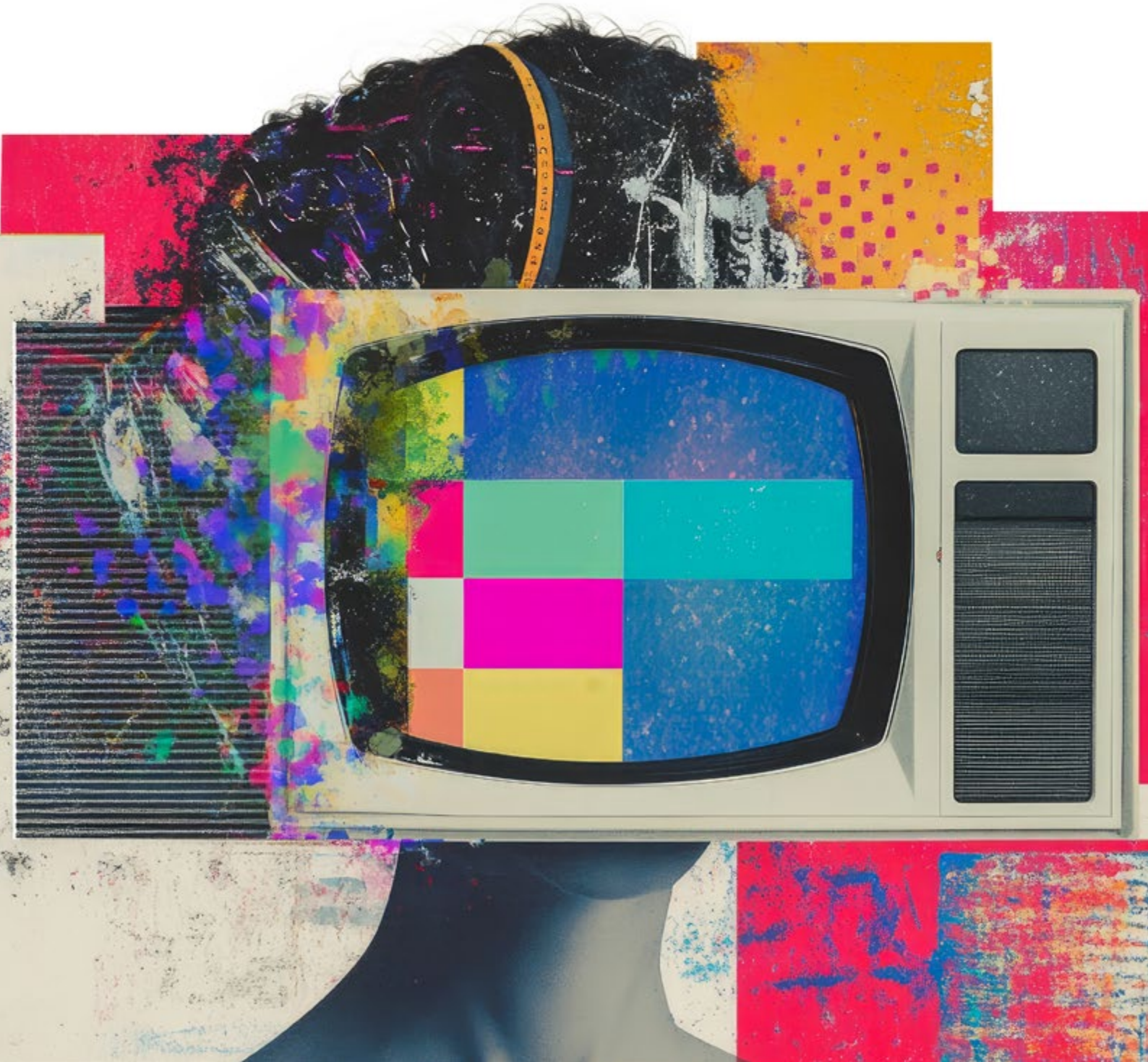




# Frames & Frameworks

Regulatory Landscape of India's Media & Entertainment Industry  
2025 Edition



# FOREWORD



The Media & Entertainment (M&E) industry is one of the most dynamic and influential sectors in the global economy, shaping narratives, fostering cultural exchange, and driving innovation. With a market value of US\$2.32 trillion, the global M&E landscape is undergoing a transformation, powered by digital advancements, evolving content consumption patterns, and the rise of new-age technologies. India, with its vibrant creative ecosystem and rapidly growing digital infrastructure, is uniquely positioned to play a defining role in this evolution.

India's M&E industry, currently valued at US\$26.2 billion, is witnessing a paradigm shift. The regional segment, particularly South Indian cinema, has emerged as a powerhouse, leading domestic box office collections and captivating global audiences. With over 50% of TV and OTT content now consumed in regional languages, the demand for vernacular storytelling is fuelling unprecedented growth. Gaming and animation, driven by smartphone penetration and government incentives like the PLI scheme, are poised to establish India as a global hub for digital content creation.

However, to unlock the full potential of this sector, a supportive regulatory framework is essential—one that fosters ease of doing business, streamlines intellectual property rights, and enables content monetization across platforms. Industry collaboration, investment

in cutting-edge infrastructure, and a strategic approach to global partnerships will be critical in propelling India's M&E sector to new heights.

This legal primer, developed in partnership with Khaitan & Co, serves as a vital resource for navigating India's evolving regulatory landscape. By addressing key challenges and providing insights into policies, legal frameworks, and business strategies, it empowers stakeholders to harness opportunities and position India as a global leader in media and entertainment.



## **Harsha Vardhan Agarwal**

President, FICCI and  
Vice Chairman and Managing Director,  
Emami Limited



India's M&E landscape has transformed into a vibrant, multi-platform ecosystem where content seamlessly transcends borders, languages and platforms. With the rollout of 5G technology in India, we stand on the cusp of a new wave of disruption. Ultra-fast, affordable and accessible connectivity, along with low-latency networks will power high-quality content streaming, accelerate the growth of gaming and e-sports, and enable real-time engagement across platforms. The gaming industry, already on a steep growth trajectory, will benefit immensely, with cloud gaming, AR, and VR set to become mainstream.

Regional language content has emerged as a force to be reckoned with in India's M&E landscape. Audiences have always gravitated toward authentic, culturally rooted storytelling, and, of late, regional content creators have captured the imagination of audience pan-India and across the globe through cinema and streaming. The rise of regional stars, crossover collaborations, and multilingual releases signals a future where Indian storytelling is increasingly global. Television continues to retain its position as a dominant pillar of the M&E sector, commanding over 30% of the total market share and maintaining its status as the mass and affordable medium both for consumers and advertisers. Alongside this, the creator economy is reshaping the media and advertising landscape. Influencer marketing is projected to grow to INR

34 billion by 2026, as advertisers shift toward more targeted, data-driven, and community-led engagement models. The live events industry, fuelled by the increasing demand for experiential entertainment, is becoming a significant contributor to the broader M&E economy. The M&E industry stands on the brink of a new era. It is also witnessing significant consolidation, exemplified by the recent USD 8.5 billion Disney-Viacom merger, a strategic alliance that is set to reshape India's M&E landscape and pave the way for transformative change.

As the M&E sector evolves, so does its regulatory landscape. With content consumption and digital transactions rising, light-touch and agile regulatory frameworks will play a crucial role in enabling growth and protecting consumer interests. We are delighted to present this legal and regulatory primer in partnership with Khaitan & Co, which we believe will be useful for stakeholders across various segments of the M&E industry.



## **Kevin Vaz**

Chairman, FICCI Media & Entertainment Committee and CEO - Entertainment, JioStar

# FOREWORD



It is an honour and a privilege to present this primer on the legal and regulatory issues impacting the media and entertainment (M&E) sector. The industry stands at a pivotal moment, navigating rapid technological advancements, evolving consumer preferences, and an increasingly complex regulatory environment. As digital transformation accelerates, legal frameworks must keep pace to ensure a balanced approach that fosters innovation while safeguarding rights and responsibilities.

