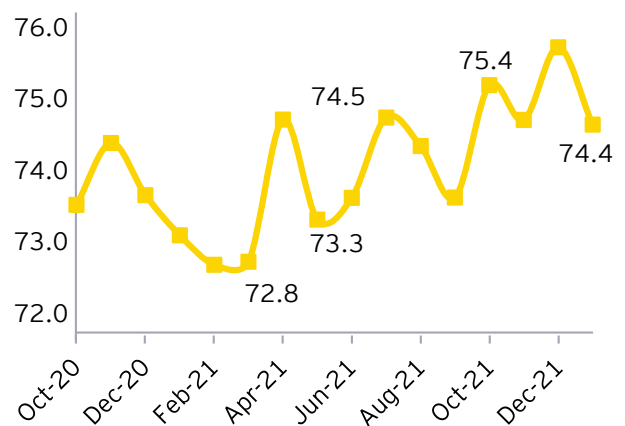


Source (basic data): RBI

- ▶ After easing to 4.3% in September 2021 from a peak of 6.3% in June 2021 (Chart 3), CPI-based inflation steadily increased to 6.0% in January 2022, touching the upper end of the RBI's tolerance range, primarily due to higher consumer food inflation
- ▶ Fuel inflation, which was in double digits for eight successive months till December 2021, eased to 9.3% in January 2022
- ▶ Core inflation (excluding food and fuel) ranged between 6.0% to 6.6% from May 2021 to January 2022 due to cost-push pressures stemming from transportation and communication services, health, recreation and amusement services, household goods and services and clothing and footwear
- ▶ As per the RBI, vegetables prices are expected to ease in the coming months supplemented by the prospects of a good Rabi harvest. However, the outlook for crude oil prices is rendered uncertain by geopolitical developments with adverse implications for India's inflation
- ▶ Some cost-push pressures on core inflation may continue in the near term
- ▶ As per the RBI's February 2022 Monetary Policy Statement, CPI inflation is projected at 5.7% in 4QFY22, 4.9% in 1QFY23, 5.0% in 2QFY23, 4.0% in 3QFY23 and at 4.2% in 4QFY23
- ▶ For the full year FY23, CPI inflation is projected to ease to 4.5% from 6.2% in FY22, based on the assumption of a normal monsoon.

## Exchange rate to be shaped by global developments

Chart 4: Exchange rate movement



Source: RBI, FBIL

- ▶ Starting from a level of INR72.8/US\$ (average) in March 2021, India's exchange rate has exhibited two-way movement reflecting both domestic and global factors (Chart 4)
- ▶ The INR depreciated to an 18-month low of INR75.4/US\$ in December 2021 before appreciating to INR74.4/US\$ in January 2022
- ▶ The exchange rate has been particularly influenced by the recent announcement of the US Federal Reserve in December 2021 regarding the acceleration of its tapering program which is expected to be completed by March 2022. This has been followed by a substantial slowdown in foreign investment inflows into India. Further, the impact of rising oil prices on India's current account deficit has also added pressure on the exchange rate
- ▶ To summarize, two key factors that would determine the exchange rate movement in FY23 are a) geopolitical developments, and b) the pace and extent of monetary policy normalization in the US, other advanced economies and in India

# Recent policy initiatives to stimulate economic growth

## Budget 2022: Providing a capital expenditure-based push to growth

- ▶ Centre's FY23 budget has introduced some key structural changes. First, it has clearly accorded a higher priority to capital expenditure in total expenditure. Second, within capital expenditure, it has provided greater emphasis on non-defence capital outlay, which has a higher multiplier effect. Alongside, the Budget has signaled a restoration of fiscal consolidation
- ▶ Capital expenditure is budgeted to increase to 2.9% of GDP in FY23 from 2.6% in FY22.
- ▶ For incentivizing states to accelerate their capital expenditures, the Centre, as part of loans and advances within capital expenditure, has made a provision for extending an interest-free loan amounting to INR1 lakh crore to the states for undertaking infrastructure expansion over and above the normal borrowing limit which has been raised to 4% of Gross State Domestic Product (GSDP) for FY23
- ▶ The Budget has elaborated a proposal to undertake a seven-pronged initiative over a period of 25 years to accelerate movement of goods and people in India (GatiShakti). These seven initiatives pertain to roads, railways, airports, ports, mass transport, waterways, and logistics infrastructure
- ▶ Successful implementation of the GatiShakti would provide infrastructural support for achieving high medium-term growth. It would however be useful to fully integrate the already existing six-year National Infrastructure Pipeline (NIP) framework with the new GatiShakti initiative
- ▶ The anticipated multiplier effects through infrastructure expansion would help augment employment and income levels
- ▶ From a peak of 9.2% of GDP in FY21, Center's fiscal deficit has been reduced to 6.9% in FY22 (RE) and is budgeted to be further brought down to 6.4% in FY23. The Budget indicates reaching the fiscal deficit level of 4.5% by FY26.
- ▶ Other key initiatives in the Budget include extension of the concessional CIT rate on newly incorporated domestic manufacturing companies until 31 March 2024

## Production-linked incentive schemes

- ▶ In November 2020, the Government of India announced the second edition of production-linked incentives (PLI) schemes across 10 key sectors. The PLI schemes were launched with the intention of scaling up domestic manufacturing facilities, accompanied by higher import substitution and employment generation
- ▶ These schemes offer turnover linked incentives ranging from 4% to 6% of incremental sales for five years to approved investors (which include the telecom and electronic goods sectors), upon meeting the specified investment, capacity, and turnover criteria
- ▶ In the Budget 2022 speech, the finance minister announced that a scheme for design-led manufacturing will be launched to build a strong ecosystem for 5G as part of the PLI scheme
- ▶ Investors have shown confidence in the PLI scheme introduced by the Government of India. India has recently turned from being an importer to an exporter of mobile phones<sup>7</sup>. This trend is likely to spill over to the other sectors

## Government initiatives in the telecom and media and entertainment space

- ▶ The Government has played an active role in supporting the media and entertainment sector, especially through various policies aimed at increasing digitization including development of digital communication infrastructure
- ▶ With a vision to provide equal access to e-services, communication facilities, and digital resources to the rural population as compared to their urban counterparts, the government through the Union Budget 2022 announced the laying of optical fiber in all villages under the Bharatnet project through PPP mode in 2022-23. The project is expected to be completed in 2025
- ▶ With the objective of bringing in next generation technology, the government intends to hold 5G spectrum auctions in 2022-23<sup>8</sup> which are expected to help in the achievement of the "Digital India" vision
- ▶ The economic impact of introducing 5G technology is estimated to reach US\$1 trillion by 2035<sup>9</sup>

<sup>7</sup> [https://rbi.org.in/Scripts/BS\\_SpeechesView.aspx?Id=1128](https://rbi.org.in/Scripts/BS_SpeechesView.aspx?Id=1128)

<sup>8</sup> <https://telecom.economicstimes.indiatimes.com/news/lack-of-spectrum-major-issue-before-5g-rollout/81220605>

<sup>9</sup> Making India 5G Ready-Report of the 5G High Level Forum (23 August 2018), Department of Telecommunications, GoI; <https://dot.gov.in/sites/default/files/5G%20Steering%20Committee%20report%20v%2026.pdf>



## National Monetization Pipeline

- ▶ The Ministry of Finance in collaboration with the NITI Aayog recently released guidelines and a detailed program relating to the National Monetization Pipeline (NMP) which is estimated to garner INR6 trillion over the period FY22 to FY25. The estimated amount for FY22 was INR0.88 trillion<sup>10</sup> and for FY23, it is estimated to garner INR1.6 trillion. The NMP was launched with a view to finding resources for supporting the National Infrastructure Pipeline (NIP). The period for NMP has been kept co-terminus with the balance period of the NIP
- ▶ NMP aims to provide a medium-term roadmap for generating a flow of income from services provided by the core assets owned or operated by different government agencies. The emphasis is on the assets of the central line ministries and CPSEs in infrastructure sectors. Its success would largely depend on the efficiency and extent of participation of the line ministries
- ▶ The aggregate estimated value of the NMP at INR6 trillion amounts to about 14% of the proposed outlay for Centre under NIP (INR43 trillion). The NMP would cover more than 12-line ministries and more than 20 asset classes. The sectors included are roads, ports, airports, railways, warehousing, gas and product pipeline, power generation and transmission, mining, telecom, stadium, hospitality, and housing
- ▶ Telecom is one of the top five sectors (by estimated value of INR351 billion) accounting for about 5.9% of the total NMP target. The potential asset base considered are telecom tower assets under Bharat Sanchar Nigam Ltd (BSNL), Mahanagar Telephone Nigam Ltd (MTNL) and Bharatnet optical fiber assets under the Bharat Broadband Network Limited (BBNL), and Bharat Sanchar Nigam Ltd (BSNL)
- ▶ Approximately 286k route-km of Bharatnet fiber assets are proposed to be bid out through PPP model by the Department of Telecommunications through nine packages comprising 16 states
- ▶ Assets in the form of 14,900 towers of BSNL and MTNL with co-locations from third party telecom operators have been considered for monetization during FY23
- ▶ Table 3 provides the phasing of monetization value of the NMP including that of the Telecom sector

**Table 3 : Phasing of monetization value - Telecom assets (INR Crore)**

Sector/ Asset type	FY22	FY23	FY24	FY25	Total
Total NMP of which:	882	1,624	1,795	1,673	5,975
Telecom of which:	0	202	149	0	351
Bharatnet Fiber	0	158	105	0	263
BSNL & MTNL Tower assets	0	44	44	0	88

National Monetisation Pipeline Report (Volume II)

## FDI policy initiatives

- ▶ FDI limits for the telecom sector were eased in 2013<sup>11</sup> while those for the media and entertainment sector were eased in 2015 and 2016
- ▶ In June 2016, FDI limits in teleports, DTH, cable networks, mobile TV, head-in-the sky broadcasting service, and cable networks were completely lifted, allowing 100% FDI through the automatic route
- ▶ Further, there were no express provisions in relation to digital media in the FDI policy until 2019, however, in December 2019, FDI up to 26% has been permitted under the Government approval route for uploading/streaming of news and current affairs, through digital media
- ▶ In 2021, FDI automatic route limits for telecommunications were increased from 49% to 100%
- ▶ Table 4 provides the current FDI limits applicable on the telecommunications and media and entertainment sector

<sup>10</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1748297>

<sup>11</sup> <https://www.livemint.com/Politics/hxnnl3jx9kaCHnKgsk9oQK/Govt-relaxes-foreign-investment-rules-to-revive-growth.html>

**Table 4 : FDI limits for the Telecom and M&E sector**

Services	FDI limit	Approval condition
<b>Telecommunications</b>		
Telecommunication services including Telecom Infrastructure Providers Category-I (basic, cellular, internet, national, international long distance, Unified License, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communication Services (GMPCS), all types of ISP licenses, Voice Mail/ Audiotex/ UMS, Resale of IPLC, Mobile Number Portability services etc.) Infrastructure providers Category -I (providing dark fiber, right of way, duct space, tower except Other Service Providers)	100%	Automatic route
Telecom equipment manufacturers	100%	Automatic route
<b>Media and Entertainment</b>		
Teleports, DTH, cable networks (MSOs operating at National or State or District level and undertaking up-gradation of networks towards digitalization and addressability), mobile TV and head-end-in-the-sky broadcasting service	100%	<ul style="list-style-type: none"> <li>▶ Automatic route</li> <li>▶ However, infusion of fresh foreign investments, beyond 49% in a company not seeking license/ permission from sectoral ministry, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval</li> </ul>
Cable networks (Other MSOs not undertaking up-gradation of networks towards digitalization and addressability and LCOs)	100%	<ul style="list-style-type: none"> <li>▶ Automatic route</li> <li>▶ However, infusion of fresh foreign investments, beyond 49% in a company not seeking license/ permission from sectoral Ministry, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval</li> </ul>
FM radio (Subject to such terms and conditions, as specified from time to time, by the MIB, for grant of permission for setting up of FM radio stations) and the up linking of news and current affairs TV channels	49%	Government route, subject to other conditions
Uploading/streaming of news and current affairs through digital media	26%	Government route
Up-linking of non-news and current affairs' TV channels/ downlinking of TV Channels	100%	Automatic route
<b>Print media - publishing of newspaper and periodicals or Indian editions of foreign magazines dealing with news and current affairs, subject to certain conditions</b>	26%	Government route
Publishing or printing of scientific and technical magazine or specialty journals or periodicals, publication of facsimile edition of foreign newspapers, subject to conditions	100%	Government route

Source: Foreign Exchange Management (Non-debt Instruments) Rules, 2019 dated 17th October, 2019 read with time to time amendments issued by the Ministry of Finance (Department of Economic Affairs)

Chart 5: FDI equity inflows in information and broadcasting sector (US\$ billion)

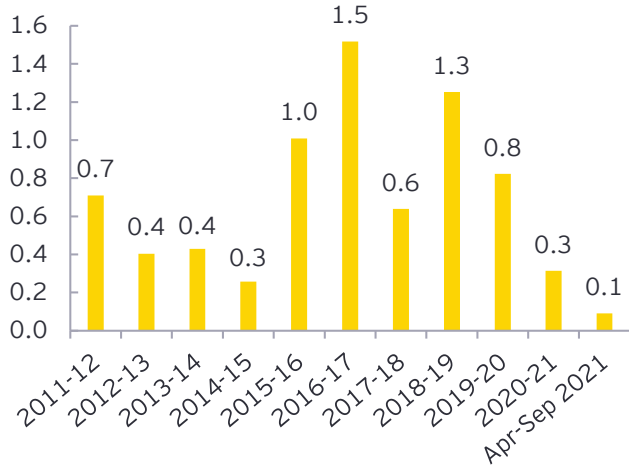
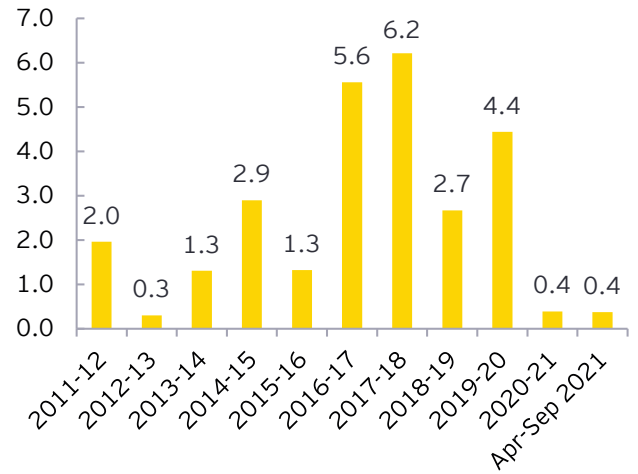


Chart 6: FDI equity inflows in telecommunications sector (US\$ billion)



DIPP

- ▶ Charts 5 and 6 show the trends in FDI inflows into the information and broadcasting sector and the telecommunications sector since 2011-12 and display considerable inter-year volatility



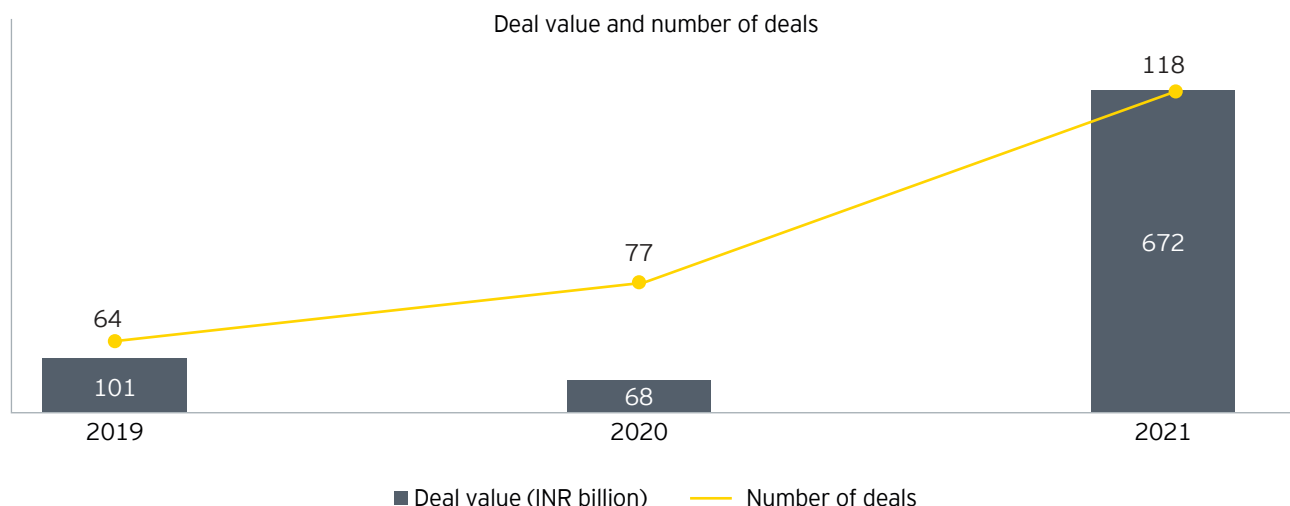
# M&A activity





# M&A activity

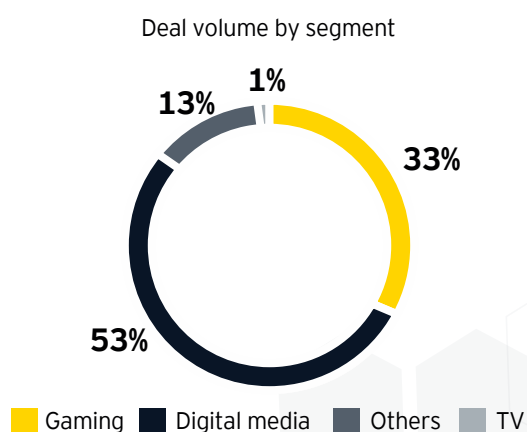
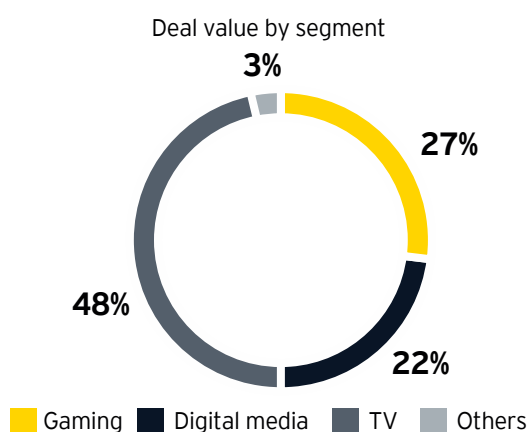
There were over 100 M&E deals in 2021



15 deals contributed 90% of the total funding

Particulars	Deal count	Deal count %	Deal value (INR billion)	Deal value %
Undisclosed	29	25%	-	0%
Less than INR100 million	25	21%	1	0%
INR100 million - 1 billion	29	25%	10	2%
INR1 - 5 billion	20	17%	53	8%
Above INR5 billion	15	13%	608	90%
<b>Total</b>	<b>118</b>	<b>100%</b>	<b>672</b>	<b>100%</b>

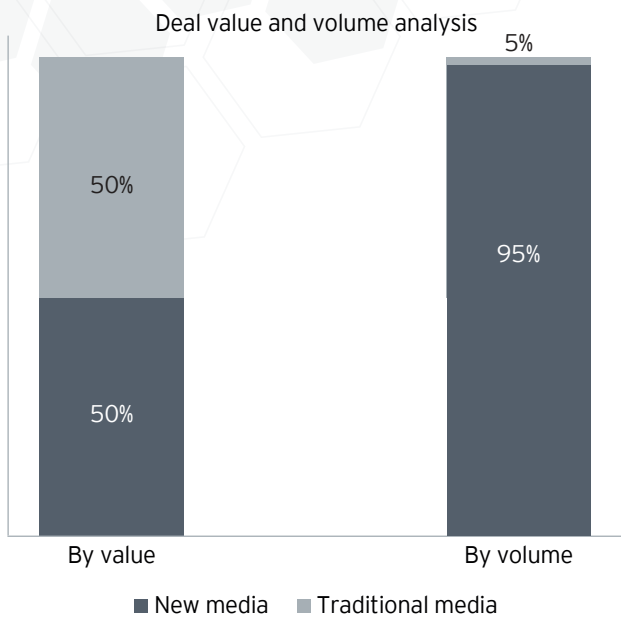
Most investments were made in digital media and gaming, with one marquee deal in TV<sup>1</sup>



<sup>1</sup> Marquee TV deal refers to the merger of Zee Entertainment with Sony Pictures



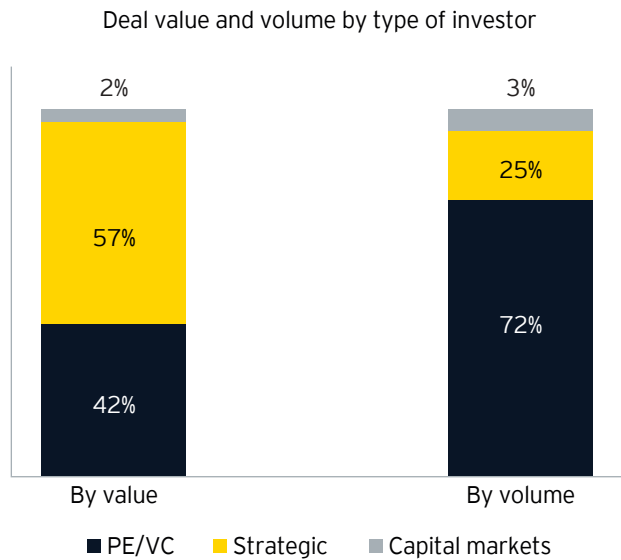
## Deal volumes were driven by new media



## Key M&A themes going forward

- ▶ Intensified new media deal activity
  - ▶ With the emergence of category leaders in digital and gaming, we will continue to see heightened deal activity specially M&A and expect to see very strong inbound interest for established players
- ▶ Capital markets will be increasingly explored
  - ▶ 2021 saw a lot of internet companies getting listed on the market exchanges in India and we expect the unicorns in the M&E industry to also explore capital markets either through listing on exchanges in India or via a SPAC listing in the US
- ▶ Traditional-new media consolidation
  - ▶ We expect to see a new wave of consolidation where new media companies will look to acquire traditional media companies and build a strong foothold across the M&E landscape, similar to transactions we have seen in education and healthcare

## Private equity and venture capital provided 42% of funding





# Tax environment



# Direct tax

## Key proposals in the Union Budget 2022-23

- ▶ Acknowledging the growing potential of Animation, Visual effects, Gaming and Comics ('AVGC') sector, the Finance Minister, while presenting the Union Budget 2022-23 on 1 February 2022, announced setting up a task force for the promotion of AVGC sector to recommend ways to generate employment and meet the increasing demand in Indian and global markets
- ▶ The Union Budget 2022-23 also proposed a tax regime on "virtual digital assets" to clear the fog around cryptocurrency, non-fungible tokens, and other digital assets. Given that NFTs and other digital assets are becoming popular among artists, celebrities and brands, tax impact of transactions involving digital assets needs to be closely looked at
- ▶ The Union Budget 2022-23 proposed widening of the scope of reporting by producers of cinematograph films for specified activities under the income tax law which includes any event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, etc.

## Other developments

- ▶ The Central Board of Direct Taxes ('CBDT') prescribed the revenue and user thresholds for constituting Significant Economic Presence ('SEP') for non-residents in India with effect from 1 April 2022 and therefore, the provisions of SEP under the Income-tax Act, 1961 are in operation from FY 2021-22 onwards
- ▶ Discussions at the global level to address digital tax challenges reached a major milestone when the members of the OECD/ G20 Inclusive Framework ('IF') on Base Erosion and Profit Shifting ('BEPS') (including India) agreed on the details for a two-pillar approach towards building a consensus-based solution under BEPS 2.0

## Taxation of digital assets

- ▶ The growing use of cryptocurrencies and NFTs has drawn the attention of Governments across the world. Various jurisdictions (including the US, the UK, Singapore, Australia, and Canada) have issued guidance on taxation of crypto assets:

Country	Taxation approach
USA	Classifies cryptocurrency as a capital asset and imposes a tax between 0-37% on gains from sale of cryptocurrency
UK	No specific cryptocurrency tax. Income from crypto may either be taxable as capital gains or income-tax depending upon the transactions for which cryptos have been used. Gains taxable at 10-20% depending on the slab
Canada	Classifies cryptocurrency as a commodity taxable at 15-33% depending on the income-tax slab
Australia	Classifies cryptocurrency as an asset and attracts capital gains tax and income-tax
Singapore	Businesses and individuals who hold cryptocurrencies for investment purposes are not taxed in Singapore, absent any capital gains tax

While the Indian Government has been having parallel discussions and consultations with stakeholders on regulating such new digital forms of assets, the Union Budget 2022-23 has proposed introduction of taxation of Virtual Digital Assets (VDA) to provide clarity around taxation of VDAs, given the increase in frequency and magnitude of transactions involving VDA.

- ▶ A VDA is defined to mean:
  - ▶ any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to an investment scheme and can be transferred, stored or traded electronically
  - ▶ a non-fungible token or any other token of similar nature by whatever name called
  - ▶ any other digital asset as may be notified by the Central Government in the Official Gazette in this behalf

Digital Rupee proposed to be issued by the Reserve Bank of India using blockchain and other technologies may be treated as currency and may be excluded from the definition of VDA<sup>1</sup>.

- ▶ Capital gains from transfer of VDA are proposed to be taxed at 30%<sup>2</sup>. For calculating capital gains, only cost of acquisition of the VDA will be allowed as a deduction.
  - ▶ Any losses arising from transfer of VDA will not be allowed to be set off against other income
  - ▶ Further, gift of VDA (i.e., the receipt of VDA for no consideration or for an inadequate consideration<sup>3</sup> will be taxable in the hands of the recipient)
  - ▶ The above amendments are proposed to effective from FY 2022-23 (i.e., for transfers effected post 1 April 2022)
- ▶ Consideration payable to a resident for transfer of VDA will attract 1% withholding tax ('WHT') on the gross consideration  
WHT will not trigger in the following cases:
  - ▶ Consideration payable by a specified person<sup>4</sup> during the FY does not exceed INR50,000; and
  - ▶ Consideration payable by other than the specified person during the FY does not exceed INR10,000The above WHT provision is proposed to be applicable from 1 July 2022
- ▶ In light of the above provisions, the following considerations will be relevant:
  - ▶ VDA is defined in a broad manner. The phrase "any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or otherwise...", may encompass even information or code not generated through cryptographic means
  - ▶ The present provisions may have unintended consequences of extending the ambit of VDA taxation to certain transactions such as credit card/ debit card rewards points, loyalty schemes, gift vouchers, airline miles, digital coupons, amongst others
  - ▶ Applicability of VDA taxation to stable coins would also be an area where further deliberation may become necessary

- ▶ In the context of gaming industry, the following transactions may be relevant to examine the applicability of VDA taxation:
  - ▶ Purchase and application of in-game currency
  - ▶ Exchange/ redemption of in-game currency for in-game items
  - ▶ Trading of in-game items
  - ▶ In-game rewards and bonus
  - ▶ Loot boxes and season pass
  - ▶ Reward/ loyalty program
- ▶ The applicability of the above provision is not restricted only to residents dealing in VDA but may equally apply to non-resident individuals/ companies based on their specific facts and circumstances
- ▶ In case of certain crypto assets which are pseudonymous, the identity of transferor and transferee may not be available which will make compliance with WHT obligation extremely difficult
- ▶ WHT, in case of market makers/ traders, may be higher than the spreads they may be making. Further, the restrictions on off set of losses may require taxes paid only on gain transactions. These provisions will make some of the activities/ businesses unviable
- ▶ Various media houses have announced their plans to launch platforms for sale of NFTs by leveraging on their existing content library. Some business houses have also planned the launch of marketplace platforms for sale and purchase of NFTs. Buyers and sellers of NFTs on these platforms will have to examine the implications of the above VDA taxation regime
- ▶ Taxpayers involved in VDA transactions may be required to review their existing processes and IT systems to enable the collection of information of buyers and sellers of VDAs, keeping a track of transactions to monitor thresholds and enable reconciliation of WHT

The emergence of VDAs is a new phenomenon. Being a novel concept and with the Government proposing to tax such transactions for the first time, it will be helpful if the Government comes out with a notification or issues a clarification regarding the scope of assets that could be considered as VDAs.

<sup>1</sup> Finance Minister in a post-Budget press conference.

<sup>2</sup> Plus applicable surcharge and education cess.

<sup>3</sup> Difference between fair market value of VDA and actual consideration exceeds INR 50,000. Mechanism for determination of fair market value of VDA not prescribed.

<sup>4</sup> "Specified Person" means individual/ HUF a) not having income from business or profession; or b) having turnover from business not exceeding INR 10 million or turnover from profession not exceeding INR 5 million.



## Widening the scope of reporting by producers of cinematograph films or persons engaged in “specified activities”

- ▶ The current income-tax provision requires a producer of a cinematograph film to furnish a statement in Form 52A containing particulars of all payments made over INR50,000 in respect of the production of film. Such statement is required to be furnished in Form 52A within 30 days from the end of FY or within 30 days from the date of completion of production of the film, whichever is earlier. The Form inter-alia requires the following details:
  - ▶ Details of the producer - Name, address, Permanent Account Number, Tax Deduction and Collection Account Number
  - ▶ Details of the film - Name of the film, nature of the film (celluloid or other than celluloid film)
  - ▶ Date of commencement of production
  - ▶ Details of persons engaged in the production of film (as employee or otherwise) to whom payments of over INR50,000 were made - Name, address, and PAN
- ▶ The Union Budget 2022-23 has proposed substitution of the above provision to require any person engaged in any “specified activities” (in addition to the producer of a cinematograph film) to furnish a statement that contains particulars of all payments of over INR50,000 made to person engaged by him in such production or specified activity. The details for the same are required to be furnished within a prescribed period and to be notified separately
- ▶ *“Specified activities” means any event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may notify.*
- ▶ The amendment will be effective from 1 April 2022. The expansion in the scope of reporting requirement will place additional compliance burden for businesses engaged in production of content for exploitation on TV, OTT and event management companies (including sports)

## Thresholds for SEP

- ▶ SEP was introduced vide Finance Act, 2018 to cover emerging business models such as digitized businesses within the India tax ambit, which did not require a physical presence to operate. The thresholds for applicability of SEP were however not notified.
- ▶ On 3 May 2021, the CBDT notified rules prescribing thresholds for the purpose of SEP:
  - ▶ Amount of aggregate of payments arising from transaction or transactions in respect of any goods, services or property carried out by a non-resident with any person in India, including provision of download of data or software in India during the previous year - INR20 million; and
  - ▶ Number of users with whom systematic and continuous business activities are solicited or who are engaged in interaction - 300,000

The above rules are effective from 1 April 2021 (i.e., FY 2021-22 onwards).

- ▶ Where a non-resident is entitled to benefits of applicable Double Taxation Avoidance Agreement (‘DTAA’), business profits will continue to be taxed as per the favorable provisions of the DTAA until the Permanent Establishment (‘PE’) rules in DTAA are modified to cover SEP. Thus, a non-resident eligible to avail benefits under a DTAA, who was not taxable in India on account of not having a PE in India, should continue to be not taxable post SEP
- ▶ Conversely, where benefits of DTAA are not available and the non-resident meets the prescribed SEP threshold(s), such a non-resident may be taxable in India under the provisions of the Income-tax Act, 1961
- ▶ Also, a non-resident having a SEP in India will need to examine its obligation to file return of income in India and to withhold tax

Businesses operating without any physical presence in India are required to evaluate the impact of SEP provisions and monitor the revenue and user thresholds.

# Digital tax

## Global developments at OECD/ G20 IF

The OECD/ G20 IF members agreed to a two-pillar solution to address the tax challenges arising from digitalization of the economy and issued a joint statement in July 2021. 137 out of 141 member jurisdictions of G20/ OECD IF on BEPS reached a broad consensus to implement the above solutions and issued a joint statement containing a broad overview of the two-pillar solution on 8 October 2021. It, inter-alia, included requiring all parties to remove all Digital Services Taxes ('DST') with respect to all companies and a commitment not to introduce such measures in the future. While India continued to actively participate in the OECD/ G20 IF discussions, however, there is no official communication or a statement from the Indian Government yet regarding withdrawal of Equalization Levy ('EL') post implementation of BEPS 2.0.

Key aspects of the two-pillar solution are as follows:

- ▶ Pillar One - It primarily seeks to define a new taxation framework to identify nexus of activities carried out by multinational enterprises and to provide additional rights to a market jurisdiction where customers are located to tax multinational enterprises.
- ▶ At the core, the idea is that taxing rights to profits of a multinational enterprise should be allocated between market jurisdiction (where products or services are consumed) and home jurisdiction (where products or services are created and/or owned) on a fair and rational basis. To achieve this, market jurisdiction gets the right to tax a certain part of income (explained in the table below) based on the activities carried out in its territory including engagement with the consumers in the territory. Home jurisdiction gets to tax at least income computed at 10% of revenues for its role. Taxing rights for residual profits being anything in excess of 10% ('Residual Profits') gets divided between the market jurisdiction and the home jurisdiction in a 25:75 ratio.

Pillar One encompasses the following elements:

Particulars	Scope	Status
Amount A	<p>Allocation of residual profits of a multinational enterprise<sup>5</sup> to market jurisdiction through a formulaic approach.</p> <p>Tax on profits earned by the multinational enterprise will be allocated between the market jurisdiction and home jurisdiction as follows:</p> <p><b>Market jurisdiction</b> (country where products or services are consumed) - Tax on 25% of residual profits; and</p> <p><b>Home jurisdiction</b> (country where products or services are created and/or owned) - Tax on profits up to 10% of revenue) + Tax on 75% of residual profits</p>	<p>On 4 February 2022, the OECD issued draft Model Rules for nexus and revenue sourcing for public consultation. Upon finalization, the draft Model Rules will be the basis for the substantive provisions of the multilateral convention, as well as a template for domestic legislation, through which Amount A will be implemented<sup>6</sup></p> <p>On 18 February 2022, the OECD released a public consultation document with draft rules for tax base determinations under Amount A. The tax base determines total profits of a group to which the formula (for determination of profits to be allocated to the market jurisdiction) will be applied<sup>7</sup></p>
Amount B	<p>Allocation of a fixed return to routine marketing and distribution activities carried out by a multinational enterprise in the market jurisdiction where it has a physical presence.</p> <p>It aims to provide a safe harbor in respect of marketing or distribution activities to reduce tax disputes arising on account of differential views of the taxpayers and the tax authorities on the margins to be earned by multinational enterprises from carrying out above activities.</p>	<p>A public consultation document is proposed to be issued in mid-2022.</p>

<sup>5</sup> As per the OECD/ G20 IF statement on 8 October 2021, multinational enterprises with global turnover above €20 billion and profitability above 10% (i.e., profit before tax/ revenue) will be covered initially. Subsequently, on successful initial implementation, the turnover threshold will be reduced to €10 billion, seven years after the agreement comes into force. Such multinational enterprises deriving at least €1 million in revenues from the market jurisdiction will be subject to profit allocation. For smaller jurisdictions with GDP lower than €40 billion, the revenue threshold derived from the market jurisdiction is €250,000.

<sup>6</sup> <https://taxnews.ey.com/news/2022-0254-oecd-releases-pillar-one-public-consultation-document-on-draft-nexus-and-revenue-sourcing-rules?uAlertID=Sd%2FG8ru-a1oj6%2F158EZ2AiA%3D%3D>

<sup>7</sup> <https://taxnews.ey.com/news/2022-0307-oecd-releases-pillar-one-public-consultation-document-on-draft-rules-for-tax-base-determinations>

- ▶ Pillar Two: The objective of Pillar Two is to deter multinational enterprises taking benefit of low-tax jurisdictions by shifting majority of profits to low tax jurisdictions without carrying out any substantial activities in these jurisdictions. It seeks to introduce a Global anti-base erosion proposal (GloBE) to impose minimum tax rules for multinational enterprises to ensure that they pay minimum level of tax on their profits arising in each jurisdiction where they operate.
- ▶ Pillar Two comprises of the following:
  - ▶ Subject to Tax Rule (STTR) - In case of payments (interest, royalties, rent, etc.) made to related parties situated offshore, STTR allows a payer country (i.e., a country where payer is located) to apply its domestic income-tax law if such payments are subject to tax at a rate below 9%. In other words, a payer country may deny benefits of the applicable DTAA to the recipient of income with respect to the related party payments if such payments are taxed at a rate below 9%
  - ▶ GloBE Rule - It applies to multinational enterprises with annual revenue of €750 million or more. It consists of two sub-rules:
  - ▶ Income Inclusion Rule (IIR); and (b) Undertaxed Payment Rule (UTPR).
    - ▶ Where the tax paid by a multinational group on profits in a jurisdiction falls below the minimum rate of 15%, such rules require countries to impose top-up (additional) taxes on entities within the group to bring the overall taxation of the group in the particular jurisdiction to up to 15%. A detailed framework for determining top-up tax is provided under the rules.

In December 2021, the OECD issued Model Rules for GloBE providing a detailed framework for determination of top-up tax.

The consultations are ongoing on implementation of framework and to iron out certain open items. Implementation of GloBE framework is expected by end of 2022.

With a minimum effective tax rate of 15%, the GloBE rules are expected to generate around US\$150 billion in additional global tax revenues per year<sup>8</sup>.

India has not made a formal statement or announcement so far post release of Model rules. Multinational companies in the industry need to analyse the impact of Pillar One and Pillar Two taking into consideration their global operations.

## USTR investigations

- ▶ The United States Trade Representative (USTR) had initiated the investigation of Digital Services Taxes (DSTs) unilaterally introduced by several countries under Section 301 of the Trade Act, 1974 and had determined that unilateral taxes introduced were unreasonable and discriminatory against US companies. The USTR had then proposed levying trade sanctions against such countries, which were later suspended.
- ▶ The US and five European countries (Austria, France, Italy, Spain, and UK) entered into an agreement on 21 October 2021 on a transitional approach to existing unilateral measures until Pillar One is implemented. The agreement essentially provides that:
  - ▶ Credit of the following amount will be available against the corporate income tax liability associated with Amount A as computed under Pillar One in these European countries:

Particulars	Amount
Taxes paid under the unilateral digital tax measures during the Interim Period	xxx
<b>Less:</b> Tax owed in respect of Pillar One <b>Amount A</b> during the first taxable year that Pillar 1 is in effect*number of days during the interim period/ 365	(xx)
<b>Amount of credit</b>	<b>xx</b>

\*Interim Period - Period between 1 January 2022 and earlier of the date Pillar One multilateral convention comes into force or 31 December 2023

- ▶ US will terminate proposed trade actions and not impose further trade actions against such European countries
- ▶ The European countries will withdraw all unilateral measures on all companies
- ▶ Shortly thereafter, India and the US also agreed to adopt a transitional approach for Equalization Levy (EL). Both countries agreed that the same terms that apply under the agreement between the US and European countries shall apply between the US and India with respect to EL. The agreement was expected to be finalized by 1 February 2022, but no official communication has been received till date.

The press release issued by India on the above agreement is silent on India's position with respect to EL withdrawal and therefore, one will have to see the fine print of the final agreement between India and the US.

<sup>8</sup> <https://www.oecd.org/tax/beeps/pillar-two-model-GloBE-rules-faqs.pdf>

## Clarification on applicability of Section 1940 to e-auction platforms

- ▶ Since the introduction of a new WHT provision in Section 1940 from 1 October 2020 requiring e-commerce operators to withhold tax for facilitating sale of goods or provision of services from an e-commerce participant, the industry (especially digital businesses) has been grappling with issues surrounding the scope of provision and its applicability, especially where money does not flow through the e-commerce operator. Several players had also made representations to the CBDT to provide clarity on the scope of provision and applicability/ non-applicability of the provision to their business facts.
- ▶ The CBDT issued a circular on 25 November 2021 (Circular 20/ 2021) providing clarity on the applicability of provision to “e-auction services” carried out through electronic portal. In the Circular, it has been clarified that Section 1940 is not applicable to an “e-auction platform” where certain conditions are satisfied, which inter-alia includes the following:
  - ▶ The e-auctioneer is only responsible for price discovery and it is up to the client to directly negotiate the price with the counterparty
  - ▶ The transaction takes place directly between the buyer and the seller outside the electronic portal
  - ▶ Payments are carried out directly between them outside the electronic portal and the e-auctioneer has no information about the quantum and the schedule of payment which is decided mutually by the client and the counterparty
  - ▶ The client deducts tax on payments made to e-auctioneer for providing e-auction services

The above clarification from the CBDT is applicable only to e-auction services and therefore, applicability of Section 1940 to other cases should be evaluated on a case-to-case basis.

## Introduction of federal corporate tax in United Arab Emirates ('UAE')

- ▶ On 31 January 2022, the Ministry of Finance of the UAE confirmed that the UAE will introduce federal corporate tax for the first time for financial years starting 1 June 2023 to support investment and headquarter activities and ensure free flow of capital, trade, financing, and services. This follows UAE's confirmation to support the global minimum effective tax rate under BEPS 2.0.
- ▶ Corporate tax is proposed to apply to all persons (individual and corporate) carrying out business activities under a commercial business license in the UAE. Further, it is also sought to apply to businesses established in free zones (including financial free zones).
- ▶ The proposed corporate tax rates are as follows:
  - ▶ Taxable income up to AED 375,000 - 0%
  - ▶ Taxable income above AED 375,000 - 9%
  - ▶ Large multinationals meeting the specific criteria set with reference to Pillar Two of the OECD BEPS project – a different tax rate (to be specified)

Indian M&E players having their operations in UAE should examine the impact of new corporate tax regime in UAE.

# Goods and Services Tax

## Background

- ▶ It has been four and a half years of successful implementation of GST in India, during which the government has constantly focused on increasing the tax base and ensuring that there is an increase in tax collections year on year
- ▶ The government has achieved this by developing various mechanisms and introducing provisions to identify taxpayers claiming fake input tax credits<sup>1</sup>

## Y-O-Y increase in GST collections

- ▶ The gross GST revenue collected in the month of January 2022<sup>2</sup> was INR1.4 trillion, which is the highest since implementation of GST and is the fourth time GST collections surpassed INR1.3 trillion<sup>3</sup>
- ▶ Despite lockdown disrupting Indian business, GST collections have increased which suggests that the government's step to increase the tax base have been a success
- ▶ Subsequent to the second and third wave of COVID-19, Indian businesses have once again shown remarkable resilience by not only complying with return filing requirements, but also paying their GST dues in a timely manner
- ▶ Rate rationalization measures undertaken by the GST Council (the Council) to correct inverted duty structures seems to have contributed to increased revenues
- ▶ As per a press release by the Press Information Bureau, the positive trend is expected to continue in the last quarter of FY 2021-22 as well<sup>4</sup>

## E-invoicing and dynamic QR code

- ▶ Electronic Invoicing (i.e., e-invoicing) under GST was introduced in a phased manner to ensure that smaller businesses (with limited resources) have adequate time to incorporate technology and process related changes in their business.
- ▶ Businesses with turnover more than INR500 million are required to issue an e-invoice on transactions between two businesses (i.e., B2B transaction)
- ▶ Effective 1 April 2022, taxpayers having turnover of more than INR 200million<sup>5</sup> will also be covered under the e-invoicing ambit
- ▶ Keeping in line with the spirit of 'Digital India', effective 1 December 2020<sup>6</sup>, businesses with aggregate turnover exceeding INR5 billion are required to print a dynamic payment QR code on B2C invoices to facilitate digital payment (certain relaxations from penal provisions were extended to suppliers who complied with this provision from 1 April 2021 instead of 1 December 2020<sup>7</sup>)
- ▶ India is one of the few countries to have successfully implemented these provisions and the M&E sector has been largely adhering to the provisions and ensuring compliance

<sup>1</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1793877>

<sup>2</sup> <https://www.pib.gov.in/PressReleaseDetailm.aspx?PRID=1796308>

<sup>3</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1793877>

<sup>4</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1793877>

<sup>5</sup> Notification No. 01/2022 - Central Tax

<sup>6</sup> Notification No 71 / 2020 - Central tax dated 30 September 2020

<sup>7</sup> Notification No 89 / 2020 - Central tax dated 29 November 2020



## Proposals in the Union Budget 2022

### I. Changes in provision pertaining to availment of GST input tax credit

- ▶ The existing procedure of two-way communication as envisaged between the supplier and recipient for GST input tax credit matching has been done away with
- ▶ Auto-generated statement containing details of input tax credits is to be communicated to the recipient and the availment of input tax credit will be restricted to the credit amount appearing in such statement as reported by the supplier
- ▶ The taxpayer will be eligible to avail input tax credit on a self-assessment basis
- ▶ However, if the tax is not paid by the supplier, recipient cannot avail credit and credit availed if any, needs to be reversed along with applicable interest; GST input tax credit can be re-availed once the tax is paid by the supplier
- ▶ Time limit to avail input tax credit for a particular financial year is the earlier of the following:
  - ▶ due date for furnishing return for September of the following financial year to which the invoice/ debit note pertains, or
  - ▶ furnishing of the annual return

The said timeline is now proposed to be 30 November or furnishing of annual return giving some relaxation to businesses

- ▶ Interest on input tax credit wrongly availed and utilized for payment of tax will be charged at 18% interest with a retrospective amendment w.e.f. July 2017

Amendments in the process pertaining to claiming input tax credits may require businesses to communicate with their vendors to file timely returns along with timely payment of taxes. This could also entail changes in the contract entered with various existing vendors and while onboarding new vendors. Additionally, the extension of time limit of availing ITC is a welcome decision for taxpayers.

### II. Changes in Customs duty on certain products

- ▶ Customs duty rate increased from 15% to 20% on import of loudspeakers, headphones, and earphones into India from April 2022
- ▶ Customs duty was levied at 2.5% effective 2 February 2022 on recovered (waste and scrap) paper or paperboard imported for manufacture of paper, paperboard, or newsprint – increasing costs for newspaper companies
- ▶ As a part of the 'Phased Manufacturing Program' of the Government, Customs duty on import of parts/ components used in manufacturing populated printed circuit board of digital video recorder, network video recorder, CCTV camera, and reception apparatus for television (not designed to incorporate a video display) increased in a gradual manner, with majority of the components being exempted on fulfilling certain conditions for FY 2022-23

Levy of customs duty/increase of customs duty on above products could increase cost for organizations in the events, newspaper, and television segments. Such businesses might have to evaluate the impact of such increased cost on the pricing model of their business.

### III. Other proposed changes

- ▶ Time limit to issue credit note for supplies undertaken in a particular financial year has been extended to 30 November of the next financial year
- ▶ Time limit to rectify GST returns of a particular financial year has been extended to 30 November of the next financial year
- ▶ Balance in the electronic cash ledger of a registered person can be transferred to the electronic cash ledger of another registered person having the same PAN number

Relaxation in deadline to issue credit note and rectify returns is a welcome change, leaving a breather for businesses when Income tax and Companies Act related compliances such as statutory audit, tax audits, income tax returns etc., are round the corner. Further, development of a technology enabled mechanism to transfer balance in electronic cash ledger from one registration to another will benefit businesses as they will not have to file refund application for the cash ledger lying idle in one GST registration.

## Changes in tax rates

### I. Changes in GST rates on admission to amusement parks

Previously there existed an ambiguity on whether admission to amusement parks/entertainment events was taxable at 18% or 28% as both the terms may be interchangeability used. Relevant notifications have been amendment and the ambiguity was put to rest whereby GST at the rate 18% is to be levied on entry tickets to amusement parks or entertainment events (if it does not provide access to casino, race clubs or sporting events). We have captured below entries pre and post amendment.

GST rate before amendment

Description	GST rates
(iii) Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	18%
(iiia) Services by way of admission to entertainment events or access to amusement facilities including casinos, race clubs, any sporting event such as Indian Premier League and the like	28%

Entries after amendment

Description	GST rates
(iii) Service by way of admission to: (a) theme parks, water parks and any other place having joy rides, merry-go-rounds, go-carting, or (b) ballet - other than any place covered below	18%
(iiia) Services by way of admission to: (a) casinos or race clubs or any place having casinos or race clubs or (b) sporting events like Indian Premier League	28%

A circular<sup>8</sup> was also issued clarifying that admission to a place having access to places/ events mentioned in (iiia) will be taxed at 28% even if provides access to places/ events mentioned in serial no. (iii).

### II. Changes in GST rates on temporary or permanent transfer of Intellectual property rights

- ▶ Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property rights (IPR) in respect of goods other than Information Technology software was leviable to GST at the rate of 12%. However, there were disputes on which transactions could be covered under this description, especially given that the GST rate on other related activities could be 18%
- ▶ Such disputes have been put to rest from October 2021 where the GST rate on all the activities covered above have been increased to 18%<sup>9</sup> which is a significant change for several organizations who were paying GST at 12% on their IPR transactions

### III. Changes in GST rates on printing services

- ▶ As per Entry 27 to Notification 11/2017 - Central tax (rate), services by way of printing of all goods such as newspapers, books, journals, and periodicals, which attracted SGST at 6%, 2.5% or Nil, where only content was supplied by the publisher and the physical inputs including paper used for printing belonged to the printer, was chargeable to GST at the rate 12%, has been increased to 18%
- ▶ This additional tax of 6% is now payable by print companies on the input side and given the restrictions on availing input tax credits, this could result in increased costs

<sup>8</sup> Clarificatory circular dated 6 October 2021

<sup>9</sup> Notification No. 06 /2021- Central Tax (Rate) dated 30 September 2021

## Other important amendments

### I. Clarification<sup>10</sup> on scope of 'Intermediary services' under GST

- ▶ Services wherein either supplier or recipient are located outside India and such service qualifies as intermediary service, the place of supply is deemed to be in India and such transaction attracts GST (i.e., benefit of zero-rating is not allowed in case of intermediary services which is otherwise allowed in other cases)
- ▶ In case the services do not qualify as an intermediary and the service recipient is located outside India, such service may qualify as 'export', subject to certain conditions
- ▶ A clarification in this regard was long awaited keeping the ambiguity related to identification of intermediary services
- ▶ A clarification has laid down below conditions for qualification of services as 'intermediary services':
  - ▶ **Minimum of three parties:** two of them transacting in the supply of goods or services or securities (the main supply), and one arranging or facilitating the said main supply (the ancillary supply)
  - ▶ **Two distinct supplies:** Main supply and ancillary supply
  - ▶ Intermediary service provider to have the character of an agent, broker or any other similar person and **does not himself provides the main supply**
  - ▶ Does not include a person who supplies such goods or services or both or securities on his own account
  - ▶ **Sub-Contracting** for a service is not an intermediary service

While the circular does provide some insight on the classification of intermediary services by listing down the prominent conditions for identification of intermediary, which could be a relief, the circular does not put to rest all the ambiguity. It is worthwhile for organizations engaged in marketing, business support service, back offices etc., to evaluate the impact of the circular considering their business transactions.

### II. Services Export from India Scheme ('SEIS') benefit extended

- ▶ SEIS was introduced through the Foreign Trade Policy 2015-20 wherein eligible exporters were given a specified percentage of net foreign exchange earned as benefit for the exports by way of issuing duty credit scrips
- ▶ The exporters were entitled to claim such SEIS benefits till FY 2018-19. Recently, the Government extended the benefit and allowed exporters to file such applications of period FY 2019-20 till 28 February 2022.
- ▶ Organizations engaged in exporting advertising services, audio visual services etc., could be entitled to the benefits under the scheme

<sup>10</sup> Circular No. 159\_15\_2021.docx (cbic.gov.in).

## Judicial pronouncements and advance rulings

### I. Providing documentary videos and/or pictures of testimony to various Government Departments and Panchayats may not continue to be exempted services

- ▶ GST exemptions are available for services provided to government departments/local authorities and panchayats by way of activity in relation to any function entrusted with the said authorities under article 243W and 243G of the Constitution respectively
- ▶ Authorities of Advance Rulings ('AAR') in the case of M/s Star Creative<sup>11</sup> held that the documentary services including picture of testimony/documentary videos provided to various government department and panchayats is liable to tax at 18%
- ▶ The AAR mentioned that the applicant is providing services by way of producing documentary videos, picture of testimony to various State Government departments, local authorities, boards and corporations, but these services are not provided by way of any activity in relation to any function entrusted to a panchayat under article 243G of the Constitution or in relation to any function entrusted to a municipality under article 243W of the Constitution and hence provision of such services is liable to tax at 18%
- ▶ This could have an impact on M&E sector which provides services to various government departments and panchayats as such service providers are required to review if the services pertain to sovereign function of such institution

### II. Taxation on online fantasy sports

- ▶ Online fantasy gaming companies have been levying GST at the rate 18% on the platform fee collected from the online participants however no GST is being levied on the pool amount collected
- ▶ Tax authorities have issued notices to such companies to levy GST at the rate 28% on the entire pool amount terming the activity as 'betting and gambling'
- ▶ Such companies have challenged the notices issued by authorities and matter is pending before the courts
- ▶ Meanwhile, the dispute was recognized and a Group of Ministers ('GOM') has been formed to examine the rate of tax and value on which GST is required to be charged
- ▶ The outcome of the decision of Supreme Court and GOM shall have a significant impact on the online fantasy gaming companies in India

### III. Rule 31A (3) declaring GST on race clubs for 100% of face value of bet amount is ultra vires to CGST Act: Karnataka HC

- ▶ Bangalore Turf Club Limited<sup>12</sup> (petitioner) is a race club conducting horse racing and facilitating betting by punters
- ▶ The punters placed their bets via totalizator which is operated by the petitioner
- ▶ The price money is distributed to the winning punter after deducting commission
- ▶ Amendment introduced into Rule 31A of CGST Rules made GST payable on the amount of bet that was deposited by the punters into the totalizator
- ▶ A writ was filed by the Bangalore Turf Club, alleging that Rule 31A is ultra vires as it made the petitioner liable to tax on the entire amount deposited with the totalizator and not on the commission it received from such activity
- ▶ The High court observed that such service is similar to that of a stockbroker or travel agent, who are liable to pay GST only on the commission income and not on the amounts deposited with them
- ▶ Accordingly, the High Court ruled Rule 31(A)(3) to be ultra vires in nature

<sup>11</sup> Advance Ruling No KAR ADRG 58/2021 dated 29 October 2021

<sup>12</sup> Bangalore Turf Club Limited writ petition<sup>9</sup> Clarificatory circular dated 6 October 2021





# Regulatory update

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# Intellectual property

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## I. Parliamentary Committee Review of the Intellectual Property Rights Regime 2021

The Department Related Parliamentary Standing Committee (DRSC) on Commerce (Committee) presented the one hundredth and sixty first report on the review of intellectual property rights (IPRs/ IP) regime in India (Report 161), under the chairmanship of V. Vijay Reddy, to both the houses of Parliament on 23 July 2021. The key recommendations of the Committee in Report 161, which are relevant for the media and entertainment sector inter alia are as follows:

- ▶ A holistic review of the National IPR Policy should be undertaken in the light of new and emerging trends along with assessment of existing challenges and corrective measures with a view to (a) foster innovation; (b) create awareness on IPRs; and (c) encourage IP financing. State governments should be more involved in the National IPR Policy by evolving their own strategies, encouraging innovation in educational institutions, etc.
- ▶ With respect to IP financing, the Committee recommended uniform valuation methods, building awareness on the same, creation of financing instruments/ packages by financial institutions and banks to leverage IPRs. Specific laws should be introduced/ amendments to existing laws should be carried out for enabling IP financing in India.
- ▶ An exclusive apex level IPR development institute for harnessing full potential of IPRs should be established. Awareness for IPRs should be created all over India through the establishment of IPR facilitation centers; funds should be made available for IPRs pan India.
- ▶ IPR crimes like counterfeiting and piracy are on a rise. Report 161 recommended the capacity building of enforcement agencies on IP laws to ensure on-ground implementation of IP legislations in a stringent manner by establishing a central co-ordination body on IP enforcement, involving various ministries, governmental departments, and agencies, strengthening of IPR cells in police forces, etc. The Committee also suggested the creation of specific laws for curbing IP crimes.
- ▶ With a tremendous increase in artificial intelligence (AI) technology in the last few years, the Committee recommended the creation of separate AI rights for the protection of IPRs and review the Patent Act, 1970 and the Copyright Act, 1957 (Copyright Act) for incorporation of AI related inventions under their ambit. The connection of a physical, tangible device or practical application for linking mathematical applications or algorithms, to protect and facilitate patents was recommended by the Committee.

- ▶ The Committee noted the absence of consultation with IP stakeholders before abolishment of the Intellectual Property Appellate Board (IPAB) under the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021. The Committee also urged the re-establishment and re-empowering of the IPAB instead of abolishing it by hiring/ appointing competent officials and experienced manpower to ensure smooth working. Reconsideration of abolishment of IPAB was urged by the Committee in the wake of its pivotal role in adjudication of cases, reducing the pendency of cases in the high courts or commercial courts.
- ▶ To reduce administrative burden, the Committee suggested that the time frame for renewal of copyright societies' registrations be increased from 5 years to 10 years. In addition, the Committee suggested that Section 31D of the Copyright Act dealing with radio royalties, etc., be amended considering the increase in digital content to include internet and digital broadcasters.

## II. Abolishment of Intellectual Property Appellate Board and the Film Certificate Appellate Tribunal and Creation of Intellectual Property Division

Earlier this year, the Government introduced The Tribunals Reforms (Rationalization and Conditions of Service) Bill, 2021 (Tribunal Bill). The Tribunal Bill sought to abolish many tribunals in the interests of delivering speedy justice. It mentioned that tribunals merely add an additional layer to litigation, thereby leading to delay in final disposal of matters. Since the Tribunal Bill could not be taken up for consideration, the President of India, exercised his powers under Article 123 of the Constitution of India and promulgated the Tribunals Reforms (rationalization and conditions of service) Ordinance 2021, which came into effect on 04 April 2021 and is now the Tribunal Reforms Act 2021<sup>1</sup>. Pursuant to the Ordinance, certain provisions of IPR laws have been amended/ deleted/ substituted which has effectively abolished the IPAB and the Film Certificate Appellate Tribunal (FCAT)<sup>2</sup>.

The IPAB was originally constituted by the Government of India to hear and resolve appeals against the decisions of the registrar under the Trade Marks Act, 1999 (Trade Marks Act) and the Geographical Indications of Goods (Registration and Protection) Act, 1999. Subsequently, the IPAB was authorized to hear and adjudicate upon matters under Patents Act, 1970, Copyright Act and Protection of Plant Varieties and Farmers' Rights Act, 2001. The Ordinance abolished the IPAB as a result of which disputes for trademarks and copyrights<sup>3</sup> would be adjudicated in the manner set out below.

<sup>1</sup>[https://copyright.gov.in/Documents/Pdf/Tribunals\\_Reforms\\_Rationalisation\\_And\\_Conditions\\_Of\\_Service\\_Ordinance\\_2021.pdf](https://copyright.gov.in/Documents/Pdf/Tribunals_Reforms_Rationalisation_And_Conditions_Of_Service_Ordinance_2021.pdf)

<sup>2</sup>[https://copyright.gov.in/Documents/Pdf/Tribunals\\_Reforms\\_Rationalisation\\_And\\_Conditions\\_Of\\_Service\\_Ordinance\\_2021.pdf](https://copyright.gov.in/Documents/Pdf/Tribunals_Reforms_Rationalisation_And_Conditions_Of_Service_Ordinance_2021.pdf)

## For Trademarks

- ▶ Rectification proceedings under the relevant provisions of the Trade Marks Act can now be filed before the appropriate High Court having jurisdiction, in addition to the Registrar of Trade Marks.
- ▶ In relation to the aforementioned proceedings, the Ordinance amends the Trade Marks Act, and the high court may prescribe its own rules, in addition to the rules made under the Trade Marks Act. It is unclear what additional rules the High Court may stipulate.
- ▶ Appeals from orders of the Registrar of Trade Marks will now lie with the appropriate high court (depending on the jurisdiction of the Registrar of Trade Marks passing the orders) and must be filed within three months from the date on which the order was communicated to the appellant.
- ▶ In addition to the Registrar of Trade Marks, the High Court may intervene in (a) imposing limitations on color; (b) matters pertaining to distinctiveness of a trademark; (c) security for the costs of proceedings relating to oppositions/ appeals; (d) determination of whether use of a registered associated trademark is equivalent to the use of another registered mark; (e) direction to the Registrar of Trade Marks to rectify entries in the register; and (f) disputes in relation to the use of registered trademarks in company names, etc.

## For Copyright

- ▶ All appeals from the decisions of the Registrar of Copyright, as well as applications for rectification of the copyright register shall now lie with the High Court. Since the Copyright Office (from where the Registrar of Copyright operates) is only in Delhi, it appears that only the High Court of Delhi may have jurisdiction over such appeals and rectification proceedings.
- ▶ Appeals must be filed within three months from the date of the order. For calculating this period, the time taken in granting a certified copy of the order or recording the decision will be excluded.
- ▶ These appeals will be heard by a single judge of the High Court and if the single judge deems fit, the appeal may be referred to a division bench of the High Court at any stage. A further appeal from the order of a single judge may be filed with a division bench of the High Court, within three months from the date of such order.
- ▶ Certain disputes to be decided by the IPAB, such as those relating to assignment of copyrights or compulsory/ statutory licenses (for works withheld from the public, or unpublished and published works,

for cover versions, certain broadcasts, etc.), or those in relation to whether a work has been published, date of publication of a work, whether term of copyright in India is longer than the term for such work in any other country, will now lie with appropriate Commercial Courts (i.e., a Commercial Court or the Commercial Division of a High Court under the Commercial Courts Act, 2015). Unlike the amendments for trademarks, it appears that certain types of copyrights related actions can only be instituted before Commercial Courts. It is currently unclear from the Ordinance, how jurisdiction for disputes/ applications under the Copyright Act will be ascertained.

FCAT was a statutory body set up by the Ministry of Information & Broadcasting in 1983, under Section 5D of the Cinematograph Act, 1952 (Cinematograph Act). Its primary job was to hear appeals filed under Section 5C of the Cinematograph Act, by applicants for certification, aggrieved by the decision of the Central Board of Film Certification (CBFC). FCAT was headed by a chairperson and had four other members, including a secretary appointed by the Government of India and headquartered in New Delhi. The abolition of the FCAT means filmmakers will now have to approach the High Court whenever they want to challenge a CBFC certification, or the refusal of it.

The Government of India by its notification dated 22 April 2021, officially announced the abolishment of IPAB<sup>4</sup>. The Delhi High Court, in its press release<sup>5</sup>, clarified to the abolishment of IPAB, around 3000 IPR related cases would be transferred to the Delhi High Court. The press release further clarified that to avoid multiplicity of proceedings and to avoid possibility of conflicting decisions with respect to matters relating to the same trademarks, patents, designs etc., the Chief Justice of the Delhi High Court has directed the establishment of Intellectual Property Division (IPD). Subsequently, in a significant development, the Delhi High Court by its order dated 07 July 2021 established IPD<sup>6</sup>. The IPD deals with original proceedings, writ petitions (civil), CMM, first appeals on a regular basis (RFA), first appellate appeal from an order (FAO) relating to IPR disputes (except those which are required to be dealt with by the Division Bench).

The order dated 07 July 2021 directed that IPD shall be governed by the IPD Delhi High Court Rules. On 08 October 2021, the Delhi High Court released a draft of the Delhi High Court Intellectual Property Rights Division Rules, 2021

<sup>3</sup>Disputes with respect to patents are not set out herein for the sake of brevity  
<sup>4</sup><https://dpiit.gov.in/sites/default/files/IPAB-GazetteNotification-29June2021.pdf>  
<sup>5</sup>[https://www.livelaw.in/pdf\\_upload/pressreleaseipddelhi-hclivelaw-396202.pdf](https://www.livelaw.in/pdf_upload/pressreleaseipddelhi-hclivelaw-396202.pdf)

(Draft IPD Rules) for public consultation<sup>7</sup>. On 10 December 2021, pursuant to the public consultation, the Delhi High Court on the Draft IPD Rules issued a revised version of the IPD Rules, 2021<sup>8</sup>(Revised IPD Rules). The revised IPD Rules include provisions on (a) procedure to be followed to deal with the various proceedings; (b) hot-tubbing or other such modes for recording evidence; (c) establishment of confidentiality club for preservation and exchange of confidential information; (d) factors to be taken into consideration for computation of damages; and (e) mediation and early neutral evaluation, etc. Further suggestions and comments on the revised IPD Rules were requested from the public by 17 December 2021<sup>9</sup>. No updates pursuant to this are available.

### III. The nature of copyright and trademark offences- bailable or non-bailable?

The Bombay High Court was faced with a controversial question of law while hearing an anticipatory bail application. The bail application was filed in response to a criminal report registered under Section 63 of the Copyright Act, 1957 (Copyright Act) and Section 103 of the Trade Marks. The primary issue addressed by the court was whether these offences are bailable or non-bailable in nature.

Part II of Schedule I of Code of Criminal Procedure 1973 (CrPC)<sup>10</sup> which inter alia categorizes offences mandates that

(a) offences punishable with imprisonment for less than three years or with fine are bailable offences; and (b) offences punishable with imprisonment for three years and upwards but not more than seven years are non-bailable offences. The maximum punishment under Section 63 of the Copyright Act<sup>11</sup> and Section 103 of the Trade Marks Act<sup>12</sup>, for infringement of copyright and trademarks, respectively is up to three years of imprisonment. Since the punishment under the Copyright Act and Trade Marks Act is exactly three years, it causes confusion on the issue of whether such infringements are a bailable or non-bailable offence. From time-to-time various High Courts and the Supreme Court of India (Supreme Court)<sup>13</sup> have held that offences under which punishment may extend to three years would fall under the category of bailable offences, as there is a possibility of there being instances where the punishment granted is for a term less than three years.

The Bombay High Court, by its order dated 26 February 2021<sup>14</sup>, in the case of Piyush Subhashbhai Ranipa v. State of Maharashtra held that offences for which punishment may extend up to three years would be classified as non-bailable offences. Though the Bombay High Court took the views of the various courts in similar cases into consideration,

<sup>6</sup>[https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice\\_4W1UGE3WNT9.PDF](https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_4W1UGE3WNT9.PDF)

<sup>7</sup>[https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice\\_5J4GUGIO51K.PDF](https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_5J4GUGIO51K.PDF)

<sup>8</sup>[https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice\\_ZY7EJQHTR3S.PDF](https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_ZY7EJQHTR3S.PDF)

<sup>9</sup>[https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice\\_X4LAENM3MJ.PDF](https://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_X4LAENM3MJ.PDF)

<sup>10</sup>Code of Criminal Procedure, 1974, Schedule I, Part II: Classification of Offences under other laws

Offence	Cognizable or non- cognizable	Bailable or non-bailable	By what court triable
If punishable with death, imprisonment for life, or imprisonment for more than 7 years	Cognizable	Non-bailable	Court of Session
If punishable with imprisonment for 3 years and upwards but not more than 7 years	Cognizable	Non-bailable	Magistrate of the first class.
If punishable with imprisonment for less than 3 years or with fine only.	Non-cognizable	Bailable	Any Magistrate

<sup>11</sup>63. Offences of infringement of copyright or other rights conferred by this Act. Any person who knowingly infringes or abets the infringement of-

(a) the copyright in a work, or  
(b) any other right conferred by this Act [except the right conferred by section 53A],  
[shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to three years and with fine which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees]

Provided that [where the infringement has not been made for gain in the course of trade or business] the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.]

Explanation.-Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work shall not be an offence under this section.

<sup>12</sup>103. Penalty for applying false trade marks, trade descriptions, etc.-Any person who-

(a) falsifies any trade mark; or  
(b) falsely applies to goods or services any trade mark; or  
(c) makes, disposes of, or has in his possession, any die, block, machine, plate or other instrument for the purpose of falsifying or of being used for falsifying, a trade mark; or  
(d) applies any false trade description to goods or services; or  
(e) applies to any goods to which an indication of the country or place in which they were made or produced or the name and address of the manufacturer or person for whom the goods are manufactured is required to be applied under section 139, a false indication of such country, place, name or address; or  
(f) tampers with, alters or effaces an indication of origin which has been applied to any goods to which it is required to be applied under section 139; or  
(g) causes any of the things above mentioned in this section to be done,  
shall, unless he proves that he acted, without intent to defraud, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.

it still held that infringement of trademarks and copyright are non-bailable offences by placing reliance on other prior judgements. The Bombay High Court also failed to take into account a similar ruling by the Supreme Court<sup>15</sup>, as stated above, which held that offences for which punishment may extend to three years would be classified as bailable offences. It remains to be seen if this decision will be contested in appeal.

Pursuant to this judgement of the Bombay High Court, every offence under Section 63 of Copyright Act and Section 103 of Trade Marks Act would be cognizable and non-bailable in Maharashtra.

#### **IV. Third-party trademark as a keyword dispute**

M/s DRS Logistics Ltd & Anr (DRS) sought an injunction against Google India Pvt Ltd (Google India), Google LLC, and Just Dial Limited to inter alia restrain the Google India from using DRS's trademark as keywords or metatags on their search engines. It was alleged that such use of third-party trademarks led to diversion of traffic from the trademark owner's webpage to that of its competitor, resulting in confusion and infringement and/or passing off the trademark. Inter alia, Google India argued that since the mark is not physically or graphically represented, mere use of words in search engines cannot constitute infringement of the trademarks of a third party.

In October 2021 the Delhi High Court<sup>16</sup> held that use of trademark as a keyword as a back-end trigger by the advertiser to display its advertisements on Google's search engine by way of Google ads constitutes an invisible use of trademark which qualifies as use, sufficient for infringement under the Trade Mark Act<sup>17</sup>. Following this, the court directed Google India to investigate and ascertain if the advertisement has an effect of infringing DRS's trademark and if it does Google India would be obligated to order the removal of the said advertisement.

In June 2019 the Bengaluru City Civil Court passed an interim order<sup>18</sup> of injunction against Google India directing it to refrain from diverting the traffic of the official site of crowdfunding platform Milaap through the usage of ad words, keywords or meta-tag. The case involved the website of Impact Guru appearing on Google India's website as

the first search result whenever a user searched for the word 'Milaap'. The interim order did not provide a detailed analysis on the use of keywords, ad words or meta-tag vis-à-vis infringement. In the final hearing of the matter on 28 October 2021, the Bengaluru City Civil Court<sup>19</sup> vacated the interim order that prevented Google India from use of a particular trademark as a keyword, ad words or meta-tag. The Bengaluru City Civil Court held that keywords or metatags used by third parties which are invisible to consumers do not amount to passing off or infringement, in the current case as when people search for the term Milaap and are directed to Impact Guru's website, no question of confusion arises in the mind of a consumer, as they are two distinct names.

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<sup>13</sup>Amarnath Vyas v. State of A.P, MANU/AP/1214/2006; State Govt. of NCT of Delhi v. Naresh Kumar Gargor, MANU/DE/0706/2013, Avinash Bhosale v. Union Of India & Another (Supreme Court Of India) Criminal Appeal No.1138 of 2007 | 27-08-2007

<sup>14</sup>Anticipatory Bail Application No 336 of 2021 [https://www.livelaw.in/pdf\\_upload/ranipa-vs-state-390218.pdf](https://www.livelaw.in/pdf_upload/ranipa-vs-state-390218.pdf)

<sup>15</sup>Avinash Bhosale v. Union Of India & Another (Supreme Court Of India) Criminal Appeal No.1138 of 2007 | 27-08-2007

<sup>16</sup>In the case of M/s DRS Logistics Ltd & Anr (DRS) v. Google India Pvt Ltd & Ors MANU/DE/2920/2021

<sup>17</sup>Section 29 (6), (8) of Trade Marks Act, 1999 [https://www.indiacode.nic.in/bitstream/123456789/1993/1/AA1999\\_47trade.pdf](https://www.indiacode.nic.in/bitstream/123456789/1993/1/AA1999_47trade.pdf)

<sup>18</sup>[https://drive.google.com/viewerng/viewer?url=https://www.livelaw.in/pdf\\_upload/pdf\\_upload-361592.pdf](https://drive.google.com/viewerng/viewer?url=https://www.livelaw.in/pdf_upload/pdf_upload-361592.pdf)

<sup>19</sup>In the case of Milaap Social Ventures India Pvt Ltd v. Google India Pvt Ltd & Ors O.S. No. 2280/2019

# Social and digital media

## Social media platforms to lose their status as intermediaries?

One of the requirements of the intermediary guidelines was that social media intermediaries should set up a grievance redressal system and appoint a chief compliance officer, a nodal contact person, and a resident grievance officer by 26 May 2021<sup>20</sup>. If the social media intermediaries fail to comply with the obligation to set up a grievance redressal system in India, they will no longer be able to claim immunity under Section 79 of the Information Technology Act, 2000 (IT Act)<sup>21</sup>. Section 79 of the IT Act, commonly referred to as the safe harbor provision protects the intermediaries from being liable for any content of a third party on their platform. Facebook, WhatsApp along with other homegrown social media intermediaries such as Koo, Telegram, etc. provided details on their chief compliance officer, nodal contact person and resident grievance officer as stipulated under the Intermediary guidelines within given timelines. Twitter, on the other hand, was one of the high-profile social media intermediaries which faced some challenges and failed to comply with these provisions within the stipulated timelines. This issue has now been resolved and Twitter appears to have its resident grievance officer, etc. in place now.

## Intermediary Rules - FAQ's

On 01 November 2021<sup>22</sup>, Meity released Frequently Asked Questions (FAQs) for Intermediary Rules to bring about clarity and nuances on long standing questions regarding due diligence to be followed by intermediaries. The FAQs are limited in scope and admittedly not a legally binding document; merely answer general queries received by Meity and may be updated from time to time. Important clarifications set out in the Intermediary Rules FAQs are as below.

▶ **Definition of Social Media Intermediary (SMI):** The FAQs reiterate that intermediaries which 'solely or primarily' enable online interaction (apart from other requirements) are construed as SMIs. The indicative features for SMIs are provided and include:

- ▶ Facilitation of social networking including the ability of a user to increase their reach and following
- ▶ Opportunity to interact with unknown persons or users
- ▶ Ability of enabling virality of content by sharing content

Further, the FAQs clarified that intermediaries, which primarily enable commercial or business transactions such as search engines do not qualify as social media intermediaries.

- ▶ **Specification of content takedown notices:** The clarification provided by the FAQs provide certain specifications to be followed by the authorities who provide notices to the SMIs for removal of content. The take-down notices issued must include:
  - ▶ The platform specific identified URL(s).
  - ▶ The specific clause of the law being violated being administered by the appropriate government authority.
  - ▶ Justification and evidence of the violations.
  - ▶ Any other information (time stamp in case of audio/video) that might be relevant.
- ▶ **Retaining user information:** On specifications of user information to be retained, the amount of information collected after registration and before withdrawal would vary amidst various SMIs. The retention of information should be assessed on a subjective basis keeping in mind the provisions of Section 67(c) of the IT Act read with IT (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 (SPDI Rules).
- ▶ Additional due diligence by Significant Social Media Intermediaries (SSMIs)
  - ▶ **Appointment of Chief Compliance Officer (CCO), Resident Grievance Redressal Officer (GRO) and Nodal Contact Person (NP):** The FAQs clarify since SSMIs may be thinly staffed the role of the CCO; GRO and NP may be performed by the same individual. Group companies (parent and subsidiary) may appoint the same person for each role across their entities.
  - ▶ **Compliance reports:** The FAQs clarify the essential requirements of details to be included in the monthly compliance reports, leaving some details to the discretion of the SSMI. The FAQs emphasize that care must be taken as to not impinge on the privacy of the users while publishing such reports.
  - ▶ **Policy of content takedown:** The objective of the Intermediary Rules is to promote a two-way communication between the SSMI and the aggrieved user. Hence, the SSMI must provide a reasonable explanation to users when addressing grievances. The SSMI must also bear in mind the safety of the reporting party when during the process of content takedown.

<sup>20</sup>Rule 4 (1) (a) of Intermediary Guidelines, <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2021/jun/doc202162411.pdf>

<sup>21</sup>Rule 7 of Intermediary Guidelines

<sup>22</sup>FAQ\_Intermediary\_Rules\_2021.pdf (meity.gov.in)



▶ **Notification for content removal:**

- ▶ The FAQs clarify that the user may be notified only in a case where the content is taken down/ removed or disabled by the SSMI on 'its own accord'. On its own accord implies content that the SSMI believes is:
  - ▶ Blatantly illegal and notifying the owner of such content might harm the complainant in some way.
  - ▶ Under the prohibited category as defined under any law for the time being in force.
  - ▶ Advised by its resident grievance officer in accordance with its own redressal mechanism.
  - ▶ Identified as using automated filters/ tools or some national/ international specialized agency has identified child sexual abuse materials (CSAM) and related materials.
- ▶ In case of bot activity/ malware or such situations of terrorism related content, spam, etc., the SSMI may use its discretion and choose not to notify the user prior to taking down the content.

▶ **Sharing details of first originator:** The FAQs state that the intention of ascertaining the first originator of a message, is merely to determine registration details of the first originator, where required by the government. The goal of the government is not to weaken the process of encryption that could lead to invasion of privacy.

▶ **Requests for Additional Information:** The FAQs clarified that Meity may call for additional information in possession of the SSMI under the IT Act except for trade secrets and commercially sensitive information held by the SSIMs.

## Formation of self-regulatory bodies under the Intermediary Rules

Under the three-tier structure of grievance redressal system contemplated pursuant to the Intermediary Rules, self-regulatory bodies (SRBs) are required to address grievances not resolved by the social media intermediaries.

The MIB has registered three SRBs under the Intermediary Guidelines<sup>23</sup>. It registered the Internet and Mobile Association of India's Digital Publisher Content Grievances Council, one of the two SRBs for streaming services; and two digital news SRBs, the Web Journalists' Standards Authority (formed under the Patna-headquartered Web Journalists Association of India) and the Professional News Broadcasting Standards Authority (part of the News Broadcasters Federation). Subsequently, the Indian Digital Publishers Content Grievance Council (IDPCGC) was also registered as an SRB<sup>24</sup>.

The Indian Broadcasting Foundation (IBF) renamed itself as the Indian Broadcasting and Digital Foundation (IBDF) to expand its purview to cover digital platforms and to bring all digital (OTT) players under one roof. Pursuant to this, it also expressed its intention to form a self-regulatory body called the Digital Media Content Regulatory Council (DMCRC)<sup>25</sup>.

<sup>23</sup>Self-Regulatory Bodies | Ministry of Information and Broadcasting | Government of India (mib.gov.in)

<sup>24</sup>IDPCGC Registration Letter 07.10.2021.pdf (mib.gov.in)

<sup>25</sup><https://www.exchange4media.com/digital-news/ott-industry-split-as-ibf-iamai-look-to-form-separate-self-regulatory-bodies-113197.html>

## Intermediary Rules and digital news - recent developments

The Ministry of Information & Broadcasting (MIB) issued a public notice on 26 May 2021<sup>26</sup> (Public Notice) clarifying that digital news publishers fall under the ambit of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (Intermediary Rules). The News Broadcasters Association (NBA) and several other digital news platforms challenged the public notice on the grounds that the digital arm of traditional media entities (print and tv both) should be exempted from these Intermediary Rules as they are already governed and regulated by other laws and internal systems. Subsequently, the MIB issued a clarification on 10 June 2021<sup>27</sup>(ITR clarification) setting out the rationale for digital news platforms being covered under the Intermediary Rules.

### I. The ITR clarification states that the Intermediary Rules are applicable to digital news platforms due to the following reasons:

- ▶ The Code of Ethics under the Intermediary Rules (Code of Ethics) mandates that the digital news publishers shall adhere to the: (a) Programme Code under the Cable Televisions Networks (Regulation) Act, 1996 (Cable TV Act); (b) the Norms of Journalistic Conduct under the Press Council Act, 1978 (Press Council Act); and (c) prohibitions of publication of content prohibited under any other law in force at the time.
- ▶ While the Press Council Act and the Press & Registration of Books Act, 1867 covers e-versions of newspapers, the news portals and news websites are not covered under the Press Council Act.
- ▶ Similarly, while the Cable TV Act and Uplinking and Downlinking Guidelines for Private TV Channels, 2011 cover TV news entities, they do not cover digital portals of such entities.
- ▶ The MIB further clarified that they have kept in mind that digital platforms of traditional media entities which are regulated by the Press Council Act / Cable TV Act as set out above are required to make lesser submissions and disclosures as opposed to independent digital media platform.

The MIB also clarified that Over The Top (OTT) platforms hosting news feed of a digital news would not be responsible for the same from a regulatory perspective. However, they would have to address any grievances with respect to such news feed if received. Considering these complications, it appears that some OTT platforms have dropped news channels from their bouquet.

### II. The digital news media publishers are required to establish self-regulatory bodies and build a grievance redressal mechanism in the following manner:

- ▶ Tier 1: establish an internal grievance redressal mechanism for resolving grievances of users with respect to the content relating to the Code of Ethics in a time bound manner, i.e., within fifteen days of receipt of claim.
- ▶ Tier 2: establish and register the self-regulatory bodies with the government to oversee and ensure alignment to the Code of Ethics. MIB has contended that this is merely an extension to digital media of what is already applicable for traditional media.
- ▶ Tier 3: oversight mechanism under which the grievances which do not get addressed in tier 1 and tier 2 would go to the Inter-Departmental Committee of the Central Government. MIB has contended that this is like the Inter-Ministerial Committee of the MIB which investigates violations of the program code by TV Channels. The MIB has also contended that the News Broadcasters Standards Authority (an independent body set up by the News Broadcasters Association) (NBSA) has, in one of its decisions held that news which appears only on the website (.com / .in) of an organization but not its traditional TV platform would be outside the scope of the jurisdiction of the NBSA.

### III. Applicability of Intermediary Rules for News Platforms post the ITR Clarification

Post the ITR Clarification it appears that in addition to news websites and digital news platforms of traditional news entities, the Intermediary Rules may also be applicable to independent journalists and news organizations, i.e., any individual or news organizations displaying videos online, publishing and distributing articles through internet and social media. In addition to this, even the stand-up comics, independent commentators that air views pertaining to news and current affairs may fall under the purview of the Intermediary Rules. It may therefore be inferred that online commentators like Faye D'Souza, Akash Banerjee, etc. could have obligations under the Intermediary Rules as set out above. One would have to wait and watch to see what views the government takes on this front.

<sup>26</sup>Furnishing of Information by Digital Media Publishers.pdf (mib.gov.in)

<sup>27</sup>Automatically generated PDF from existing images. (mib.gov.in)

#### IV. Judicial challenges to Intermediary Rules in the digital news segment

Several digital news publishers have contested the constitutionality of the Intermediary Rules in courts across the country. Some of the grounds in these cases<sup>28</sup> are set out below:

- ▶ The Intermediary Rules are ultra vires to the parent legislation, i.e., IT Act on the grounds that the Government is overstepping its powers by regulating digital news platforms which is not within the contemplation of the parent act.
- ▶ The Intermediary Rules are vague, overreaching and impinge on privacy.
- ▶ The constitutional validity of the Intermediary Rules has been challenged on the following grounds:
  - ▶ Regulating news portal under Part III of the Intermediary Rules is nothing but imposition of government oversight.
  - ▶ In case the Intermediary Rules are not complied with, one would attract draconian consequences in the form of blocking, deletion of content, etc.
  - ▶ Thus, this would create fear in the minds of people and force people to adopt self-censorship which would ultimately lead to violation of their fundamental rights.
  - ▶ The Intermediary Rules give excessive powers to government authorities, which results in the freedom of speech and expression of the media being limited and restricted.
  - ▶ The provisions in the Intermediary Rules with respect to removal of content by intermediaries are vague.