Businesses operating in this dynamic sector continue to face a range of legal challenges from content regulation and intellectual property protection to evolving data privacy laws and antitrust considerations. Recent policy shifts and court rulings have set new precedents, and the coming years are likely to bring further regulatory scrutiny, particularly around emerging areas such as artificial intelligence, deepfakes, and cross-border content distribution.

This primer provides a comprehensive overview of the current legal and regulatory landscape shaping the M&E sector. It examines key policy developments, recent legislative changes, and their potential impact for stakeholders across the media industry. The insights in this report are aimed to help industry stakeholders anticipate challenges and seize opportunities in a rapidly shifting environment.

We hope this primer serves as a valuable resource in understanding the evolving legal frameworks and their implications for the M&E industry. As we move forward, staying informed and proactive will be critical to ensuring compliance and fostering innovation in this ever-changing landscape.



## Haigreve Khaitan

Senior Partner

Corporate and Mergers & Acquisitions  
Khaitan & Co



The Indian M&E sector has undergone massive transformation over the years, driven by advancements in technology, easier access to internet, widespread adoption of digital mediums and the Government's continued efforts to improvise digital infrastructure. Whether it's consumption of content on OTT platforms, streaming music, social interactions, gaming, watching live events, knowledge, education, advertising or commerce—digital mediums have taken center stage, while traditional mediums like print, television and radio continue to grow and equally benefit from technological progress.

The digital era has been a boon to the creative industry in many ways as well. Today, content from across regions is more easily accessible, and the lines of preference between regional content and national content are consistently blurring. Indian content is also increasingly becoming mainstream internationally across global platforms. On the other hand, AI is rewriting the rules of content production and personalization, while raising critical conversations around copyright, deepfake ethics, and the evolving role of human creativity.

Given the dynamically changing landscape of the M&E industry, laws and regulations are bound to evolve as well, to reign and manage the risks and pitfalls that come along with modernisation. As the industry continues to grow and increase its

footprint, the need for a nuanced understanding of legal and regulatory frameworks has never been more critical.

This primer is a collaborative effort to provide insights into the regulatory landscape governing the Indian M&E sector. We extend our gratitude to FICCI for their partnership in this initiative, as well as to all contributors whose expertise has enriched this report. We hope this primer will serve as a handbook for professionals across the M&E ecosystem, to navigate the complex legal terrains, understanding key challenges, identifying opportunities, and adopt best practices.



## **Tanu Banerjee**

Partner

Technology, Media & Telecommunication  
Khaitan & Co

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01

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# Filmmaking in India

Behind the Scenes



The Indian film industry has cemented its position as a global entertainment powerhouse, producing around 1,500 - 2,000 films annually across various languages. Over the past decade, this growth has been complemented by technological advancements and a surge in digital content consumption.

Films can be complex amalgamations of various creative components, including literary works like screenplays and dialogues, performances by actors, music, vocals and lyrics, creative direction, and visual artistry. Each of these elements involves layers of intellectual effort, invoking copyright protection at multiple stages.

A robust and ever-evolving legal framework protects rights of creators, manages interactions and disputes between stakeholders in line with international standards.

## Ownership Rights

### What is a cinematograph film?

A work of visual recording including a sound recording accompanying a visual recording. This extends to films, web series, shows, music videos etc.

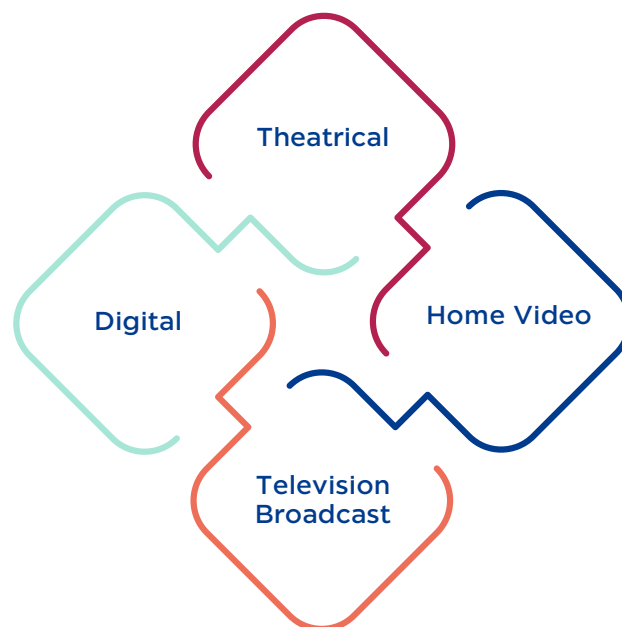
### Who owns the copyright in a film?

The producer is the first owner of the copyright in a film. This ensures clarity in ownership, particularly in collaborative environments like filmmaking, where producers, directors or companies often secure rights through agreements. The copyright in a film subsists for 60 years from publication, after which the film is available in the public domain.

### What are the rights available to the owner of copyright?

The producer has the exclusive right to exercise and authorise third parties to exercise the right to exhibit, distribute and exploit the film. Distribution rights are typically granted to third parties by way of licensing / assignment arrangements for a specific term, territory and consideration.

### Distribution rights can be exercised through the following modes



### Rights of other contributors

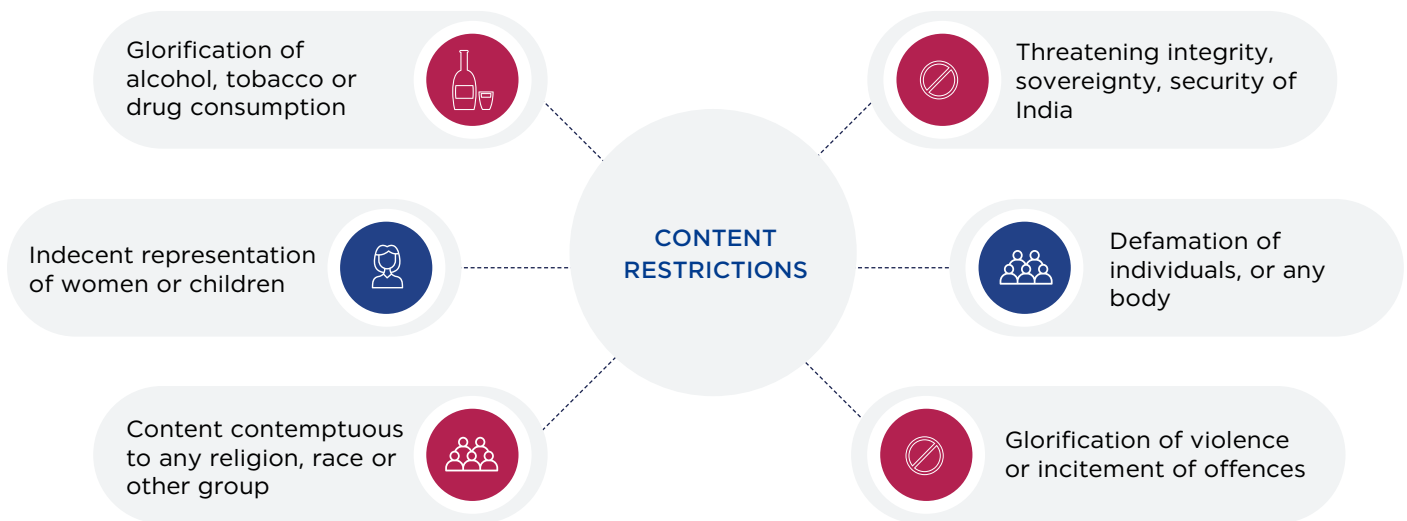
Various other creative contributors, such as writers, directors and actors are involved in filmmaking. As the author of the screenplay, a writer is the owner of copyright in the script and screenplay. A producer engages a writer under a contract to create a screenplay or acquires all rights in the screenplay and becomes the owner of the screenplay. Similarly, a producer enters into contracts with other contributors to engage them for their services and acquires all rights in the work products.

## Screenwriters Rights Association of India

In December 2024, the Screenwriters Rights Association of India (SRAI) was granted registration as a copyright society to carry on the business of a copyright society in: (a) dramatic works and (b) literary works associated with dramatic works. The SRAI is aimed at securing the interests of its writers.

## Regulation of film content

The framework and regulator for regulation of content differs across various platforms on which the content is distributed.



## Theatrical Releases

Governed by the Central Board of Film Certification (CBFC), a statutory film-certification body, established by the Cinematograph Act 1952 (Cinematograph Act), and operating under the Ministry of Information and Broadcasting (MIB). The CBFC is responsible for ensuring films that are set to release theatrically are in compliance with inter alia the following content guidelines:



In the event a film meets the aforesaid criteria, having regard to the overall impact of the film and the contemporary standards in the country, the CBFC grants certification in the following categories:

## CERTIFICATION

U

Unrestricted public exhibition

UA 7+

Unrestricted public exhibition, but with parental guidance for children under 7

UA 13+

Unrestricted public exhibition, but with parental guidance for children under 13

UA 16+

Unrestricted public exhibition, but with parental guidance for children under 16

A

Restricted to adult audiences

S

Restricted to specialised audiences, such as doctors or scientists

Further, as per the amendment in 2012 to the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Rules 2004 (COTP Rules), films displaying tobacco products or their use are required to: (i) include anti-tobacco health spots of a minimum duration of thirty seconds each at the beginning and middle of the film, (ii) a prominent static message at the bottom of the screen during the period of display or use of the tobacco products within the film, and

(iii) audio-visual disclaimers of a minimum of 20 seconds in the beginning and middle of the film.

### Television

- Content telecast on television must adhere to the Programme Codes and Advertising Codes prescribed under the Cable Television Networks Rules 1994 (Cable TV Rules) issued under the Cable Television Networks (Regulation) Act 1995 (Cable TV Act). Please refer to the chapter on **Broadcasting** for further details in relation to regulation of content on television.
- Interestingly, with the 2023 amendments to the Cinematograph Act, in the event the CBFC has restricted the exhibition of a film for adults or a specific class of persons, and a person wishes to exhibit such a film on television, or any other media prescribed by the government, an application can be made to the CBFC to exhibit such a film subject to making such edits and cuts as the CBFC prescribes. However, obtaining such certification is not mandatory under the Cinematograph Act.

### OTT Platforms

Content on over-the-top (OTT) platforms is regulated under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 (IT Rules 2021), which prescribes guidelines in relation to classification of content based on age, addition of content descriptors etc. Please refer to the chapter on **OTT Platforms and Digital Content** for further details in this regard.

## The Next Scene

The Indian film industry is experiencing a significant transformation while adapting to emerging technologies and distribution methods. The film sector is projected to grow to INR 23,800 Crores by 2026. The recent registration of SRAI is a major step toward protecting screenwriters' rights. Additionally, the growing influence of artificial intelligence (AI) in the Indian film industry is becoming increasingly evident, presenting both challenges and opportunities. Recent films such as *Kalki 2898 AD* and *Kanguva* have leveraged AI for enhanced visual effects and seamless de-aging of actors.

AI-driven tools are also being used to refine dubbing accuracy and automate scriptwriting processes. The proliferation of OTT platforms and digital content has democratised storytelling, enabling film producers to cater to niche audiences from metropolitan cities to rural areas. This shift has not only amplified the reach of regional content within India but also elevated its recognition on global platforms. Films in Tamil, Telugu, Kannada, and Malayalam are breaking cultural barriers, gaining popularity across the country, and earning accolades internationally.



02

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## Film Incentives

Reel Benefits, Real Impact

With its diverse landscapes and rich cultural heritage, India is an ideal destination for international filmmakers. The global reach of digital platforms, coupled with India's rising popularity in foreign content, creates ample opportunities for cross-border collaborations in filmmaking.

In an effort to position India as a prominent filming destination and attract investment from international filmmakers, the MIB introduced the Guidelines of the Incentive Scheme for Production of Foreign Films in India and Official Co-Production Under Audio-Video Visual Co-Production Treaty in 2022 which was further revised in 2023. Under these schemes, the MIB has incentivised Indian co-producers partnering with international filmmakers and Indian production service providers providing services for foreign films.

## Co-production Incentives

Targets films produced by Indian producers in partnership with international filmmakers under India's official co-production treaties.

### Eligibility

- Indian co-producers partnering with filmmakers from 16 countries: Australia, Bangladesh, Brazil, Canada, China, France, Germany, Israel, Italy, New Zealand, Poland, Portugal, Republic of Korea, Russia, Spain, and United Kingdom.
- Projects recognized by the MIB as a 'co-production'.
- Feature films, animation films as well as documentaries (approved by Ministry of External Affairs (MEA)), subject to the production format eligible under the co-production treaty.

### Benefits

- Reimbursement of 30% of qualifying co-production expenditure (QCE), capped at INR 30 Crores subject to availability of the budget set aside by the MIB for disbursements under the incentive scheme.

### Qualifying Co-production Expenditure

- Inclusions: Costs for, inter alia, filmmaking facilities and locations in India, goods sourced in India, and expenses for Indian residents working on the project.
- Exclusions: Costs for, inter alia, marketing, business overheads, international travel, and insurance.

### Reimbursement Disbursal

- Reimbursement is provided in two stages:



50% after principal photography starts in India



50% within 90 days of project completion



## Production Incentives

Targets films that are shot or produced in India or for which post-production activities are conducted in India in partnership with international filmmakers.

### Eligibility

- Indian production companies involved in live shoots, animation services, post-production, and visual effects services for foreign feature films, TV shows, web series, and documentaries.
- Minimum qualifying production expenditure of INR 3 Crores for projects other than documentaries (for which approval of the MEA is required).
- Exclusions: News and current affairs content, quiz shows, reality shows, music videos, magazine shoots, infotainment, talk shows, productions for fund-raising, productions for training / corporate advertising and sports, and public events coverage.

### Benefits

Reimbursement of:

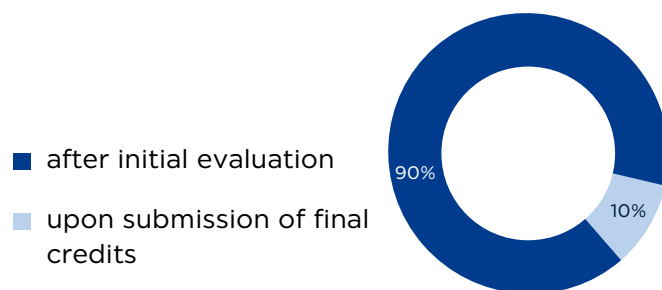
- Maximum of 30% of qualifying production expenditure (QPE), capped at INR 30 Crores, subject to availability of the budget set aside by MIB for disbursements under the incentive scheme.
- 5% of QPE for employing 15% or more Indian manpower.
- 5% of QPE for having significant Indian content (i.e., where 25% of the budget is spent in India, one lead character is an Indian national, presenting a positive image of India, or the beauty of tourist attractions, etc.).

### Qualifying Production Expenditure

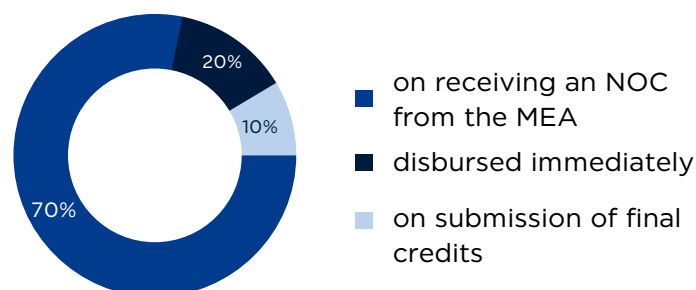
- Inclusions: Costs related to, inter alia, payments to Indian cast and crew, equipment rental, studio facilities, set construction, and visual effects.
- Exclusions: Costs relating to, inter alia, financing, marketing, and international travel.