#### V. Temporary Relief - NBA judgement

The NBA challenged the Intermediary Rules on the ground that they give excessive powers to government authorities which results in the freedom of speech and expression of the media being limited and restricted. In its order dated 09 July 2021<sup>29</sup>, the Kerala High Court has prohibited the Ministry of Electronics and Information Technology (Meity) and the

MIB from taking coercive action or imposing any penalties against NBA and its members for non-compliance of the provisions contained in Part III of the Intermediary Rules (i.e., the code of ethics for digital media which inter alia includes setting up of a grievance redressal mechanism, etc.) pending disposal of the writ petition.

#### VI. Transfer to Supreme Court

Press articles indicate that the Union of India has asked the apex court to club the following petitions with a case titled Justice for Rights Foundation v. Union of India & Ors.<sup>30</sup>, which is already pending before the Delhi High Court to be heard by the Supreme Court to ensure that there is no duplicity in proceedings in the matter between state courts and the Supreme Court:

- ▶ *Foundation for Independent Journalism Ors. v. Union of India*<sup>31</sup>
- ▶ *Live Law Media Private Limited & Ors. v. Union of India*<sup>32</sup>
- ▶ *Sanjay Kumar Singh v. Union of India*<sup>33</sup>
- ▶ *Quint Digital Media Anr. v. Union of India*<sup>34</sup>

However, there is no further information available on the status of this matter and it appears that the Supreme Court has not stayed the proceedings in the High Courts yet.

#### VII. Further Interim Relief - Bombay High Court and Madras High Court

In the case of Agji Promotion of Nineteenonea Media Private Limited & Ors. v. Union of India & Anr.<sup>35</sup>, a Division Bench of the Bombay High Court, in an interim order, stayed the enforcement of the provisions of the Intermediary Rules that would require digital news publishers to create a three-tier grievance mechanism and to observe a code of ethics (Code of Ethics). The operation of Rules 9(1) and 9(3) of the Intermediary Rules, were stayed by the court. While other challenges continue in other courts, and the Supreme Court is yet to hear a transfer petition by the government to consolidate the petitions from state courts on the subject, this judgment may bring relief to small media organizations who have argued that complying with the Rules would be burdensome and infringe on their freedom of expression. Rule 9(1) of the Intermediary Rules deals with the adherence

<sup>28</sup>Digital News Publishers Association & Anr v. Union of India & Ors, W.P. No. 13055 of 2021 & Shri TM Krishna v. Union of India & Anr, W.P. No. 12515 of 2021 The News Broadcasters Association v. Ministry of Electronics and Information Technology, W.P. (C) No. 13675 of 2021

Foundation for Independent Journalism v. Union of India, W.P. (C) No. 3125 of 2021

Live Law Media Private Limited & Ors v. Union of India & Anr, W.P. (C) No. 6272 of 2021

Sanjay Kumar Singh v. Union of India, W.P. (C) No. 3483 of 2021

Quint Digital Media Limited & Anr v. Union of India & Anr, W.P. (C) No. 3659 of 2021

Press Trust of India v. Union of India & Anr, W.P. (C) No. \_\_\_\_ of 2021

AGIJ Promotion of Nineteenonea Media Pvt Ltd & Anr v. Union of India & Anr WP (L) No. 14172 of 2021

<sup>29</sup>NBSA vs Meity- Stay on penalties against intermediaries 09 July 2021.pdf

<sup>30</sup>SLP No. 10397 of 2019

<sup>31</sup>W.P. (Civil) No. 3125 of 2021

<sup>32</sup>W.P. (Civil) No. 6272 of 2021

<sup>33</sup>W.P. (Civil) No. 3483 of 2021

<sup>34</sup>W.P. (Civil) No. 3659 of 2021

<sup>35</sup>W.P. (L) No. 14172 of 2021

to the Code of Ethics set out in the Intermediary Rules. The Code of Ethics requires that online news publishers adhere to the following codes or norms:

- ▶ Norms of Journalistic Conduct of the Press Council of India under the Press Council Act.
- ▶ Programme Code under section 5 of the Cable TV Act; and
- ▶ Content which is prohibited under any law for the time being in force shall not be published or transmitted.

Rules 9(3) of the Intermediary Rules deals with setting up of a grievance redressal mechanism by digital news companies to inter alia address grievances arising from Rule 9(1) of the Intermediary Rules.

One of the main considerations of the Bombay High Court was the argument that the Intermediary Rules go beyond the scope of Section 87 the IT Act, which was not passed for the regulation of news media. The Bombay High Court observed that by requiring news publishers online to adhere to norms that were formulated for other media in a different context, the government was inappropriately elevating voluntary norms to mandatory status. The provisions of the codes set out in the Code of Ethics were simply moralistic guidelines and not statutory obligations on the journalists and press. The Bombay High Court observed that the indeterminate and wide terms of the Rules bring about a chilling effect qua the right of freedom of speech and expression of writers/ editors/ publishers because they can be hauled up for anything if such committee so wishes. The Bombay High Court emphasized the importance of criticism of people in public service for the structured growth of the country without fear of being penalized for their honest opinions. On 16 September 2021<sup>36</sup>, the Madras High Court, in the cases of *Digital News Publishers Association (DNPA) & Anr. v. Union of India & Ors.*<sup>37</sup> and *T.M. Krishna v. Union of India*<sup>38</sup>, provided interim relief from enforcement of Rule 9(1) and 9(3) of the Intermediary Rules. The Madras High Court accepted the order passed by the Bombay High Court, noting that the Bombay High Court order ought to have a pan-India effect. The Madras High Court pronounced in its interim order that any action taken under Rule 3 read with Rule 7 of the Intermediary Rules would be subject to further orders and result of the case. Rule 3 speaks of the obligation of intermediaries to exercise due diligence and Rule 7 states the rule of coercive action against intermediaries for breach of obligations. The Division Bench expressed its genuine apprehension - "that a wink or nod from appropriate authorities shall result in the social media intermediary being

inaccessible to a citizen". The interim order provides further reassurance for intermediaries. The proceedings for the case are ongoing and no judgement has been reserved yet.

## VIII. Madras High Court restricts Government from acting against Indian Broadcasting and Digital Foundation and its members

IBDF, Sun TV Network Limited and SJ Clement had filed cases in the Madras High Court challenging the constitutional validity of the Intermediary Rules and the amended Cable TV Rules. In a hearing on 06 December 2021<sup>39</sup> (December Order), the Madras High Court restricted the central government from taking any coercive action against the IBDF and its members under Part-III of the Intermediary Rules and the amended Cable TV Rules. The December Order also stated that future hearings of the petitions in the cases of (a) *Digital News Publishers Association (DNPA) & Anr. v. Union of India & Ors.*<sup>40</sup>, (b) *T.M. Krishna v. Union of India*<sup>41</sup>, (c) *IBDF & Ors. v. Meity & Anr.*<sup>42</sup>, (d) *IBDF & Ors. v. Union of India*<sup>43</sup>, and (e) *IBDF & Ors. v. Union of India*<sup>44</sup> should be clubbed. All these cases are listed for further hearing on 21 March 2022<sup>45</sup>.

## RTI filed for information on Intermediary Rules

On 03 January 2022, the Internet Freedom Foundation, filed an application under the Right to Information Act, 2005 (RTI Application) seeking certain clarification on Part III of the Intermediary Rules<sup>46</sup> inter alia on (a) communications sent by the MIB to intermediaries regarding compliance with the Intermediary Rules; (b) the additional information sought by the MIB from the intermediaries and their response to the same; (c) number and details of publishers in India who have already provided information to the MIB in accordance with the Intermediary Rules; (d) basis for MIB requesting additional information especially in light of the stay by Bombay High Court in the case of *Agij Promotion of Nineteenonea Media Private Limited & Ors. v. Union of India & Anr.* and Madras High Court in the case of *T.M. Krishna v. Union of India* on implementation of three-tier structure and Code of Ethics provided in the Intermediary Rules. MIB's reply states that (a) the information has been sought from publishers under Rule 18 of the Intermediary Rules following due process under law; and (b) 2100 publishers have provided relevant information to the MIB. The remaining questions are unanswered<sup>47</sup>.

<sup>36</sup>WP\_13055\_2021\_XXX\_0\_0\_16092021\_85\_166.pdf (tn.gov.in)

<sup>37</sup>W.P. No. 13055 of 2021

<sup>38</sup>WP\_13055\_2021\_XXX\_0\_0\_16092021\_85\_166.pdf (tn.gov.in)

<sup>39</sup>WP\_25619\_2021\_XXX\_0\_0\_06122021\_97\_166.pdf (tn.gov.in)

<sup>40</sup>DNPA & Mukund Padmanabhan v. Union of India & the secretary W.P. No. 13055 of 2021

<sup>41</sup>T.M. Krishna v. Union of India W.P. No. 12515 of 2021

<sup>42</sup>IBDF, Sun TV Network Limited, SJ Clement v. Ministry of Electronics and Information Technology & Ministry of Information and Broadcasting W.P. No. 25619 of 2021

<sup>43</sup>IBDF, Sun TV Network Limited, SJ Clement v. Union of India W.P. No. 25896 of 2021

<sup>44</sup>IBDF, Sun TV Network Limited, SJ Clement v. Union of India W.P. No. 26112 of 2021

<sup>45</sup>WP\_13055\_2021\_XXX\_0\_0\_25022022\_85\_196.pdf (tn.gov.in)

<sup>46</sup>MOIAB-R-E-21-00632 - RTI Online \_\_ Request\_Appeal Form Details.pdf - Google Drive

<sup>47</sup>MOIAB/R/E/21/00632.pdf - Google Drive

## Search engines not 'publishers' under Intermediary Rules - Government tells Delhi High Court

News reports indicate that the central government has acknowledged in the proceedings of the pending case of *Antriksh Johri v. Union of India & Anr*<sup>48</sup> that search engines do not fall under the purview of the Intermediary Rules<sup>49</sup>.

## WhatsApp's New Privacy Policy

WhatsApp LLC (WhatsApp) introduced its updated privacy policy on 4th January 2021<sup>50</sup> (Updated Policy) and notified the users with the only option to accept it. Users were provided deadlines to continue using the app. The Updated Policy made it clear that WhatsApp will collect:

- ▶ Profile names
- ▶ Profile pictures
- ▶ Users' phone number
- ▶ IP address
- ▶ Phone numbers stored in the address book
- ▶ Status information including when a user was last online
- ▶ Usage and log information
- ▶ Device information
- ▶ Location-related information
- ▶ Transaction and payment data if enabled

A clarification was issued by WhatsApp that the (a) messaging application is end-to-end encrypted; (b) it does not have access to the user's private chats or locations; and (c) it does not share private messages or data with Facebook. More importantly, under the Updated Policy, WhatsApp is permitted to use some of the business conversations hosted with the social network for its own marketing purpose which may include advertising on Facebook<sup>51</sup>.

Petitions were filed in the Delhi High Court in 2016 against

the WhatsApp Policy (2016) and again in 2021 against the Updated Policy highlighting reasons such as violation of right to privacy, threat to national security, etc. This petition of Chaitanya Rohilla highlighted the issues relating to data privacy and the differential treatment between Indian and European users as the Updated Policy would not be applicable in the European Union considering their regulations.

Thereafter, CCI on 24 March 2021<sup>52</sup> ordered a suo moto investigation against the Updated Policy alleging that (a) WhatsApp has made it compulsory for the users to accept the terms of the Updated Policy which can be interpreted as it being in the nature of 'take-it-or-leave-it'; and (b) has also permitted WhatsApp to share the user's data with Facebook. CCI considered these terms of the Updated Policy as unfair as they result in (a) excessive data collection; and (b) violate certain provisions of the Competition Act, 2002.

The CCI order of investigation was challenged by Facebook<sup>53</sup> and WhatsApp<sup>54</sup> before the Delhi High Court on the grounds that the matters relating to the Updated Policy and the prior 2016 updated policy were already pending before the Supreme Court<sup>55</sup> and the Delhi High Court<sup>56</sup>. The Delhi High Court stated that mere pendency of a suit before a larger bench does not denude the other courts of their jurisdiction to decide on the lis pendens before them<sup>57</sup>. The Delhi High Court clarified that it would have been prudent for CCI to await the outcome of petitions in the Supreme Court and Delhi High Court against the Updated Policy however not doing so would not make the regulator's order 'perverse' or 'without jurisdiction'<sup>58</sup>.

Press articles indicate that Meity (a) subsequently filed an affidavit in the Delhi High Court stating that the WhatsApp Updated Policy violates the Information Technology (Intermediary Guidelines) Rules, 2011 (2011 Intermediary Rules)<sup>59</sup>; and (b) sought that the Delhi High Court direct WhatsApp to scrap its Updated Policy<sup>60</sup>.

<sup>48</sup>W.P.(C) 14360/2021

<sup>49</sup>Search Engines Like Google Not 'Publishers' Under Part III Of IT Rules, 2021: Centre Tells Delhi High Court (livelaw.in)

<sup>50</sup><https://www.whatsapp.com/legal/privacy-policy>

<sup>51</sup><https://faq.whatsapp.com/general/security-and-privacy/answering-your-questions-about-whatsapps-privacy-policy>

<sup>52</sup>Competition Commission of India v. WhatsApp LCC & Facebook INC Sua Moto Case No. 01 of 2021 [https://www.cci.gov.in/sites/default/files/SM01of2021\\_0.pdf](https://www.cci.gov.in/sites/default/files/SM01of2021_0.pdf)

<sup>53</sup>WhatsApp LLC v. Competition Commission of India W.P. (C) 4378/2021 & CM13336/2021 <https://primelegal.in/wp-content/uploads/2021/04/j1-3.pdf>

<sup>54</sup>Facebook Inc v. Competition Commission of India W.P. (C) 4407/2021 & CM13490/2021 <https://primelegal.in/wp-content/uploads/2021/04/j1-3.pdf>

<sup>55</sup>Karmanya Singh Sareen & Anr v. Union of India W.P. (C) 7663/2016 WhatsApp 2016 Privacy Policy was challenged. The matter is pending before the Supreme Court

<sup>56</sup>Chaitanya Rohilla v. Union of India & Ors W.P. (C) No. 677/2021 [https://lawbeat.in/sites/default/files/Chaitanya%20Rohilla%20Writ%20Petition%20\(1\)\\_watermark.pdf](https://lawbeat.in/sites/default/files/Chaitanya%20Rohilla%20Writ%20Petition%20(1)_watermark.pdf)

<sup>57</sup>Dr Seema Singh & Anr v. Union of India & Anr W.P. (C) No 1355/2021 [https://www.livelaw.in/pdf\\_upload/affidavit-in-wp-1355-of-2021-drseema-singh-vs-uo-i-1-394431.pdf](https://www.livelaw.in/pdf_upload/affidavit-in-wp-1355-of-2021-drseema-singh-vs-uo-i-1-394431.pdf) petitions challenging the WhatsApp New Privacy Policy

<sup>58</sup>WhatsApp LLC v. Competition Commission of India W.P. (C) 4378/2021 & CM13336/2021

<https://primelegal.in/wp-content/uploads/2021/04/j1-3.pdf>

<sup>59</sup>WhatsApp LLC v. Competition Commission of India W.P. (C) 4378/2021 & CM13336/2021

<https://primelegal.in/wp-content/uploads/2021/04/j1-3.pdf>

<sup>60</sup>Affidavit filed in the proceedings for Chaitanya Rohilla v. Union of India & Ors W.P. (C) No. 677/2021- <https://www.livelaw.in/top-stories/whatsapp-privacy-policy-delhi-high-court-fundamental-right-to-privacy-168410>

<sup>61</sup><https://economictimes.indiatimes.com/tech/technology/new-whatsapp-policy-violates-it-rules-meity-to-hc/articleshow/81598842.cms?from=mdr>

<sup>62</sup><https://www.medianama.com/2021/07/223-whatsapp-privacy-policy-on-hold/>

<sup>63</sup><https://www.livelaw.in/top-stories/whatsapp-privacy-policy-delhi-high-court-fundamental-right-to-privacy-168410>



After deliberation of the numerous issues, it appears that WhatsApp stated that its Updated Policy will be on hold until the Personal Data Protection Bill, 2019 (PDP Bill) comes into force<sup>61</sup>. There has been no further update on this issue<sup>62</sup>.

## WhatsApp challenges the Intermediary Rules on traceability

On 25 May 2021, in the matter of Facebook Incorporated v. Union of India<sup>63</sup>, WhatsApp challenged the Rule 4(2) of the Intermediary Rules that mandate social media intermediaries to identify the first originator of the information. WhatsApp argued that this requirement would result in breaking of the end-to-end encryption (commonly known as traceability) on its messaging service and would infringe upon the fundamental right to privacy and free speech of hundreds of millions of citizens using WhatsApp to communicate privately and securely.

Subsequently, to address the issues raised by WhatsApp, Meity on 26 May 2021 released a press release<sup>64</sup> on the issue inter alia stating that (a) the government would respect people's privacy; and (b) no fundamental right including right to privacy is absolute as it is subject to reasonable restrictions. The matter is still pending before the Delhi High Court.

## Objectionable posts put up by members on WhatsApp Group would not hold the group administrator criminally liable

An issue which has been in the limelight for a while is the liability of a WhatsApp group administrator (group admin) for the objectionable posts put up by the members of that group. The air on this issue was cleared with the help of various judicial pronouncements. In 2016, the Delhi High Court dismissed the matter of *Ashish Bhalla & Ors v. Suresh Chawdhary & Ors.*<sup>65</sup> for defamation against Vishal Dubey and held that Vishal being the group admin cannot be held liable for defamation if the defamatory statements are made by Suresh who is a member of that group. The Delhi High Court

further clarified that when an online platform is created, the creator thereof cannot expect any of the members to indulge in defamation and defamatory statements and the members for their indulgence in the defamation /defamatory statements further cannot make the group admin liable for their actions<sup>66</sup>.

Recently two matters also provided a detailed reasoning on the liability of a group admin. On 01 March 2021, in the matter of *Kishor Taronev. State of Maharashtra & Ors*<sup>67</sup>, the Nagpur Bench of the Bombay High Court did not hold Kishor liable despite being the group admin for the objectionable posts put up by a member of that group. It was observed that (i) once a group is created, the functioning of the group admin and that of the members is at par with each other, except the power of adding or deleting members to the group which vests in the hands of the group admin; (ii) the group admin does not have the power to regulate, moderate or censor the content before it is posted on the group; (iii) in the absence of a specific penal provision creating vicarious liability, a group admin cannot be held liable for the objectionable posts put up by a member of a group; and (iv) the question of vicarious liability upon the group admin for an act of the member of a group who posts objectionable posts would only arise if it is shown that a common intention or pre-arranged plan acting in concert pursuant to such plan was made by such member of a WhatsApp group and the group admin<sup>68</sup>. The case involved Mrs. Rachanatai (Applicant No. 2) registering a FIR alleging that a member of that group used filthy language against her on the WhatsApp group to which Kishor being the group admin failed to take any action against.

Taking the same view as Bombay and Delhi High Courts, the Kerala High Court in the case of *Manual v. State of Kerala*<sup>69</sup> held that a creator or administrator of a WhatsApp group, merely acting in the capacity, cannot be held vicariously liable for objectionable content posted by a member of the group<sup>70</sup>. The Kerala High Court went on record to state that a WhatsApp group admin cannot be an intermediary under the IT Act.

<sup>63</sup>W.P. (C) 7281 of 2021 & CM Appeals 22944 of 2021, 22945 of 2021 & 22946 of 2021

<https://www.medianama.com/wp-content/uploads/2021/05/WhatsApp-v.-Union-of-India-Filing-Version.pdf>

<sup>64</sup><https://www.sconline.com/blog/post/2021/05/27/del-hc-whatsapp-challenges-intermediary-rules-says-traceability-will-break-end-to-end-encryption-breach-privacy-union-of-india-says-no-fundamental-right-is-absolute/>

<sup>65</sup>CS (OS) No. 188/2016 <https://drive.google.com/file/d/0BzXiifcxe7yuQjRsUEVOZzdQaUE/view?resourcekey=0-BRV0xNmuzIPOZ8lp9LalCw>

<sup>66</sup><https://www.mondaq.com/india/social-media/1066900/can-a-whatsapp-group-administrator-be-held-liable-for-content-posted-by-a-group-member>

<sup>67</sup>Criminal Application No. 573 of 2016 [https://www.livelaw.in/pdf\\_upload/whatsapp-392422.pdf](https://www.livelaw.in/pdf_upload/whatsapp-392422.pdf)

<sup>68</sup><https://www.livelaw.in/news-updates/whatsapp-group-administrator-not-liable-for-members-objectionable-post-bombay-high-court-173130?infinite-scroll=1>

<sup>69</sup>CrI. MC. No. 3654 of 2021

<sup>70</sup>[manual-v-state-of-kerala-410526.pdf](https://www.livelaw.in/manual-v-state-of-kerala-410526.pdf) (livelaw.in)

<sup>71</sup>Government Requests for User Data | Transparency Center (fb.com)

<sup>72</sup>Content Restrictions Based on Local Law | Transparency Center (fb.com)

## Compliance Reports of Intermediaries

### Meta

Meta's transparency report on content takedown requests from the government for the duration between January 2021 to June 2021, indicates that it received over 45,000 requests including over 2000 emergency disclosure requests and that it acted upon 51% of requests<sup>71</sup>. Meta restricted access to (a) 442 content items in response to directions from Meity; (b) 22 items following the directions from the Election Commission of India; and (c) 65 items based on valid court orders. Defamation accounted for removal of 6 items of content following private reports by users<sup>72</sup>.

### Google

Google's data on government requests for content takedown for the period of 2011- 2021<sup>73</sup> as per its transparency report indicates over 11,000 takedown requests mostly based on copyright violations, national security, privacy. As per the report by Surfshark, the requests have increased rapidly since 2016 and India ranks among the top three countries in making requests to Google for content takedown<sup>74</sup>.

### Twitter

According to Twitter's monthly transparency reports for 2021<sup>75</sup>, there is a tremendous increase of 152% in the number of requests for content takedown accompanying court orders from the reports in 2020. India accounts for 18% of the world's total legal demands for content takedown, making it the top second country in number of legal requests made. Twitter's compliance report from January 2021 to June 2021 accounts for 89 legal demands made for content removal of verified journalists and news outlets<sup>76</sup>.

## New IT Law in the making?

Press articles indicate that the government may enact a new IT Law since the IT Act is outdated and may require too many amendments<sup>77</sup>.

Further news reports indicate that Ashwini Vaishnaw, Minister of Electronics, and Information Technology, spoke about introduction of stricter laws for social media intermediaries to hold them more accountable and contingent on political consensus in that regard. He was responding to a supplementary question posed by MP Sushil Kumar Modi in the Rajya Sabha on 04 February 2022<sup>78</sup>.

## Social media accounts blocked by government

On 21 December 2021, the MIB in a close coordinated effort between intelligence agencies and itself, issued a press release<sup>79</sup> declaring the decision to block 20 YouTube channels and 2 websites using emergency provisions available under Rule 16 of the Intermediary Rules. Rule 16 of the Intermediary Rules provides the government with powers to order a complete ban of online content without giving the intermediaries or publishers of such content an opportunity of being heard.

The MIB requested the Department of Telecom (DoT) to direct the service providers to block the specified YouTube channels and websites for spreading fake news. Some of the YouTube channels blocked were a part of the Naya Pakistan Group (NPG) along with certain standalone channels. These channels had a combined subscriber base of over thirty-five lakh users with videos having over fifty-five crore views and their content included posts on issues such as the farmers' protest, protests related to the Citizenship (Amendment) Act, and inciting the minorities against the Government of India. It appears that the government feared that the YouTube channels could post content to undermine the democratic process of the upcoming elections in the country. The press release stated that the emergency powers under Rule 16 of the Intermediary Rules were invoked as most of the content posted by these channels was sensitive to national security, factually incorrect, and posted in a coordinated disinformation network effort from Pakistan.

Further, on 08 January 2022, Rajeev Chandrasekhar, the Minister of State for Skill Development and Entrepreneurship and Electronics and Information Technology (MoS) tweeted<sup>80</sup> that action had been taken against several accounts for circulating fake, explicit, and hateful content after morphed, and fake videos of a cabinet briefing were circulated, creating disharmony in the community. The tweet also stated that owners of the blocked accounts were being identified for action to be taken under the law. On 07 January 2022, in another tweet Rajeev Chandrasekhar emphasized the seriousness with which Meity approaches its responsibility to keep the internet safe and trusted<sup>81</sup>.

Press articles indicate that the government has on occasions such as (a) the death of Chief of Defence Staff (CDS) Bipin Rawat<sup>82</sup>; and (b) the alleged security breach that resulted in Prime Minister Narendra Modi and his convoy stranded

<sup>73</sup>Government requests to remove content - Google Transparency Report

<sup>74</sup>Google removed content - Surfshark

<sup>75</sup>India - Twitter Transparency Center

<sup>76</sup>Removal Requests - Twitter Transparency Center

<sup>77</sup><https://indianexpress.com/article/india/centre-starts-talks-for-new-it-law-looks-at-stalking-to-social-media-7570744/>

<sup>78</sup>Need stricter rules to hold social media accountable, suggests IT Minister (medianama.com)

<sup>79</sup><https://pib.gov.in/PressReleasePage.aspx?PRID=1783804>

<sup>80</sup>Rajeev Chandrasekhar on Twitter: "Task force on Safe&Trusted Internet at @GoI\_MeitY at work Handles tht tried to push fake/inciting content on twitter, youtube, fb, insta hv been blockd. Also a. ownrs of acctns being ID'd for actn under law. b. to review platforms on their due diligence #SafeInternet " / Twitter

<sup>81</sup>Rajeev Chandrasekhar on Twitter: "On the job. @GoI\_MeitY takes its responsibility to keep Internet Safe n Trusted and Intermediaries accountable for content n due diligence very seriously " / Twitter

<sup>82</sup>Tweets ridiculing death of CDS Gen Bipin Rawat censored on govt request (medianama.com)

on a flyover in Punjab<sup>83</sup>, etc. requested Twitter to block certain tweets in India. Scrutiny on the Lumen database (a website that receives and publishes disclosure of legal content takedown notices from all over the world)<sup>84</sup>, seem to corroborate this position.

In another press release dated 21 January 2022, the MIB further blocked 35 YouTube channels and 2 websites for spreading anti-India fake news in a crackdown on Pakistani Fake News Factories<sup>85</sup>. The crackdown on websites spreading propaganda against India was actioned under emergency provisions of Rule 16 of the Intermediary Rules.

As per Government's response in Lok Sabha on 08 December 2021<sup>86</sup>, it is noted that the Government made requests to block 3635 accounts in 2019, whereas requests to block 9849 accounts were made in 2020, marking a 270% increase in 1 year. As per another response in Lok Sabha on 02 February 2022, it was stated that the Government blocked 6096 accounts in 2021 as opposed to the 9849 in 2020<sup>87</sup>.

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<sup>83</sup>Tweets on Prime Minister's security breach taken down upon government request (medianama.com)

<sup>84</sup>Legal Request to Twitter from Government of India :: Notices :: Lumen (lumendatabase.org)

<sup>85</sup><https://pib.gov.in/PressReleaselframePage.aspx?PRID=1791547>

<sup>86</sup>Questions : Lok Sabha (loksabhaph.nic.in)

<sup>87</sup>Questions : Lok Sabha (loksabhaph.nic.in)

# Television and Broadcasting

## Cable Television Network (Amendment) Rules, 2021

The MIB through a notification dated 17 June 2021 amended the Cable Television Network Rules, 1994 (Cable Rules 1994) by way of the Cable Television Networks (Amendment) Rules, 2021 (Amended Cable TV Rules). The Amended Cable TV Rules introduce a formal complaint redressal mechanism for redressal of viewers grievances relating to content broadcasted by cable television channels which are in contravention of the Programme Code (PC) and Advertising Code (AC) under the Cable Rules 1994. The Amended Cable TV Rules replicates the three-tier grievance redressal mechanism set out in the recently introduced Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules 2021) for digital media, and contains levels of self-regulation, a self-regulatory body, and an oversight mechanism through an inter-departmental committee.

The key amendments proposed by the Amended Cable TV Rules are that (a) the central government would have the power to prohibit transmission/ re-transmission by a cable operator of any program or channel which is in violation of the PC and/ or AC stipulated under the Amended Cable TV Rules; and (b) a three-layer transparent statutory mechanism for the purpose of enabling the citizens to redress their complaints and grievances against content of TV Channels which violates the PC and/or AC. This three-layer structure comprises of:

- ▶ **Level I- self- regulation by broadcasters:** If any citizen is aggrieved by the content of a program as not being in conformity with PAC, a complaint in writing may be filed with the broadcaster who would appoint a grievance officer to deal with the complaints received by it. The broadcaster should then dispose of the complaint and inform the complainant of its decision within fifteen days of receipt of such complaint.
- ▶ **Level II- self- regulation by the self- regulating bodies of the broadcasters:** Self-regulating bodies are required to register themselves with the central government within the time period stipulated. In case of dissatisfaction with the grievance officer's decision or if the decision is not communicated within fifteen days, an appeal may be filed with the self-regulating body within fifteen days therefrom. The self-regulating body should dispose the appeal within sixty days and convey its decision within a period of fifteen days. Similarly, as provided under Level I, in case of dissatisfaction by complainant or failure in communicating the decision

within the given stipulated time, the last resort for the complainant is an appeal to the central government under its Oversight Mechanism.

- ▶ **Level III- oversight mechanism by the Central Government:** mandates the creation of an inter-departmental committee (IDC) by the Central Government to hear matters arising out of appeals by complainants dissatisfied with the action taken under Level I and Level II of the grievance redressal mechanism.

The self-regulating body and broadcaster are required to disclose, and update all the complaints received by them, the manner in which the complaints were disposed of, the action taken on the complaints on the public domain as well as preserve records of content telecasts for at least 90 days, should the self-regulating body or the central government ask for it.

The Cable Television Rules have been amended not only to pave way for a strong statutory system for addressing grievances while placing accountability and responsibility on the broadcasters and their self-regulating bodies but also to bring the television industry's self-regulation mechanism at par with the digital news publishers and OTT Platforms.

## New Tariff Order (NTO) 2.0

TRAI issued Telecommunication (Broadcasting and Cable) Services Interconnection Addressable Systems (Second Amendment) Regulations, 2020; Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Third Amendment) Regulations, 2020; and Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Tariff Order (Second Amendment) on 01 January 2020 (collectively NTO 2.0). NTO 2.0 was introduced to address certain anomalies in the market to protect consumers by capping tariffs for charged by broadcasters as subscription prices for channels and channel bouquets. Currently, there is no similar cap for OTT platforms.

The Indian Broadcasting Foundation (IBF), a representative body of TV broadcasters, (renamed and currently called Indian Broadcasting and Digital Foundation (IBDF)<sup>88</sup>) opposed NTO 2.0 in the Bombay High Court<sup>89</sup> inter alia on the basis that NTO 2.0 is unconstitutional and will adversely impact the growth of the broadcasting sector. The crux of the matter with pertains to the tariff changes made by TRAI. TRAI inter

<sup>88</sup>[https://www.ibfindia.com/sites/default/files/IBF\\_Media\\_Release\\_27.05.2021\\_IBF%20renamed%20as%20Indian%20Broadcasting%20and%20Digital%20Foundation%20IBDF%29.pdf](https://www.ibfindia.com/sites/default/files/IBF_Media_Release_27.05.2021_IBF%20renamed%20as%20Indian%20Broadcasting%20and%20Digital%20Foundation%20IBDF%29.pdf)

<sup>89</sup>Indian Broadcasting Foundation & Ors. v. TRAI, W.P. (L) No. 116, 117, 118, 120, 124, 125, 126, 127 and 147 of 2020

alia mandated that the broadcasters should charge the consumer a maximum of INR 12 per channel for channels which form part of a bouquet. In addition, the following twin conditions with respect to pricing were imposed:

- ▶ **1st twin condition:** the sum of maximum retail prices per month of the à-la-carte pay channels forming part of a bouquet shall in no case exceed one and half times of the maximum retail price per month of such bouquet, e.g., if the sum total of the maximum retail price (MRP) of all channels forming part of a bouquet is INR 45, the MRP of the bouquet cannot be less than INR 30 (Aggregate Test).
- ▶ **2nd twin condition:** the maximum retail price per month of any à-la-carte pay channel, forming part of such a bouquet, shall in no case exceed three times the average maximum retail price per month of a pay channel of that bouquet, e.g., if there are 15 channels forming part of the said bouquet, the average MRP for a single channel will be INR 3 (INR 45/15). Thus, the MRP of any channel cannot be more than INR 9 (i.e., 3 X 3) for it to continue to be part of the bouquet (Average Test).

The IBDF contested the (a) prices of a la carte channels being capped at INR 12 per channel; (b) twin conditions, and (c) cap on number of bouquets being offered by a broadcaster. The Bombay High Court upheld the constitutional validity of TRAI amendments and NTO 2.0 (except the 2nd twin condition) as they found that the TRAI was (a) balancing the interests of the consumers and broadcasters; and (b) was authorized to regulate this area. However, it the Bombay High Court struck down the applicability of the 2nd twin condition as held that the process with respect to imposition of the 2nd twin condition was arbitrary and lacked transparency.<sup>90</sup> The Bombay High Court also dismissed the contention of the IBDF that NTO 2.0 was more favorable to distributed platform operators (DPOs)<sup>91</sup>. The Bombay High Court further held that though there was a cap on the number of bouquets to be provided by broadcasters, TRAI had the discretion to increase the same where necessary.

The IBDF and some broadcasters appealed to the order of the Bombay High Court and filed a special leave petitions (SLPs) in the Supreme Court of India (SC) and sought interim relief and stay on the implementation NTO 2.0. The SC passed an order on 1 October 2021 dismissing the SLPs interim relief application as the legal validity of NTO 2.0 would be considered by the by the SC in the imminent final hearing of the matter. Meanwhile in its order dated 15 February 2022 the Supreme Court indicates that the IBDF and others have withdrawn the SLPs (subject to further legal challenge if required in the SC). TRAI has extended the timeline for implementation of NTO 2.0 till 01 June 2022<sup>92</sup>.

## MIB issued an advisory to Television Channels on media production

Section 3 of the Child Labour (Prohibition and Regulation) Amendment Act, 2016 (Child Labour Act) and Rule 2C (b) of Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988 (Child Labour Rules) mandate disclaimer to be made if any child is engaged in shooting of films or television program and if so then all measures to protect their safety to be taken and to ensure that the child's education was not affected during the shooting. Pursuant to this, it was observed that Rule 2C (b) of the Child Labour Rules was not complied with in most media production or commercial events where child artists were involved. Subsequent to this, MIB on 27 December 2021 issued an advisory<sup>93</sup> requesting all private satellite television channels to ensure compliance with Section 3 of Child Labour Act and Rule 2C (b) of Child Labour Rules<sup>94</sup>.

<sup>90</sup>[https://www.livelaw.in/pdf\\_upload/order-dated-30-june-2021-396265.pdf](https://www.livelaw.in/pdf_upload/order-dated-30-june-2021-396265.pdf)

<sup>91</sup>The Bombay High Court observed that "Clause 4(3) of the principal 2017 Tariff Order makes its mandatory for DPOs to make available to consumers all such offerings of all broadcasters with whom a Reference Interconnect Offer (RIO) has been signed without any alternation in its composition. Clause 4(4) provides, inter alia, the following additional restrictions: (a) No DPO bouquet can contain the pay channel whose MRP is more than Rs.12/- (just as for broadcasters, this was reduced from Rs.19/- by the 2020 Tariff Order Amendment). (b) The DRP of DPO bouquet cannot be less than 85% of the sum of all its components viz. à-la-carte channels or broadcaster bouquets. This is a far more stringent requirement than 33.33% in the case of broadcasters. This means that there is 15% cap on discount, which DPO can offer. Thus, 15% cap comes into play only after the direct "trickle down" effect of the twin condition has done its job. (xxvii) The broadcasters whilst contending that 94.6% of consumer viewership is DPO bouquets, are silent on the fact that the bulk of DPO bouquets which the consumers subscribe to include broadcaster bouquets. TRAI monitors subscription preference on monthly basis. Perusal of the Table (shown by way of illustration at Tab 11 of the Written Submissions) shows that the broadcaster bouquets themselves form the bulk of distributor bouquets and the broadcaster bouquets (either as a part of distributor bouquets or independent thereof) constitute overwhelming part of consumer viewership. There is very little scope left for DPO to form truly customized DPO bouquets."

<sup>92</sup>[https://www.trai.gov.in/sites/default/files/Implementaion\\_03022022\\_3.pdf](https://www.trai.gov.in/sites/default/files/Implementaion_03022022_3.pdf)

<sup>93</sup><https://mib.gov.in/sites/default/files/Advisory%20%28Child%20and%20Adolescent%20Labour%29.pdf>

<sup>94</sup><https://www.exchange4media.com/media-tv-news/mib-asks-tv-channels-to-comply-with-provisions-in-child-labour-act-on-media-production-117574.html>



## Re-launch of Broadcast Seva Portal

The MIB on 12 May, 2017<sup>95</sup>, notified the launch of an online portal called the 'broadcastseva' (B-Portal). The objective of the B-Portal is to provide a single point facility to various stakeholders and applicants to make applications for various licenses, registrations, etc., for broadcast related services. At the Confederation of Indian Industry (CII) Big Picture Summit's inaugural session on 17 November 2021, the MIB Secretary, Apurva Chandra (AC), mentioned the B-Portal and its importance in bringing transparency in the broadcasting sector<sup>96</sup>. Subsequently, during his keynote address at the APOS Summit on November 24, 2021, AC stated that the B-Portal would be relaunched by the MIB by 24 February 2021. Although there is no official communication by the government on the B-Portal's relaunch, AC spoke of (a) the MIB's plans to speed up the process of acquiring any registrations, licenses or permissions required from the government; and (b) the intention of the government to adopt a light touch regulatory approach for the Media and Entertainment (M&E) sector and act as facilitators for the industry. However, it appears that the B-Portal is still not functional<sup>97</sup>.

## MIB - Order for guidelines for sharing of infrastructure by Multi System Operators

The MIB released an Order dated 29 December 2021<sup>98</sup>, providing guidelines for sharing of infrastructure by Multi System Operators (MSOs), following the acceptance of TRAI's recommendations on sharing infrastructure in Television Broadcasting Distribution Sector in 2017.

- ▶ The key highlights of these guidelines are:
- ▶ MSOs shall voluntarily share infrastructure with another MSO, following compliance to relevant legal framework
- ▶ MSOs sharing transport stream of TV channels should ensure valid, written interconnection agreements with concerned broadcasters for distribution of TV channels and pay to the subscribers
- ▶ Encryption of signals should be ensured by MSOs of subscribers in all circumstances; and to provide access of all the systems and the network to all concerned broadcasters for the purpose of audit as per the regulations whenever demanded
- ▶ MSOs may share common hardware for their Subscriber Management System (SMS) and Conditional Access System (CAS) applications and details of such an arrangement should be provided to the broadcasters,

MIB and TRAI 30 days in advance; and for the purpose of audit as per the regulations whenever demanded. Each MSO shall be accountable for ensuring security of SMS and CAS data.

- ▶ For infrastructure to be shared, the parties involved must share their proposal, which would include acceptance from concerned stakeholders, copies of agreements between the parties, an undertaking for no violation of underlying terms and conditions, to the MIB

## MIB - Notice for submission of application through National Single Window System

The MIB released a notice on 30 December 2021<sup>99</sup> (Win Notice), informing all concerned that online applications for gathering permissions related to the MIB can be made through the National Single Window System (NSWS). Applications of all kinds approved in the list provided in the Win Notice can be made through the NSWS.

## MIB - Constitution of a Joint Working Group to formulate a mandate for exploring Data capturing capabilities in Set Top Boxes for audience measurement sampling

On 12 January 2021<sup>100</sup>, the MIB issued an Order for the formation of a Joint Working Group (JWG) to formulate a mandate for exploring data capturing capabilities in Set Top Boxes (STB) for audience measurement sampling. The JWG will comprise of the CEO of Prasar Bharati as the chairman, and a representative from Meity, BIS, BARC, DTH association and AIDCF.

The present guidelines issued by MIB on Television Rating Agencies prescribe the use of panel homes, drawn by establishment survey and representative of the TV viewing population, for carrying out audience measurement. However, basis the recent recommendation from TRAI on audience measurement, headed by the CEO of Prasar Bharati, it is suggested to combine traditional sample based statistical approaches with big data approaches such as Return Path Data (RPD) in STBs to address the system for further strengthening the procedures to build a more credible and transparent rating system.

<sup>95</sup>Broadcast Seva.pdf (mib.gov.in)

<sup>96</sup><https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1772576>

<sup>98</sup>Guidelines for sharing of infrastructure.pdf (mib.gov.in)

<sup>99</sup>NOTICE - Operational of NSWS for online application.pdf (mib.gov.in)

<sup>100</sup>ORDER DATED 12.01.2022 CONSTITUTING JOINT WORKING GROUP.pdf (mib.gov.in)

The JWG will study the different aspects of data capturing including RPD and the models used internationally like that of Canada, the models/ pilots undertaken in India by BARC and other independent experiments by relevant stakeholders, thereafter, formulating a mandate for combining data sources with existing sampling methodologies and submitting a report within four months of the date of issue of this order.

The JWC's activities would consist of:

- ▶ Specifying minimum standards for RPD capable STBs, SOPs for consideration and audit along with specification of common protocols, data standards, etc. to integrate data from RPD capable STBs with the current rating system
- ▶ Specify consent-based privacy framework to govern all such data collection and use within TV ratings
- ▶ Specify minimum standards for any smart phone-based applications to augment RPD scheme for integration into current TV ratings along with SOPs for consideration and audit for the same
- ▶ Evolve a consensus on pricing / cost of different data sets within the framework of TV ratings system
- ▶ Establish timelines for rollout of above with a clear roadmap to guide all stakeholders

## MIB directs Broadcast Audience Research Council (BARC) to release the Television Audience Measurement Ratings for News Genre (Television News Ratings)

On 28 April 2020, TRAI issued recommendation on 'Review of Television Audience Measurement and Rating System'<sup>101</sup>.