### Reimbursement Disbursal

Reimbursement is provided in two stages:



For documentaries or projects flagged for screening, reimbursement is provided in three stages:



## Other Considerations

### Credit

Due credits are to be provided to the Film Facilitation Office and the MIB in the format prescribed under the incentive schemes and the Film Facilitation Office.

### Overlap

An applicant can apply either under the production scheme or a co-production scheme, but not both. However, the Incentive Scheme does not restrict applicants from applying for state-specific incentives in parallel.

### Documentation

In addition to standard documentation such as PAN, and GST registration of the Indian applicant, a written agreement executed between the Indian service provider and international producer setting out the services provided, and the cost of such services, has to be provided to the Film Facilitation Office.

## State-Wise Incentives

In addition to the aforesaid incentive scheme, specific states also offer certain incentives. Set out below is an indicative list of incentives offered by states:



### Incentives

Awards for content with cash prizes

Incentives for content shot in the state or incentives for engaging crew from the state

Incentives for content based on the state's heritage

Incentives for content made in local languages

Incentives for content / cast winning national / international awards



### State

Andhra Pradesh

Assam, Chhattisgarh, Delhi, Gujarat, Haryana, Himachal Pradesh, Kerala, Karnataka, Jharkhand, Jammu & Kashmir, Sikkim, Rajasthan, Odisha, Maharashtra, Madhya Pradesh, Uttar Pradesh, and Uttarakhand

Assam, Jammu & Kashmir, and Uttarakhand

Goa, Himachal Pradesh, Jharkhand, Maharashtra, and Uttarakhand

Chhattisgarh, Tamil Nadu, and Uttar Pradesh



## Impact and Benefits

Twelve film producers have utilized benefits under the co-production scheme, including the producers of the Indo-French film *All We Imagine As Light*, as well as producers from Poland, France, Bangladesh, Italy, Germany, Canada, and Russia. Likewise, several international film producers have taken advantage of the production scheme, notably those behind *Poacher* and *A Suitable Boy*. As of 2023, 35 foreign film projects have been approved for production in India.

Additionally, the streamlined single-window systems of the Film Facilitation Office, the Archaeological Survey of India, and the Indian Railway portals have made it easier to obtain shooting clearances for monuments and other iconic locations. The promotion of India as a filming destination is also expected to positively impact related sectors such as employment and tourism and establish India as a leader in the film making business.



# 03

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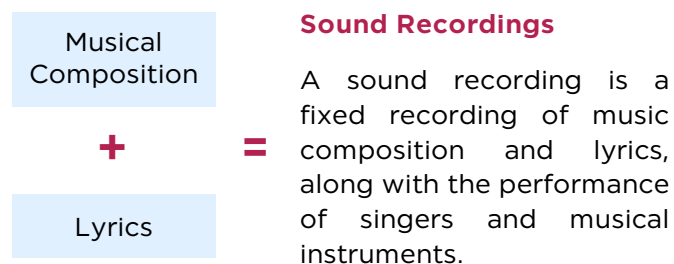
## Music & Law

Notes on Compliance

India's music industry is one of the most culturally rich industries in the country. The Indian music industry generates approximately INR 12,000 Crores of revenue per year, which is approximately 6% of the Indian media and entertainment industry. It is expected to show an annual growth rate of 9.82%, resulting in a projected market volume of USD 261.20 million by 2029. The creation and distribution of music is protected under the Copyright Act 1957 (Copyright Act) in India. The Copyright Act separately protects the lyrics, musical composition, and the resultant sound

recording. Set out below is a brief overview of the regulatory framework governing music in India:

## Copyright in Music



### Ownership of rights



#### Lyrics And Musical Composition

##### Owner

Lyrics and musical composition are owned by the authors i.e., the lyricist or music composer.

Music labels / film production houses may engage a lyricist or music composer and acquire ownership of the lyrics and music composition by contract.



#### Sound Recording

Sound recordings are owned by its producer, typically a music label / film production house.

##### Rights of owner - during the term of copyright

Can undertake or authorise third parties: to use, distribute, publicly perform, adapt, or translate works.

Can undertake or authorise third parties: to use, sell, distribute, and publicly perform.

##### Term of copyright

Lifetime of the author, plus 60 years

60 years from publication

## Dispute on payment of royalties for underlying works



Is a separate license required for use of sound recording and underlying works?



**IPRS v Entertainment Network (India) Ltd (Delhi High Court, 2021)**

If a sound recording license has been obtained, a separate license for underlying works is not required.



**Music Broadcast Ltd v Tips Industries Limited & Ors (IPAB, 2021)**

Communication of a sound recording also requires a separate license to communicate the underlying works for such use.

The contradictory judgements from Intellectual Property Appellate Board (IPAB) and the Delhi High Court created a conundrum on licensing of rights. Both of these judgements have been challenged before the division bench of the Delhi High Court and are pending adjudication. However, in the absence of clarity, several end-users are obtaining separate licenses for the exploitation of underlying works.



After the term of copyright, the relevant works (i.e., music, lyrics, or sound recording) are in the public domain and any person can use them without a license. There is often an argument that if a song is 60 years old, it is available for use in the public domain since the copyright in the sound recording has expired.

However, the copyright in music composition and lyrics is longer than a sound recording. Therefore, owners of music composition and lyrics may still claim that a license is required for the use of sound recordings containing works owned by them, even if the sound recording is in the public domain.

## Types of licenses

### Voluntary license

Owners authorising third parties to exercise all or specific rights, for a specific term, territory, and consideration, exclusively or non-exclusively. This extends to the grant of licenses to platforms that support the generation of user-generated content, whereby a license may be procured by the platform to facilitate the creation of user-generated content on the platform, or by end-users who wish to use / make cover versions of user copyrighted content.

### RAM SAMPATH v RAKESH ROSHAN (BOMBAY HIGH COURT, 2008)

Use of a musical composition in a song may require a license to be obtained from the owner of the composition, even if such use is only for 6 seconds, and the defence of de minimis is not applicable.

### Statutory license

**Broadcasting:** Obtained by broadcasting organisations for broadcasting previously published underlying works / sound recordings to the public, by issuing a notice of intent to broadcast, along with details of duration and territorial coverage of broadcast.

### WYNK LIMITED v TIPS INDUSTRIES LIMITED (BOMBAY HIGH COURT, 2022)

Statutory licensing is limited to grant of license for broadcast of music on radio and television and does not extend to exploitation of music on digital platforms

**Cover versions:** Obtained for making a cover version of an existing sound recording, 5 years after the end of the year in which the original sound recording was made, in the same medium as the original sound recording, without altering the underlying works. A minimum royalty for 50,000 copies of each work is payable (unless otherwise prescribed by the IPAB).

### Compulsory license

A compulsory license can be obtained in the following circumstances:

- By filing a complaint with the IPAB that the owner of a previously published sound recording has refused to allow communication of such work by broadcast, on terms considered reasonable by the complainant,
- Where the sound recording (previously published or unpublished) is withheld from the public because the author is deceased or unknown or the author / owner cannot be traced. The applicant is required to issue a notice of intent to use the sound recording in newspapers to trace the owner, and deposit the royalty amount in the public account of India,
- Where it can be shown that publication of the copyrighted content will benefit persons with disabilities.