Major recommendations made by TRAI are as follows:

- ▶ Structural reforms to be made in the governance structure of BARC to mitigate the potential risk of conflict of interest, improve credibility, bring transparency, and retain confidence of all stakeholders in the Television Rating Point (TRP) measurement system
- ▶ Change in composition of the board of BARC
- ▶ Equal representation of the three constituent industry associations, namely Advertising Agencies Association of India, Indian Society of Advertisers, and IBF and with equal voting rights irrespective of their proportion of equity holding

- ▶ Active participation of representatives of advertisers and advertising agencies
- ▶ Entitlement of the constituent industry associations to nominate their representatives to the board membership
- ▶ Tenure of chairman of board and number of members in technical committee
- ▶ Formation of an 'Oversight Committee' to guide BARC India in the areas of research, design, and analysis, constantly improving the rating system
- ▶ Annual audit of BARC should be conducted by an independent agency to ensure conformance with TRP rating methodology and
- ▶ Division of BARC into 2 units

Pursuant to this, in October 2020<sup>102</sup>, BARC was suspended from publishing television news ratings after the Mumbai police unearthed a Television Rating Point (TRP) scam in which a few media houses were alleged to have bribed homeowners to rig their TV ratings<sup>103</sup>. Subsequently, the formation of a committee (Rev Com) to review guidelines on Television Rating Agencies was officially announced by MIB through its order dated 4 November 2020<sup>104</sup>. The order dated 4 November 2020 provided that the Rev Com will look at the following and provide a report on the same within two months

- ▶ past recommendations made by various forums about television rating systems in India
- ▶ recent recommendations of TRAI on this subject
- ▶ steps for enhancing competition in the sector
- ▶ recommendations on the way forward for robust, transparent, and accountable television rating system in India
- ▶ presently notified guidelines<sup>105</sup> as issued by MIB to see if the intended purpose of issuing the guidelines have stood the test of time and has met needs of various stakeholders involved

The Rev Com submitted its report (RC Report) to the MIB that recommends the following<sup>106</sup>:

- ▶ Provision for Return Path Data (RPD) be made mandatory in all future Set-Top-Boxes (STBs)
- ▶ Direction to BARC to accelerate integration of available RPD data into ratings' framework within six months
- ▶ Setting up of joint industry working group to specify norms for industry wide RPD mandate
- ▶ Collection of viewership data by Distribution Platforms Operators (DPOs) to be governed by privacy norms set by the Government

<sup>101</sup>[https://www.trai.gov.in/sites/default/files/Recommendation\\_28042020.pdf](https://www.trai.gov.in/sites/default/files/Recommendation_28042020.pdf)

<sup>102</sup><https://www.barcindia.co.in/announcement/barc-to-pause-audience-estimates-ratings-of-news-channels.pdf>

<sup>103</sup><https://goachronicle.com/wp-content/uploads/2021/03/PAO-dated-17.03.2021.pdf>

<sup>104</sup><https://mib.gov.in/sites/default/files/Constitution%20of%20a%20Committee%20to%20review%20TRP.pdf>

<sup>105</sup>[https://mib.gov.in/sites/default/files/TRP\\_Guidelines\\_16.01.2014\\_0.pdf](https://mib.gov.in/sites/default/files/TRP_Guidelines_16.01.2014_0.pdf)

<sup>106</sup><https://www.exchange4media.com/media-tv-news/provision-for-rpd-be-made-mandatory-in-all-set-top-boxes-tv-rating-committee-to-mib-116758.html>

- ▶ Setting up of industry-wide appellate body for grievance redressal of disputes between stakeholders and rating agencies
- ▶ Ensuring environment for emergence of multiple rating agencies
- ▶ Setting up dedicated regulatory body to regulate multiple rating agencies
- ▶ Incentives and policy interventions, including FDI norms in this technology space
- ▶ Setting up a Joint Research Working Group with representatives of stakeholder bodies and independent technical experts
- ▶ Modification in the panel selection guidelines

Subsequently, in a press release dated 12 January 2022<sup>107</sup>, the MIB stated that in the spirit of the RC Report and TRAI's recommendation dated 28 April 2020 BARC has undertaken the changes indicated therein. As a result of this BARC was permitted to resume the release of its Television News Ratings with immediate effect. BARC would also have to comply with the following requirements (a) to release the last three months data for the news genre in a monthly format; (b) to make sure that the reporting of the news and niche genres is done on a four-week rolling average concept; and (c) to set up a 'Working Group' for the consideration of leveraging the Return Path Data. The Rev Com was directed to submit its report on it within four-months' time, i.e., by 12 May 2022.

## Delhi High Court restrains unauthorized broadcast of Tokyo Olympics

In a case filed by *Sony Pictures Network India Private Limited v. www.yallashootextra.com*<sup>108</sup>, the Delhi High Court passed an order dated 19 July 2021<sup>109</sup>, providing interim relief to Sony Pictures Network India Private Limited (Sony) by restraining any unauthorized broadcasting of the Tokyo Olympics by rogue websites, multi-system operators, and cable tv operators.

The Delhi High Court asked the Government to issue necessary directions / orders to call upon ISPs to block access to rogue websites as well as directed ISPs to block access to these websites providing broadcast of the Tokyo Olympics illegally. The advocate for Sony stated that most of

the rogue websites and tv operators were habitual offenders and have infringed their broadcasting rights in the past as well. The case was disposed of on 29 September 2021<sup>110</sup>.

## TRAI letters seeking justification from broadcasters on the linear channels and their availability on the OTT Platforms

TRAI by its letter directed the broadcasters to furnish information regarding streaming of live linear channels on their OTT Platform as well as third party applications. It was identified that the linear channels operated by the broadcasters are available not only on their own applications like Sony LIV and Sun NXT, but it is also available on third-party applications like Jio TV and Vodafone Play. TRAI contended this arrangement as a violation of Clause 5.6 of the Policy Guidelines for Downlinking of Television Channels dated 5th December 2011<sup>111</sup>. In response to this, the broadcasters by relying on the Broadcast Reproduction Rights (BRR) as recognized under Section 37 of the Copyright Act, 1957 stated that as broadcasters these BRR rights would be applicable to them and hence, they can make their channels available on their own streaming application as well as third party applications<sup>112</sup>.

In addition, TRAI issued another letter to the broadcasters asking them to provide a detailed architecture indicating which media is being used to deliver their linear content to their own as well as third-party streaming platforms. To this, the broadcasters argued that the OTT platforms are beyond TRAI's scope of jurisdiction. TRAI in reply stated that it has issued these letters in their capacity as broadcasters and not as OTT Platforms and the only information it is asking for is how the broadcasters are providing linear channels without a decoder box<sup>113</sup>.

Pursuant to this, the letters of TRAI have been challenged by Star India along with Sony Pictures Networks India (SPNI) and Sun TV Network before the Telecom Disputes Settlement and Appellate Tribunal (TDSAT). A direction has already been issued by TDSAT of not taking any coercive action against the broadcasters for their non-compliance in providing information relating to mode of re-transmission of linear channels on OTT Platforms. The next hearing of the matter is on 03 March 2022<sup>114</sup>.

<sup>107</sup><https://pib.gov.in/PressReleaseDetail.aspx?PRID=1789392>

<sup>108</sup>CS(comm) No. 326 of 2021 & I.As. No. 8486-9490 of 2021

<sup>109</sup>[delhihighcourt.nic.in/dhcqrydisp\\_o.asp?pn=129689&yr=2021](https://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=129689&yr=2021)

<sup>110</sup>[delhihighcourt.nic.in/dhcqrydisp\\_o.asp?pn=175524&yr=2021](https://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=175524&yr=2021)

<sup>111</sup>[https://mib.gov.in/sites/default/files/Downlinking\\_Guidelines05.12.11.pdf](https://mib.gov.in/sites/default/files/Downlinking_Guidelines05.12.11.pdf)

Clause 5.6 The applicant company shall provide Satellite TV Channel signal reception decoders only to MSOs/Cable Operators registered under the Cable Television Networks (Regulation) Act 1995 or to a DTH operator registered under the DTH guidelines issued by Government of India or to an Internet Protocol Television (IPTV) Service Provider duly permitted under their existing Telecom License or authorized by Department of Telecommunications or to a HITS operator duly permitted under the policy guidelines for HITS operators issued by Ministry of Information and Broadcasting, Government of India to provide such service

<sup>112</sup><https://www.exchange4media.com/media-tv-news/broadcasters-see-red-as-trai-probes-availability-of-linear-channels-on-ott-telco-apps-117324.html>

<sup>113</sup><https://www.exchange4media.com/media-tv-news/star-moves-tdsat-against-trai-letter-seeking-info-about-delivery-of-linear-content-on-ott-117833.html>

<sup>114</sup>[https://tdsat.gov.in/Delhi/services/daily\\_order\\_view.php?filing\\_no=MjY5NDI=](https://tdsat.gov.in/Delhi/services/daily_order_view.php?filing_no=MjY5NDI=)

## TRAI Consultation Paper on Promoting Local Manufacturing in the Television Broadcasting Sector

The Telecom Regulatory Authority of India (TRAI) released a Consultation Paper on 22 December 2021, for promoting local manufacturing in the television broadcasting sector<sup>115</sup> (Broadcasting Paper) and invited comments/ suggestions from stakeholders. In consideration of the Make in India initiative, the Broadcasting paper lists down issues for consultation by stakeholders to provide the much-needed boost to this sector.

Key components of issues listed for consultation:

- ▶ Whether adequate opportunity/ market/ demand exists for manufacturing of television broadcasting equipment in India and specific requirements of the industry in respect to transmission equipment?
- ▶ Whether Indian manufacturers have capability of meeting broadcasting equipment demand and how to tackle such demand along with measures to enable locals to manufacture such equipment along with scope and definition of local manufacturing?
- ▶ Entry/ exit barriers of local manufacturers not limited to cost competitiveness and technology along with measures to improve competitiveness
- ▶ Encourage use/ adoption of domestically produced equipment like Set Top Boxes (STPs) and measures for increasing such market share of STBs running on Indian Conditional Access Server (CAS)
- ▶ Reasons for broadcasting imports in India amounting to USD 20 billion and dependence on imports and whether such high level of imports reflect potential for Indian manufacturers along with current Indian market size?
- ▶ Whether exports of broadcasting products are a possible gear in India and specific measures for Indians to compete in the global broadcasting market?
- ▶ Whether current policy measures and fiscal initiatives adequately address needs of this sector and details?
- ▶ Whether Production Linked Incentive (PLI) Scheme should be extended to broadcasting sector and specific equipment to be added under the PLI Scheme?
- ▶ Whether stronger R&D is a requirement in this sector and measures to strengthen and incentivize R&D?
- ▶ Policy measures to tackle competitiveness arising from Free Trade Agreements (FTA)

- ▶ Whether cost disparity due to infrastructure compared to other nations makes for a disadvantage to local manufacturers along with inputs and measures to tackle the same?
- ▶ List of item-wise cost disadvantages faced by local manufacturers in comparison to international competitors in percentage form

The Broadcasting Paper provided a boost in the right direction for growth in the Broadcasting sector and keeps the stakeholders waiting to see how the Broadcasting Paper translates into regulation/ practices for upliftment of the manufacturing industry.

## Consultation paper by TRAI regarding market structure/ competition in cable TV services

The Ministry of Information and Broadcasting (MIB) by its letter dated 12 December 2012 sought recommendations of the TRAI on the issues relating to monopoly/market dominance in the Cable TV services. The letter dated 12 December 2012 highlighted that the cable TV distribution is virtually monopolized by a single entity in some States due to the lack of restrictions on the area of operation and accumulation of interest in terms of market share of the Multi-System Operators (MSOs) and Local Cable Operators (LCOs). This has resulted in a single entity acquiring control of several MSOs and LCOs giving rise to competition.

Pursuant to the letter, TRAI on 26 November 2013 issued its recommendations on the various reasonable restrictions to be imposed upon the MSOs and LCOs to ensure prevention of monopoly<sup>116</sup>.

Following a back reference dated 19 February 2021 wherein MIB directed the need for a fresh set of recommendations as from 2013 till date the M&E landscape has changed drastically, TRAI on 25 October 2021 issued a consultation paper on market structure/competition in cable TV services<sup>117</sup>.

The consultation paper seeks comments of the stakeholders. Following are some of the major points wherein comments are sort by TRAI:

- ▶ Whether there is sufficient competition in the television distribution sector?
- ▶ If yes, then is there a need to regulate the issue of monopoly/oligopoly/market dominance in the Cable TV services considering the current regulatory framework and the market structure?

<sup>115</sup>CP\_22122021.pdf (traai.gov.in)

<sup>116</sup>[https://www.traai.gov.in/sites/default/files/Recommendations\\_Cable\\_monopoly\\_final\\_261113%20%281%29.pdf](https://www.traai.gov.in/sites/default/files/Recommendations_Cable_monopoly_final_261113%20%281%29.pdf)

<sup>117</sup>[https://www.traai.gov.in/sites/default/files/CP\\_25102021.pdf](https://www.traai.gov.in/sites/default/files/CP_25102021.pdf)



- ▶ Are there any entry barriers in the Indian cable television sector?
- ▶ Does there exist a need to regulate LCOs to protect the interest of consumers and ensure growth/competition in the Cable TV sector?
- ▶ Is there a possibility that LCO may gain undue market control over broadband and other services within its area of operation?
- ▶ Can MSOs and its Joint Venture (JV) be considered as a single entity while considering their strength in the relevant market?
- ▶ Identifying the relevant market for measuring the market power MSOs and LCOs
- ▶ If Herfindahl-Hirschman Index (HHI) is to be used to measure market concentration of MSOs in the relevant market, then is there a need to revise threshold value of 2500 as previously mentioned in the 2013 recommendations?
- ▶ Is there a need to change the criterion of market share in terms of number of active subscribers for determination of market dominance?
- ▶ Accountability of new technological developments and alternative services like video streaming while determining market dominance
- ▶ What compliance mechanism or regulations should be brought on Mergers and Acquisition to ensure that competition is not affected adversely, while ensuring no adverse impact on Ease of Doing Business
- ▶ Comments on the disclosures and monitoring requirements as mentioned in the 2013 recommendations to monitor the TV distribution market effectively from the perspective of monopoly/market dominance
- ▶ Suggestions on proactive measures to address the impending issues relating to monopoly/ market dominance in the Cable TV sector

The comments and counter comments as directed in the consultation paper on the issue of monopoly/oligopoly/ market dominance in the Cable TV services have been received<sup>118</sup>. TRAI is yet to consider the feedback received and issue a revised/fresh set of recommendations on the basis of the same. On 27 January 2022, TRAI held an Open House Discussion (OHD) through video conferencing on this consultation paper<sup>119</sup>.

## TRAI direction on compliance with the Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreement and all such other matters Regulations, 2019

The Telecommunication (Broadcasting and Cable) Services Register of Interconnection Agreement and all such other matters Regulations, 2019<sup>120</sup> (2019 Register of Interconnection Regulations) came into force on 02 January 2020.

Pursuant to this, the provisions of the 2019 Register of Interconnection Regulations were challenged before the Kerala High Court in WP(C) No. 428 of 2020 titled as *"All India Digital Cable Federation (AIDFC) & Anr. v. TRAI & Anr.* The Kerala High Court by its order dated 9 January 2020 had directed that no coercive action that is detrimental to the interest of AIDFC should be taken by TRAI<sup>121</sup>. The Kerala High Court has now disposed of the said writ petition, by its judgement dated 12 July 2021<sup>122</sup> and has partially set aside the provisions of the said regulations to the extent they require registration of placement/marketing agreements<sup>123</sup>.

In view of the above, under its letter dated 8 December 2021<sup>124</sup> TRAI directed all the broadcasters and distributors of TV channels to immediately implement the provisions of the 2019 Register of Interconnection Regulations except to the extent they require registration of placement/marketing agreements and submit the compliance report by 21 December 2021; failing which, action would be taken against them as per the provisions of the said regulations and TRAI Act.

<sup>118</sup><https://www.trai.gov.in/consultation-paper-market-structurecompetition-cable-tv-services>

<sup>119</sup>[https://www.trai.gov.in/sites/default/files/OHD\\_10012022.pdf](https://www.trai.gov.in/sites/default/files/OHD_10012022.pdf)

<sup>120</sup>[https://www.trai.gov.in/sites/default/files/Regulation\\_04092019\\_0.pdf](https://www.trai.gov.in/sites/default/files/Regulation_04092019_0.pdf)

<sup>121</sup>[https://www.trai.gov.in/sites/default/files/Implementation\\_08122021\\_0.pdf](https://www.trai.gov.in/sites/default/files/Implementation_08122021_0.pdf)

<sup>122</sup>All India Digital Cable Federation (AIDFC) & Anr. v. TRAI & Anr WP (C) 428 of 2020 [https://hckinfo.kerala.gov.in/digicourt/orders/2020/215700004282020\\_4.pdf](https://hckinfo.kerala.gov.in/digicourt/orders/2020/215700004282020_4.pdf)

<sup>123</sup>[https://www.trai.gov.in/sites/default/files/Implementation\\_08122021\\_0.pdf](https://www.trai.gov.in/sites/default/files/Implementation_08122021_0.pdf)

<sup>124</sup>[https://www.trai.gov.in/sites/default/files/Implementation\\_08122021\\_0.pdf](https://www.trai.gov.in/sites/default/files/Implementation_08122021_0.pdf)



## Department of Telecommunications - Code for consumer Internet of Things (IoT) Devices

The Telecommunication Engineering Centre (TEC) in August 2021<sup>125</sup>, released Code of Practice (COP) for Securing Consumer Internet of Things (IoT) for stakeholders that include IoT device manufacturers, IoT service providers / system integrators, mobile applications, and retailers. The COP mentions examples of types of Consumer IoT devices which include Smart cameras, TVs, speakers, Smart home assistants, Connected home automation and alarm systems amongst others. The Department of Telecommunications (DoT) tweeted the release of Code of Practice on 12 October 2021<sup>126</sup> in commemoration of 'Azadi ka Amrit Mahotsav'.

On 05 January 2022, the TEC under DoT, issued a press release for release of report on COP as a baseline requirement aligned with global standards and best practices. As per the National Digital Communication Policy 2018 (2018 Policy), three billion connected devices may exist in India in 2022 since an ecosystem for five billion connected devices was mentioned in the 2018 Policy. The TEC is working with multiple stakeholders in the IoT domain and released sixteen technical reports<sup>127</sup>.

Highlights of the guidelines provided by COP for securing Consumer IoT are mentioned down below:

- ▶ **No universal default passwords-** All IoT devices should have unique default passwords per device and / or shall require the user to choose a password that follows best practices, during device provisioning during setting up of device.
- ▶ **Vulnerability reports-** IoT stakeholders stated above should provide a public point of contact as part of a vulnerability disclosure policy to enable reporting of security issues and should be acted upon in a timely manner
- ▶ **Software update-** software updates shall be timely, without adversely impacting functioning of the device and shall have an end-of-life policy that states the assured duration for which a device shall receive updates for end-point devices. Devices that cannot be physically updated shall be isolatable and replaceable.

- ▶ **Storing data-** IoT devices which need to store sensitive/critical information for the secure operation of the device shall be unique per device and shall be stored in a manner which resists physical, electrical or software tampering. The sensitive information should not be hard coded on the source code to prevent discovery via reverse engineering and must be encrypted in transit. Personal data collected/ transmitted by IoT devices should be conducted with utmost confidentiality and transmission should be done with best cryptography available
- ▶ **Minimize exposure-** unused functions of IoT devices should be disabled and hardware should not unnecessarily expose access, requiring devices and services to operate on the 'principle of least privilege'
- ▶ **Software integrity-** software on IoT devices should be verified using secure boot mechanisms, alerting the consumer/ administrator in case of detection of unauthorized changes and should not connect to wider networks than those necessary to perform the alerting function
- ▶ **Resilience to outages-** The possibility of outages of data networks and power require resilience to be built into IoT devices, allowing them to reasonably function in absence of network without compromising safety and security along with clean recovery after restoration of power
- ▶ **Deleting user data-** IoT devices must contain mechanisms for consumers to delete personal data in case of transfer of ownership, deletion of service or disposal of device with detailed instructions on how to delete personal data, reset the device to factory settings as well as reset the device

Data Protection for consumer IoT devices

- ▶ **Information-** Transparency shall be maintained in the way manufacturer shall process personal data and the purpose behind it and the same shall apply to telemetry data collected as well
- ▶ **Consent-** Obtaining consent for personal data collection must be conducted in a 'valid way' along with giving the option to withdraw such consent at any time and the same shall apply to telemetry data as well

The government, via initiatives in this space, which is a fast-emerging section of technology, is thus taking measures to ensure maintenance of certain standards for IoT devices.

<sup>125</sup>Securing Consumer IoT\_Code of practice.pdf (tec.gov.in)

<sup>126</sup>DoT India on Twitter: "In commemoration of #AzadiKaAmritMahotsav, a "#CERTIFICATION OF PROCEDURES" and a technical document "CODE OF PRACTICE FOR SECURING CUSTOMER INTERNET OF THINGS" was released today at #TEC by Member(Services), #DoT. #IndiaAt75 #GatiShakti #IoT #sancharbhawan <https://t.co/JuGZRvCinH>" / Twitter

<sup>127</sup>M2M / IoT Technical Reports - Telecommunication Engineering Centre | Department of Telecommunications | Ministry of Communication | Government of India

## TRAI Recommendations on Licensing Framework for Satellite-based connectivity for Low Bit Rate Applications

The Telecom Regulatory Authority of India (TRAI) through its press release<sup>128</sup> set out its recommendations on Licensing Framework for Satellite-based connectivity for Low Bit Rate Applications (TRAI LB Rec Paper) on 26 August 2021<sup>129</sup>. The TRAI LB Rec Paper was issued following the press release<sup>130</sup> for Consultation paper on Licensing Framework for Satellite-based connectivity for Low Bit Rate Applications (TRAI LB Consultation Paper) on 12 March 2021<sup>131</sup>. The recommendations came after the Department of Telecommunications (DoT) wrote a letter to TRAI dated 23 November 2020<sup>132</sup> and requested TRAI to examine the existing framework by citing the issue of constraints in existing framework in terms of Clause 11(1)(a) of TRAI Act 1997<sup>133</sup> and further suggest recommendations. Before recommendations of connectivity were released, TRAI had issued a press release<sup>134</sup> to provide an extension for receiving comments on the TRAI Consultation Paper from stakeholders.

Since many sparsely populated areas with important activities suited for Internet of Things (IoT) related services may not have terrestrial coverage or other forms of connectivity, satellite-based connectivity bridges the gap by providing connectivity.

Salient features of the TRAI LB Rec Paper are set out below:

- ▶ **Licensees' choice** - In the TRAI LB Rec Paper, it was recommended that licensees may provide connectivity as per authorization for any kind of network topology model, including Hybrid model, Aggregator model and Direct-to-satellite model.
- ▶ **Types of Satellite permitted** - The TRAI LB Rec Paper suggested that all types of satellite viz. Geo Stationary Orbit (GSO) and Non-GSO satellites should be permitted for use in providing satellite-based connectivity.
- ▶ **Satellite Frequency Bands** - It was recommended that service providers may use any of the permitted satellite frequency bands for providing connectivity.
- ▶ **Unified License (license) amendment** - The TRAI LB Rec Paper recommended the amendment of the license to include Global Mobile Personal Communication by Satellite Service (GMPCS) by expansion of scope of data services along with voice and non-voice messages already provided in the existing framework. The recommendation further included the replacement of existing formula-based mechanism to prescribe Spectrum Usage Charges (SUC) under 1% of Adjusted Gross Revenue (AGR) which would include entire spectrum charges for handsets / user devices as well as for Earth Stations.
- ▶ **Connectivity for IoT devices** - The Commercial Very Small Aperture Terminal (VSAT) Closed Under Group (CUG) scope may be expanded to permit providing data connectivity for IoT devices through satellite and the SUC should be under 1% of AGR, irrespective of data rate, as previously reiterated by TRAI in its 2017 paper on recommendation for spectrum charge<sup>135</sup>. Similarly, it was also recommended that the Captive VSAT CUG license scope may be expanded to permit providing data connectivity for IoT devices to be used for internal communication i.e., captive use only. National Long Distance (NLD) service authorization under the license may be expanded in scope to include connectivity for IoT devices.
- ▶ **Foreign Satellites** - The TRAI LB Rec Paper provided for permission to obtain satellite bandwidth from foreign satellites approved by the Government in view of inadequate satellite capacity in the country through domestic satellites.
- ▶ One of the recommendations included suggesting the removal of Network Operations and Control Centre (NOCC) charges for use of the space segment and include all administrative, operational, and testing charges under spectrum charges.
- ▶ **Common Portal** - The TRAI LB Recommendation Paper urged the DoT to put into place a comprehensive, simplified, single window online common portal with inter-departmental linkages for all agencies involved in grant of various approvals/ permissions etc. with all information like guidelines, applications, processes made available on the portal.

<sup>128</sup>Microsoft Word - Final Press release 25.08.2021 (tra.gov.in)

<sup>129</sup>Microsoft Word - Draft Recommendations Satellite Low Bit Rate 25 Aug 2021 (tra.gov.in)

<sup>130</sup>PR\_No.12of2021.pdf (tra.gov.in)

<sup>131</sup>CP\_12032021.pdf (tra.gov.in)

<sup>132</sup>Microsoft Word - Draft Recommendations Satellite Low Bit Rate 25 Aug 2021 (tra.gov.in) (letter in annexure)

<sup>133</sup>The\_TRAI\_Act\_1997.pdf

<sup>134</sup>PR\_No.25of2021.pdf (tra.gov.in)

<sup>135</sup>Microsoft Word - RECOMMENDATIONS FINAL 17\_2\_2017.docx (tra.gov.in)

# Consultation paper on Regulatory Framework for Promoting Data Economy Through Establishment of Data Centers, Content Delivery Networks, and Internet Exchanges in India

The Telecom Regulatory Authority of India (TRAI), on 16 December 2021, through its press release<sup>136</sup> issued a Consultation Paper on Regulatory Framework for Promoting Data Economy Through Establishment of Data Centers, Content Delivery Networks, and Internet Exchanges in India (Data Economy Consultation paper)<sup>137</sup> and invited comments / suggestions from stakeholders.

The Data Economy Consultation Paper Lists Data Centers, Content Delivery Networks and Internet Exchange Points as forming part of digital communication infrastructure and devices and are required to boost the digital ecosystem. Since the rollout of 5G, Internet of Things (IoT) and Artificial Intelligence are a booming industry with exponential growth potential, the same growth would not be possible without adequate and necessary infrastructure. This Data Economy Consultation Paper is the first step towards recognizing the need for adequate national policy.

## I. Data Centers

Data center is a physical facility that is used to run applications and data. Online platforms and websites' digital data, content, and information are stored in the cloud servers located in Data Centers, and the same is accessed by users through broadband connectivity, according to the Data Economy Consultation Paper.

The increased demand for data centers in India is attributed to data explosion, 5G rollout and data localization.

Four critical aspects for data centers to flourish are land, power, telecom, and IT element/ networks, and ease of doing business. A new data center requires close to 30 approvals/ permissions from different Central and State governments departments before a data center can start operations. To tackle the identified critical aspects, Indian States are offering various incentives to help bridge the gap.

Some of the key issues and challenged faced in relation to data centers that need consultation are set out below:

- ▶ What are the growth prospects for data centers in India? What are the economic/financial/infrastructure/other challenges being faced for setting up a data center business in the country?
- ▶ What measures are required for accelerating growth of data centers in India?

- ▶ Issues related to creation of data center parks and whether using these parks will boost the growth for creation of more data center parks?
- ▶ Whether there should be a standard-based certification framework for data centers and which body should take up the task?
- ▶ Whether there is need for Data Centre Infrastructure Management System (DCIM) for data centers in India?
- ▶ Whether non-uniformity in state policies is affecting growth and promotion of data centers?

## II. Content Delivery Network (CDN)

CDN is a system of distributed group of servers and networks that deliver pages and other web content to a user, based on the geographic location of the user, the origin of the webpage, and the content delivery server.

Demand drivers for CDNs were listed as faster web hosting, numerous benefits for users and network infrastructure, increased video consumption, popularity of Over-The-Top (OTT) service, reduction of bandwidth costs, uptake of e-commerce and financial services, amongst others.

Some of the key issues and challenged faced in relation to CDNs that need consultation are set out below:

- ▶ What are the challenges in terms of cost for growth of CDN? What are the suggestions for offsetting such costs to CDN providers?
- ▶ Whether CDN growth is hampered due to location constraints and relevant measures to mitigate such constraints?
- ▶ Measures for improving connectivity between CDNs and ISPs
- ▶ Whether absence of a regulatory framework is creating a non-level playing field between CDN players and telecom service providers?

## III. Internet Exchange Point (IXP)

IXP is a technical facility designed to route the traffic quickly and cost-effectively between different network members by enabling interconnection and is essentially a large local area network that is built with interconnected Ethernet switches. IXPs are the physical internet traffic exchange nodes, wherein ISPs and other Autonomous Systems (AS) exchange traffic between themselves.

Issues with IXPs that need consultation/ comments by stakeholders:

- ▶ Do you think that presently there is lack of clear regulatory framework/ guidelines for establishing/ operating Interconnect Exchanges in India?
- ▶ Policy measures required to promote setting up of more

<sup>136</sup>PR\_No.58of2021\_0.pdf (traf.gov.in)

<sup>137</sup>[https://traf.gov.in/sites/default/files/CP\\_16122021\\_0.pdf](https://traf.gov.in/sites/default/files/CP_16122021_0.pdf)

IXPs in India and suggestions around it

- ▶ Whether there is a requirement to set up an IXP in every State in India?
- ▶ Whether a separate light-touch licensing framework is required for operating IXPs in India?

#### IV. Data Ethics

Data ethics are inter-personal, social, organizational, and national norms that govern how people/ data users should conduct and behave in the digital world. The Data Economy Consultation Paper discusses the issues that have not been addressed in the Personal Data Protection Bill, 2019 (PDP Bill):

- ▶ **Metadata** - The Data Economy Consultation Paper recommends the addition of a clause 3.1 (d) *All entities in the digital ecosystem, which control or process the data, should be restrained from using metadata to identify individual users.* Metadata here meant the data that provides information about other data or the data about data. In certain cases, metadata can be used by the entities operating in the digital ecosystem itself to identify the individual users, such entities must be restrained from using metadata to identify the users/ individuals.
- ▶ **User empowerment** - Issues on user empowerment for users in telecom sector can be answered in the recommendations provided:
  - ▶ To ensure the users are provided with sufficient choices in the consent mechanism to be built-in by the service providers
  - ▶ Multilingual, short templates of terms / agreements should be made mandatory for all entities in the digital ecosystem and should be provided before sale of device
  - ▶ Data controllers to be prohibited from using pre-ticked boxes to gain users' consent
  - ▶ Devices should disclose the terms and conditions of use in advance before the sale of the device.
  - ▶ Provisions for deleting pre-installed applications which are not part of basic functionality of device, should the user wish to do so
- ▶ In relation to security breaches with respect to the Telecom sector, it was recommended that there should be a common platform for sharing information related to data security breaches by all entities in the digital ecosystem, including the Telecom service providers
- ▶ Till the time the PDP Bill becomes a legislation, it was recommended that the Government notify the policy framework for regulation of devices, operating systems,

browsers, and applications

- ▶ In relation to consent, it was recommended that a separate framework on electronic consent should be released with provisions that provide the users with options for withdrawal of consent at a later stage, granularities to be introduced in consent mechanism, amongst other things
- ▶ The PDP Bill has provided that 'every data fiduciary shall notify the relevant authority about the breach of any personal data processed by the data fiduciary where such breach is likely to cause harm to any data principal', but there is no recommendation regarding the creation of any data breach platform for sharing of information by the entities in the data ecosystem.

The Data Economy Consultation Paper is a step forward to realize, recognize, and address issues that would provide a financial, infrastructural, and regulatory boost in this sector along with putting forward certain issues that require comments/ information/ opinions from relevant stakeholders.

### Consultation paper by TRAI regarding Ease of Doing Business in Telecom and Broadcasting Sector

Presently the existing process that is to be followed by the Telecom and Broadcast ('T&B') players for license and approval involves physical submission of documents and clearance from multiplicity of authorities. Through a press release dated 15 September 2021 the Union Cabinet approved several structural and procedural reforms in the Telecom Sector<sup>138</sup>. They include the following:

- ▶ Rationalization of Adjusted Gross Revenue (AGR): Non-telecom revenue will be excluded on prospective basis from the definition of AGR
- ▶ Huge reduction in Bank Guarantee (BG) requirements (80%) against License Fee (LF) and other similar levies. No requirements for multiple BGs in different Licensed Service Areas (LSAs) regions in the country. Instead, one BG will be enough
- ▶ From 1 October 2021 (i) delayed payments of LF/ Spectrum Usage Charge (SUC) will attract interest rate of SBI's Marginal Cost of Funds based Lending Rate (MCLR) plus 2% instead of MCLR plus 4%; (ii) interest compounded annually instead of monthly; and (iii) penalty and interest on penalty removed
- ▶ Spectrum auctions to be normally held in the last quarter of every financial year
- ▶ For auctions held henceforth, no BGs will be required to secure instalment payments
- ▶ In future auctions, tenure of spectrum increased from 20 to 30 years

<sup>138</sup><https://www.pib.gov.in/PressReleasePage.aspx?PRID=1755086>

- ▶ Surrender of spectrum in future auctions permitted after 10 years
- ▶ No SUC for spectrum acquired in future spectrum auctions
- ▶ Additional SUC of 0.5% for spectrum sharing removed
- ▶ To encourage investment, 100% Foreign Direct Investment under automatic route permitted in Telecom Sector
- ▶ Ease of doing business promoted
- ▶ Know Your Customer (KYC) reforms: (i) Self- KYC (App based) permitted; (ii) E-KYC rate revised to only one rupee; and (iii) shifting from prepaid to post-paid and vice-versa will not require fresh KYC
- ▶ Paper Customer Acquisition Forms (CAF) will be replaced by digital storage of data resulting in no warehouse audit of CAF and
- ▶ SACFA clearance for telecom towers eased. Department of Telecommunications (DOT) will accept data on a portal based on self- declaration basis. Portals of other agencies (such as Civil Aviation) will be linked with DOT Portal.

Pursuant to this, on 8 December 2021 TRAI issued a consultation paper<sup>139</sup> that seeks to include the following (i) simplified applications with well-defined processes while applying for license; (ii) online system for obtaining approval across various ministries and departments; (iii) prescribing timeline for raising of query and for obtaining approval; (iv) transparent system with end-to-end online tracking for the applicant to know the status of his application at all times and (v) maximizing the use of technology to reduce physical interface.

In furtherance of this, TRAI recommended establishment of a single-entry window wherein an investor/entrepreneur can apply for all licenses/approvals without any further need to submit physical copies of the application and visit any department physically. The consultation paper seeks comments of the stakeholders on the following:

- ▶ Issues and difficulties faced by them in operation of their business in the T&B sector
- ▶ Suggestions for making the existing process of licenses and getting approvals/permissions simple and business friendly and

- ▶ Comments on the present system of licenses/ permissions/ in the T&B sector highlighting any issues from the point of view of Ease of Doing Business<sup>140</sup>

The consultation paper directs the stakeholders to send their comments by 19 January 2022 and counter comments by 2 February 2022<sup>141</sup>.

## Spectrum Auction 2021

The latest auction of 4G Telecom Spectrum was successfully completed by DoT on 16 April 2021. It may be noted that only three companies- Reliance Jio, Bharti Airtel, and Vodafone Idea (Telecom Service Providers) bid for 4G airwaves. A total quantity of 855.60 MHz of spectrum in 800 MHz, 900MHz, 1800 MHz, 1800 MHz, 2100 MHz and 2300 MHz were acquired by the Telecom Service Providers<sup>142</sup>.

On 30 November 2021<sup>143</sup> TRAI issued a consultation paper on auction for 5G spectrum titled as 'Auction of Spectrum in frequency bands identified for IMT/ 5G' (5G Paper) wherein the DoT has sought recommendations from the stakeholders with respect to the various spectrum bands 526-698 MHz, 700 MHz, 800 MHz, 900 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 2500 MHz, 3300-3670MHz and 24.25-28.5 GHz bands on the following issues:

- ▶ Spectrum availability and band plan of the various bands
- ▶ Block size and minimum quantity of spectrum to be bid for spectrum auction by the licensees in various bands
- ▶ Eligibility conditions for participation in auction
- ▶ Roll-out obligations to ensure that the allocation of spectrum is done in an effective and efficient manner
- ▶ Reviewing the spectrum cap that is the limit of access spectrum a TSP can hold for providing wireless services
- ▶ Process and associated terms and conditions for permitting surrender of spectrum for future auctions
- ▶ Determining the factors relevant in the spectrum valuation exercise
- ▶ International benchmarking for 526-698 MHz and 24.25- 28.5 GHz bands as they are being auctioned for the first time and hence it becomes necessary to opt for alternative methods i.e., international benchmarking for valuation of these new bands

<sup>139</sup>[https://traf.gov.in/sites/default/files/CP\\_08122021\\_0.pdf](https://traf.gov.in/sites/default/files/CP_08122021_0.pdf)

<sup>140</sup><https://www.exchange4media.com/media-tv-news/traf-seeks-suggestions-on-improving-ease-of-doing-business-in-broadcasting-117250.html>

<sup>141</sup>[https://www.traf.gov.in/sites/default/files/PR\\_No.61of2021.pdf](https://www.traf.gov.in/sites/default/files/PR_No.61of2021.pdf)

<sup>142</sup><https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1712305>

<sup>143</sup>[https://www.traf.gov.in/sites/default/files/CP\\_30112021.pdf](https://www.traf.gov.in/sites/default/files/CP_30112021.pdf)



- ▶ Reserve price estimation- It refers to the lower bound on the bid below which the item up for sale cannot be acquired through an auction
- ▶ Spectrum for private cellular networks

The 5G Paper directs the stakeholders to send their comments by 10 January 2022 and counter comments by 24 January 2022<sup>144</sup>.

Although there is a clear divide on certain aspects of the spectrum to be auctioned, the telecom operators unanimously agree on the reducing the reserve price for the auction. Prasar Bharti, India's public broadcaster objected to the auction of band 526- 582 MHz and told TRAI that this particular band was being used by Doordarshan for offering terrestrial television broadcasting. Furthermore, Prasar Bharti also stressed that the band 526-617 MHz should not be auctioned in the upcoming spectrum auction, arguing that the airwaves in this band are required for existing services, for expanding coverage and for modernization of services<sup>145</sup>. Whereas private broadcasters have expressed displeasure with differing views as well. For instance, Reliance Jio wants all the available spectrum to be auctioned<sup>146</sup>, while Bharti Airtel<sup>147</sup> and Vodafone Idea<sup>148</sup> have proposed that 526-617 MHz not be auctioned in the upcoming sale as there is no ecosystem as of now. Further, some broadcasters want that 3600 MHz-3670 MHz be excluded from the sale.

TRAI commenced the last phase of industry-wide deliberations through an open house discussion on 08 February 2022<sup>149</sup>. As per an interview by the IT minister with CNBC<sup>150</sup>, TRAI is expected to release recommendations to DoT for the same by March 2022, which would pave the way for the auction process to conclude by August 2022.

## Letter against sale and use of wireless jammers

The DoT, on 21 January 2022, issued a letter to e-commerce platforms against facilitating the sale of wireless jammers which can disrupt the authorized telecom sector and other wireless networks. The letter reiterated that sale and use of wireless jammers is illegal, thereby, viewing it as illegal activity that would attract legal action under Information Technology Act, 2000 (IT Act), among others. Jammers may be allowed only under exceptional circumstances, therefore, advising all e-commerce platforms and offline dealers to refrain from sale and purchase of any kind of wireless devices / equipment without ensuring proper legal compliance<sup>151</sup>.

## Union Budget 2022-2023

In an attempt to boost investment in technology and IT services, data centers including dense charging infrastructure and grid-scale battery systems will be included in the harmonized list of infrastructures. This will facilitate credit availability for digital infrastructure and clean energy storage. This move is warmly welcomed by the industry which is quickly emerging as a location of choice for data center majors<sup>152</sup>.

<sup>144</sup>[https://www.trai.gov.in/sites/default/files/PR\\_No.62of2021\\_0.pdf](https://www.trai.gov.in/sites/default/files/PR_No.62of2021_0.pdf)

<sup>145</sup><https://telecom.economicstimes.indiatimes.com/news/prasar-bharti-objects-to-auction-of-526-582mhz-band-for-5g-mobile-services-report/88869985>  
<https://www.thehindubusinessline.com/news/prasar-bharti-objects-to-auction-of-frequency-band-used-by-doordarshan/article38256661.ece>

<sup>146</sup>\*RJIL\_11022022.pdf (trai.gov.in)

<sup>147</sup>\*Bharti\_Airtel\_11012022.pdf (trai.gov.in)

<sup>148</sup>\*VIL\_11012022.pdf (trai.gov.in)

<sup>149</sup>Microsoft Word - Advertisement for OHD (Bilingual) (trai.gov.in)

<sup>150</sup>India 5G: Spectrum auction to be completed by August, IT minister says (cnbc.com)

<sup>151</sup>Notice to e-commerce companies with regard to illegal facilitation & sale of signal jammers.pdf (dot.gov.in)

<sup>152</sup>budget\_speech.pdf (indiabudget.gov.in)

# Filmed entertainment

## Merger of Film Units by Ministry of Information and Broadcasting (MIB)

The merger of public institutions like Children's Film Society, India (CFSI), Films Division (FD) National Films Archive of India (NFAI) and Department of Film Festivals (DFF) with National Film Development Corporation (NDFC) was notified and approved by the Ministry of Information and Broadcasting (MIB) on 23 December 2020<sup>153</sup> citing convergence of activities and better coordination thereby achieving the mandate of each media unit. The merger was ordained pursuant to the 2019 Bimal Julka High-Powered Committee Report (BJ Report). The MIB published a request for proposal for selection of an agency which entails a legal advisor and transaction advisor on 21 August 2021<sup>154</sup>, for the smooth merger of the institutions set out above.