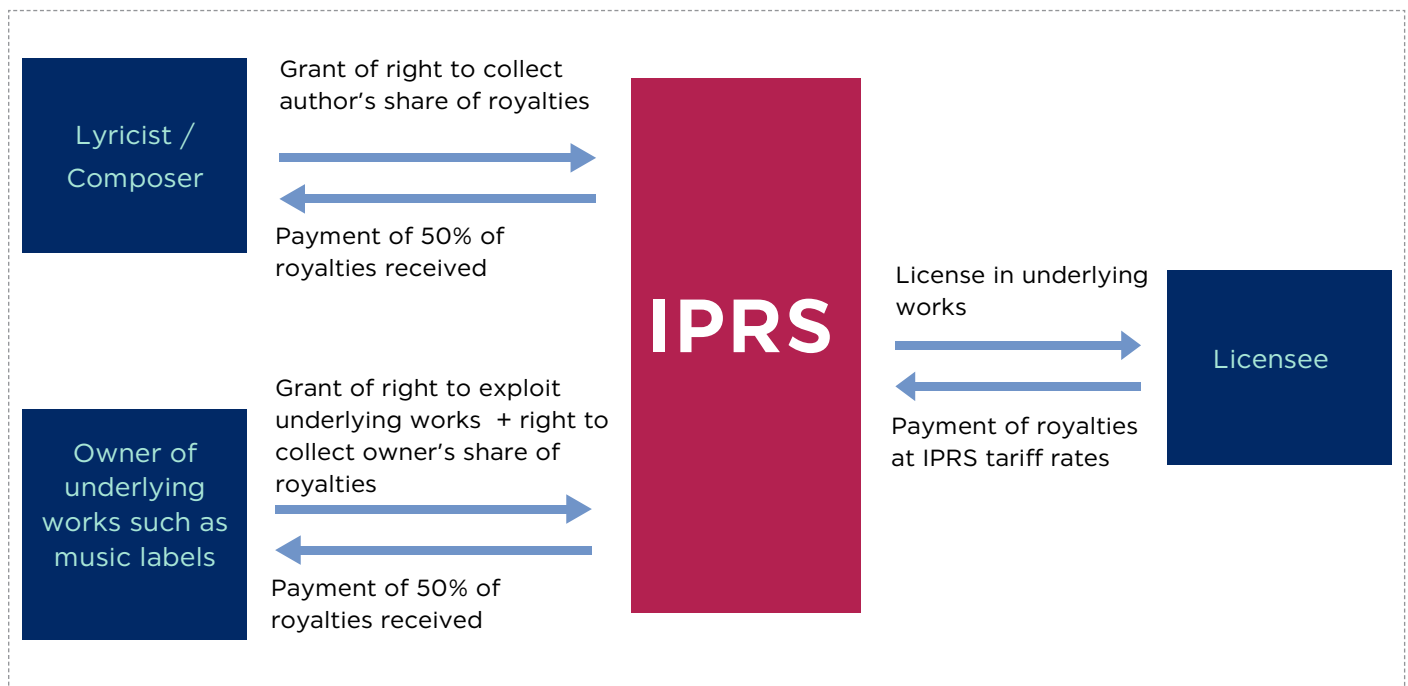


The royalty payable in case of a compulsory license or a statutory license is determined by the IPAB and is not commercially negotiated by rightsholder and the licensee.

## Administration and royalties

### Underlying works

The owner of underlying works may either administer the grant of rights on its own or may appoint a registered copyright society to administer rights on its behalf. The Indian Performing Rights Society (IPRS) is a copyright society for lyricists and composers. IPRS administers rights in underlying works in the following manner:



Note that, post the 2012 amendment to the Copyright Act, authors of underlying works cannot assign or waive their right to receive royalties, even if the ownership of such underlying works has been transferred. As such, the publishing royalties are split 50 (author's share) : 50 (owner's share), and the author's share is then split between the various authors of underlying works.

### Sound recordings

Typically, licensed directly by music labels on mutually agreed terms. Recorded Music Performance Limited is the registered copyright society for sound recordings copyright. In India, organisations such as Phonographic Performance Limited and Novex Communications Private Limited, also license rights as assignees or agents of owners of the sound recordings.

### NOVEX COMMUNICATIONS PRIVATE LIMITED v TRADE WINGS HOTEL LIMITED (BOMBAY HIGH COURT, 2024)

Entities acting as agents for administration of sound recordings can grant licenses to use such works and initiate legal proceedings for infringement of such works, even in the absence of being registered as a copyright society under the Copyright Act.

## Rights of Singers

The Copyright Act protects the interest of singers and other performers as 'performing rights'. Performing rights subsist for 50 years from the calendar year following the year in which the performance is made and include:



The right to make a sound / audio-visual recording of the performance

Reproduce / communicate the recording to the public

Broadcast the performance.

After a performer agrees to include their performance in a film, they cannot prevent the filmmaker from using the performers' rights but are entitled to royalties.

Performing rights are administered by Indian Singers and Musicians Rights Association (ISAMRA). ISAMRA filed several suits since 2016 claiming that singers have a right to receive royalties for the reproduction of sound recordings, however, music labels argued that the right to receive royalties is limited to reproduction of live performances and does not extend to studio recordings. In 2022, ISAMRA arrived at a historic agreement with the Indian Music Industry, an industry body representing music labels, under which music labels agreed to pay ISAMRA revenues for the exploitation of performing rights.



# Moving Towards a Crescendo

The Indian music industry is a dynamic and rapidly growing sector, underpinned by a complex regulatory framework that governs copyrights, ownership rights, licensing, and royalties. As the industry continues to evolve, the legal protections for both creators and performers remain critical in ensuring fair compensation and the continued growth of the market.

This will be especially interesting to see in light of technological developments such as AI, which is expected to impact content creation and consumption. The recent agreement between ISAMRA and music labels is indicative of stakeholders' intent to grow together in a transparent manner.





# 04

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## News & Law

Breaking News, Making Rules

News organisations in India play a crucial role in shaping public opinion, disseminating information, and holding authorities accountable. Given their significant influence, these organisations are subject to a comprehensive legal and regulatory framework designed to ensure responsible journalism while balancing freedom of speech with public interest.

Publication / broadcasting of news and current affairs is a highly regulated sector, with a 26% sectoral cap on foreign direct investment across mediums. Further, entities are required to adhere to security conditions. Please refer to the chapter on **FDI in Media** for further details.

## Creation of News and Current Affairs content

### Norms of Journalistic Conduct

The Norms of Journalistic Conduct (NJC) have been issued by the Press Council of India (PCI), a statutory body established under the Press Council of India Act 1978. The NJC provide ethical guidelines, principles and legal standards for journalists and media organisations for newsgathering and reportage.

The NJC comprise the following:



#### Guidelines on accuracy and fairness

- Journalists must ensure that news is not baseless or misleading, is backed by evidence.

#### Guidelines on advertisements

- Require compliance with applicable laws and relevant disclaimers.

#### Subject-specific guidelines

- Guidelines on: (a) coverage of communal disputes; (b) criticism of public figures/music reviews; (c) references to caste, community and religion; (d) headlines; (e) plagiarism; (f) financial and medical journalism; (g) court proceedings; (h) sting operations; (i) election reporting; and (j) trial by media, etc.

#### Ethical guidelines

- Restriction on paying sources or using unlawful methods like trespassing, secret recording or electronic eavesdropping.



## Protection of sources

Protection of sources by journalists is not specifically mandated under any law in India. The Whistleblower Protection Act 2014 protects individuals who report corruption or abuse of power. The NCJ permit revealing sources only in severe cases affecting national interest or security; however, courts have held that journalists must reveal their sources if required by investigating agencies.

## Hot News Doctrine

'Hot news' is highly time-sensitive information whose commercial value drops rapidly once it is disclosed to the public. Delay or broader release quickly diminishes the profitability and impact of hot news.

This concept is recognised by US courts. News organisations are granted exclusive rights over time-sensitive news.

Indian courts have ruled that the 'hot news' doctrine does not generally apply as time-sensitive information cannot be monopolised. The doctrine can only apply if parties involved are direct competitors.

# Regulation of News Content and Publication

## Print media

### Procedural Regulation

- The Press and Registration of Periodicals Act 2023 (PRA) provides for registration and regulation of publications of periodicals such as newspapers, however, does not regulate the content of newspapers.
- Please refer to the chapter on **Print Media** for additional information on regulation of print media.