The employees of the FD objected to the merger and filed a suit against the same as their livelihoods would be affected by the merger due to lay-offs etc. The Delhi High Court dismissed the petition in the case of *Films Division Staff Association v Union of India & Ors.*<sup>155</sup> challenging the cabinet's decision to merge four film units. The Order dated 07 October 2021<sup>156</sup> dismissed the petition citing reasons of a premature petition without legal damages / grievance caused by such merger and stated that the government was entitled to merge units as required for efficiency etc. Thereafter, Rajya Sabha Member of Parliament John Brittas (JB) wrote to the Union Minister for Information and Broadcasting & Youth Affairs and Sports, Anurag Thakur (AT) on 07 December 2021<sup>157</sup>. JB expressed his concern on the process of the merger of the entities and urged AT to (a) examine the allegations by stakeholders; (b) make the BJ Report available in the public domain; and (c) prepare a concrete roadmap the merger. JB's main concern was based on the question of merging NDFC, a company whose goal is to generate profit for its sustainability with non-profit activities performed for the benefit of citizens by FD and DFF.

Press articles indicate that subsequently more than 850 signatories including veteran actor Naseeruddin Shah, filmmaker Vikramaditya Motwane and lyricist-writer Varun Grover signed an open letter (Opposition Letter) opposing the merger of public institutions like CFSI, FD, NFAI and DFF with Development Corporation (NDFC) on 19 December 2021<sup>158</sup>. It appears that the Opposition Letter states that (a) the BJ Report was submitted without engaging the primary

stakeholders, members of the film divisions or the members of the film fraternity, leading them to state that the merger was taking place without clarity and transparency; (b) the BJ Report based on which the current restructuring is taking place is inaccessible despite filing a RTI application; (c) the BJ Report should be released to the public immediately. Further, the letter observed that publicly funded not for profit institutions like FD, NFAI and CFSI should not be merged with private profit-making corporations like NDFC due to the dichotomy of purposes of a not for profit and for-profit entity. It appears from news articles that the MIB had decided to close all branches of FD, NFAI and CFSI before the end of January 2022<sup>159</sup>.

## Cinematograph Amendment Bill 2021

The government has proposed amendments to the Cinematograph Act, 1952 (Cinematograph Act) in 2010, 2018, 2019 and 2021 pursuant to the observations and the recommendations made in the Mukul Mudgal Committee (2013), Shyam Benegal Committee (2016) and the Standing Committee on Information Technology (2019-2020). On 18 June 2021 MIB issued a notification seeking public comments to the Cinematograph (Amendment) Bill 2021 (2021 Proposed Amendment) proposing two further amendments to the Cinematograph Act than those already proposed in 2019. The additional amendments are as follows:

- ▶ Introduction of age-based categories for film certification: The 2021 Proposed Amendment has proposed further division to the existing U/A category into age-based categories- U/A 7+, U/A 13+ and U/A 16+ for certification of films. This amendment seems to be in line with the age-based restrictions recently implemented for OTT- content providers under the Intermediary Rules.
- ▶ Penal provisions imposed for film piracy: The amendments with respect to prohibition of unauthorized recording of films without the prior consent of the author remain the same in the 2021 Proposed Amendment as put forth in the Cinematograph Amendment Bill 2019. However, the penal provisions have been amended slightly and the penalties for an

<sup>153</sup><https://pib.gov.in/PressReleasePage.aspx?PRID=1682978>

<sup>154</sup>EolcumRFP-Published.pdf (mib.gov.in)

<sup>155</sup>W.P. (C) 11263 of 2021

<sup>156</sup>Films\_Division\_Staff\_Association\_vs\_Union\_Of\_India\_Ors\_on\_7\_October\_2021.PDF

<sup>157</sup>John Brittas letter.pdf

<sup>158</sup>Endorsement against merger/closure of public institutions under MIB - List of signatories (google.com)

<sup>159</sup>Centre orders shutting down of branches of Films Division, two other cinema units by January-end (scroll.in)

- ▶ offense of film piracy are: (a) imprisonment ranging from 3 months to 3 years; and (b) a fine of at least INR 300,000 which may extend to a sum of up to 5% of the audited gross production cost of the film.
- ▶ Revisional powers to the central government: The 2021 Proposed Amendment provides the central government with revisional powers to re-examine any certified film which has obtained a valid certificate from the CBFC on the ground that the certified film will prejudice India's (a) sovereignty or integrity; (b) security; (c) relations with a foreign state; (d) public order, etc. under Article 19 (2) of the Constitution of India<sup>160</sup>.
- ▶ Film certificate in perpetuity: Currently, the Cinematograph Act mandates that a certificate once issued by the CBFC is valid only for ten years. The 2021 Proposed Amendment stipulates that once a certificate is issued for a film it will be valid for eternity.

## I. Key Nuances

- ▶ In earlier versions of the amendment, a person was penalized for recording an original film or exhibiting a pirated film in an *exhibition facility*. Section 6AA of the 2021 Proposed Amendment provision removes the undefined term, '*exhibition facility*', thus making the interpretation even more vague. Instead of statutorily defining exhibition facility, the scope has been broadened to recordings in any place. Further, what constitutes '*copy of a film or a part thereof*' is not defined, which could imply that making or transmitting a copy of *any length* and for *every purpose* is prohibited.
- ▶ The 2021 Proposed Amendment also overrides all laws which are contrary to the provisions of Section 6AA. The provisions of the Copyright Act, though not specifically mentioned here, would continue to be prohibited and one would have to see how the option of fair use, parodies, non-commercial recordings is treated once the amendment is passed.
- ▶ Further, the 2021 Proposed Amendment interestingly provides for authorization from the author of the film as opposed to the copyright owner. However, due to the nature of industry and various assignments through the course of the making, distribution, and completion of the film, it is not necessary that the first author of the film as defined under the Copyright Act will be the copyright owner of such film. This should be considered and reflected correctly in any amendment to the Cinematograph Act.
- ▶ The 2021 Proposed Amendment links the fine for an offence of piracy to the gross production cost of the film.

This may lead to exorbitant penalties in case of high-budget films, which should serve well as a deterrent. The 2021 Proposed Amendment also fails to distinguish between first-time offenders and repeat offenders, something that the Copyright Act does by prescribing different penalties.

- ▶ The age rating has been harmonized in the 2021 Proposed Amendment and the Intermediary Rules. However, it is interesting to note, the Cable Television Network Rules, 1994 read with the Self-Regulatory Content Guidelines for Non-News and Current Affairs Channels issued by the Indian Broadcasting Foundation have not been harmonized vis-à-vis age ratings and a gap remains in uniformity. So, though films and other OTT content is subject to this age classification, tv serials / shows do not currently have the same classification system under law.
- ▶ Various concerns and suggestions on the 2021 Proposed Amendment were submitted to the MIB by July 2, 2021, some of which are available in the public domain. These submissions state that the CBFC is a certification body which should not have the power of censoring and cutting films for grounds other than age certification. They contended that the CBFC often censors movies based on religion, political opinions etc. which according to them was not the intent of the Cinematograph Act and rules thereunder. A suggestion was made by various producers, etc. that the role and the powers of the CBFC should be clearly set out in the law when the amendment is made.

## II. Revisional power of the central government in the 2021 Proposed Amendment

- ▶ In *Union of India v. KM Shankarappa*<sup>161</sup> (KMS Case) the power to review a film after its approval by the CBFC has been struck down by the Supreme Court of India. The Supreme Court believed, '*Once an expert body has considered the impact of the film on the public and has cleared the film, it is no excuse to say that there may be a law-and-order situation and so there would be no ground for the Executive to review or revise the decision of the Board/ Tribunal. However, if the same is permitted, it would amount to interference with the exercise of judicial functions.*'
- ▶ In the 2021 Proposed Amendment, the government has suggested amending Section
- ▶ 6 (1) of the Cinematograph Act which would give the central government revisional powers thus, allowing it to re-certify a film that has already been certified by the CBFC.

<sup>160</sup>Article 19(2) of the Constitution of India authorises the government to impose, by law, reasonable restrictions upon the freedom of speech and expression "in the interests of... public order."

<sup>161</sup>(2001) 1 SCC 582

- ▶ Section 6 (1) of the Cinematograph Act has already been struck down as unconstitutional in the KMS Case. The amendments in the provisions of the 2021 Proposed Amendment are contrary to the ruling of the Supreme Court of India in the KMS Case. If this provision becomes the law, it will be interesting to see how many film producers challenge the constitutionality of the laws and what views courts will subsequently take on its interpretation as a law is being enacted contrary to a Supreme Court decision.
- ▶ In addition, the producers and the film industry in general are not in favor of such unfettered discretion in the hands of the central government for revisionary powers under Article 19 (2) of the Constitution of India due to its broad nature, especially due to recent incidents with respect to shows such as Tandav<sup>162</sup>, Mirzapur<sup>163</sup>, Suitable Boy<sup>164</sup> and Bombay Begums<sup>165</sup> to name a few. Netflix has been in the news for consistently censoring its content to comply with Indian laws through the years and recently chose not to release its anime series featuring Shiva. Press articles also indicate that Amazon Prime also recently dropped Vishal Bhardwaj's show<sup>166</sup> on a hijacking and that Zee 5<sup>167</sup> and Hotstar<sup>168</sup> have also censored some content prior to airing in India.
- ▶ Based on the language in the 2021 Proposed Amendment it appears that the decision of the CBFC would not be binding on the central government. However, this should be clarified prior to enacting the law. Further, there seems to be lack of clarity in terms of the number of times a certified film would be re-examined by the central government.

## Petitioner fined for blocking airing of film due to *mala fide*

Nandi Kumar Chinni (NKC) had filed a petition<sup>169</sup> seeking to stay the release of Amitabh Bachchan starrer 'Jhund' based on the life of Akhilesh Paul, a football player. NKC claimed that he had acquired the rights to make a film on the same in 2017 and 2018. The producers, prior to making the film had paid NKC a sum of INR 5 crore. The Telangana High Court, in a judgment on 04 March 2022<sup>170</sup>, imposed a fine of INR 10 lakh on NKC to be paid to the Prime Minister COVID-19 Relief Fund for approaching the high court with unclean hands and suppression of facts. This ruling may set the tone for future cases filed against the producers by troublemakers seeking to make a quick buck in the period just prior to releasing a film.

<sup>162</sup>In the matter of Aparna Purohit Vs. the State of Uttar Pradesh, the Allahabad High Court on 25 February 2021 rejected the anticipatory bail plea filed by India Head of Amazon Prime Video in the case registered against her in connection with the web series 'Tandav'. The FIR was lodged against the India head and 6 other co-accused on the grounds that the content of this movie is affecting the image of the police of state of Uttar Pradesh adversely, the certain Gods and Goddesses have been depicted in a bad light with the intention of inciting communal sentiments and the caste and community related utterances in the series have been made deliberately so that it may affect public peace.

On 05 March 2021 (Order passed in SLP (Crl.) No. 1983/2021 - Aparna Purohit Vs. the State of Uttar Pradesh), a bench of the Supreme Court of India, while calling for a need to regulate the content on OTT platforms a day prior, granted relief from arrest to the India head in the ongoing investigation. The Supreme Court of India also observed that the Intermediary Rules notified by the MEITY are merely in the nature of guidelines and lack provision for any action against digital platforms.

<sup>163</sup>In the FIR registered on 17 January 2021 (Case Crime No. 0016 of 2021), the producers of the web series 'Mirzapur' were charged for allegedly hurting the religious feelings and portraying a particular community as linked to crime. In addition to this, the series also displays illicit relationships, slangs, abuses and projects the judicial system as false and polluted. In furtherance of this, on 18 February 2021 a writ petition was filed (Criminal Misc. Writ Petition No. 1665 of 2021, Karan Anshuman & Ors v. State of UP) that granted a stay on the arrest of the writers and directors of Mirzapur by making it clear that the investigation will go on and the petitioners should cooperate in the investigation and non-cooperation on part of the petitioners may give reasons to the State to file application seeking vacation of the interim order.

<sup>164</sup>On 23 November 2020 a FIR was registered against two executives of Netflix for allegedly hurting religious sentiments through the web show A Suitable Boy. The FIR was a result of a complaint filed by a BJP Youth Leader who claimed that the kissing scene of a Hindu and Muslim character promote love jihad. At present, no reply has been filed by Netflix on this.

<sup>165</sup>On 18 March 2021, the National Commission for the Protection of Child Rights (NCPCR) issued a legal notice to Bombay Begums asking Netflix to stop airing the show for its inappropriate portrayal of children. NCPCR added that content like Bombay Begums could pollute the young minds and thus, Netflix should take extra precautions while streaming any content.

<sup>166</sup>Following the controversies involving web series Mirzapur 2 and Tandav, press reports indicate that Amazon Prime for now has also stalled a show by filmmaker Vishal Bhardwaj. The show was on the hijacking of Indian Airlines flight IC 814. Vishal stated that despite clarifying that the web series is a fact as it has happened in the history and it is not against the current government.

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<sup>169</sup>Nandi Kumar Chinni v. Akhilesh Prakash Paul W.P. (SR) No. 12638 of 2022 b

<sup>170</sup>Microsoft Word - wpsr\_12638\_2022 (sharepoint.com)

# Radio and Music

## Copyright (Amendment) Rules, 2021

The Ministry of Commerce and Industry notified the Copyright (Amendment) Rules, 2021 (Copyright Rules Amendment) on 30 March 2021, effective immediately<sup>171</sup>. The key changes brought about by the Copyright Rules Amendment are set out below:

### I. Digitization

- ▶ Copyright societies are required to create electronic systems of collection and distribution of royalties such that payments made through such modes are traceable; and
- ▶ Copyright societies must also provide a searchable database of works forming part of their repertoire

### II. Payment of Royalties to Authors

- ▶ Where an author / owner of a work cannot be identified or located, royalties relating to such works must be kept in a separate account of the copyright society
- ▶ Copyright societies must take adequate measures to find such authors by publishing information relating to such works on their website
- ▶ If such authors are still not identifiable, the royalty so reserved, may be transferred to the welfare fund set up for the welfare schemes provided to members of such copyright societies; and
- ▶ Copyright societies must provide details of undistributed royalties in cases of works whose authors / owners could not be identified or located

### III. Annual Transparency Report

- ▶ Copyright societies must publish an annual transparency report on their website in a timely manner, which must remain accessible for a period of 3 years; and
- ▶ This report must provide details of the activities undertaken by the copyright society in a given financial year, details of license refusals, royalties collected and paid to authors, the use of amounts deducted from royalties for administrative expenses and welfare schemes etc.

### IV. Source Code Registration

- ▶ Prior to the Copyright Rules Amendment, applicants for copyright in software had to submit the entire source code and object code in unredacted form as part of their application for registration of copyright
- ▶ With the aim of strengthening proprietary information

for owners of copyright in software, applicants are now only required to submit unredacted versions of the first 10 and last 10 pages of their source code; and

- ▶ If, however, the source code is less than 20 pages, the entire code must be submitted

### V. Procedural Changes

- ▶ All notifications will now be published in the Copyright Journal and the official website of the Copyright Office, instead of the Official Gazette
- ▶ Communications may now be served on the owner of the relevant works through electronic means in addition to registered post; and
- ▶ Payments may be made through electronic means, in addition to demand drafts and banker's cheques

By mandating compulsory annual transparency reports (though not granular, as stipulated in the earlier version of the draft rules), the Copyright Rules Amendment has taken a significant step towards bringing openness to the way Copyright Societies work.

## Copyright Societies

Copyright societies are legal bodies whose object is to safeguard the rights and interests of the works of owners in which the right of copyright subsists. Copyright societies are helpful and beneficial to individual authors and copyright holders as they provide an organizational structure for legal exploitation of copyright (including, dealing with infringements thereof) and for collecting royalties. The saga with respect to copyright societies is ongoing since the 2012 amendments to the Copyright Act.

### I. Registration of Copyright Societies

Section 33 of the Copyright Act allows the registration of only one copyright society to do business in respect of same class of works.

Recorded Music Performance Limited (RMPL) is an organization that works to manage and license the public performance and radio broadcasting rights of its member companies. On 22 May 2018<sup>172</sup>, RMPL made an application under Section 33 of the Copyright Act<sup>173</sup> read with Copyright Rules 2013<sup>174</sup>, for its registration as a copyright society with respect to sound recordings. RMPL was granted registration on 18 June 2021<sup>175</sup> to 'commence and carry on the copyright business of sound recording works' i.e., to commence their work of licensing and managing copyrights. Interestingly, a fresh registration for a copyright society has been made after a period of 8 years.

<sup>171</sup>[https://copyright.gov.in/Documents/Notification/Copyright-Rules\\_Amendment\\_2021.pdf](https://copyright.gov.in/Documents/Notification/Copyright-Rules_Amendment_2021.pdf)

<sup>172</sup>KM\_554e-20180521160102 (copyright.gov.in)

<sup>173</sup>copyrightact1957.pdf

<sup>174</sup>Copyright\_Rules\_2013\_and\_Forms.pdf

<sup>175</sup>PublicNotice51.pdf (copyright.gov.in)



RMPL is not the first copyright society to be registered for sound recording works. Phonographic Performance Limited India (PPL) was the first copyright society registered for sound recording works, till May 2014. Its members consisted all popular music labels like T-Series, Saregama, Universal Music, Venus Music, and the like.

As per the amendment of the Copyright Rules in 2013, all existing copyright societies had to get re-registered within a specific time frame. Accordingly, PPL applied for re-registration in May 2013. While its application for re-registration was under consideration, PPL sought to withdraw it. PPL wrote to the Registrar of Copyrights (RoC) in May 2014 contending that PPL was a private company governed by the Companies Act, 2013 and therefore could not be considered a copyright society. According to averments made before the Delhi High Court, the RoC initially rejected the withdrawal by PPL, via a private communication in 2014, claiming that the matter of registration affected various rights owners and PPL could not take a unilateral decision to withdraw the application. It also appears that PPL subsequently re-applied with a fresh application for registration in 2018. Finally, on 25 May 2021, the RoC conveyed to PPL that its application for registration as a copyright society was rejected on grounds that the (a) 2014 application was withdrawn; and (b) 2018 application was belated.

PPL challenged the rejection in the Delhi High Court<sup>176</sup> stating the RoC should be estopped from claiming that the registration was withdrawn due to their failure to accept PPL's letter on the same. PPL further prayed for an injunction, *inter alia*, on the consideration of the registration of other copyright societies by the RoC. The Delhi High Court declined to issue such an injunction but restrained the government from taking any action inconsistent with the position that PPL's application for registration may be revived in the future. The case was then disposed of in August 2021. RMPL still has its registration from June 2021 which was probably issued prior to the judgment of the Delhi High Court in the PPL matter. Thus, the registration granted to RMPL, albeit prior to the said judgement, could be construed as contrary to the judgement of the Delhi High Court in the PPL matter. The future of copyright societies in India remains uncertain as the rejection of re-registration of PPL has not been set in stone.

## Collection of Royalty for Licenses in Sound Recording

The Madras High Court passed a common order on 08 December 2021<sup>177</sup> in the cases of *M/s. Novex Communications Private Limited (Novex) v. DXC Technology Private Limited (DXC)*<sup>178</sup> and *M/s. Novex Communications Private Limited v. Cognizant Technologies Solutions India Private Limited*<sup>179</sup> (Cognizant) on the issue of businesses issuing and/or granting licenses for copyright works where they were not the first owners of copyright of such works.

The Copyright Act mandates that the business of issuing and/or granting licenses may only be carried out by registered copyright societies. Novex had acquired rights in various sound recordings from the owners of the copyrights by way of assignment. Novex sought to license the same as valid assignees or alternatively as valid agents of the copyright owners, without having obtained the registration as a copyright society under the Copyright Act.

Novex filed suits against DXC and Cognizant for copyright infringement in relation to certain sound recordings (Sound Recordings) before the Madras High Court. Novex claimed that it has right to restrain DCX and Cognizant from exploiting the Sound Recordings without its permission as it is an owner or duly authorized agent of the 'on ground performance rights' in the Sound Recordings.

The Madras High Court held that while owners of music may license copyright without being registered as a copyright society, the business of issuing and granting licenses for any work with copyright subsisting, can only be carried out by a copyright society that is registered under section 33 of the Copyright Act. The matter is pending appeal at the Division Bench of the Madras High Court.

<sup>176</sup>PHONOGRAPHIC PERFORMANCE LIMITED V UNION OF INDIA, W.P.(C) 5735/2021

<sup>177</sup>621685 (tn.gov.in)

<sup>178</sup>C.S. No. 407 of 2020 (Comm. Suit)

<sup>179</sup>C.S. No. 413 of 2020 (Comm. Suit)

## Royalty in Sound Recordings- Revision of Royalties and Supreme Court Judgement

Last year, there were significant developments with respect to radio royalties. -

In April 2021, the Government of India directed the dissolution of the IPAB pursuant to the Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, now the Tribunal Reforms Act, 2021.

Pursuant to the abolishment of the IPAB and the expiration of the stipulated radio royalty rates on 30 September 2021, the issue came up again in the case of *Entertainment Network (India) Ltd and others* (Entertainment Network) *v Phonographic Performance Limited India* (PPL)<sup>180</sup>. The license rates pertain to the broadcasting of sound recordings which are owned by PPL on Entertainment Network's radio stations. The Delhi High Court issued an interim order on 27 September 2021<sup>181</sup> directing the *status quo* should be maintained with respect to rates of payment of royalty for broadcasting of sound recordings with effect from 01 October 2021, as per the IPAB order dated 31 December 2020, until the final hearing of the matter.

Pursuant to this, the Delhi High Court issued a public notice on 10 November 2021<sup>182</sup> directing revision of royalties for broadcasting of sound recordings through radio and invited suggestions from the interested parties within 30 days of the notice.

The issue of providing notices containing details of the programs of licensed sound recordings to be broadcast was considered by the Supreme Court in the case of *Saregama India Limited v. Next Radio Limited & Ors.* By its order dated 27 September 2021<sup>183</sup>, the Supreme Court held that the courts are not empowered to revise or rewrite the provisions of a statute by way of a judicial review. The power to rewrite the laws vests with the legislature while the courts are to evaluate the legal validity of the rules. Since the Copyright Act read with the Copyright Rules mandate the owner of the licensed recordings should be provided details and particulars on the airing of the content, the licensees of the music would have to comply with those provisions until the statutes are amended by the legislature.

## Advisory for FM radio channels to adhere to rules for appropriate content

The MIB issued an advisory on 24 February 2022, to all FM radio channels on broadcasting of vulgar and objectionable content<sup>184</sup>. MIB stated that language used by radio jockeys is often (a) indecent; (b) containing dual meaning; and (c) not in good taste which violates the agreement signed by FM radio channels with the central government. As per clauses of Grant of Permission Agreement (GOPA), the permission holder (a) shall ensure that no content transmitted in its broadcast channel is objectionable, obscene, or inconsistent with the laws of India, and (b) shall follow the same program or advertisement code as followed by All India Radio, or any other code as applicable. The GOPA also states that in case of violation of terms and conditions provided shall activate the rights of the grantor to impose sanctions for suspension or prohibition of broadcast as prescribed.

The MIB therefore advised all radio channels to strictly adhere and comply to these terms and conditions to avoid penal action.

<sup>180</sup>C.O. (COMM.IPD-CR) 3/2021

<sup>181</sup>[http://delhihighcourt.nic.in/dhcqrydisp\\_o.asp?pn=174739&yr=2021](http://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=174739&yr=2021)

<sup>182</sup>[http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice\\_SIGLWQIP4Z3.PDF](http://delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_SIGLWQIP4Z3.PDF)

<sup>183</sup>MANU/SC/0723/2021 [https://main.sci.gov.in/supremecourt/2021/22234/22234\\_2021\\_34\\_14\\_30324\\_Judgement\\_27-Sep-2021.pdf](https://main.sci.gov.in/supremecourt/2021/22234/22234_2021_34_14_30324_Judgement_27-Sep-2021.pdf)

<sup>184</sup>Advisory 24.02.2022.pdf (mib.gov.in)

# Gaming

## Legislative Reform

### I. Karnataka Amendment Bill

The State of Karnataka, on 04 October 2021, notified the Karnataka Police (Amendment) Bill, 2021 (Karnataka Amendment) banning online games of skill played for stakes in the state. The Karnataka Police Act, 1963 (KPA) prohibits gaming, i.e., betting and wagering of all games of chance except lotteries, horse-racing etc. and games of mere skill. The Karnataka Amendment expands the definition of gaming to include online gaming<sup>185</sup> played for stakes. In addition, interestingly, the Karnataka Amendment also considers tokens etc. in online games paid for by electronic transfers of fiat money and virtual currency<sup>186</sup>. Tokens are becoming common in gaming in the form of non-fungible tokens (NFTs). One would have to see what impact this language would have on NFTs in gaming as well and if the intent of the legislators has been to capture NFTs.

The definition of wagering and betting in the KPA has further been broadened to include any act or risking money including on a game of skill directly or indirectly by any third party or players of the game. As such, the offense may now be committed by any person and not just the gaming company offering the game. Further the definition of instruments of gaming has been made expansive to include all digital, electronic, and online mediums. The Karnataka Amendment is on the same vein as the amendments banning online gaming passed in the State of Tamil Nadu banning games of skill online and the Kerala Rummy Notification.

The All India Gaming Federation along with four gaming platforms, Mobile Premier League, Games24x7, A23 (through its parent company Head Digital Works Private Limited) and Gameskraft have filed writ petitions in the case of *All India Gaming Federation v. State of Karnataka*<sup>187</sup> before the Karnataka High Court challenging the constitutional validity of the Karnataka Amendment<sup>188</sup>. The Karnataka High Court on 14 February 2022, struck down Sections 2, 3, 6, 8 and 9 of the Karnataka Amendment for being ultra vires the constitution in their entirety. Section 2 of the Karnataka Amendment sought to expand the definitions of gaming and common gaming house to online gaming. The provisions of Sections 3, 6, 8 and 9 of the Karnataka Amendment pertain to prohibition and criminalization of playing and betting on games of skill and were similarly extended to online gaming platforms. The

Karnataka High Court observed that “[a] mere likelihood or propensity of misuse of online gaming platforms, without anything more, does not constitute a legal justification for the banning of commercial activities”. Games of skill have been judicially held to be business activities protected under Article 19 (1) (g) of the constitution which provides for the right to practice any trade or profession. The ban in totality of online games was held to be far excessive in nature by the Karnataka High Court. The Karnataka High Court was of the view that grounds of manifest arbitrariness have been applied while issuing an absolute embargo on all games of skill which is a violation of the test of proportionality set out to test whether a game is a game of skill or game of chance. However, the Karnataka High Court further held that the introduction of an appropriate legislation for the regulation of gambling and betting would not be stopped in its entirety as long as it was judiciously done. This judgment of the Karnataka High Court was welcomed by the industry as it reiterated the similar judgment passed by the Madras High Court.

### II. Meghalaya Regulation of Gaming Act and Meghalaya Regulation of Gaming Rules, 2021

In an effort towards making the gaming laws adept with the dynamic growth and innovation in the gaming industry Meghalaya Regulation of Gaming Act, 2021 (Meghalaya Gaming Act) was notified on 26 March 2021. The Government of Meghalaya subsequently notified the Meghalaya Regulation of Gaming Rules, 2021<sup>189</sup> (Meghalaya Gaming Rules) on 21 December 2021.

### III. Meghalaya Gaming Act

The licensing regime has been introduced in the Meghalaya Gaming Act. The Meghalaya Gaming Act permits both ‘games of skill’ and ‘games of chance’ involving betting or wagering of money or money’s worth provided a valid license for the same is obtained. However, the following are precluded from the scope of the Meghalaya Act:

- ▶ Game of Arrow Shooting called Teer being regulated through Meghalaya Regulation of the Game of Arrow Shooting and the Sale of Teer Tickets Act, 2018 and
- ▶ Lotteries regulated under the Meghalaya Lottery (Regulation) Rules, 2019
- ▶ The Meghalaya Gaming Act has further withdrawn the applicability of Meghalaya Prevention of Gambling Act, 1970 to the games of skill or games of chance licensed under the said Act.

*Games of Skill* (set out in Schedule B) are defined as all such

<sup>185</sup>Which has been defined in Section 12(A) of the Karnataka Amendment.

<sup>186</sup>Nagaland is the only other state which has included all forms of virtual currencies in the definition of wagering, hence there is currently no jurisprudence on this.

<sup>187</sup>All India Gaming Federation v. State of Karnataka, WP No. 18703 of 2021

<sup>188</sup>AIGF, Online Gaming Companies Move Karnataka HC Challenging State’s Online Gambling Law - All India Gaming Federation

<sup>189</sup>CamScanner 04-23-2021 14.36.45 (meggst.gov.in)

games where preponderance of skill over chance, including where the skill related to strategizing the manner of placing wagers or placing bets or where the skill lies in team selection or selection of virtual stocks based on analyses or where the skill relates to the manner in which the moves are made, whether through deployment of physical or mental skill and acumen, where the success in game depends on the existence of superior knowledge, training attention, experience and adroitness of a player for example; Bingo, Black Jack, Bridge, Poker, Poker Dice, Rummy, Solitaire, Teen Patti, virtual sports fantasy league games etc. whereas Games of Chance (set out in Schedule A) mean all such games where there is preponderance of chance over skill for example; Baccarat, Craps, Keno, Roulette, Slots etc. These games should be conducted through non-restricted geofenced internet or at a physical premise.

Keeping up with recent times, the definition of wagering or betting includes the staking of virtual currencies that are permitted by the government. The Meghalaya Gaming Act mandates that all online gaming servers must be housed in the state of Meghalaya. Gaming licenses will be valid for a period of five years from the date of issue and can be transferred with the prior approval of the Meghalaya Government. Operating a game without a license is punishable with maximum fines of INR1,000,000 along with imprisonment for up to two years. Players / users, acting in contravention to the license or rules of the game being played, shall be fined INR10,000.

#### **IV. Meghalaya Gaming Rules**

The Meghalaya Gaming Rules mandate that licenses are required for gaming platforms operating in the state for both online gaming and gaming in physical parlors. Licenses would be granted to an eligible person, firm, or entity applying who (a) has minimum five (5) years continuous experience of conducting games of skill and games of chance; (b) has not been blacklisted in any part of India for conducting games of skill and / or games of chance; (c) has not been convicted of any offence under Foreign Exchange Management Act 1999 or for money laundering, and (d) in case of a company, the controlling stake remains in India.

The application fee of INR100,000 is non-refundable. The annual license fee is INR20,000,000. In addition, the licensee must also pay a royalty of 2% of the gross gaming revenue (GGR) to the licensing authority. The GGR, as defined in the Meghalaya Gaming Act, is equal to a sum of all bets made and the revenue generated from marketing, advertising, and promotion as permitted under the Meghalaya Gaming Act less value of all winnings and prizes, bonuses and discounts and cash backs, as well as the payment gateway and banking charges while gaming during the period as prescribed.

The concept of payment of an annual license for gaming is an uncommon concept in India with only a handful of states mandating it. State of Meghalaya seems to charge licensees one of the highest annual license fees. In comparison, Nagaland charges INR1,000,000 as an annual license fee for a license for a bouquet of games for the first three years with an increase in price after three years whereas; Sikkim charges INR1,000,000 as an annual license fee for a five-year license. In addition, the application fee in Meghalaya is also significantly higher than Sikkim whose application fee is a meagre INR500.

All gaming platforms operating in the state of Meghalaya inter alia must also ensure that (a) players are above the age of 18; (b) KYC norms are followed for payments more than INR25,000; (c) a fraud prevention mechanism is in place; (d) a charter for responsible gaming is displayed on its website; and (e) advertising should be in accordance with specific provisions set out therein.

#### **V. Telangana Gaming Regulation in the Making**

Jayesh Ranjan, Principal Secretary of the Industries & Commerce (I&C) and Information Technology (IT), State of Telangana, acknowledged the existing issues in the legal regulatory framework surrounding gaming in Telangana in his keynote address at the Federation of Indian Fantasy Sports (FIFS) Game Plan 2021. Given the multiplicity of court judgements in the country along with pushback from the industry on the existing gaming laws in Telangana, Jayesh Ranjan spoke about the Government's plan to roll out an industry friendly legal framework after thorough consideration and discussion with industry stakeholders. Since the previous law was heavily driven by the Police Department, the new piece of regulation has also been drafted after detailed consultation with the Police Department on concerns surrounding online gaming. As per Jayesh Ranjan, the new regulation will encourage development and self-regulation and present itself as a role model for other States to regulate. Currently, there are no timelines for the roll out of the new regulation. Jayesh Ranjan asked the people to be patient and gave assurance for its impact<sup>190</sup>.

#### **VI. Letter by IT Minister on a Central Regulation for Gaming**

The union minister for electronics and information technology, in a response<sup>191</sup> to a letter by Andhra Pradesh Chief Minister<sup>192</sup>, stated that the Union Government is working on a uniform approach to regulate online gambling and real money gaming. The consideration for a centralized method of regulation for the country from the central government is significant.

<sup>190</sup>Keynote Address by Jayesh Ranjan, IAS - YouTube Timestamp- 6:00

<sup>191</sup>IT Minister Letter.pdf

<sup>192</sup>Andhra Pradesh CM Letter .pdf

## VII. Gaming Laws Proposed in Madhya Pradesh

While addressing media persons<sup>193</sup> pursuant to a 11-year-old boy committing suicide by hanging himself in Bhopal due to addiction to an online mobile game, Madhya Pradesh Home Minister Narottam Mishra said that the State of Madhya Pradesh will pass a new law dedicated to regulation of gaming. The Home Minister also added that the draft of the new law is almost ready and shall be presented to the parliament in due course of time.

## Recent Developments in Courts

### I. Supreme Court on Fantasy Gaming

The issue on fantasy games being a game of skill has come up a few times in the recent past. A decision of the Supreme Court<sup>194</sup> was pending on an appeal from the Bombay High Court in the case of *Gurdeep Singh Sachar Vs. Union of India* and others<sup>195</sup>. This had again created some uncertainty on the legality of fantasy sports in India. In its order dated 30 July 2021 (an appeal from a judgement of Rajasthan High Court<sup>196</sup>), the Supreme Court<sup>197</sup> held that Dream11 is a game of skill which further endorses prior decisions on the permissibility of fantasy games in India.

### II. Madras High Court Strikes Down Arbitrary Amendments to Tamil Nadu Gaming Laws

In an order dated 03 August 2021 the High Court of Madras<sup>198</sup> held that the blanket ban on online gaming, both skill and non-skill based under the Tamil Nadu Gaming and Police Laws (Amendment) Act 2021 (Amendment Act) was *ultra vires* the Constitution. The Madras High Court struck down the Amendment Act entirely on the ground that though the state government could regulate the area, the restrictions imposed by the state government were disproportionate, without proper justification provided by the state and therefore violative of the freedom provided to individuals under the Constitution of India. The Madras High Court also observed the advantages of professional gaming as a source of income and held that *"at the end of the day, a balance has to be struck between the extent to which the State can impose restrictions to protect a class or certain classes of persons and the reasonableness of such restrictions qua the ordinary individual who may resist the same, whether or not the statutory measure is intended to protect such individual."* There is hope that this judgement sets the tone for revisiting the gaming laws in the country as

all the issues have been extensively analyzed and dealt with in a thorough manner.

In November 2021, the State of Tamil Nadu filed a special leave petition (i.e., a petition seeking permission to appeal) before the Supreme Court, seeking to appeal against the High Court's decision<sup>23</sup>. It remains to be seen whether the Supreme Court will allow the petition, i.e., permit the State to appeal and hear the appeal, or dismiss the petition, i.e., seek not to interfere with the High Court's order.

### III. Kerala High Court on Online Rummy

On 27 September 2021, the Kerala High Court delivered a judgement<sup>199</sup> in the case of *Gameskraft Technologies v. State of Kerala & Ors.*, quashing a notification by the Kerala Government on 24 February 2021 (Kerala Rummy Notification) on the legality of rummy. The Kerala Rummy Notification declared that online rummy played for stakes does not enjoy exemption from prohibition of gaming and gambling under the Kerala Gaming Act, 1960.

The Kerala High Court held that the Kerala Rummy Notification was arbitrary, illegal and violates the fundamental constitutional rights including the right to freedom of trade which is accorded to stakes in games of skill. Following the Tamil Nadu High Court judgment on 03 August 2021<sup>200</sup>, which struck down the Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021, the Kerala High Court rendered the Kerala Rummy Notification as having no merit as rummy is already recognized as a game of skill according to various Supreme Court and High Court judgements.

### IV. Madras High Court on Celebrity Endorsement of Gaming Companies

The Madras High Court on 28 September 2021, dismissed a public interest litigation (PIL) in the case of I. Mohammed Razvi v. TRAI & Ors., filed against celebrities such as Virat Kohli, Tamanaah, Prakash Raj along with others for endorsing online games. This PIL was filed in 2020 seeking action against actors for endorsing online games played for stakes as those games were detrimental to the people. The Madras High Court in its judgment held that the PIL was a waste of time and an attempt to gain publicity<sup>201</sup>.

### V. Challenge to Odisha Gambling Act 1955

The Odisha Prevention of Gambling Act 1955 (Odisha Gaming Act) bans all forms of games played for stakes and does not distinguish between games of skill and games of chance.

WinZO Games, a vernacular social gaming platform, has filed a writ petition before the Orissa High Court, challenging the

<sup>193</sup>[https://twitter.com/Live\\_Hindustan/status/1481510731812319232?s=20](https://twitter.com/Live_Hindustan/status/1481510731812319232?s=20)

<sup>194</sup>Special Leave Petition (Criminal) Diary No(s). 42282/2019

<sup>195</sup>Gurdeep Singh Sachar vs. Union of India and Ors. Criminal PIL Stamp no. 22 of 2019 in the High Court of Bombay

<sup>196</sup>Ravindra Singh Chaudhary vs. Union of India & Ors., D.B. W.P. (C) No. 20779 of 2019

<sup>197</sup>Avinash Mehrotra v State of Rajasthan & Ors., SLP (C) No. 18478 of 2020

<sup>198</sup>Junglee Games India Private Limited v State of Tamil Nadu & Ors, W.P. No. 18022 of 2020

<sup>199</sup>Gameskraft Technologies v State of Kerala & Ors - WP (C) No. 7785 of 2021

<sup>200</sup>Junglee Games India Private Limited v State of Tamil Nadu & Ors, W.P. No. 18022 of 2020

<sup>201</sup>I. Mohamxmed Razvi vs TRAI & Ors, WP (MD) No. 15275 of 2020



provisions of the Odisha Gaming Act as unconstitutional in the case of *Tic Tok Skill Games Private Limited v. State of Odisha*<sup>202</sup>. While a copy of the petition is not available in the public domain, as per reports, the challenge appears to be on similar lines to that in Karnataka, i.e., that the Odisha Act is unconstitutional insofar as it seeks to prohibit online games of skill when played for money, based on the manner in which 'gaming/gambling' is defined.

While online skill gaming operators have traditionally blocked Odisha due to the way gaming/gambling is defined, and the lack of an express exemption for games of skill under the Odisha Act, there are legal arguments available that the Odisha Act, (even as it currently stands), only prohibits games of chance, and accordingly games of skill may be offered in Odisha.

The next date of hearing on the said matter is listed as 10 May 2022 and it remains to be seen how the Orissa High Court interprets the Odisha Gaming Act in light of various judicial decisions on gaming with stakes<sup>203</sup>.

## VI. Match fixing not an offence under gambling laws and the Indian Penal Code

A petition was filed in the Karnataka High Court for legal damages as a result of alleged match-fixing in the Karnataka Premier League 2019. In the case of *CM Gautam v. State of Karnataka*<sup>204</sup>, the Karnataka High Court held that (a) match-fixing by a cricketer does not amount to an offence of cheating under Section 420 of the Indian Penal Code (IPC)<sup>205</sup>; (b) cricket is a sport and therefore even if betting takes place with respect to the outcome of the cricket match, it cannot be brought within the ambit of definition of gaming which was an offence under in the Karnataka Police Act, 1963. The Karnataka High Court, while dismissing the case observed that (a) although match-fixing would generate feelings of being cheated by cricket lovers, it is not a criminal offence; and (b) the Board of Control for Cricket in India (BCCI) would be the correct forum to take action against players / team owners / other relevant persons for such an offence if its rules provide for disciplinary action for offences of match-fixing.

## VII. Gujarat State Law Commission Report on Gaming

In response to a PIL filed seeking to regulate the present framework (including virtual or online/cyber space aspect) about gambling and the growing menace of the same, the Gujarat High Court by its order dated 29 September 2020<sup>206</sup>, directed the state of Gujarat to promptly look into the issues (including money-laundering or violation of laws relating to foreign exchange as well) and take appropriate decisions in

larger public interest.

Consequently, the Gujarat State Law Commission, released its 28th Report (Guj Gam Report) on the steps that need to be taken to control cricket betting and online gambling by suitably amending the Gujarat Prevention of Gambling Act, 1887 (Gujarat Act) on 29 October 2021<sup>207</sup>. The Guj Gam Report observed that the escalation of online gambling has opened avenues for money laundering and other criminal activities. The Guj Gam Report suggested certain amendments to the Gujarat Act including: (i) expansion of certain definitions in the Gujarat Act to include online gaming in their scope; and (ii) increase the penalties for offences committed under the Gujarat Act.

The Gujarat Act currently exempts games of skill from its prohibitions, and the Guj Gam Report does not appear to seek to strike down this exemption, nor expressly prohibit online games of skill. Accordingly, the intent appears to be to preserve the exemption for games of skill. However, confusingly, the report cites the need to prohibit online rummy, (which has been held to be a game of skill by the Supreme Court), as one of the reasons for the amendments.

The Guj Gam Report also points towards unabated online sports betting, the menace of money laundering through gambling sites, player addiction, and violation of foreign exchange laws by gambling websites, as reasons for introducing the amendments.

## VIII. FICCI Gaming Committee urges introduction of a progressive gaming law

After the Madras High Court overturned the Tamil Nadu Amendment Act which placed a blanket ban on online gaming, press articles indicate that the chief minister of Tamil Nadu, MK Stalin is determined to ban online gaming with stakes in Tamil Nadu<sup>208</sup> by following due process and enacting a new legislation which passes muster.

This elicited a response from the FICCI Gaming Committee (FGC) on 18 January 2022, which urged the government to adopt an enabling gaming policy to protect players while ensuring a secure, and responsible gaming environment. The FGC stated that a blanket ban would not assure player protection as it would give rise to unprincipled, illicit underground gaming activities. This would serve as a counter-productive measure leading to a detrimental impact on the citizens that the government seeks to protect.

## IX. IndiaTech letter to Government on drafting upcoming gaming laws

Press articles indicate that IndiaTech, an industry body

<sup>202</sup>WP (C) No. 34338 of 2021

<sup>203</sup>Case Status : Search by Petitioners/Respondents Name (ecourts.gov.in)

<sup>204</sup>Criminal Petition no. 2929 of 2020 C/W, Criminal Petition Nos. 513, 1769 of 2021 and WP No. 13756 of 2020

<sup>205</sup>CRLP2929-20-10-01-2022.pdf

<sup>206</sup>Order dated 29 September 2020 passed by Gujarat High Court in Amit M Nair Vs. State of Gujarat (R/Writ Petition (PIL) No. 146 of 2020)

<sup>207</sup>3P\_28th\_Report\_GSLC\_GPGA\_29102021.pdf (gujarat.gov.in)

<sup>208</sup>Stalin says he will bring end to online gaming in Tamil Nadu | Latest News India - Hindustan Times

<sup>209</sup><https://www.indiatech.org/about-us/>

representing India's consumer internet start-ups, unicorns, and investors<sup>209</sup> has written to the Meity urging the government to frame guidelines for online gaming based on age and genre-based classifications<sup>210</sup>. It seems that the letter to Meity suggested (a) framing of a nationwide 'Code for Responsible Online Gaming'<sup>211</sup> which could be effected by States; and (b) inclusion of certain guiding principles for drafting the legislations to do with time intervals, nature of games, caps on monetary contributions, etc.

#### **No proposal to include online games with gambling- Government**

In a response to a question about app based digital games in the Rajya Sabha, the Minister of State for Electronics and Information Technology answered stating that (a) there are new categories of games and the government is aware of the potential risks in relation to the same; (b) online gaming platforms are intermediaries under the Intermediary Rules and thus, have to follow the due diligence provided therein; and (c) there are no proposals to club online gaming with gambling while drafting legislations<sup>212</sup>. It is pertinent to not that no mention was made to ban online gaming.

#### **X. Intelligence services portal launched by AIGF**

Industry body AIGF launched a portal for intelligence services in February 2022<sup>213</sup>. The portal which is backed by Gateway to Gaming (G2G) online news platform, will provide in-depth analysis on important regulatory developments, policy related issues surrounding the gaming industry, and access to important legal documents. AIGF's mission is to facilitate the online skill gaming industry in India and aims to further this agenda via this portal.

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<sup>210</sup>Base online gaming norms on genre, age classifications: Indiatech to Govt - The Economic Times (indiatimes.com)

<sup>211</sup>Karnataka's Chess Ecosystem Hit By Online Gaming Ban: KSCA (inc42.com)

<sup>212</sup>AU1199.pdf (pqars.nic.in)

<sup>213</sup>AIGF Home (aigfintelligence.in)

# Advertising

## Guidelines issued by the Advertising Standards Council of India (ASCI) for influencer advertising on digital media

On 22 February 2021, ASCI released draft guidelines for influencer advertising on digital media, for public consultation<sup>214</sup>. Pursuant to public consultation, on 27 May 2021, ASCI released the final guidelines on influencer advertising, applicable to all posts published by influencers on or after 14 June 2021<sup>215</sup>.

The Influencer Advertising Guidelines (Influencer Guidelines) mandate the following:

- ▶ all posts published on digital media by influencers / virtual influencers / their representatives, for which there is a material connection (i.e., compensation (in cash or kind)) are to carry explicit disclosures in that regard
- ▶ disclosures should be prominent, readily visible, or audible and understandable by an average consumer
- ▶ for content not accompanied by any text (for example, Instagram or snapchat stories), a disclosure label that is superimposing upon the photo/video is a mandatory requirement
- ▶ disclosure labels such as 'advertisement', 'ad', 'sponsored', 'collaboration', 'employee', 'partnership' and 'free gift', are required to be included in promotional content
- ▶ the responsibility for the (a) disclosure of material connections; and (b) compliance of the content with the Influencer Guidelines, the ASCI Code for Self-Regulation of Advertising Content in India (ASCI Code) and any other relevant ASCI guidelines, lies on both the advertisers and influencers
- ▶ in case a piece of communication in question is disputed by an influencer/ advertiser as not being an advertisement because it includes no material connection, then evidence in the form of (a) declaration from the advertiser and influencer; or (b) proof of

- ▶ the purchase of featured products is required to be submitted to ASCI; and
- ▶ influencers to undertake due diligence before engaging in promotional advertisements to make sure that the advertiser is in a position to substantiate the claims made in the advertisement.

In addition to this, certain concerns were raised about how ASCI plans to monitor the violations of the Influencer Guidelines. ASCI has engaged a French technology provider, Reech<sup>216</sup> to screen all digital media for compliance. The Reech Influence Cloud Platform uses artificial intelligence to identify lack of disclosures on posts of a commercial nature on the social media.

ASCI Social (<https://asci.social/>) has been launched by the ASCI specially for the digital space for influencers and creators to learn about how they can be more responsible and maintain trust of audiences and brands<sup>217</sup>.

In January 2022, ASCI published its first report on Influencer Guidelines for July 2021 to December 2021<sup>218</sup> (ASCI Influencer Report), highlighting the monitoring efforts undertaken by it to ensure compliance with the said guidelines. As per the ASCI Influencer Report (a) ASCI screened 5000 posts / stories / feeds from influencer handles over a span of 6 months out of which 719 posts were considered to be *prima facie* in violation of the Influencer Guidelines; (b) of the violating posts, 80% of the influencers withdrew or amended the posts; and (c) ASCI recommendations received overall 86% compliance from influencers.

A list of the name of the influencers and brands that were in breach of the Influencer Guidelines was also released by the ASCI<sup>219</sup>, which included Bollywood actors like Ranveer Singh, Jacqueline Fernandez and with 20 other influencers. As per the ASCI, the influencers flouted ASCI guidelines by not making adequate disclosures, regarding commercial agreements, on their social media accounts and continued to flout the Influencer Guidelines and remain non-compliant.

<sup>214</sup><https://www.ascionline.org/images/pdf/press-release-asci-frames-guidelines-for-influencer-advertising-on-digital-media.pdf>

<sup>215</sup><https://ascionline.in/images/pdf/guidelines-for-influencer-advertising-in-digital-media-final.pdf>

<sup>216</sup><https://ascionline.in/images/pdf/press-release-influencer-guidelines-2021.pdf>

<sup>217</sup><https://ascionline.in/images/pdf/press-release-influencer-guidelines-2021.pdf>

<sup>218</sup><https://ascionline.in/images/pdf/influencer-report.pdf>

<sup>219</sup>[https://asci.social/noncompliant?utm\\_source=newsletter&utm\\_medium=email](https://asci.social/noncompliant?utm_source=newsletter&utm_medium=email)

<sup>220</sup><https://ascionline.in/images/pdf/fssai-and-asci-july-02-2021.pdf>

<sup>221</sup><https://ascionline.in/images/pdf/advertising-advice-service-final.pdf>

## ASCI and Food Safety and Standards Authority of India (FSSAI) come together to curb the misleading claims in food and beverage (F&B) advertisements

On 1 July 2021, ASCI signed an agreement with FSSAI to safeguard consumers against misleading claims in F&B advertisements<sup>220</sup>. ASCI's aim is to intensify the scrutiny over the F&B sector by engaging its National Advertising Monitoring Service that monitors over 900 television channels and publications and over 3,000 websites. As per the said agreement, ASCI will identify advertisements that prima facie violate the provisions of Food Safety and Standards (Advertising and Claims) Regulations, 2018. FSSAI will then investigate these violations. As a part of the new partnership, ASCI will set up a three-member expert panel to evaluate F&B advertisements, identified by the ASCI monitoring team. With this, ASCI will strengthen its 360-degree approach of protecting consumers and guiding brands, agencies, and influencers towards greater responsibility.

## ASCI launches Advertising Advice Service (AA Service) to encourage responsible advertising

On 21 September 2021, ASCI launched the AA Service<sup>221</sup> to help advertisers identify any potential issues relating to violation of the ASCI Code before they spend time and resources on production/ media. ASCI's AA Service team, by providing a pre-publication advice on a piece of communication, or campaigns, would help advertisers find solutions that will allow their advertising to remain honest, truthful, non-offensive, fair, and devoid of dangerous or harmful depictions. Some of the features of the AA Service are as follows:

- ▶ AA Service can be availed by members as well as non-members of ASCI
- ▶ A separate and independent panel called the 'AA panel of experienced persons' has been formed within ASCI
- ▶ The AA Service is advisory and non-binding on the advertiser and the ASCI's Consumer Complaints Council,

- ▶ and should not be identified as a pre-clearance for brands
- ▶ A procedure has been prescribed for availing the AA Service
- ▶ This is a paid service and the fee structure and service categories for members and non-members have been set out

## ASCI pulls up brands who blatantly used Olympic winners for moment marketing

Press articles indicate that PV Sindhu, through her management agency, sent legal notices to several entities seeking damages worth 5 crore for making unauthorized use of PV Sindhu's image for marketing their products without obtaining her permission. It appears that post Tokyo Olympics 2020, various entities even those that did not enter sponsorship deals with PV Sindhu got engaged in moment marketing by writing congratulating messages for her with an intent to advertise their products, further their own tagline and brand motto by taking advantage of her victory. Similarly, the name of another Olympic winner Neeraj Chopra was used for marketing e.g., offering free fuel to those whose first name is Neeraj.

ASCI condemned<sup>222</sup> the brands that capitalized on Indian sportspersons who won at Tokyo Olympics and remarked that when advertisements showcase celebrities without their explicit permission, such advertisements are in potential violation of the ASCI Code, as these are misleading to consumers, who may think that these celebrities genuinely endorse these products. Chapter 1 subclause 1.3 of the ASCI Code mandates advertisers and advertising agency to obtain permission from the person, firm, or institution whose name, image they want to display on their advertisements and, when asked, also produce explicit permission confirming the same<sup>223</sup>.

<sup>222</sup><https://twitter.com/ascionline/status/1423169399024979968?cxt=HHwWgMC4webBjsAnAAAA>

<sup>223</sup>[https://ascionline.in/images/pdf/code\\_book.pdf](https://ascionline.in/images/pdf/code_book.pdf)

<sup>224</sup><https://ascionline.in/images/pdf/asci-report-what-india-takes-offence-to.pdf>

## Crypto and Advertisements - Legal Scenario

The position of crypto advertisements is ambiguous, to say the least. A writ petition in the case of *Aayush Shukla & Another v. Ms. Wazir X & Others*<sup>225</sup> (Wazir X Case) was filed in the Delhi High Court, highlighting the risks of drawing retail investors to trade in crypto currencies. The first hearing of the Wazir X Case took place on 14 July 2021<sup>226</sup>, wherein the Delhi High Court granted the authorities viz. Ministry of Information and Broadcasting and Securities and Exchange Board of India time to file their replies within a stipulated time. In the recent hearing in the Wazir X Case, on 03 December 2021<sup>227</sup>, the Delhi High Court noted the pendency of proceedings concerning advertisements in the crypto sector before the Supreme Court of India (Supreme Court). The Supreme Court in the case of *Siddharth Dalmia & Another v. Union of India & Others*<sup>228</sup>, on 08 February 2021<sup>229</sup>, adjourned the case on the basis of the Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 being tabled in the Parliament. Another plea filed before the Madras High Court in the case of *Ayya v. Union of India*<sup>230</sup> asking for a blanket ban on all crypto currencies, was disposed of by the Madras High Court on 09 December 2021<sup>231</sup>.

Pursuant to multiple advertisements by crypto wallets / exchanges during the ICC T20 World Cup in October-November 2021, numerous questions were raised on the regulation of crypto advertisements during the question hour in the Lok Sabha at the winter session of 2021. On 30 November 2021, during the question hour in the Parliament, Finance Minister of India Nirmala Sitharaman (FM), was asked questions surrounding the apparent misleading advertisements promoting trading / investing money in crypto by various crypto wallets / exchanges and whether the Government of India was considering the regulation of such advertisements. In response, the FM mentioned the ASCI Guidelines to ascertain the legal position of such advertisements and the Government of India's willingness to amend / update the said guidelines, as needed<sup>232</sup>. Further, as per press articles, ASCI general secretary, in an interview with a popular newspaper, confirmed the on-going discussions with the Government of India to seek resolution of issues concerning consumer interest<sup>233</sup>.

## ASCI issues guidelines for virtual digital assets

The Advertising Standards Council of India (ASCI), India's self-regulatory body for advertising, has issued guidelines for the advertising and promotion of virtual digital assets (VDA Guidelines). The VDA Guidelines have been issued to protect consumer interest in light of aggressive advertising of crypto products in recent times. The guidelines will be applicable to all advertisements released or published on or after 01 April 2022<sup>234</sup>.

Some key takeaways of the new guidelines include:

- ▶ A disclaimer that is prominent and unmissable that states "Crypto products and NFTs are unregulated and can be highly risky. There may be no regulatory recourse for any loss from such transactions."
- ▶ Words suggestive of assets that are regulated must not be used so as to not form association of crypto products (unregulated) with regulated products (e.g., currency, securities, custodian, depositories, etc.).
- ▶ In case of information on profitability or cost, information provided must be sufficient, clear, and accurate.
- ▶ Name and contact of the advertiser must be provided inside the advertisement.
- ▶ Depiction of minors directly dealing with the product is prohibited.
- ▶ No advertisement shall contain statements that promise or guarantee future increase in profits.

<sup>225</sup>W.P.(C) 6496 of 2021 & C.M. No. 20391 of 2021

<sup>226</sup>delhihighcourt.nic.in/dhcqrydisp\_o.asp?pn=129198&yr=2021

<sup>227</sup>delhihighcourt.nic.in/dhcqrydisp\_o.asp?pn=233388&yr=2021

<sup>228</sup>W.P. (C). 1071 of 2017

<sup>229</sup>34785\_2017\_33\_35\_25982\_Order\_08-Feb-2021.pdf (sci.gov.in)

<sup>230</sup>W.P. 26194 of 2021

<sup>231</sup>Home - eCourt India High Courts Services (ecourts.gov.in)

<sup>232</sup>Watch: Nirmala Sitharam's Comments On Crypto In Parliament - YouTube Timestamp- 3:15- FM's answers

<sup>233</sup>ASCI in talks with Centre to refresh crypto ad guidelines - The Economic Times (indiatimes.com)

<sup>234</sup>vda-guidelines-press-release-feb-23.pdf (ascionline.in)



# Print media

## Central Media Accreditation Guidelines 2022

On 08 February 2022, the government notified the Central Media Accreditation Guidelines 2022 (CMAG) which shall apply for grant of accreditation to working journalists and other categories of persons, superseding all previous guidelines of the same regard<sup>236</sup>. The CMAG provide a detailed procedure for grant of such accreditation.

According to the CMAG, a journalist would lose accreditation in cases where he/ she:

- ▶ acts in a manner which is prejudicial to sovereignty and integrity of India, security of the country, friendly relations with foreign states, etc.
- ▶ has been charged with a serious cognizable offence
- ▶ uses the accreditation for non-journalistic activities
- ▶ if he/ she or the media organization whom he/ she represents is found to furnish false information

Among the other circumstances under which the accreditation can be withdrawn/ suspended are actions prejudicial to decency, or morality, or in relation to contempt of court, defamation, or incitement to an offence.

An accredited person is not allowed to use the words 'accredited to the Government of India' on social/ public media profile, visiting cards, letter heads, or any other form of any published work.

### Terms:

CMAG provides for specific terms for accreditation of different categories of news publishers, along with general terms which are to be followed when applying for digital news publisher accreditation. Digital news aggregators shall not be accredited. News agencies (print and electronic) are to provide a list of not less than 100 subscribers along with the prerequisites to be eligible for consideration to be accredited.

### Committee:

The Indian government shall constitute a committee called the Central Media Accreditation Committee (CMAC), chaired by the Principal DG, PIB and comprising up to 25 members nominated by the government to discharge the functions stated under these guidelines. After the formation of CMAC, it shall function for two years from its first meeting and shall meet once in a quarter or more frequently, as per the requirement.

### Renewal:

For renewal, all the cardholders will have to apply for online renewal of the PIB card annually. The renewal application will be considered according to the CMAG. At the time of renewal, the documents asked for maybe furnished without fail for the renewal to be considered.

## Delhi High Court directs WhatsApp to take down/block groups illegally circulating e-newspapers

In the matter of *Bennett Coleman Company Limited v. WhatsApp Inc & Ors.*<sup>237</sup>, the Delhi High Court on 21 May 2021, passed an interim order restraining WhatsApp and Telegram and certain other individuals from illegally circulating e-papers of Bennet Coleman Company Limited (owner of Times of India, Economic Times, Navbharat Times, among many others). The case involved illegal and unauthorized circulation/ distribution of Bennet's e-newspapers on various WhatsApp and Telegram chat groups for free download. These e-newspapers were found to be uploaded in PDF form on daily basis<sup>238</sup>.

On similar lines, on 24 December 2021 in the matter of *Dainik Bhaskar Corporation Limited v. WhatsApp LLC & Ors.*<sup>239</sup>, the Delhi High Court on 24 December 2021, till the next date of hearing directed WhatsApp to take down / block the WhatsApp groups that are unauthorizedly and illegally circulating the e-newspaper owned by Dainik Bhaskar Corp. The case involved illegal dissemination of Dainik Bhaskar's newspapers that were primarily made available to the public on a subscription basis through its websites and mobile phone application<sup>240</sup>. The next date of hearing for the said matter is 02 May 2022<sup>241</sup>.

<sup>237</sup>CS (COMM) 232/ 2021, [https://www.livelaw.in/pdf\\_upload/delhi-hc-whatsapp-toi-393918.pdf](https://www.livelaw.in/pdf_upload/delhi-hc-whatsapp-toi-393918.pdf)

<sup>238</sup><https://www.livelaw.in/news-updates/delhi-high-court-restrains-whatsapp-telegram-from-illegally-circulating-copies-of-times-of-india-navbharat-times-e-newspapers-174624>

<sup>239</sup>[https://www.livelaw.in/pdf\\_upload/1640356675551203032021-406765.pdf](https://www.livelaw.in/pdf_upload/1640356675551203032021-406765.pdf)

<sup>240</sup><https://www.barandbench.com/news/delhi-high-court-issues-summons-to-whatsapp-group-admins-over-illegal-circulation-of-dainik-bhaskar-e-paper>

<sup>241</sup><https://www.livelaw.in/news-updates/delhi-high-court-whatsapp-take-down-groups-illegally-circulating-e-newspapers-dainik-bhaskar-corp-ltd-188490>

# Data privacy

## New Data Protection Regime in the Making- India- Key Highlights & Observations- Data Protection Bill, 2021

A comprehensive data privacy law for India has been in the works since the Supreme Court's recommendation in 2017. Two draft versions of proposed law (2018 and 2019) were previously released for public consultation, after which the Personal Data Protection Bill, 2019 (PDP Bill) was referred to a Joint Parliamentary Committee (JPC). The JPC presented its report on the PDP Bill in parliament on December 16, 2021 (Report). While the Report has been adopted by the members of the JPC, eight members have submitted dissent notes on certain aspects of law.

The Report recommends several amendments to the PDP Bill, the most extraordinary one being to regulate the collection and processing of both personal data and non-personal data (NPD) resulting in a change in title to Data Protection Bill, 2021 (DPB). Data protection laws worldwide normally regulate only personal data.

The DPB inter alia (a) seeks to **cover personal data (PD), sensitive personal data (SPD), critical personal data (CPD), anonymized personal data and NPD**; (b) has a **cross border reach** and is applicable to entities outside India if they have a business connection to India or carry out profiling of individuals in India; and (c) mandates that a **data protection authority** for dealing with both PD and NPD should be set up. Higher benchmarks of compliance are prescribed for SPD and CPD (which are subsets of PD). **Data localization norms** (i.e., storing data in India) are stringent with respect to CPDs in the interests of national security and law enforcement. Since data is stored in mixed data sets, segregating data for localization could prove to be a challenge resulting in localization of both SPD and CPD. **Cross border transfer of data** also requires permissions and will be cumbersome. Several elements in the Report are welcome such as (a) placing importance on provision of **notice to data principals** by data processors/data fiduciaries coupled with **informed consent** of data principals; (b) restriction on use of employee data by employers; (c) **data retention rules** specifying that the data may be retained only till it satisfies the purpose for which it is processed and should be deleted at the end of such period; and (d) reporting security breaches for both PD

and NPD within 72 hours to the DPA. It is unclear as to how the DPA will coordinate with specialized agencies such as the Computer Emergency Response Team and the Ministry of Electronics & Information Technology for Standardization Testing and Quality Certification. A timeline of two years has been provided for implementation of the provisions of the DPB, which is a relief to all stakeholders. Stringent standards for children's data have been introduced pertaining to date of minors (i.e., under the age of 18) including consent of parents / guardians; verification of all children's data and a ban on profiling / tracking children's data, etc. However, some aspects of these provisions may have a counterintuitive impact especially for ed-tech and education related gaming / AI companies where it is essential to use children's data to track a child's progress. The appointment of a data protection officer from C-Suite introduces higher accountability as opposed to low level employees with lesser responsibility and a process for a grievance redressal has also been introduced. However, an MD, CEO, CFO may not have the bandwidth to handle these issues themselves so it is unclear how this will be implemented.

To grant users more control over their data, the DPB introduces a provision with respect to data portability, whereby data principals may seek from the data fiduciary, their personal data in a commonly used and machine-readable format. Exemptions have been provided for instances where (a) the data processing is not automated; (b) where the processing is necessary for compliance of law, order of a court or for a function of the state; and significantly, (c) where compliance with the request is technically not feasible. The exemption in the PDP Bill for portability of data that reveals trade secrets has been omitted from this version of the law. Certain items with respect to data portability should be fleshed out in the final version of the DPB such as (a) ownership in intellectual property of the data transferred; (b) whether data generated would include derivative data (which may prove a challenge to digital businesses having to share analytical data) and other practical issues such as format of data etc. Interestingly, the right to be forgotten, also recognized by several High Courts in India seems to have been diluted as the data fiduciary has been provided with (a) an ability to reject the data principals request for erasure of information; and (b) certain exemptions to retain, use and process such data.

Some facets of the DPB appear to be at cross purposes with the main intent of the law- protection of PD / SPD and CPD. Consent is the crux of any data protection law. There is an expansion of state powers and exemptions and the scope of Clause 12 of the DPB, which earlier permitted personal data to be processed without consent for the performance of state functions on just two grounds-(i) the provision of services or benefits and (ii) the issuance of certifications, licenses or permits-has been expanded through the

<sup>242</sup>data protection bill: Fresh legislation may replace Data Protection Bill - The Economic Times (indiatimes.com)

<sup>243</sup>No plans to replace data protection bill with new draft, IT Minister confirms (medianama.com)

insertion of the word “including”, to now suggest that these two categories are only illustrative of the many other grounds on which the government could collect data without consent. Clause 35 of the DPB adds that the government has the power to exempt any government agency from any or all provisions of the DPB in the name of sovereignty, security of the State etc. which has attracted dissent from members of the committee on the grounds that the government has been given wide discretion for accessing PD/ NPD without the consent of the data principals. The Government has been given the power to direct that anonymized/ NPD be shared by any entity with the Government, in certain circumstances. The Government has also been given the flexibility to frame a policy on the regulation of NPD including anonymized data. The Report seems to have a misplaced focus on protecting both national sovereignty and commercial interest of the country which is not a common thread with global data protection regimes.

In a similar vein as the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the scope of the DPB seems to extend beyond the ambit of data protection. For example: (a) the overarching extension in making social media intermediaries' publishers of data in certain instances where they lose their immunity as mere hosts of content; (b) the requirement for social media platforms operating in India to have local offices; and (c) setting up of a statutory media regulatory authority. Further, the recommendation that a framework needs to be established for the monitoring, testing and certification of hardware devices is- a provision which is not usually included in data protection laws worldwide.

The DPB provides for civil compensation from data fiduciaries/ processors for infringement of any law which could lead to a stream of data protection litigation. In addition, the DPB provides financial penalties such as fines (up to 4% of global turnover) and criminal penalties in the limited case of unauthorized de-identification of data.

The DPB is merely a draft law and is yet to be tabled as a bill for the consideration of the parliament. The recommendations of the JPC are not binding upon the government and DPB may be tabled in parliament in its current form or undergo subsequent changes-.

There are rumors that the JPC should not be permitted to make such wide sweeping changes to the PDP Bill as in the DPB and a new data protection bill ought to be drafted which is current with the changes in technology<sup>242</sup>. Ashwini Vaishnaw, Minister of Electronics and Information Technology subsequently clarified that the government has no plans to replace the current data protection bill with a new draft and that the legislation should be passed by the monsoon session of parliament<sup>243</sup>.

## Right to be Forgotten as a facet of the fundamental Right to Privacy

Currently, India does not have any legislation that deals with the right to be forgotten (RTBF). All rights for the same at present exist under judicial precedents. Clause 20 of the PDP Bill contains provisions on RTBF and inter alia mandates that the data principal shall have the right to ensure that the data processor only retains the data collected for the period and purpose stipulated when collecting the data<sup>244</sup>. The recent decisions by the Delhi and Madras High Court reflect two conflicting views on the recognizability of RTBF as a facet of the fundamental right to privacy. It may be noted that the position of RTBF in India is in a flux.

The Delhi High Court by its interim order in the case of *Jorawar Singh Mundy @ Jorawar Singh Mundy v. Union of India and Ors* dated 04 April 2021<sup>245</sup>, by following the decision in the matter of *Zulfiqar A. Khan v. Quintillion Businessman Media Pvt Ltd and Ors*<sup>246</sup> and *Subranshu Rout @ Gugul v. State of Odisha*<sup>247</sup>, recognized RTBF as an integral part and an inherent aspect of the right to privacy. In the case before the Delhi High Court, Jorawar Singh Mundy, a US citizen was arrested on narcotics charges and was subsequently acquitted of any drug related offence. However, his name came up in google searches and judgements and this had a negative impact on his ability to get a job in the US. The Delhi High Court, in an interim order, directed removal of the narcotics related judgement from the online platforms and deletion of the same from search engine results because of the irreparable prejudice caused to Joarwar's social life and career prospects. The Delhi High Court further noted that the question as to whether a court order can be removed from online platforms is an issue which requires examination of both the right to privacy of an individual, on the one hand, and the right to information of the public and maintenance of transparency in judicial records, on the other hand. The matter is pending final hearing.

Post the Delhi High Court's interim order, the Madras High Court by its judgement dated 03 August 2021, in the case of *Karthick Theodore v. Madras High Court*<sup>248</sup>, seems to have taken a step in a different direction. Karthik Theodore sought to have his name redacted from a judgment pertaining to offences of rape and cheating, as he was still being identified as the accused even after being acquitted. The Madras High Court did not uphold the RTBF with respect to redaction of names of acquitted persons from judgements inter alia on the basis of the following observations (a) public access to judgements of courts is an integral precept of the concept of open justice; (b) once a matter becomes a matter of public

<sup>244</sup>[http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373\\_2019\\_LS\\_Eng.pdf](http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373_2019_LS_Eng.pdf)

<sup>245</sup>W.P.(C) 3918/2021 CM Appl. 11767/2021

[http://delhihighcourt.nic.in/dhcqrydisp\\_0.asp?pn=72814&yr=2021](http://delhihighcourt.nic.in/dhcqrydisp_0.asp?pn=72814&yr=2021)

<sup>246</sup>MANU/DE/1648/2019

<sup>247</sup>MANU/OR/0270/2020

<sup>248</sup>W.P. (MD) No. 12015 of 2021 and WMP (MD) No. 9466 of 2021

<https://www.mhc.tn.gov.in/judis/index.php/casestatus/viewpdf/782778>

<sup>249</sup>Justice K.S. Puttuswamy (Retd) & Anr v. Union of India & Ors Writ Petition (Civil) No. 494 of 2012

[https://main.sci.gov.in/supremecourt/2012/35071/35071\\_2012\\_Judgement\\_26-Sep-2018.pdf](https://main.sci.gov.in/supremecourt/2012/35071/35071_2012_Judgement_26-Sep-2018.pdf)

<sup>250</sup>O.S.A No. 75 of 2020 and C.M.P. Nos. 2945, 2946 and 9240 of 2020

record, the right to privacy no longer subsists; (c) the High Court is a court of record and is entitled to preserve the original record in perpetuity without any alterations; and (d) RTBF should be addressed in the new data protection laws being passed in the country and must include provisions for erasure of personal information from judgements of the courts. The Madras High Court also observed that in instances pertaining to women's rights (e.g., rape victim's name being erased) and juvenile cases, currently the laws in India do not provide specifically for the right of erasure from public documents. Passing a judgement contrary to the laws would create confusion and thus this should be addressed in detail in the Data Protection Bill, 2021 for uniform applicability across the nation.

## Right to Privacy and Right to Publicity/ Personality Rights cannot be inherited after death

There is no express statutory provision for right to publicity / personality rights that relate to the right to commercial exploitation of an individual's identity, name, or personality. Courts in India have held that the right to publicity and personality rights are a facet of the right to privacy. The Supreme Court in the landmark decision of *Justice K.S. Puttuswamy (Retd) & Anr v. Union of India & Ors*<sup>249</sup> (Puttuswamy Judgement) recognized the right to privacy as a fundamental right under Article 21 of the Constitution of India. The Division Bench of the Madras High Court considered the right to publicity / personality rights in the case of *Deepa Jayakumar v. A.L. Vijay & Ors*<sup>250</sup> where Deepa, the niece of Dr. J. Jayalalitha sought an injunction against the release of the films *Thalaivi* in Tamil, *Jaya* in Hindi, and web-series *Queen* on the grounds of protecting her aunt's dignity and right to privacy.

The Division Bench of the Madras High Court followed the decision in the Puttuswamy Judgement and held that after the death of a person, the reputation earned cannot be inherited like a movable or immovable property by his or her legal heirs. Thus, Deepa failed to obtain an injunction against release of the films and web-series.

## Data Privacy Standard - IS 17428 issued in India

The SPDI Rules contain certain standards for what should be construed as reasonable practices and procedures to be adopted by companies. There is a deeming provision in the SPDI Rules to notify ISO / IEC codes for the same. Till date, no objective standards have been prescribed for the same. The Bureau of Indian Standards (BIS) published the standards for data privacy assurance, i.e., IS 17428. IS 17428 seeks to provide a privacy assurance framework for organizations to establish, implement, maintain, and continually improve their data privacy management system. It comprises two parts - one being the prescriptive part where the requirements are to be mandatorily implemented by anyone applying the standard and the other part being the suggestive part with detailed best practices to aid in implementing the requirements of the prescriptive part. It is unclear whether implementation of the IS 17428 by organizations could deem them compliant with the requirement under the SPDI Rules to maintain reasonable security practices and procedures for sensitive personal data or information. However, the SPDI Rules and IS 17428 fall short of explicitly specifying that the implementation of the prescriptive part of IS 17428 would be deemed to be compliant with the requirement to maintain reasonable security practices and procedures, as mandated by the SPDI Rules. Thus, the onus may be on the organizations to demonstrate that implementation of the prescriptive part of the IS 17428 meets such a requirement. Under the upcoming DPB, data fiduciaries and processors are required to implement security safeguards that use de-identification, encryption, steps for protection of personal data integrity and to prevent misuse, unauthorized access, modification, disclosure, or destruction of personal data. It should be evaluated and clarified whether the implementation of the IS 17428 can be demonstrated as a compliance with these security obligations.

<sup>251</sup>Press Information Bureau (pib.gov.in)

<sup>252</sup>Meity- National Strategy on blockchain- December 2021.pdf

<sup>253</sup>Strategy for National Level Blockchain Framework (meity.gov.in)

<sup>254</sup>W.P. (Civil) No. 494 of 2012

<sup>255</sup>Draft India Data Accessibility and Use Policy.pdf (meity.gov.in)



## Meity - National Strategy on Blockchain and Data Privacy

On 03 December 2021, the Ministry of Electronics & Information Technology (Meity) launched<sup>251</sup> the National Strategy on Blockchain<sup>252</sup> (NSB) after releasing the draft NSB<sup>253</sup> in January 2021 for public consultation. The NSB lays down an overall strategy to implement and develop the blockchain technology integration in India by inter alia covering the legal and regulatory framework, human resource development, collaboration.

Although blockchain technology provides security and privacy, making it apt for e-governance solutions, the NSB speculates issues related to privacy and security need to be assessed and addressed. The RTBF has been recognized, including in relation to erasure of an individual's information on the internet, in the landmark case of *Puttaswamy vs. Union of India*<sup>254</sup>, in 2017. RTBF has also been recognized in the DPB. As all the information / data on the blockchain is immutable, remains unchanged and is public, enforcing the RTBF would face a snag. The NSB suggests that appropriate legal and regulatory framework should be put in place for enforcement of the RTBF on the blockchain.

Data localization is an essential factor for national security. The NSB recommended that provisions regarding data localization should be included in the framework for blockchain technology, too. Data localization may be achieved by hosting the smart contracts, data and blockchain infrastructure inside the country. The DPB does not currently deal with data localization on the blockchain.

## Draft data accessibility and use policy by Meity

Meity on 21 February 2022 released its draft data accessibility and use policy (Data Access Policy) for public consultation<sup>255</sup>. Data has grown to be an important economic and social resource, and, in India, the government is the biggest data repository. A policy framework could be beneficial in streamlining government data sharing which faces several bottlenecks today. The Data Access Policy aims to transform India's ability to harness public sector data for catalyzing large scale social transformation. The Data Access Policy would be applicable to all data and information created / generated/ collected/ archived by the government of India directly or indirectly or through authorized agencies by various ministries/ departments/ organizations/ agencies and autonomous bodies. State governments shall also be free to adopt the provisions of this Data Access Policy.

The Data Access Policy directs all government ministries to identify existing data assets and create detailed, searchable data inventories with clear metadata and data dictionaries. The approved inventories will then be fed into a government-wide searchable database for government-to-government data sharing.

The Data Access Policy mandates the creation of India Data Office (IDO) to streamline and consolidate data access. The Data Access Policy also proposes a data management unit in every ministry, headed by Chief Data Officers, which will work closely with the IDO to implement the policy. The IDO will coordinate closely with line ministries, states, and other schematic programs to identify and accelerate access to high value data (HVD) housed with these custodians. All government ministries / departments will adopt the HVD framework to identify, publish and maintain their high-value datasets. Meity through the IDO will lend advisory support to ministries / departments to accelerate access to High-Value Datasets.

Not all data will be provided for free. The pricing of datasets will be decided by owner government or department and must be transparently notified. Minimally processed datasets will be available at no cost for restricted access data sharing. For data anonymization and privacy preservation, reference anonymization tools and decision-making frameworks will be provided to all ministries/departments to assist data officers in managing data sharing requests.

Meity would bring out detailed implementation guidelines including a data sharing toolkit, criteria and mechanism for restricted access data sharing, licensing frameworks, and monetization models.

<sup>256</sup>Clarify Legal Status Of Cryptocurrencies : Supreme Court To Centre (livelaw.in)

<sup>257</sup>This comment was made in the case of *Ajay Bhardwaj v. Union of India & Ors.* W.P. (Cr.) No. 231 of 2019 where the brother of the petitioner was arrested for being the alleged mastermind behind a Bitcoin scam in 2018.



# Cryptocurrency

## Crypto Bill

The winter session of Parliament has concluded, with no legislation on cryptocurrency being introduced. The government had listed the Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 (Crypto Bill) for introduction in the winter session of the Parliament, which had the same name and description as the legislation banning private cryptocurrency listed for introduction in the budget session of 2021. However, the Finance Minister, Nirmala Sitharaman clarified in Parliament that the Draft Bill which will be tabled is a “new Bill” as compared to the one listed in the budget session and considers changes that have occurred in the cryptocurrency industry.

The Finance Minister has proposed in the Union Budget 2022 - 2023 that the Digital Rupee would be introduced using blockchain and other technologies by the Reserve Bank of India starting 2022-23.

## Supreme Court mandates clarity on legal framework for cryptocurrency

News reports<sup>256</sup> state that an oral remark was made by the Supreme Court that the central government ought to clarify the legal status surrounding cryptocurrencies and whether dealing in them amounts to an offence<sup>257</sup>.

# Competition

## CCI's investigations into Google

The first investigation was ordered by CCI in April 2019<sup>258</sup> in the case of *Umar Javeed & Ors. v. Google LLC & Anr.*<sup>259</sup> for unfair restrictions imposed on smartphone makers using Google's operating system Android, thereby reducing the ability of device manufacturers to opt for alternate versions of OS Android. The investigation was along similar lines as investigations conducted into Google by EU. There is no further information available in the public domain on this investigation which appears to be pending.

The second investigation was ordered<sup>260</sup> in November 2020<sup>261</sup> into the alleged leveraging of its dominant position in three markets, i.e., (a) market for licensable mobile OS for smart phone devices; (b) market for app stores for Android OS; and (c) market for apps facilitating payment through UPI. There is no further information available in the public domain on this investigation which appears to be pending.

The third investigation was ordered in June 2021<sup>262</sup> by CCI basis Google's agreements with original equipment manufacturers (OEMs) wherein Google's conduct of imposing several restrictions upon smart TV and smart mobile OS manufacturers allegedly violated provisions of CA 2002. In the CCI order<sup>263</sup>, it was prima facie found that mandatory preinstallation of all Google applications amounted to unfair conditions on smart TV manufacturers which also amounts to prima facie leveraging of Google's dominance in Play Store to protect its online offerings such as YouTube. While the investigation was ongoing, Google filed a writ petition<sup>264</sup> before the Delhi HC in the case of *Google LLC & Anr. v. CCI & Ors.*<sup>265</sup> alleging that the leak of the confidential report dated 18 September 2021 by Times of India<sup>266</sup> was by CCI, which was disposed of within a week<sup>267</sup> after the CCI agreed to keep its investigation private. There is no further information available in the public domain on this investigation which appears to be pending.

<sup>258</sup>39-of-2018.pdf (cci.gov.in)

<sup>259</sup>Case No. 39 of 2018

<sup>260</sup>07-of-2020.pdf (cci.gov.in)

<sup>261</sup>XYZ v. Alphabet Inc. & Ors. in Case No. 07 of 2020

<sup>262</sup>19-of-2020.pdf (cci.gov.in)

<sup>263</sup>Kshitiz Arya & Anr. v. Google LLC & Ors. in Case No. 19 of 2020

<sup>264</sup>Press note // CCI writ (medianama.com)

<sup>265</sup>W.P. (C) No. 10824 of 2021 & CM APPL. No. 33403 of 2021

<sup>266</sup>Google abusing position, playing unfair: CCI probe - Times of India (indiatimes.com)

<sup>267</sup>delhihighcourt.nic.in/dhcqrydisp\_o.asp?pn=172659&yr=2021

<sup>268</sup>Case No. 41 of 2021

<sup>269</sup>order\_41\_2021.pdf (cci.gov.in)

<sup>270</sup>Australia challenges Google's ad dominance, calls for data-use rules | Reuters

<sup>271</sup>Google's fine upheld in EU antitrust case about its comparison shopping service (medianama.com)

<sup>272</sup>U.S. states file updated antitrust complaint against Alphabet's Google | Reuters

<sup>273</sup>Press Release- 07 & 30 of 2012\_0.pdf (cci.gov.in)

<sup>274</sup>CCI - Apple case 31.12.21.pdf

<sup>275</sup>Case No. 24 of 2021

<sup>276</sup><https://pib.gov.in/PressReleasePage.aspx?PRID=1759652>

<sup>277</sup>Part2-Responsible-AI-12082021.pdf (niti.gov.in)

<sup>278</sup>Responsible-AI-22022021.pdf (niti.gov.in)

In the case of *Digital News Publishers Association v. Alphabet Inc. & Ors*<sup>268</sup>, the CCI passed an order<sup>269</sup>, directing a detailed investigation into Google for its alleged abuse of its dominant position in the market for online general web search services and online search advertising services in India. The CCI directed the investigation report to be submitted within 60 days of the order dated 07 January 2022 and found Google prima facie in violation of section 4 of the Competition Act, 2002 (CA 2002) which prohibits any enterprise from holding a dominant position in the market by abusing such position. Although the CCI considered use cases of countries like France and Australia, it believed that a detailed investigation would be required to ascertain and examine the situation in its entirety.

The complaint filed by Digital News Publishers Association (DNPA) was over allegations that members of DNPA are not given data pertaining to the revenue earned by Google on the advertisements on websites / links of the members of DNPA and only a chunk of the revenue generated is disclosed without any basis of calculation of such revenue earned. Therefore, it was alleged that Google does not fairly compensate members of the DNPA as Google arbitrarily dictates revenue for snippets of content used by it. The members of DNPA are left without bargaining power in view of dominant position of Google. Subsequently, there has been no update on the investigation report. This is the fourth investigation into Google's functioning by CCI. There is no further information available in the public domain on this investigation which appears to be pending.

Cases of anti-trust against Google have been ongoing in various countries like Australia<sup>270</sup>, EU<sup>271</sup>, United States<sup>272</sup>, few of which found Google to be guilty and imposed heavy fines.

The CCI imposed a fine of INR 135.86 crore on Google in 2018 for abusing its dominant position for online general web search and web search advertising services in India<sup>273</sup>.

## CCI's investigation into Apple

The CCI has opened an investigation against Apple's business practices via an order<sup>274</sup> dated 31 December 2021 in the case of *Together We Fight Society v. Apple Inc & Anr.*<sup>275</sup> for allegedly abusing its dominant position in the market. The CCI prima facie found that Apple's conduct results in denial of market access for app stores apart from Apple's App Store which in turn results in abuse of its dominant market position. The CCI also found Apple to allegedly leverage its dominant position by protecting its market for in-app purchase payment processing market by keeping high commission fees which deters competitors. The investigation report was to be submitted after 60 days from date of the order. There is no further information available in the public domain on this investigation which appears to be pending.