### Content Regulation

- The NCJ set out the standards of newsgathering and reportage. The PCI governs the conduct and functioning of periodicals, news agencies, journalists and other print media entities.
- PCI adjudicates complaints received by it, either against the press for violation of journalistic ethics or by the press for interference with its freedom.
- PCI has the powers to warn, admonish or censure a newspaper or a news agency that breaches the standards of journalistic ethics.
- Other medium-agnostic laws which regulate content such as the Bharatiya Nyaya Sanhita 2023 (BNS 2023), Protection of Children from Sexual Offences Act 2012 (POCSO), etc also apply to print media

### Self-regulation

Industry stakeholders have also formed self-regulatory bodies for industry representation. For example, the Print and Digital Media Association is a self-regulatory body for publishers of news and current affairs content.

## Television Broadcasting

News broadcasting is a highly regulated sector in India. Broadcasters of news and current affairs content are required to adhere to Guidelines for Uplinking and Downlinking of Satellite Television Channels in India 2022 (Uplinking and Downlinking Guidelines), Programme and Advertising Code under the Cable TV Rules, and sector-agnostic regulations. News broadcasters are required to implement a three-tiered grievance redressal mechanism under the Cable TV Rules. Please refer to the chapter on **Broadcasting** for further details in this regard.

Additionally, code of ethics issued by self-regulatory organisations such as the News Broadcasters and Digital Association (NBDA), are also applicable to members. The NBDA can censure or express disapproval against a broadcaster and/or impose a fine or recommend the suspension or revocation of the licence of that broadcaster.

## Radio Broadcasting

As per the FM Phase-III Policy issued by MIB (Radio Policy), private FM radio broadcasters are prohibited from broadcasting news and current affairs content except news bulletins from All India Radio, India's public radio broadcaster.

## Online media

Activities on the internet are regulated by the Ministry of Electronics and Information Technology (MeitY) and the MIB under the Information Technology Act 2000 (IT Act) and the rules made thereunder. Please refer to the

chapter on **FDI in Media** for regulation of foreign investment in uploading / streaming of news and current affairs content through digital media.

The IT Rules 2021 set out the compliance and regulatory framework for various entities including publishers of news and current affairs content. News publishers are required to adhere to the code of ethics in the IT Rules 2021, which includes compliance with the NJC and the Programme Code, prescribed under the Cable TV Act and its rules.

The IT Rules 2021 prescribe a three-tier grievance redressal mechanism for user grievances against publishers of news and current affairs content which is the same as for publishers of online curated content. Please refer to the chapter on **OTT Platforms and Digital Content** for details on the grievance redressal mechanism.

The Government of India has powers to block online content under the Information Technology (Procedure and Safeguards for Blocking Access of Information by Public) Rules, 2009 (Blocking Rules). The Government can order removal of or blocking of access to content in the interest of: (a) the sovereignty and integrity of India; (b) defence of India; (c) security of the state; (d) friendly relations with foreign states; (e) public order; or (f) prevention of incitement to an offence relating to the aforementioned.

## The Next Story

Participants in the news and current affairs sector are increasingly adopting a digital-first, cross-platform strategy, capitalising on revenue streams from their presence across multiple mediums. For instance, television news broadcasters regularly upload segments of their primetime shows to social media and OTT platforms. In parallel, traditional print media entities have expanded to the digital medium with dedicated e-editions, reader-friendly apps, and robust social media engagement.

The democratisation of content production has also empowered independent journalists and content-creators to establish their presence on social media and OTT platforms, offering long-form video content, podcasts, and blogs. With this proliferation and diversification of stakeholders in the news and current affairs content-creation and publishing ecosystem, navigation of India's regulations becomes an important challenge, especially due to the vigilance of regulators and gravity of penalties under law.



05

# Sports

Game, Set, Fairplay

India's sports industry has seen rapid growth and transformation over the past few years, with the sports segment projected to grow at a compound annual growth rate (CAGR) of 9.7% from 2023 to 2026. The revenue from sports is expected to reach INR 14,209 Crore by 2026, driven by factors such as increased viewership, digital engagement, and sponsorship opportunities.

While cricket continues to dominate the Indian sports market, accounting for approximately 87% of total sports revenues in 2023, other sports such as football and kabaddi are gaining popularity, with football contributing around 7% to total sports revenues and Pro Kabaddi League (PKL) contributing 4% of the total sports revenues for the year 2023, with rising rural viewership. This paradigm shift is driven by multi-faceted investment in sports infrastructure both by government and the private industry, proliferation of digital platforms, and surge in quality sports content. This chapter explores the broad contours of laws regulating sports in India.

## Sports Governance Initiatives in India

### National Sports Code

The Government of India had passed the National Sports Development Code of India in 2011 (National Sports Code), which enunciates responsibilities of various agencies such as Ministry of Youth Affairs and Sports (MYAS) and Sports Authority of India (SAI) and recognises and governs eligible National Sports Federations (NSFs).

### National Sports Policy

The National Sports Policy of 2001 is a non-binding policy framework which outlines the responsibilities of the central and state governments, along with other agencies, in promoting sports at national and international levels.

#### The policy focuses on:

- Integrating sports and physical education into the education system
- Building infrastructure
- Talent identification (especially in rural and underprivileged areas)
- Supporting traditional sports
- Resource mobilization
- Sports tourism
- Use of mass media to foster a sporting culture

### National Sports Federations

An NSF is a governing body recognized by the government to oversee the development, regulation, and promotion of a particular sport within a country. Each sport has an NSF recognised by the MYAS. These NSFs receive funding from the MYAS and enjoy a monopoly over their sport.

NSFs are entrusted with responsibilities such as organizing domestic competitions, selecting athletes and teams for national and international events, and implementing sports policies. They function under the guidelines of the National Sports Code and must comply with its governance and transparency standards to retain their recognition and access government funding.

### Examples:



All India  
Tennis  
Association



Hockey  
India



Badminton  
Association  
of India

### Department of Sports, MYAS

The Department of Sports (DOS), a division of MYAS, is responsible for developing policies, setting guidelines, establishing eligibility criteria for NSFs, and determining the level of financial assistance provided to them. DOS also manages the participation of Indian teams in international tournaments, oversees foreign teams competing in India, regulates esports in multi-sport events, and supervises the operations of the Sports Authority of India.

### National Sports Governance Bill 2024

The National Sports Governance Bill 2024, introduced by the MYAS on 10 October 2024 for public consultation, aims to reform sports administration through establishment of the Sports Regulatory Board of India to oversee NSFs.

It also proposes the creation of an Appellate Sports Tribunal to expedite dispute resolution, reducing judicial intervention in sports matters.

The bill requires NSFs to implement a Safe Sport Policy for protection of minor athletes, and adherence to the Protection of Women from Sexual Harassment Act 2013, to safeguard athletes.



## Sports Broadcasting

Sports broadcasting is key to fuelling commercial development and performance in Indian sports. Please refer to the chapters on **Broadcasting** and **Live Events** on other aspects regarding broadcasting of content.

### Prasar Bharati and Sports of National Interest

Prasar Bharati, India's public broadcaster, plays a crucial role in ensuring accessible dissemination of important live sports events to the public. The Prasar Bharati Network operates All India Radio and Doordarshan.

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act 2007 (Sports Act) requires private broadcasters to share live broadcasting signals of 'sporting events of national importance' with Prasar Bharati for retransmission on its terrestrial and DTH networks.



## Key Provisions of the Sports Act

### Signal Sharing Requirement

Private broadcasters holding exclusive rights to a notified event are required to share the clean feed of the broadcast with Prasar Bharati without any commercial advertisements.

### Revenue Sharing

Prasar Bharti shares advertising revenues with the broadcaster in the following ratio.