# Emerging technologies

## Cloud computing and NITI Aayog

The National Institution for Transforming India (NITI Aayog) has come together with Amazon Web Services (AWS) and Intel to establish a new experience studio (Studio) at the NITI Aayog Frontier Technologies Cloud Innovation Center (CIC)<sup>276</sup>, New Delhi. The purpose of this Studio is to help showcase and foster innovation in various fields such as artificial intelligence (AI), augmented reality / virtual reality (AR / VR), blockchain, robotics, etc., in order to accelerate their application in public sectors. This purpose shall be executed through experimentation, collaboration and problem solving between government stakeholders, industry experts, start-ups etc. The CIC is a part of AWS' Cloud Innovation Centres Global Program. NITI Aayog uses the Studio to demonstrate the usage of applications like AR / VR, machine learning, AI, etc., to find solutions in verticals like healthcare, smart infrastructure and more. The Studio encourages startups to actively participate in hackathons, capacity building initiatives and other grand challenges, in collaboration with the Atal Innovation Mission and Atal Incubation Centres, paving the way for practical solutions to new age problems.

## Artificial Intelligence

The NITI Aayog released its report Responsible AI #AIForAll- Part 2- Operationalizing principles for Responsible AI- on 12 August 2021<sup>277</sup> (Part 2AI). Part 2AI follows in the heels of an earlier report, namely Responsible AI #AIForAll- Working Document: Towards Responsible #AIForAll- Part 1 in February 2021<sup>278</sup> (Part 1AI).

Part 1AI identified risks with respect to the use of AI and provided guiding principles to address the lacunae in legislation, ethics, privacy, technology related issues, constitutional rights, the use of AI, identified security risks and malicious use of AI, etc.

Part 2AI operationalizes the seven principles highlighted in the first approach document. In addition, it delineates the role of the government and multi-disciplinary bodies and gives recommendations to the private sector, research, and academia etc., in their use of AI.

Part 2AI sets out that government intervention is required with respect to (i) creating a regulatory framework which considers the peculiarities of AI; (ii) creating awareness on AI and policies with respect to the same; (iii) setting up an advisory body for AI; and (iv) creating systems for procurement of AI.

- ▶ The government must ensure that the regulatory framework keeps pace with innovations. Use of AI in different settings would require regulatory clarity. For instance, informed consent process, doctor-patient confidentiality, etc. are a few areas where the government should consider enabling AI innovators. Since AI systems deployed all over the country vary depending on the use case, a one-size-fits-all approach regulatory approach is not feasible. This would require the government to consider a risk-based, evolving approach to encourage innovation and safeguard citizens' interests, as a risk-based approach would mean greater the risk of harm, greater the need for stringent regulations. In low-risk AI applications, the regulatory burden should be minimized, and a self-regulatory approach must be deployed as a supporting structure. Sandboxes in case of areas of unclear risk factors must be deployed to assess market reactions and impact.
- ▶ The government should actively make policies to (i) manage and update the principles for responsible AI in India; (ii) enable access to data and responsible AI tools and techniques; (iii) develop India's perspectives on responsible AI; and (iv) research into aspects for responsible AI in India.
- ▶ Awareness and capacity building should be carried out by the government. Objectives for awareness building programs may include inter alia showcasing industry practices for responsible AI, identifying, and facilitating the availability of datasets and policy measures, staying abreast of global AI developments. In addition to knowledge and information awareness building, case studies, research reports, proofs-of-concept, including facilitating states, with successful AI deployments, to host other states for knowledge transfer, may be carried out. Making stakeholders aware of specific AI capabilities and its shortcomings, for instance, even a sophisticated facial recognition AI tool with superior algorithms may possess innate biases.

<sup>279</sup>Letter-TEC-AI-Fairness-Assessment-seeking-inputs-2022\_02\_22-1-1.pdf (medianama.com)

- ▶ Public procurement for AI should be focused on making the process more straightforward. An institutional mechanism, like advisory committees constituted for complex projects, may be formulated to ensure that AI heavy projects are designed in adherence with guidelines for regulating the use of AI.

Part 2AI further stipulates that an advisory body at the apex level should be created by the government which is multi-disciplinary; independent and provides a forum for all stakeholders to have a representation. Such advisory body may go beyond the realm of AI and cover the entire digital space, as AI is a part of emerging technologies. The advisory body should also play a role in drafting regulations pertaining to AI. Part 2AI also proposes that a think tank named Council for Ethics and Technology (CET) should be set up, comprising of legal experts, civil societies, environmental experts, cybersecurity expert, computer science and AI experts, etc. The CET may also be used to foster cooperative federalism between the center and the states.

Part 2AI also sets out suggested actions for the private sector and research institutions, including mechanisms to decrease the financial and administrative burden placed on entities for compliance with the AI guidelines and regulations that may be issued by the government. Education should also be provided on ethics and AI in schools and universities.

## DoT seeks inputs from industry on the framework for AI / Machine Learning systems for fairness assessment

The Telecommunication Engineering Centre (TEC) is in the process of conducting a fairness assessment study of artificial intelligence / machine learning systems (AI/ ML), as per a document released on 22 February 2022<sup>279</sup>. TEC invited suggestions from stakeholders to frame procedures for such an assessment and provided a template for the same. NITI Aayog follows the approach of #AIforAll which makes fair or unbiased AI/ ML systems an essential requirement in order to deploy and adopt AI successfully. With the increasing integration of AI/ ML into several domains such as surveillance, healthcare, etc., it becomes increasingly necessary to identify unintended biases, especially when such systems are used for e-governance.



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# Data privacy





# Impact of the Indian Data Protection Bill (DPB) 2021 on the M&E Sector

- ▶ The current endeavor to adopt a data protection bill in India will bring it at par with several other jurisdictions, with respect to the global standards of data protection and privacy
- ▶ The Bill, which is yet to become an Act, will significantly impact both consumers and M&E companies

## Transition from PDPB 2019 to DPB 2021

- ▶ The Joint Parliamentary Committee on the PDPB 2019, tabled its report before the Parliament with recommendations in December 2021
- ▶ The most significant one is seen in the taxonomy of the Bill, i.e., transition from 'Personal Data Protection Bill, 2019' (PDPB) to the 'Data Protection Bill, 2021' (DPB)
- ▶ It also introduced various new requirements that will impact the M&E sector

### New requirements identified in the DPB 2021

Ambit expanded	Breach reporting	Employee data	Children data	Transparency
Regulation of personal data as well as non-personal data	Personal data breach to be reported to the Authority* within 72 hours of becoming aware of such data breach	Allowed if processing is reasonably expected by the employer for purposes like recruitment, termination, benefits, attendance, performance assessment etc.	Organizations exclusively dealing with children's data must register with the Authority*; child to be informed 3 months before he/she attains the age of majority	Ensure transparency and fairness of processing personal data using innovative technologies
Social media platforms	Data audits	Data protection officer (DPO)	Data transfer	Data localization
To be treated as publishers and make them liable for the content they host	Concurrent audits to be followed; an independent auditor to give data trust score to the company	Organizations shall appoint a DPO who will be a key managerial person in relation to a company	Transfer of sensitive personal data via contract/ intra-group scheme needs approval from Authority*, as consulted by Central Government	A mirror copy of the sensitive and critical personal data to be stored in India

\*Authority means the Data Protection Authority of India, which will be established by the Central Government to act as a regulatory body

## Impact of DPB 2021 on the M&E sector

The impact of DPB 2021 on every segment of the M&E sector will vary according to its nature of operation, technology used, geographies and customer segments.

Segment	Key impact
Social media	<ul style="list-style-type: none"> <li>▶ Will be treated as publishers and be <b>liable for the content published</b> on their platforms</li> <li>▶ Need to store sensitive and critical data in <b>servers located in India</b>, to adhere to data localization principle</li> <li>▶ Must <b>setup parent company</b> office in India</li> <li>▶ Need to design platforms to include user's <b>account verification</b> for persons who register their service from India or use their services in India</li> </ul>
OTT platform	<ul style="list-style-type: none"> <li>▶ <b>Explicit consent</b> to be sought when profiling is conducted, for example- content personalization or direct marketing</li> <li>▶ While serving content to kids, OTT platforms to build safeguards in their system, for <b>age verification and parental consents</b></li> <li>▶ Usage of advanced technologies like AI and ML would require sufficient <b>data protection mechanisms</b> to be implemented</li> </ul>
Publishing companies	<ul style="list-style-type: none"> <li>▶ <b>Embed privacy and security</b> into the product, right from the design stage</li> <li>▶ Conduct <b>data protection impact assessment (DPIA)</b>, for processes that pose risks to consumer's privacy and personal data. Further, submit the DPIA report with the Authority</li> <li>▶ Establish the right <b>relationships</b> with third party suppliers and demand delivery partners i.e., controller, processor, or joint controllership</li> </ul>
Online gaming	<ul style="list-style-type: none"> <li>▶ Gaming platforms to <b>embed privacy by design</b> by default i.e., data protection mechanisms at the design stage</li> <li>▶ Incorporate <b>age verification and parental consent</b> requirements</li> <li>▶ Design <b>grievance redressal</b> mechanisms and communication channels for exercising <b>user rights</b></li> <li>▶ Explicit consents shall be sought for <b>KYC verification, in-app permissions</b> as well as for direct marketing, personalized advertising etc.</li> </ul>
E-commerce	<ul style="list-style-type: none"> <li>▶ E-commerce websites to <b>display privacy policy and cookie policy</b> to inform consumers of the usage of data/cookies irrespective of their setup</li> <li>▶ <b>Explicit consent</b> to be taken before collecting sensitive personal data, like financial information</li> <li>▶ <b>Conduct DPIA</b> for large scale profiling activities</li> <li>▶ Store sensitive and critical data in <b>servers located in India</b>, to adhere to data localization principle</li> </ul>

## Critical requirements under DPB 2021 that the M&E sector needs to comply with

DP domains	M&E verticals				
	Social media	OTT platforms	Publishing companies	Online gaming	E-commerce
Registration with the authority	●	●	●	●	●
Notice and consent	●	●	●	●	●
Age-verification and parental controls	●	●	●	●	
Verification of user accounts	●				
Privacy by design	●	●	●	●	●
Data protection impact assessment*			●		●
Local office to be set-up	●				
Data protection officer*	●	●	●	●	●
Record management*	●	●	●	●	●
Grievance redressal	●	●	●	●	●

\* Only in case the company is classified as a Significant Data Fiduciary (SDF), which is based on various criteria such as volume of personal data processed, turnover of the company, sensitive of personal data, usage of new technologies etc., as defined in the DPB 2021

## What are the next steps for M&E companies to comply with DPB 2021?

- ▶ M&E companies that are already GDPR compliant or comply with any other data protection regulation, will find some overlapping components while conforming to the requirements of the DPB
- ▶ While they can stick to their existing Privacy Framework, they will have to undertake additional obligations and comply with requirements specific to their sectors
- ▶ M&E companies based in India who are currently complying with Section 43 of the IT Act 2000, will have to go through a huge shift in terms of Data Privacy. They will have to classify themselves as a Data Fiduciary or Processor or Joint Data Fiduciary and then comply with all the applicable requirements
- ▶ The immediate actionable for companies not compliant with any privacy regulation should be to roll out a data privacy framework and management strategy as well as discover the exposure of personal data within their companies to adequately protect the same, irrespective of when the draft bill becomes an act

# Global M&E megatrends



Yashaswita V Dhargalkar  
Markets & Business Development  
Mumbai (EY LLP)

# Global M&E megatrends

Global M&E sector continues to evolve and grow

**US\$824 billion**  
(6.5% CAGR 2021-24)

Total ad spending worldwide in 2024

Combined estimated content spend by Netflix, Disney, Amazon in 2022

**US\$66.6 billion**  
(+18.3% YoY)

**2.7 billion**  
(4.9% CAGR 2021-25)

Global OTT video viewers in 2025: around 1 of 3 people on earth

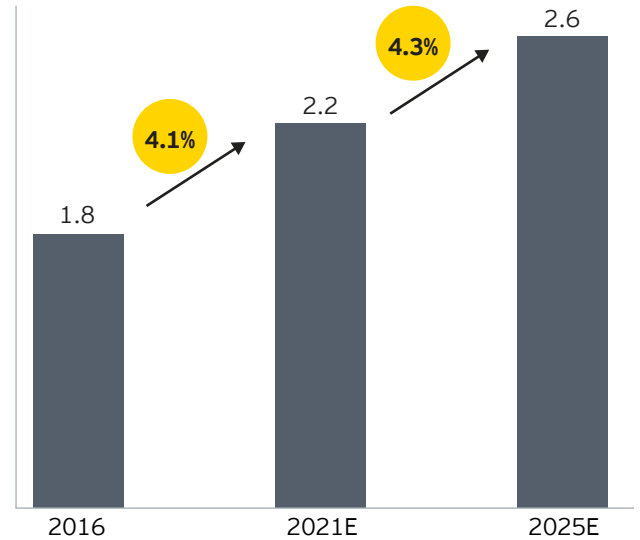
By 2026, SVOD subscriptions will surpass

**1.6 billion**  
(4.9% CAGR 2021-26)

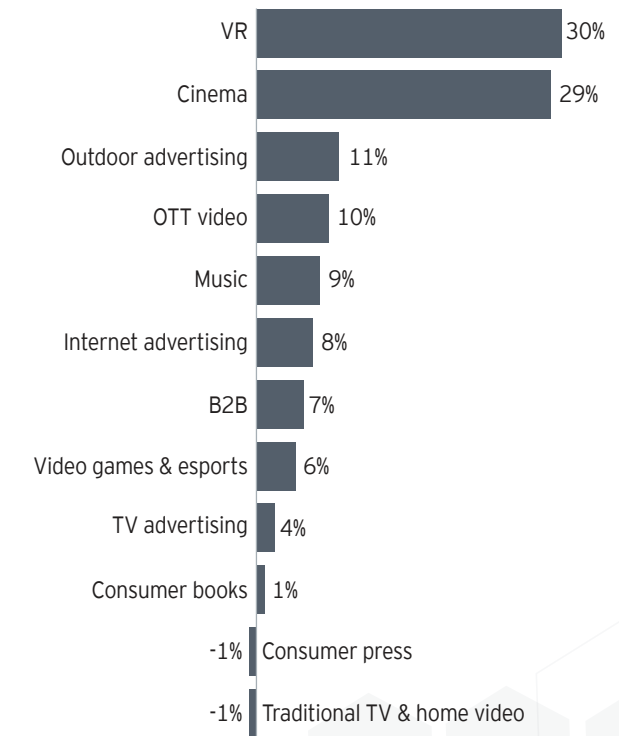
**US\$219 billion**  
(6.7% CAGR 2022-24)

Global gaming market size in 2024

Media and Entertainment revenues (US\$ trillion)



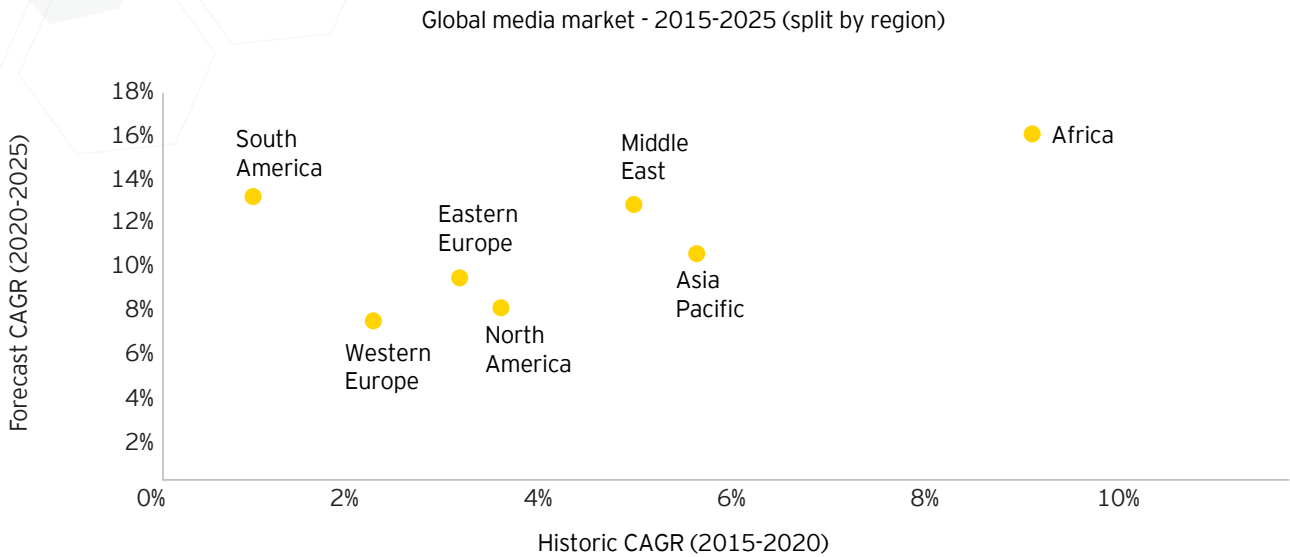
Growth by segment (CAGR 2020-2025)



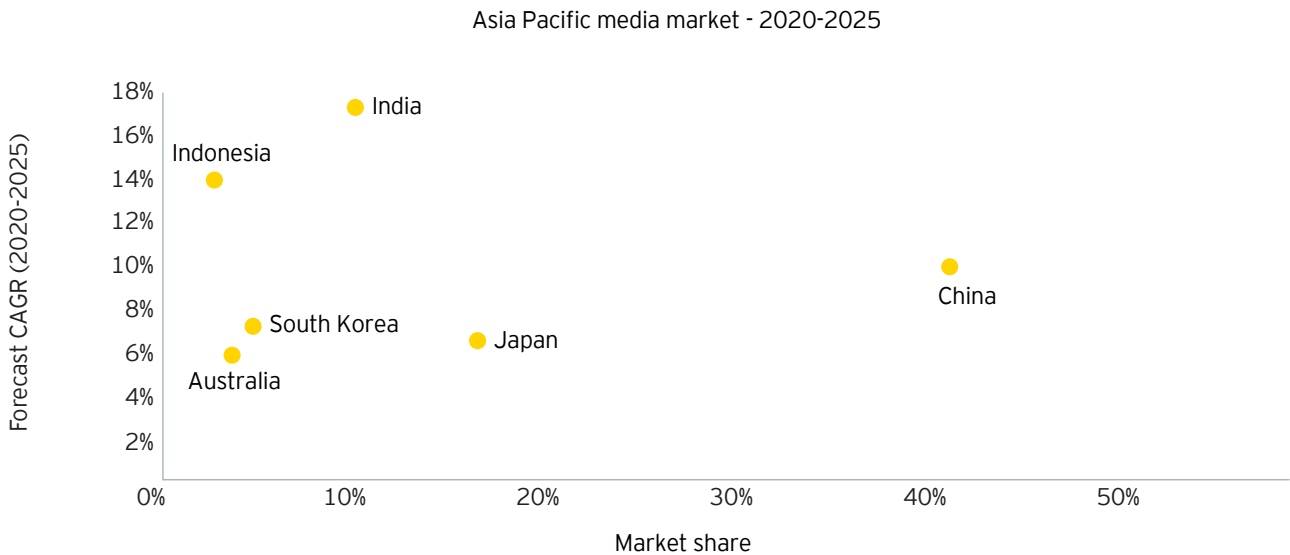
Source: Magna, Capital IQ, Newzoo, Renub Research via EMIS, etc.



## Asia Pacific shows strong growth potential...



## ...with India having the highest forecast CAGR of 17.6% over 2020-2025E



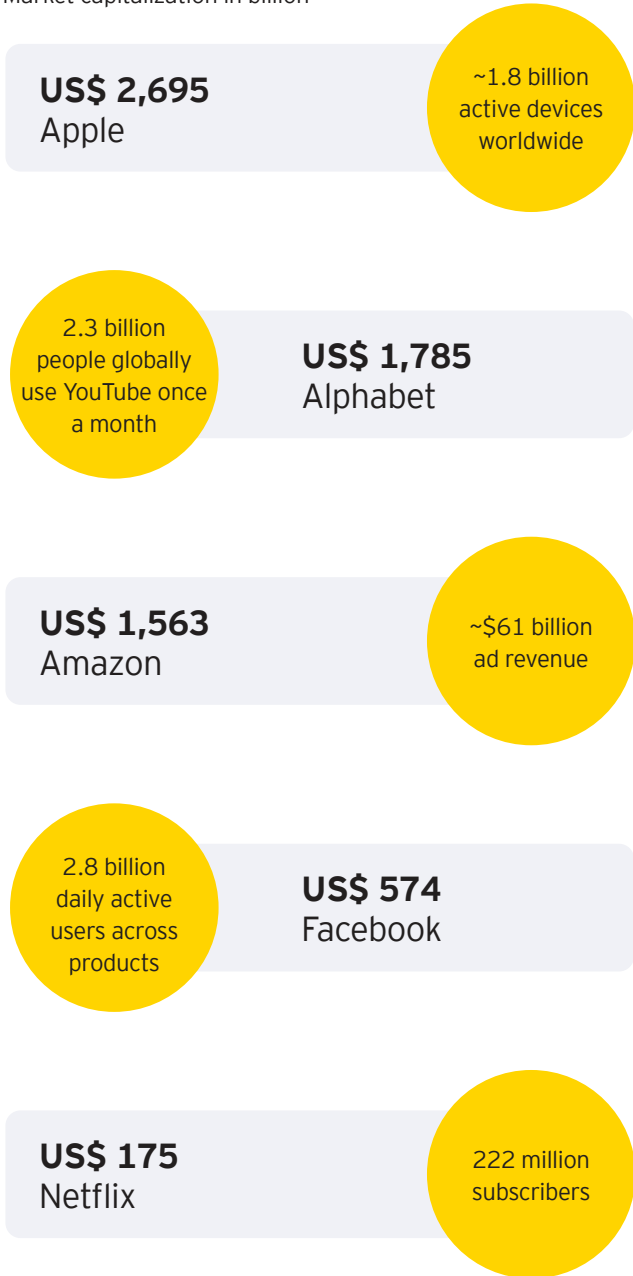
The media market includes TV and radio broadcasting; film and music; information services; web content, search portals and social media; print media; cable and other subscription programming.

Source: The Business Research Company, National Statistics Offices, UN Comtrade, TBRC Analysis, TBRC Estimates, TBRC Secondary

# Digital media

Digital natives have redefined competition by building unprecedented scale

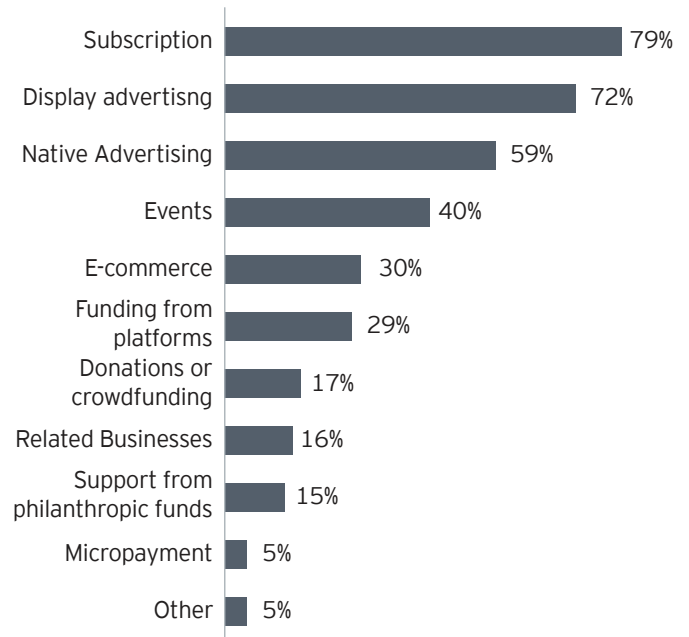
Market capitalization in billion



Source: S&P Global Market Intelligence and company filings. Market capitalization as of 28 Feb 2022

In 2022, globally companies plan to focus more on subscription revenue streams

Digital revenue streams likely to be important for companies in 2022



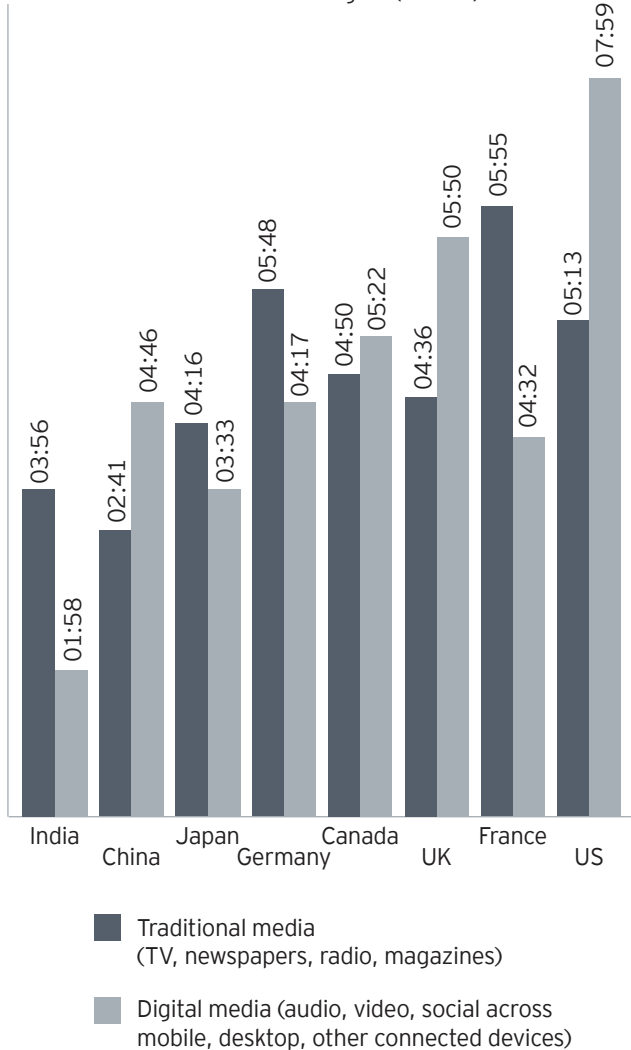
Survey of 216 commercial publishers \*Other = selling tech, parcel distribution, funding for fast-checking, content syndication (and public funding)

Source: Ericsson mobility report, Digital News Project January 2022

## Digital media is outpacing/ closing the gap with traditional media

All countries experienced an unusual boost in time spent with media last year as a more long-lasting impact of COVID-19. Each of them saw an increase in time spent with digital media, as well as a rebound in time spent with linear TV – in many cases after years of decline. Digital continued to take more share of media time.

Average time spent per day (hrs:mins) :  
Traditional vs Digital (2021E)\*

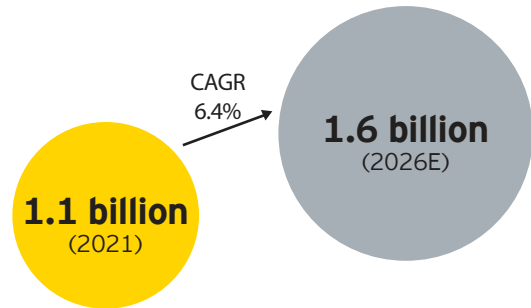


\*Includes all time spent with each medium, regardless of multitasking. For instance, one hour of multitasking on a mobile device while watching TV is counted as one hour for TV and one hour for mobile.

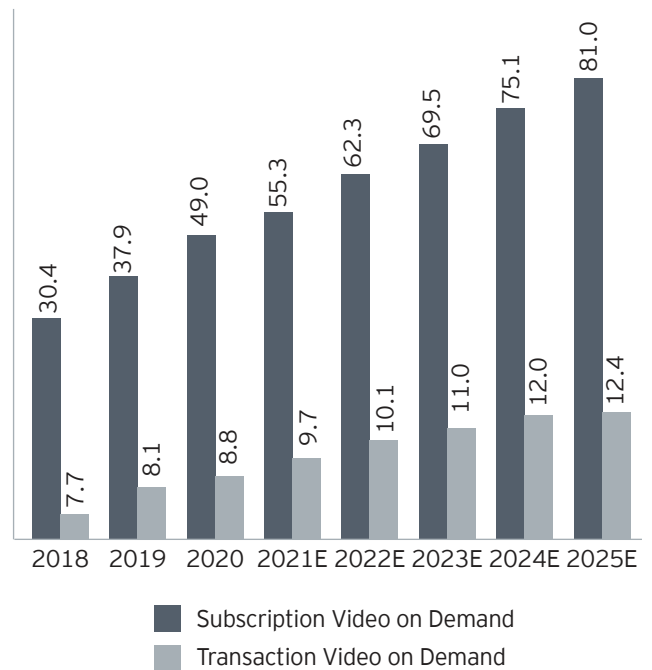
Source: Time Spent with Media 2021, eMarketer May 2021

## Subscription and transaction revenue growth are expected to drive streaming revenues

Global paid subscriptions



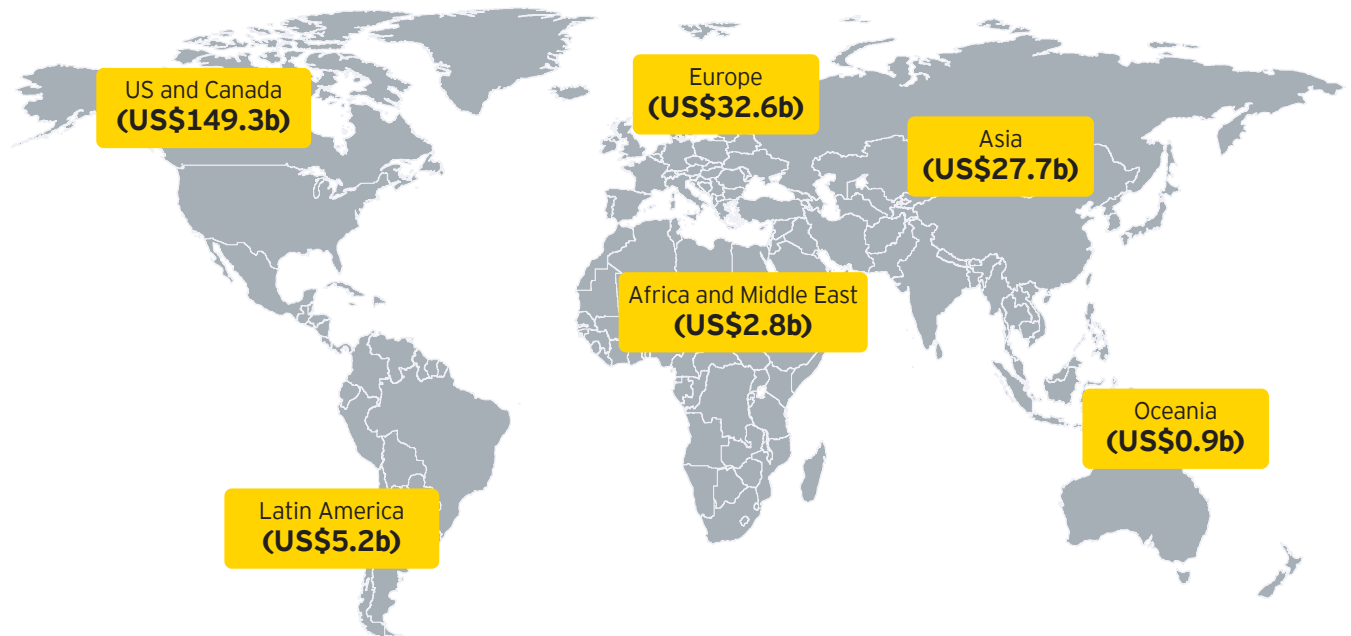
Global OTT revenue (US\$ billion), 2018-2025E



Source: Digital TV Research, Renub Research via EMIS

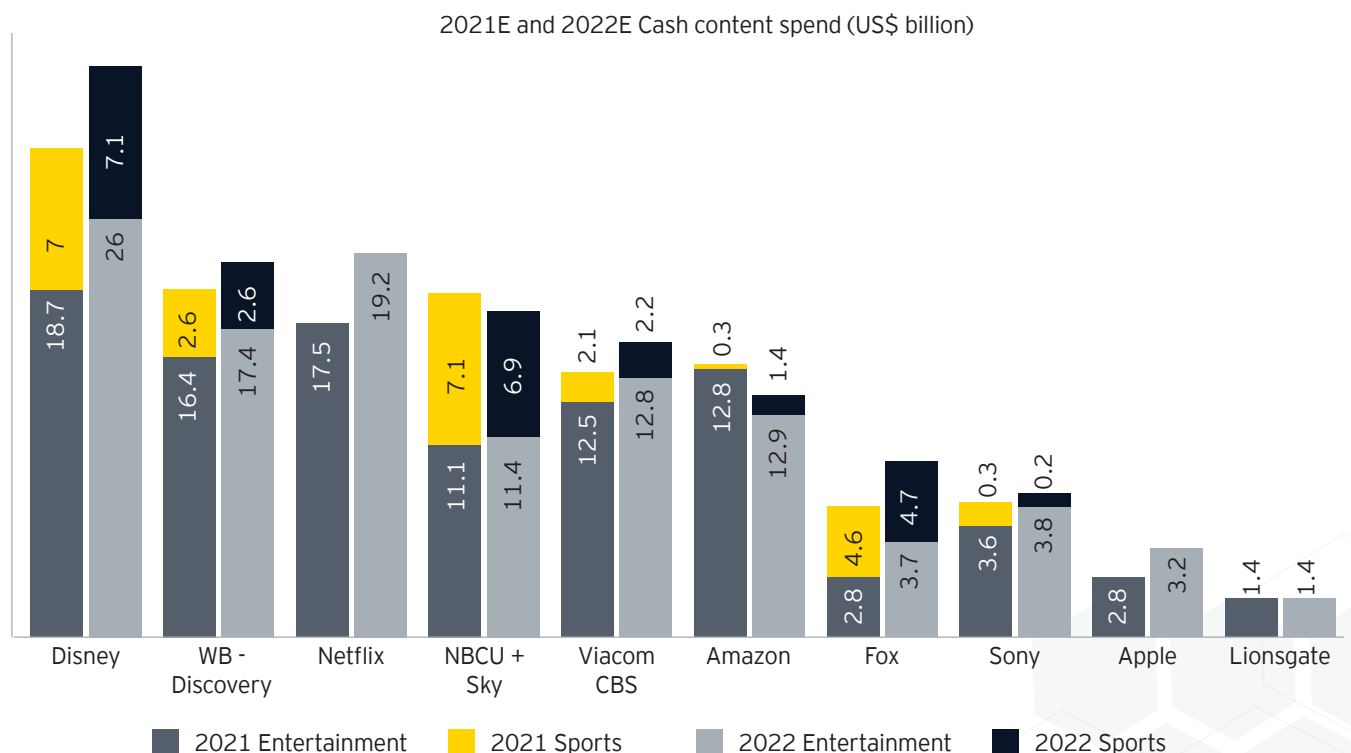
# Content

As content demand reached an all time high in 2020, overall Film & TV production spending increased



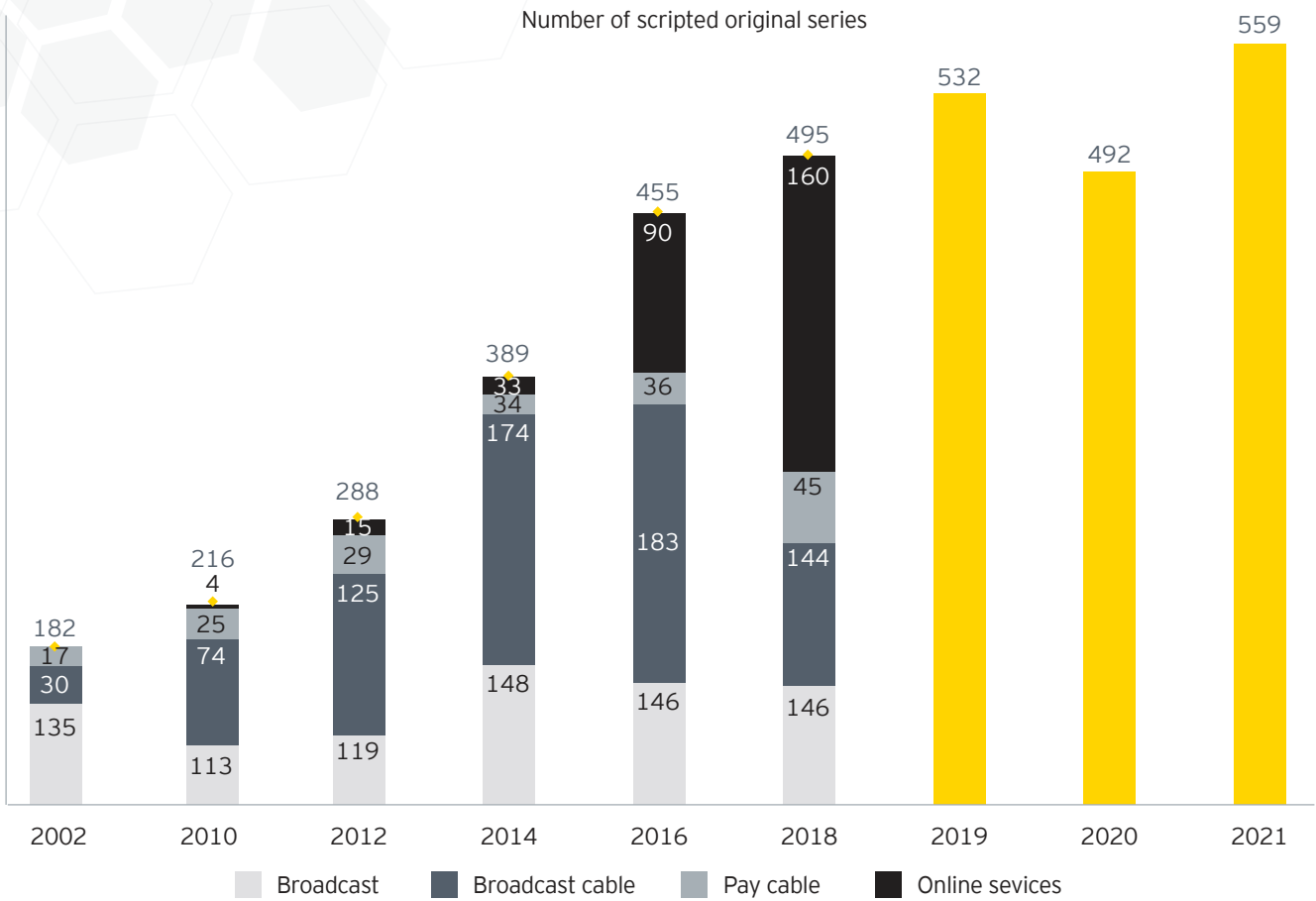
Source: Purely Streamonomic

Massive investment in content by M&E players is expected in 2021E and 2022E

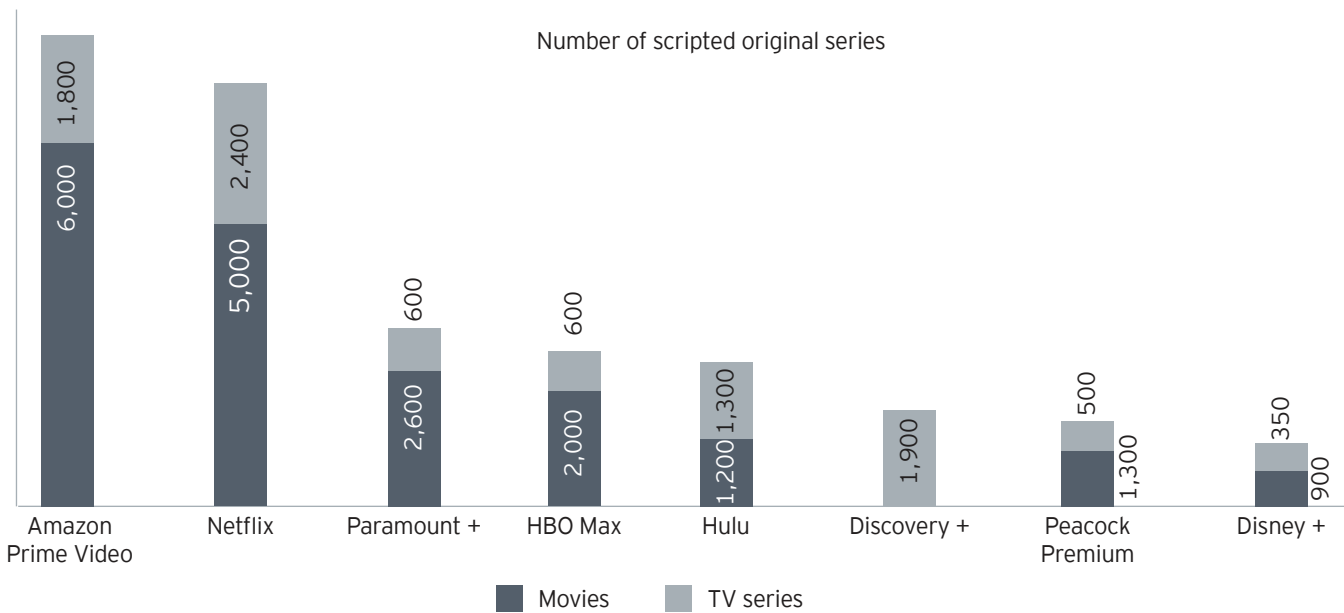


Source: UBS equity research, 1/6/2022

## Digital platforms are driving up the demand for original content



Source: FX Networks; Bloomberg; Variety; Financial Times; BMO Capital Markets; Credit Suisse; RBC Capital Markets; SNL Kagan



Source: Company data, Kagan estimates, JustWatch.com, IMDb.com

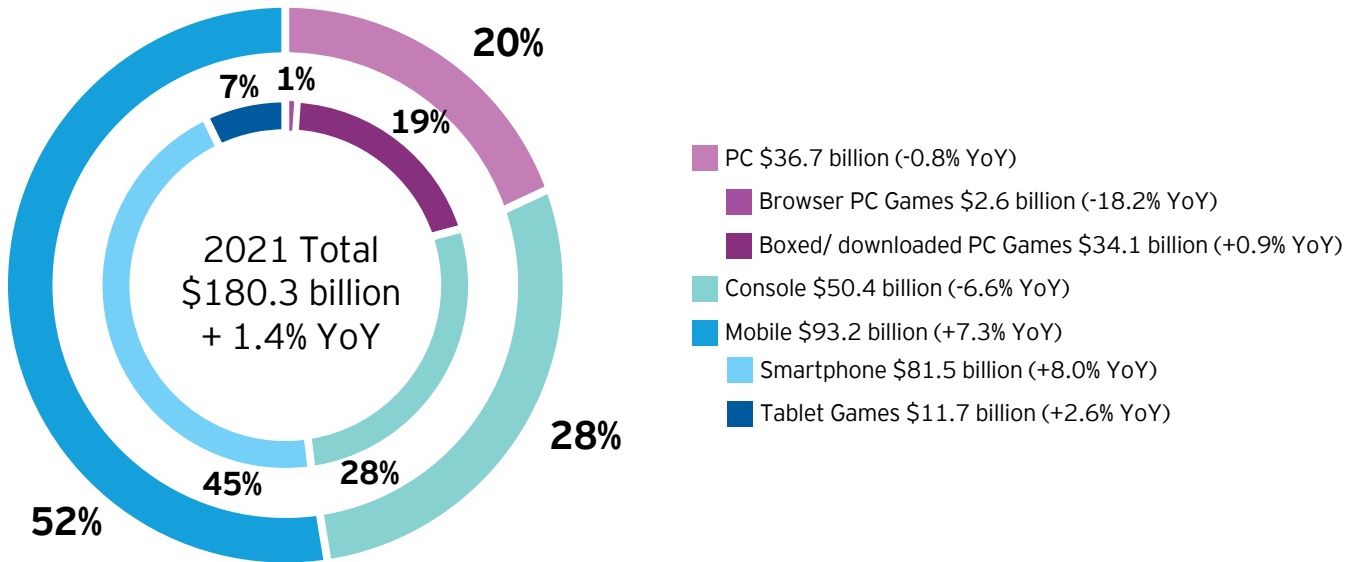
Note: Data compiled on August 2021; Catalogue counts are approximate and change frequently over time



# Gaming

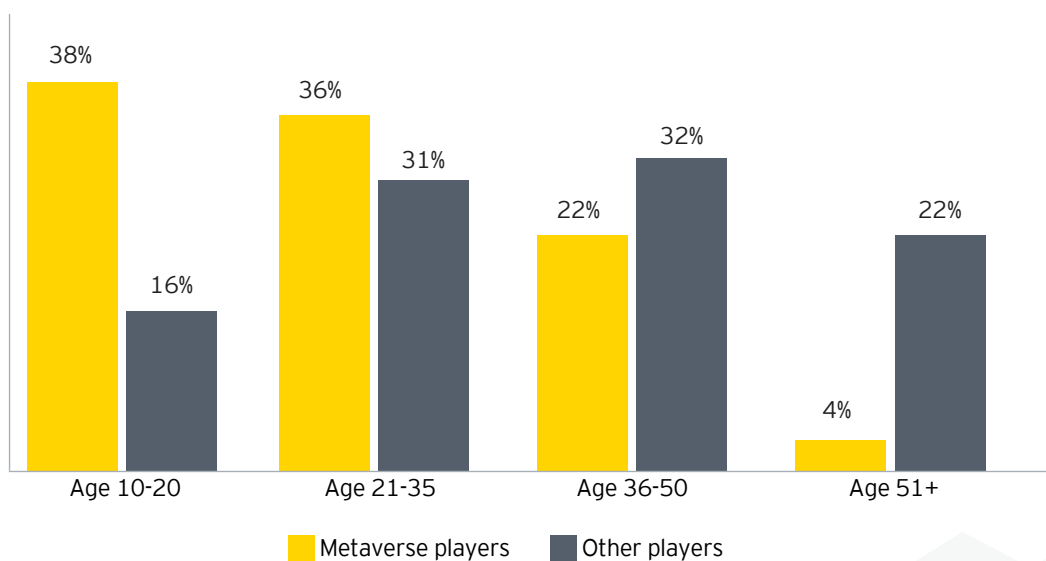
## In-home experiences will continue to grow

Mobile will outperform PC and console gaming revenues within three years, driven by innovations in mobile monetization and big console and PC publishers bringing IP to mobile.



## The metaverse is a young people's game

Share of respondents who played a proto-metaverse game/ a video game in general in the past six months\*

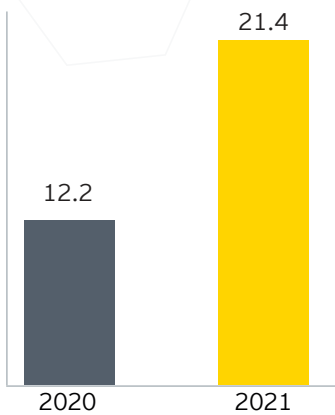


\*Proto-metaverse games = Fortnite, Minecraft, Roblox  
Based on surveys of 2,358 metaverse and 3,163 players excl. metaverse players (aged 10-65) in the US, Germany and France; 2021  
Source: Newzoo

# Film

The industry is anticipating a rebound as the world returns to normalcy

Global box office revenue (US\$ billion)



Source: Variety

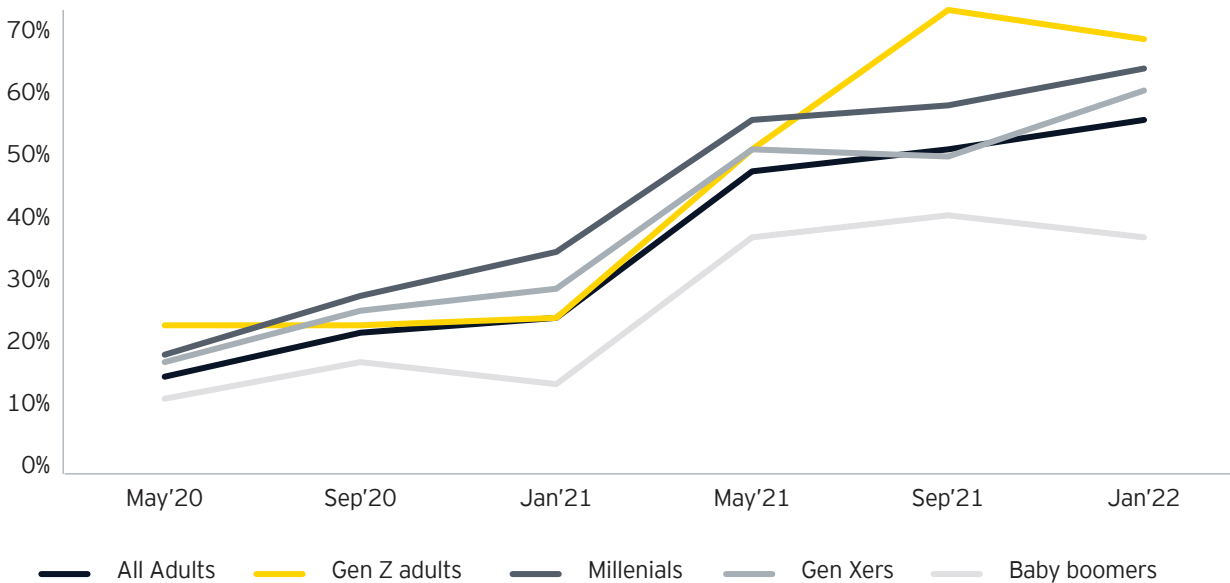
- ▶ 78% YoY gain
- ▶ However, 2021 was less than half of the US\$41.3 billion average of the three pre-pandemic years i.e., 2017-2019.



Source: Variety

## Movie fans are feeling more comfortable about going to the movies

Share of respondents who feel comfortable going to a movie theatre



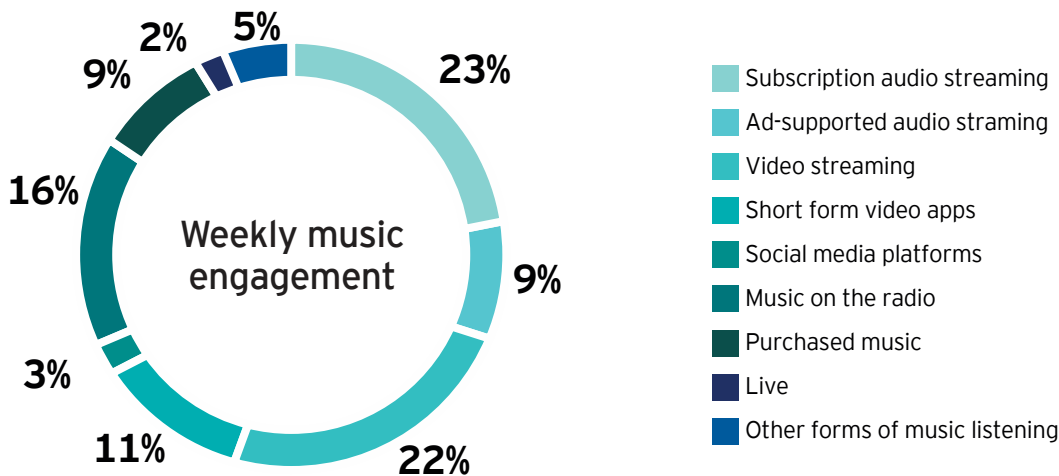
Morning consult

Note: Weekly surveys are conducted among a representative sample of roughly 2,200 U.S. adults, with an unweighted margin of error of 2 plus or minus % points

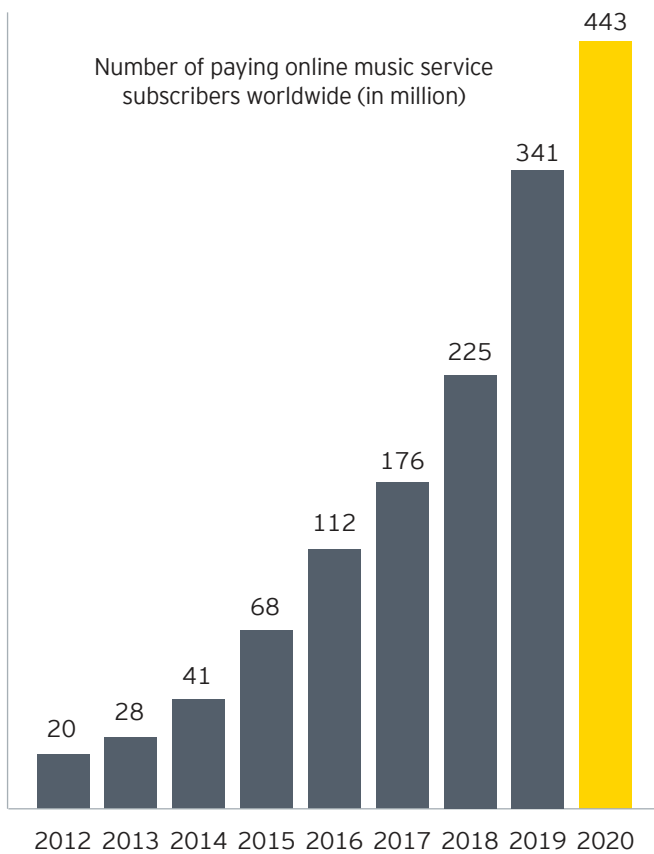
# Music

## The music engagement mix 2021

Weekly time spent listening to music through different sources.

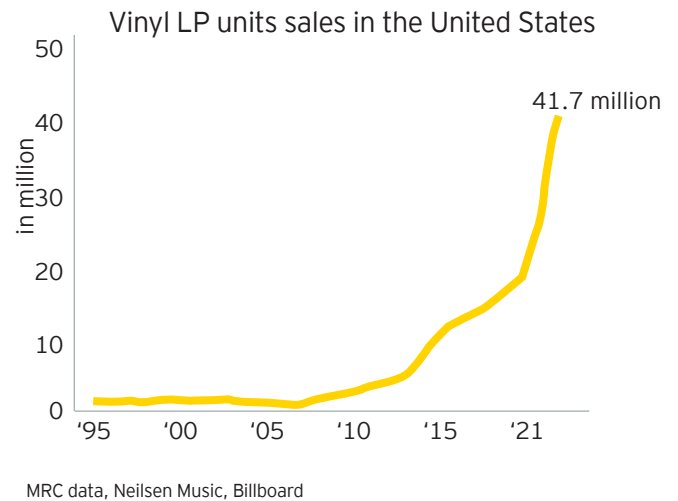


## Paid music streaming subscribers continue to grow



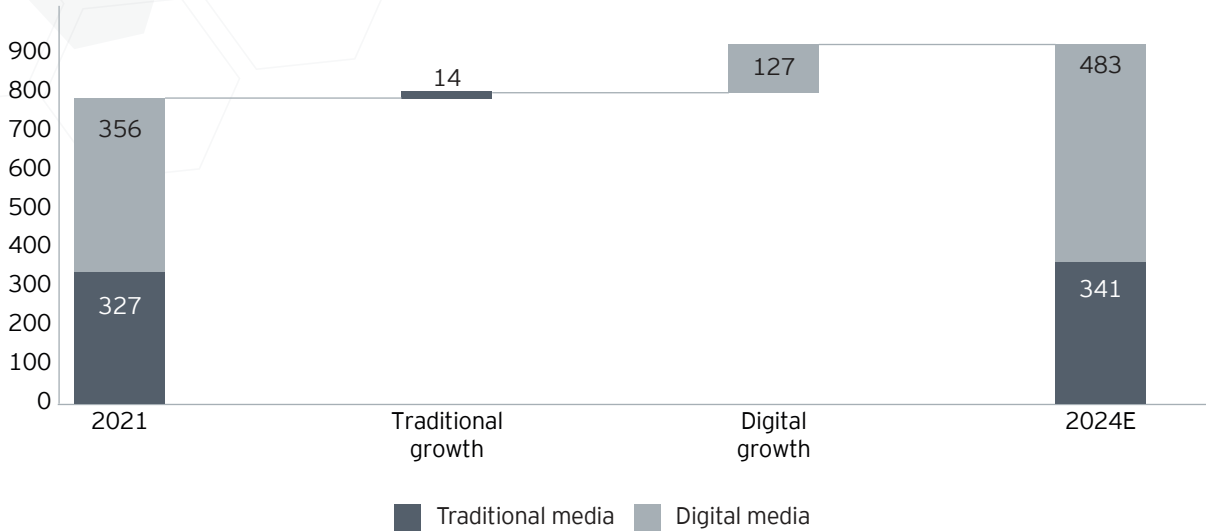
Source: IFPI

## The Vinyl comeback continues



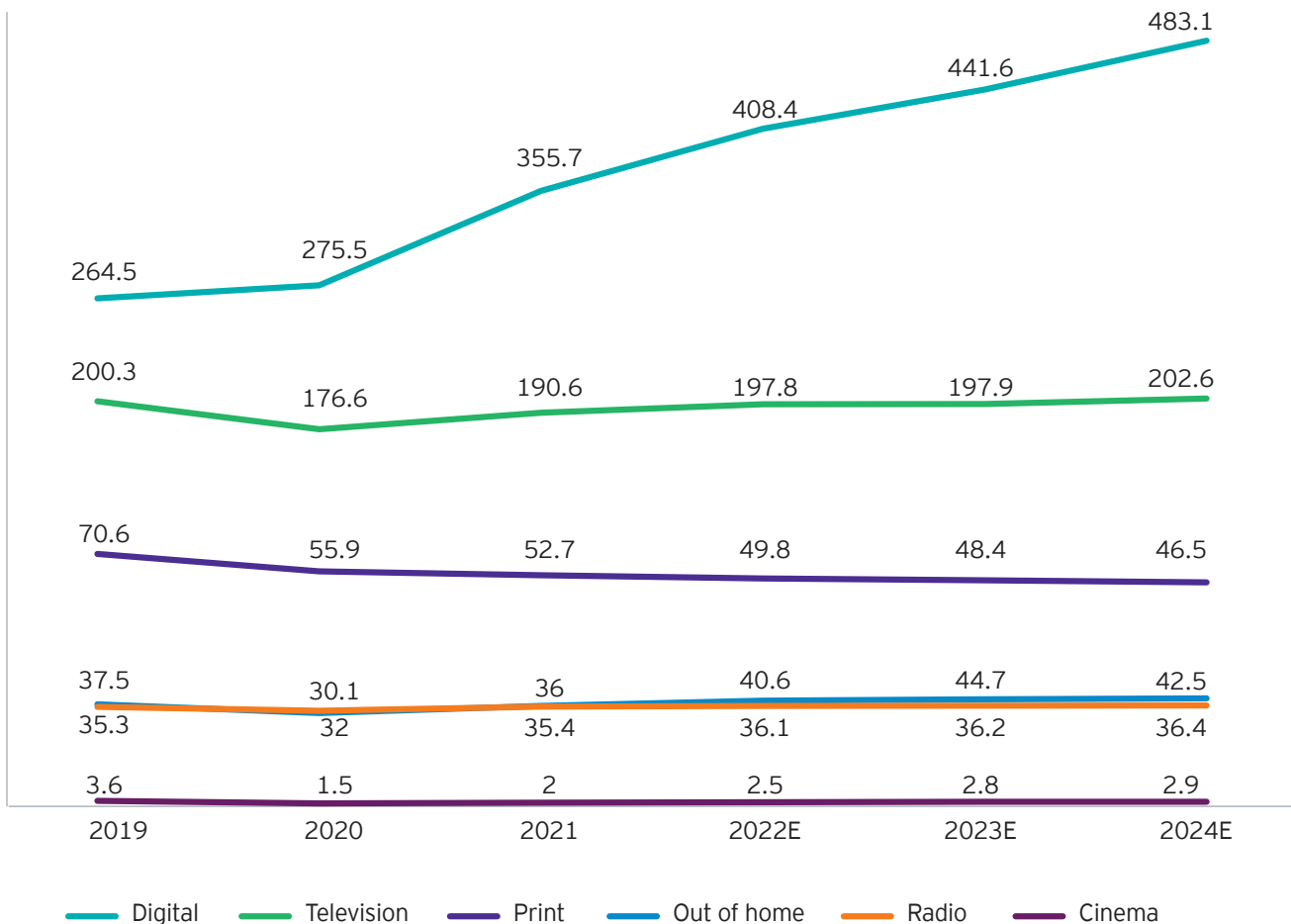
# Advertising

Ad growth will be driven by digital spends till 2024...



...garnering ~60% share of ad spends by 2024

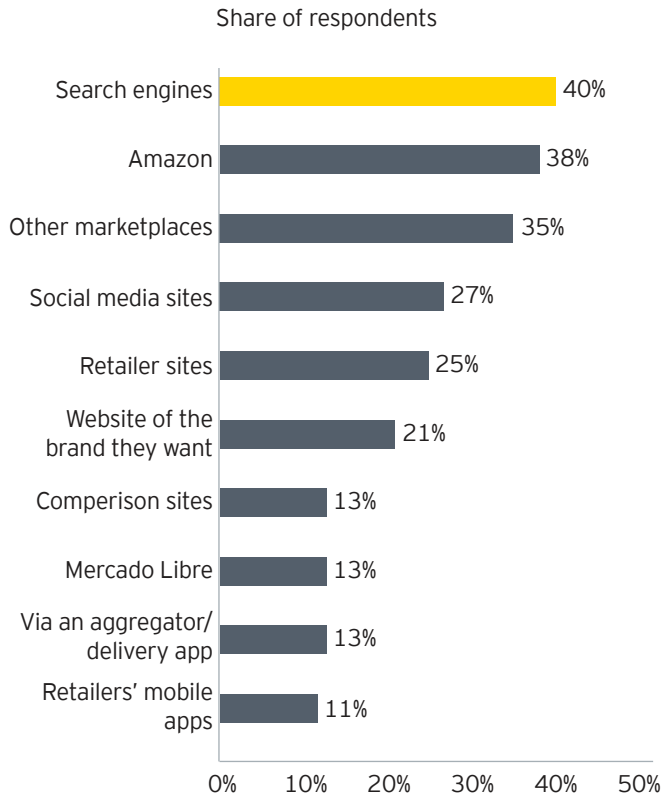
Ad spend evolution by channel (US\$ billion), 2019-2024E



Source: Dentsu Ad Spend 2022

## Consumers will increasingly use multiple platforms for search

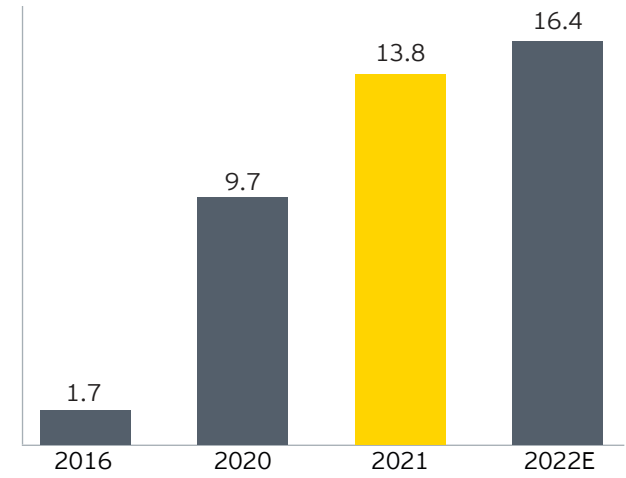
Leading online sources where consumers worldwide search for products as of April 2021



Source: Statista

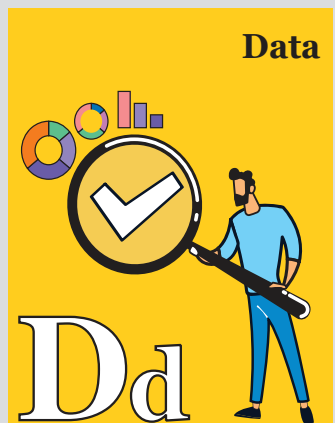
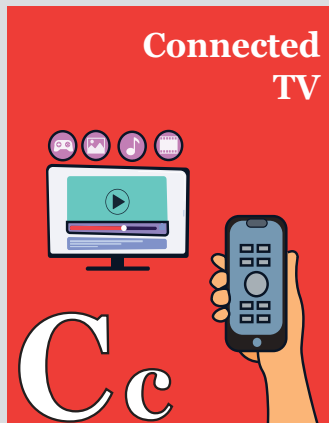
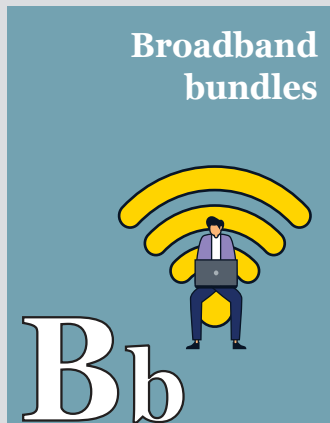
## Influencer marketing will impact shopping habits

Influencer marketing industry size (US\$ billion)

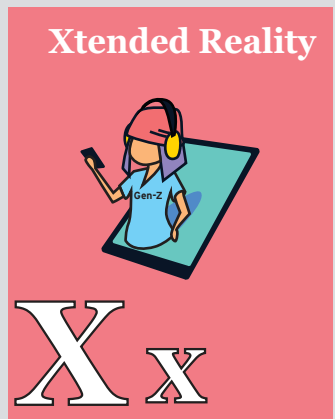
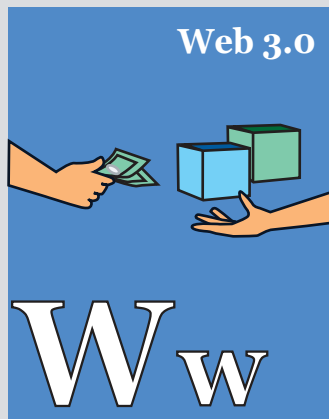
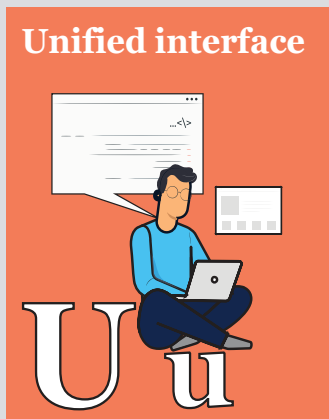
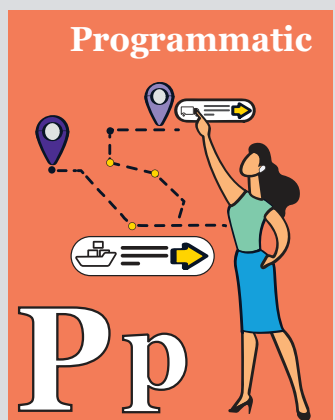
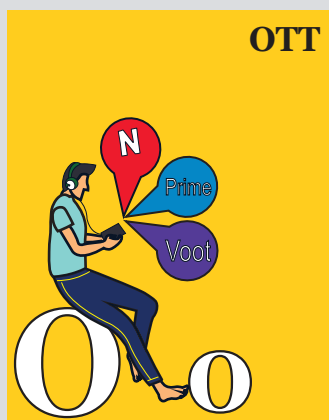
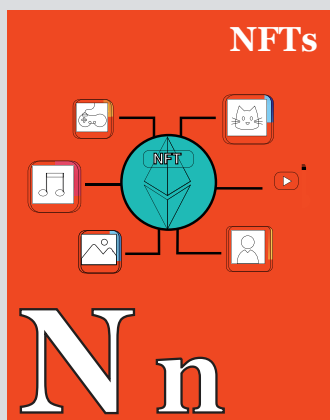


Source: Bloomberg, Influencer Marketing Hub





# About this report



Engagement



Ee

Freedish



Ff

Global reach



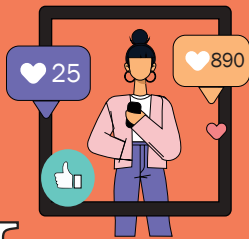
Gg

Handheld



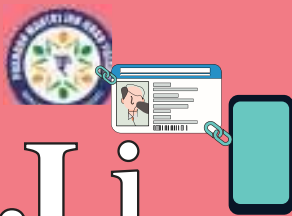
Hh

Influencer



Ii

JAM  
(Jandhan,  
Aadhar, Mobile)



Jj

K-POP



Kk

Likes



Ll

Quality of service



Qq

Recommendation  
engine



Rr

Social  
commerce



Ss

Time-shifted



Tt

Youth



Yy

Zero budget  
marketing



Zz

Sharing



#

Attention span



@

# Glossary

20XX	Calendar year 20XX	CEO	Chief Executive Officer
AAR	Authority for advance rulings	CGST	Central Goods and Services Tax
ABC	Audit Bureau of Circulation	CIO	Chief Information Officer
ABP	Ananda Bazar Patrika	CMO	Chief Marketing Officer
Ad	Advertising	COE	Centre of Excellence
AdEX	Advertisement expenditure	CPI	Consumer price index
AGR	Adjusted gross revenue	CPM	Cost per mille (thousand)
AI	Artificial Intelligence	CPRP	Cost per rating point
AIGF	All India Gaming Federation	CPSEs	Central Public Sector Enterprises
AIR	All India Radio	CPT	Cost Per Thousand
AMA	Average Minute Audience	CRISIL	Credit Rating Information Services of India
App	Application	CRM	Customer Relationship Management
AR	Augmented Reality	Crore	Ten million
AROI	Association of Radio Operators in India	CSO	Central Statistical Organisation
ARPU	Average revenue per user	CSR	Corporate social responsibility
ATL	Above the line, or media spends	CWG	Commonwealth Games
ATP	Average ticket price	CX	Customer experience
ATS	Average time spent	CY	Calendar year (January to December)
Auto	Automobile	D2C	Direct to customer
Avg	Average	DAN	Dentsu Aegis Network
AVGC	Animation, Visual effects, Gaming and Comics	DAS	Digital Addressable System
AVOD	Advertising VOD	DAU	Daily active user
B2B	Business to Business	DAVP	Directorate of Advertising and Visual Publicity
B2C	Business to Customer	DD	Doordarshan
BARC	Broadcast Audience Research Council	DIPP	Department of Industrial Policy and Promotion
BCCI	Board of Control for Cricket in India	DOOH	Digital out of home
BCD	Basic customs duty	DoS	Department of Space
BEAT	Base erosion anti-abuse tax	DOT	Department of Telecom
BEPS	Base erosion and profit shifting	DPIIT	Department for Promotion of Industry and Internal Trade
BFSI	Banking financial services and insurance	DPOs	Distribution Platform Operators
BI	Broadcast India survey	DRHP	Draft Red Herring Prospectus
BN	Billion	DRM	Digital Radio Mondiale
BSNL	Bharat Sanchar Nigam Limited	DRP	Distributor retail price
BTL	Below the line or event spends	DSP	Demand side platform
BWF	Badminton World Federation		
CAGR	Compounded annual growth rate		

DTAA	Double Taxation Avoidance Agreement	GEC	General entertainment channel
DTH	Direct to home	GILTI	Global intangible low taxed Income
DVD	Digital video disc	GMPCS	Global Mobile Personal Communication Services
EBITDA	Earnings before interest tax depreciation amortization	GOI	Government of India
ECB	External commercial borrowing	GSM	Grams per square meter
EEMA	Events & Entertainment Management Association	GSM	Global System for Mobile Communications
EMDEs	Emerging Markets and Developing Economies	GST	Goods and Services Tax
EODB	Ease of doing business	GSTR	Goods and Services Tax Return
EPG	Electronic program guide	HD	High definition
EPL	English Premier League	HFY	Half Financial Year
EQL	Equalization Levy	HIL	Hockey India League
ER	Effective rate	HITS	Headend in the sky
EU	European Union	HNI	High net worth individual
EY	Ernst & Young LLP, India	HR	Human resources
F&B	Food & Beverage	HSM	Hindi speaking markets
FC	Football club	IAMA	Internet and Mobile Association of India
FCT	Free commercial time	IBC	Insolvency and Bankruptcy Code 2016
FDI	Foreign direct investment	ICC	International Cricket Council
FEMA	Foreign Exchange Management Act, 1999	ICO	Initial coin offering
FFO	Film Facilitation Office	IFPI	International Federation of the Phonographic Industry
FICCI	Federation of Indian Chambers of Commerce & Industry	IFSG	Indian Federation of Sports Gaming
FIFA	Fédération Internationale de Football Association	IHAF	InHouse Agency Forum
Fintech	Financial technology	IIFL	India Infoline Finance Limited
FIPB	Foreign Investment Promotion Board	IMF	International Monetary Fund
FM	Frequency modulation	IMI	Indian Music Industry
FMCG	Fast moving consumer goods	INR	Indian Rupees
FMV	Fair market value	iOS	iPhone operating system
FTA	Free to air	IoT	Internet of Things
FY	Fiscal year (April to March)	IPC	Indian Penal Code, 1860
GB	Gigabyte	IPL	Indian Premier League
GBO	Gross box office	IPLC	International Private Leased Circuit
GDP	Gross domestic product	IPR	Intellectual property rights (also, IP)
GDPR	General Data Protection Regulation	IPRS	Indian Performing Rights Society
		IPTV	Internet protocol television
		IRD	Integrated receiver/decoder
		IRS	Indian Readership Survey

ISL	Indian Super League	NA	Not applicable/ Not available
ISP	Internet service provider	NAS	National Accounts Statistic
IT	Information technology	NASSCOM	National Association of Software and Services Companies
ITU	International Telecommunication Union	NBOC	Net box office collection
JV	Joint venture	NCCS	New consumer classification system
KBC	Kaun Banega Crorepati	NCF	The National Curriculum Framework
KPI	Key performance indicator	NDCP	National Digital Communications Policy
KYC	Know your customer	NFL	National Football ILeague
Lakh	A hundred thousand	NGO	Non governmental organisation
LBET	Local Body Entertainment Tax	NIP	National Infrastructure Pipeline
LCD	Liquid Crystal Display	NSO	National Statistical Office
LCO	Local Cable Operators	NSTC	National Sports Talent Contest
LED	Light emitting diode	NTO	New Tariff Order
LHS	Left hand side	ODI	One Day International
LTD	Limited	OECD	The Organization for Economic Cooperation and Development
M&A	Mergers & Acquisitions	OEM	Original equipment manufacturer
M&E	Media and entertainment	OOH	Out of Home
MAU	Monthly active users	OPEC	Organization of the Petroleum Exporting Countries
MEITY	The Ministry of Electronics and Information Technology	OTT	Over the top
MENA	Middle East and North Africa	P2P	Principal to principal
MESC	Media & Entertainment Skills Council	PAT	Profit after tax
MIB	Ministry of Information & Broadcasting	PC	Personal computer
MICE	Meetings incentives conferences and exhibitions	PDP	Personal Data Protection
MIS	Management information system	PDOOH	Programatic DOOH
ML	Machine Learning	PE	Permanent Establishment or Private Equity
MLB	Major League Baseball	PFAMES	Prime Focus Academy of Media and Entertainment Services
MMA	Mobile Marketing Association	PGA	Public Gaming Act, 1867
MN	Million	PLI	Production- Linked Incentive
MNREGA	The Mahatma Gandhi National Rural Employment Guarantee Act 2005	PM	Prime minister
MoSPI	The Ministry of Statistics and Programme Implementation	PMRTS	Public Mobile Radio Trunk Service
MRP	Maximum retail price	POS	Place of supply
MRUC	Media Research Users Council	PPL	Phonographic Performance Limited
MSDE	Ministry of Skill Development and Entrepreneurship	PPP	Purchasing Price Parity
MSO	Multi system operator	PSU	Public Sector Undertaking
MVPD	Multichannel video programming distributor	PUGC	Professional UGC
MYAS	Ministry of Youth Affairs and Sports	PWL	Pro Wrestling League
		QFY	Quarter Financial Year



QR	Quick Response	US\$	United States Dollar (US\$1=INR75)
RAM	Radio audience measurement	UT	Union Territory
RBI	Reserve Bank of India	VAT	Value added tax
RCEP	Regional Comprehensive Economic Partnership	VC	Virtual Currency or Venture Capital
RERA	Real Estate Regulatory Authority	VFX	Visual effects
RHS	Right hand side	VoD	Video on demand
RJs	Radio Jockeys	VR	Virtual reality
RMG	Real Money Games	V-Sat	Very small aperture terminal
Rol	Return on Investment	WIPO	World Intellectual Property Organization
ROOH	Real Time Out of Home	Wk	Week
RPA	Robotic process automation	XR	Extended reality
SAARC	The South Asian Association of Regional Cooperation	Y-O-Y	Year on year
SAI	Sports Authority of India		
SC	Supreme Court of India		
SD	Standard definition		
SEBI	Securities and Exchange Board of India		
SEC	Socio Economic Category		
SEP	Significant Economic Presence		
SGST	State Goods and Services Tax		
SME	Small and medium enterprises		
SMS	Short Message Service		
SSP	Supply Side Platform		
STB	Set top box		
STC	SAI Training Centre		
SVOD	Subscription video on demand		
TAM	Television Audience Measurement		
TDS	Tax deducted at source		
TDSAT	Telecom Disputes Settlement Appellate Tribunal		
TRAI	Telecom Regulatory Authority of India		
TRF	The Rummy Federation		
TSP	Telecom Service Providers		
TV	Television		
TVOD	Transaction VOD		
UBA	United Basketball Alliance		
UDAN	Ude Desh ka Aam Naagrik		
UEFA	Union of European Football Associations		
UGC	User-generated content		
UMS	Universal Measurement System		

# Acknowledgements

## Industry insights

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As your advisors, we can help you respond quickly and effectively to the challenges the entertainment sector faces today.

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# Disclaimer and sizing assumptions

This report has been developed by conducting primary and secondary research, discussions with several companies and industry stakeholders, and cross referencing of available data points. To the extent possible, the data has been verified and validated. However, there can be no guarantee that such information is correct as of the date it is received or that it will continue to be correct in the future. EY does not take any responsibility for the veracity of the underlying data. Use of this report is at the discretion of the reader, and neither FICCI nor EY take any responsibility for the same in any manner. Please obtain professional guidance prior to using the information provided in this report for any decision making. There is no tax, operating, regulatory or other business advice provided in this report. By reading this report, the reader shall be deemed to have accepted the terms and conditions of use mentioned in this paragraph.

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## Key assumptions used to size the segments of this report:

- ▶ Sizing of various segments has been arrived at using various sources of data, primary research and proprietary EY research. We have tried to then validate the sizing through industry discussions
- ▶ All INR amounts are gross of taxes. Changes in GST rates have been factored into the relevant segments
- ▶ Sales between any two segments of the M&E sector are included as revenues for the segment providing the service. Content production has not been independently sized as it is assumed to be a part of the segment it serves
- ▶ Digital subscription and TV distribution revenues are considered at end customer prices. Content purchased by telcos has been valued under subscription incomes of media companies and not at end customer prices of bundled data packs
- ▶ Digital ad and subscription revenues are not released by most companies and are hence sized based on industry discussions and correlated to media articles and analyst reports, should be used from a trending perspective only. Ad revenues are grossed up at 18%



- ▶ International ad and subscription revenues of TV broadcasting companies have not been included in sizing the television segment
- ▶ Filmed entertainment segment does not include any revenues from food and beverage operations, parking revenues, retail revenues or any ticketing charges billed by online booking portals. Film gross box office is considered at end customer price, for both domestic and international theatricals, the latter being impacted by exchange rate fluctuations
- ▶ Gaming captures only online gaming and no other forms of gaming
- ▶ OOH does not consider the large unorganised wall-painting, ambient media and retail point of sale markets
- ▶ The live events segment does not consider value of broadcast rights (unless the IP is owned by the event company), the large unorganized sector and pure MICE and travel companies
- ▶ Animation, VFX and post production revenues include those earned from domestic and export services by companies in India and are correlated to averages across the content value chain
- ▶ No hardware sales are included where bundled with content. Value of sporting goods is not included in the sports segment
- ▶ Where alternate sources of sizing exist, we have considered the most conservative, unless there is adequate justification not to
- ▶ Forward estimates assume that there will be no further pandemic-related lock-downs or major restrictions
- ▶ There are several statements in this report which refer to certain media companies. Where sources for these statements have not been specifically mentioned, these statements have been sourced from news articles available in the public domain
- ▶ Prior year numbers have been updated where estimates were used, to reflect actuals
- ▶ Forward estimates have been provided on best effort basis and are subject to change to reflect the impact of the coronavirus
- ▶ Analysis of deals is based on secondary research and may not be complete

Note: This is an abbreviated list of all assumptions used.



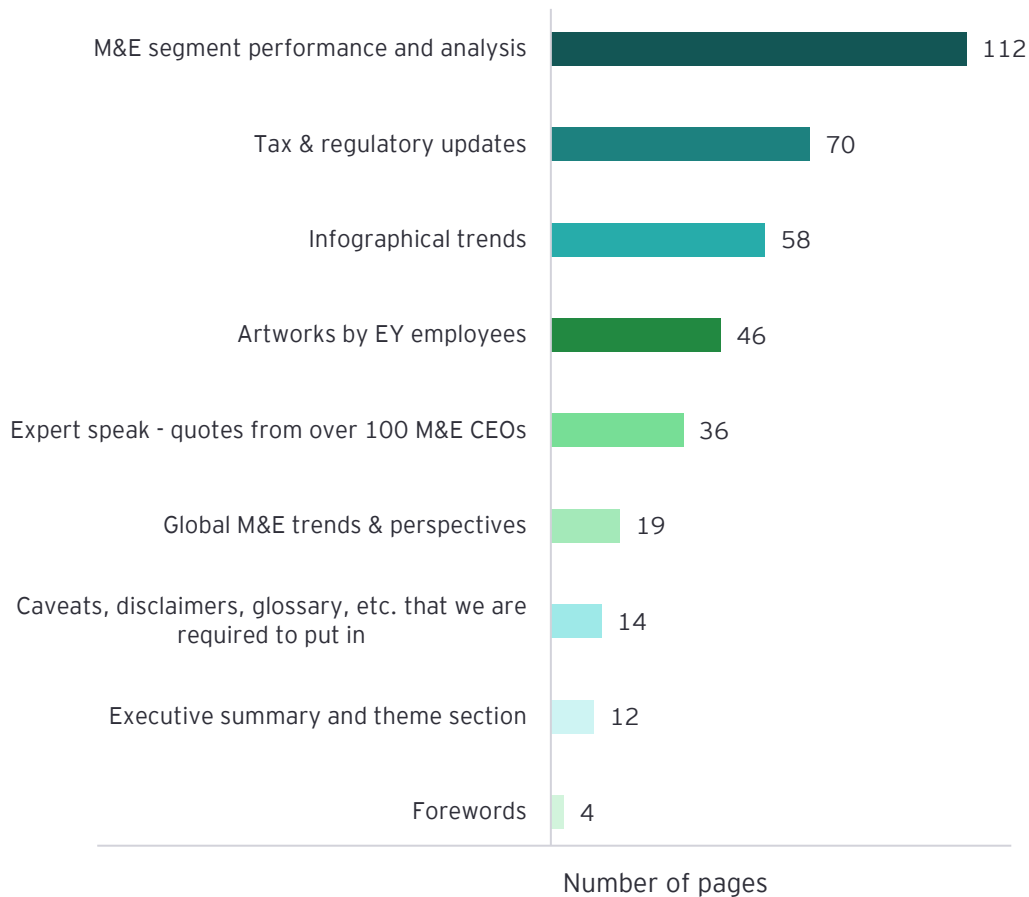
# Anatomy of this report

Yes, the report is over 350 pages, but it contains a lot more than just M&E information and insights. Take a look at the anatomy of this report - and the diversity of information it contains.

There is something for everyone:

- ▶ Inputs from over 100 M&E CEOs and 10 EY partners
- ▶ Industry research collated from over 25 sources
- ▶ Over 200 tables and graphs to ponder
- ▶ Over 20 infographic sections with data points of Interest
- ▶ And lots of art and graphics!

**We hope you enjoy its various facets!**



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