Medium	Broadcaster	Prasar Bharti
Television	75	25
Radio	50	50

### Penalties for Non-Compliance

Failure to comply with the mandatory sharing requirements may result in fines up to INR 1 Crore, and suspension or cancellation of broadcasting licenses, permissions or registrations.

### What are 'sporting events of national importance'?

Periodically notified by the government as being events of national interest.

Currently notified events include:

- Cricket matches and leagues involving the Indian national team (especially World Cup and ICC events)
- Olympic Games, Asian Games, Common wealth Games, Paralympics, etc.
- National and international hockey, football, tennis and kabaddi tournaments, especially those involving India

## Piracy concerns

In *Star India Private Limited v Piyush Agarwal* (Delhi High Court, 2013), the court allowed implementation of a 15-minute time lag rule for broadcasting sports updates. This rule addresses the issue of unauthorized copyright use and dissemination of live sports scores and updates. It grants broadcasters the exclusive right to communicate and disseminate live sports scores for 15 minutes, effectively creating a "time-lag window" during which third parties are restricted from sharing live updates without authorisation. After the 15-minute window, dissemination is allowed.

The rule aims to protect the commercial interests of sports broadcasters and discourage the unauthorized exploitation of real-time sports data by platforms or entities not holding broadcasting rights.

## Competition concerns in the sports sector

The Competition Commission of India (CCI) has actively addressed issues of dominance in the sports sector to ensure fair competition.

### Key CCI Order

In 2011, in a complaint filed against the All India Chess Federation (AICF), the CCI found the AICF had abused its dominant position in the market of organisation of chess competitions in India by prohibiting chess players registered with the AICF from participating in any tournament / championship not authorised by the AICF. Registration with the AICF was necessary for chess players to be selected for national or international chess events. As per the directives of the AICF, AICF could impose a ban on the chess player contravening this restriction and could also require a player to surrender 50% of prize money won from unrecognised events to the AICF.

The CCI held that the AICF had abused its dominant position in the market by inter alia: (a) imposing restrictions on chess players from participating in competitions not authorised by the AICF; (b) denying market access to other sporting bodies for chess; and (c) removing ratings of players for participating in unauthorised chess competitions.

The CCI ordered AICF to inter alia, do the following: (a) cease and desist from the aforementioned conduct; (b) lay down a fair and transparent process for authorisation and sanctioning of chess players; and (c) file a report on the compliance with the CCI's order within 60 days of receipt of the order.

## Match-fixing

Match-fixing is not a separate offence in India. Previous instances of match-fixing, such as the infamous 2013 Indian Premier League spot-fixing case involving cricketers such as Sreesanth, were tried under provisions related to cheating and conspiracy to commit a crime under the Indian Penal Code 1950 (IPC). However, these laws are largely inadequate to address match-fixing and the requirements for conviction under IPC were not fulfilled.

That said, the NSFs of each sport prescribe rules for disciplinary conduct of sportspersons. Multiple instances of suspected match-fixing in Indian football, are under investigation by the All India Football Federation (AIFF). Article 70 of the AIFF Disciplinary Code, prohibits unlawfully influencing the match results contrary to sporting ethics.

## Anti-Doping Laws

Several Indian athletes were handed bans by Indian National Anti-Doping Agency as recently as January 2025. India faces a significant challenge in tackling doping in sports, with the figures for 2022 released by the World Anti-Doping Agency revealing India as having the highest percentage of failed dope tests globally.

The National Anti-Doping Rules 2021 form the current regulations against doping in India, however, no national legislation is in place. The Central Government has notified the National Anti-Doping Act 2022 (Anti-Doping Act), however, it is yet to be enforced.

The 2021 rules provide for bans on doping, standards of proof, testing protocols,

results management, sanctions etc. in line with international regulations. The Anti-Doping Act contains important provisions such as formal recognition of the National Anti-Doping Agency (which is currently registered as a society) as a statutory body, and establishes a National Board for Anti-Doping in Sports, among provisions banning doping, punishments, appeals process, etc.

## Endorsements in Indian sports

Endorsement agreements outline the scope of rights granted by sports players to advertisers, such as usage of their image, name, or likeness in advertising.

Personality rights form the cornerstone of sports player endorsements, protecting famous players from unauthorised commercial exploitation of their name, image, and likeness and allowing players to monetize the same. Please refer to the chapter on [Personality Rights](#) for details on the regulatory framework for endorsements.

Particularly for cricket, the Board of Control for Cricket in India (BCCI) also requires players to seek its permission before signing endorsement deals.

Recently, Manu Bhaker's Olympic achievements sparked advertisements by multiple brands (not associated with her), containing congratulatory messages with her images and their brands.

Recognizing this as a violation of her personality rights, Bhaker initiated legal action to safeguard her identity.



## Sports Agents

The relationship between players and their sports agents is governed by contractual arrangements. Contract law may be inadequate to deal with the peculiarities of managing the affairs of a sports person, especially in high stakes situations such as cricket world cup and leagues in India. There have been several instances of mismanagement on part of the player agents. For example, a player in the Indian Premier League, was charged a staggering 25% of his contract money by his agent in 2008 during his debut.

In wake of the 2013 spot-fixing scandal, BCCI announced plans to create an accreditation system for sports agent. However, despite an explicit recommendation by the Supreme Court-appointed Lodha committee, such a system is yet to be implemented.

By contrast, the AIFF has implemented the AIFF Football Agents Regulations 2023 in compliance with FIFA Football Agents Regulations 2023, which regulates the conduct, roles and responsibilities of football agents in India. These regulations govern eligibility criteria, disciplinary proceedings, ethical standards and agent registration, among other things, aligning with FIFA's global standards.



## The Game Evolves

India's sports regulatory and policy landscape has made major strides in the past few decades with initiatives such as the National Sports Policy, establishment of the Sports Authority of India, and recognition of NSFs. These initiatives underscore a growing recognition of the importance of sports as a critical component of national development. The Sports Act has enabled greater public access to major sporting events. However, challenges such as match-fixing, doping and insufficient regulation of sports agents persist.

Despite these challenges, the Indian sports industry is on a promising trajectory. The surge in viewership, the popularity of sports beyond cricket such as football and kabaddi coupled with increasing rural engagement, signal a promising future. By addressing the gaps and building on the progress made so far, India can create a thriving sports ecosystem that not only boosts the economy but also uplifts communities and sets a global example for excellence in sports.



# 06

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## Live Events

Staging the Rules

Cosmopolitan India is driving significant growth in Indian live events and sports industries, with projections indicating continued expansion built on infrastructure improvements.

Industry reports from Ernst & Young released in 2024 estimate that India's organized live entertainment market is expected to reach about USD 143 billion of revenue by 2026, growing at a CAGR of more than 18%. Similarly, a November 2024 report from Deloitte Touche Tohmatsu Limited and Google on Indian sports market, demonstrates a promising upward growth of 11% CAGR in value of the broadcasting and promotions sub-sector, poised to reach USD 6.7 billion by 2030.

## Licensing and Permissions for Live Events

Organizing a live event in India involves navigating a complex regulatory framework that includes obtaining various licenses and permissions from third-party agencies. Key licenses and permissions required for live events include:

### Intellectual property aspects of live events



#### Music licenses

Live events featuring music belonging to third parties may require organizers to obtain licenses from entities such as Phonographic Performance Limited, Novex Communications Private Limited and Recorded Music Performance Limited - for playing recorded music, IPRS - for performing music and lyrics.



#### Performer's rights

Any broadcast, recording or reproduction of an artist's performance requires their prior consent.

#### Venue licensing

Permissions from local municipal authorities or other designated bodies are essential for securing a venue for a live event. This may include:

No objection certificate from the local police department and various municipal authorities. Not obtaining these might result in safety concerns and penal action.

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Environmental clearances from relevant environmental authorities:

For example, hosting events on Goa's beaches requires permissions from the Goa Coastal Zone Management Authority.

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#### Sound permission from local authorities

Event organizers must secure permission from the local municipal authorities or district administration to use loudspeakers and sound systems. Conditions for use of such systems is typically prescribed by local authorities, such as noise limits for different zones (industrial, commercial, residential and silence zones).

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#### Food and beverage licensing

If the event involves serving food or beverages, especially alcohol, the organizer must obtain registration/license from the Food Safety and Standards Authority of India and a liquor license/permit from the state excise department.

### Licenses for sporting event venues

Hosting sports events may require obtaining further permissions, e.g., a venue may only host international cricket matches as per the BCCI's venue rotation policy.

## Ticket Scalping: A Challenge

Ticket scalping, or the resale of event tickets at inflated prices, is a growing concern in India. This practice often results in tickets becoming unaffordable for genuine attendees, causing public dissatisfaction and affecting the overall accessibility of live events.

The controversy surrounding high-profile concerts, and other major events in India recently, has further highlighted the issue. In these cases, tickets sell out quickly on official platforms, only to reappear on secondary markets at exorbitant prices, drawing criticism from fans and the media.

Such incidents have intensified calls for stricter regulation and enforcement to curb scalping and to ensure fair access to events and have even led to filing of petitions before the Bombay and Delhi High Courts.

While there is no specific central legislation explicitly prohibiting ticket scalping, provisions under the BNS 2023 and Consumer Protection Act 2019 (CPA) (and the Consumer Protection (E-Commerce) Rules 2020 (E-Commerce Rules) framed under the CPA) may be invoked against unfair trade practices.

## Broadcast and Streaming of Live Events

### Uplinking and Downlinking Guidelines

The Uplinking and Downlinking Guidelines issued by the MIB, govern the uplinking and downlinking of television channels, setting-up of teleports/teleports hub, etc. While these guidelines cover a broad range of television content, specific provisions are applicable to live events:

#### Licensing requirements and conditions

- For temporary uplinking of live events, permitted non-news channels can uplink live events without requiring prior permission from the MIB. Instead, entities must register the event on the Broadcast Seva Portal at least 15 days before the scheduled first date of the live event.

Failure to do so can result in penal action such as stoppage of live broadcast, prohibition of broadcast for 10 days and debarment of live broadcast for up to six months.

- Broadcasters are mandated to ensure that live event telecasts comply with the Programme Code.

The Programme Code is a set of guidelines established under the Cable TV Act, and the accompanying Cable TV Rules. These guidelines regulate the content broadcasted on television channels in India to



ensure it aligns with prescribed standards of decency and morality.

Failure to do so may result in stoppage of live broadcast and prohibition of broadcast for up to 10 days.

- Foreign channels or entities to obtain permission from MIB for uplinking of live events from India for up to 12 months at a time, along with approval from the MEA and Ministry of Home Affairs (MHA).
- Foreign channels are also required to adhere to the following specific conditions:



#### Agreement with a Permitted Teleport

The foreign entity must have a binding agreement with a teleport that is permitted under the guidelines.



#### Processing Fee

A processing fee of INR 100,000 per day of live telecast must be paid by the applicant.



#### Content Usage Restriction

The news or footage uplinked must primarily be intended for use abroad by the foreign channel or news agency. It cannot be broadcast in India unless the foreign channel obtains downlinking permission and channel registration in India.

## Broadcast copyright

Broadcast copyright is a distinct and special category of intellectual property right recognized under the Copyright Act granted to broadcasting organisations.

### Key aspects of broadcast copyright

**Broadcast Reproduction Right:** This right prevents unauthorized recording, reproduction, or re-broadcasting of the live broadcast by third parties without prior permission from the broadcaster. Recently, Star India Private Limited was able to successfully defend its broadcasting rights in the 2023 ICC World Cup cricket matches against piracy websites broadcasting matches or parts of the world cup without authorisation, by obtaining blocking orders against such rogue websites.

**Duration of Protection:** The broadcast reproduction right is protected for 25 years from the year in which the broadcast was first made.

**Remedies for Infringement:** Broadcasters can seek legal remedies such as injunctions, damages, and accounts of profits against parties infringing their broadcast reproduction rights. Courts have granted dynamic injunctions in some cases to prevent real-time piracy of live broadcasts.

# Emerging Trends

The Indian live events industry is undergoing a paradigm shift, propelled by soaring consumer demand, corporate investment, digital transformation, and policy evolution. India is emerging as a dominant force in global entertainment and sports. Major international acts, from Coldplay, Ed Sheeran, Dua Lipa to events such as Lollapalooza India, and large-scale sporting spectacles like Bharat GP 2023 underscore India's newfound ability to host high-profile events at global standards. Corporate-driven infrastructure and sponsorship is rapidly reshaping the landscape, reflected in prominent recent examples such as Reliance's Jio World Convention Centre, Mahindra Group's contributions in theatre and jazz and GMR Sports launch of Rugby Premier League.

Simultaneously, the digital revolution — led by JioCinema, Disney+ Hotstar, and Viacom18's aggressive sports media acquisitions — is expanding event accessibility, with streaming services disrupting traditional broadcasting. However, this rapid expansion necessitates regulatory modernization, particularly in ticket scalping laws, venue licensing, and content rights, as recent Coldplay Mumbai ticketing controversies and Star India's anti-piracy crackdown have shown.



07

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# Online Gaming

Risk, Reward & Regulation

Increased internet access has led to a surge in digital entertainment, including online gaming. The online gaming industry in India is estimated to reach a value of INR 33,243 Crore by FY 2028, showing a CAGR of 15%. The real money gaming segment constituted 82.8% of the market share in FY 2023. The online gaming industry includes both games of skill as well as games of chance. With this, a need has been felt to balance innovation with safeguarding the interest of citizens.

Online gaming in India is governed by the Public Gambling Act 1867 (PGA), state specific legislation, as well as the IT Act. The PGA is the central legislation that prohibits gambling, and state legislatures have either accepted the PGA with or without amendments or enacted new legislation to regulate 'betting / gambling' related activities in the specific state. The IT Act specifically regulates online gaming platforms.

Set out below is a brief overview of laws governing online games in India:

## Public Gambling Act

The PGA prohibits gaming and the operating and keeping of a common gaming house, which includes any place in which instruments of gaming are kept, and could be extended to include online gaming platforms.

The term 'gaming' is however not defined under the PGA.

## What is Gaming?

In *MJ Sivani and Others v State of Karnataka and Others* (Supreme Court, 1995), the Supreme Court held that gaming includes a game of chance and skill combined and has the following elements:



Price or consideration



Chance



Prize / reward

However, the restrictions under PGA do not extend to games of skill.

## Distinction between Game of Skill and Game of Chance

### Game of Skill

- Success dependent on skill of the player
- May have an element of chance, but the element of skill is dominant
- Player has control over the outcome

### Game of Chance

- Success dependent on luck
- May have an element of skill, but the element of chance is dominant
- Player does not has control over the outcome

The analysis of whether a game is a game of skill or chance is typically done by Indian courts on a case-to-case basis. While the PGA permits games of skill, it does not set out guidelines on how games of skill should be regulated and on the obligations of gaming intermediaries. At the central level, this has been addressed under the IT Act.

## State-wise Regulation

As set out above, 'betting / gambling' is a state subject - and states have a right to either ratify / accept the PGA (with or without amendments), or promulgate independent legislation to govern gambling, based on their unique socio-political and socio-economic landscape. While most state legislations / amendments are in line with the approach adopted by the PGA, whereby games of chance are prohibited, and games of skill are permitted, set out below are the deviations from the general principle:

- **Licensing requirement:** In Nagaland, Sikkim and Meghalaya, while games of skill are permitted, a license has to be obtained to offer gaming services. The Rajasthan government had also introduced a bill in 2022 which provided for a licensing regime for online games, however this has not come into force yet.
- **Absolute restriction:** In Andhra Pradesh, Telangana, Odisha, all online games, whether games of skill or chance are prohibited if they are being played for prize money. Further, in Assam, any game which involves money / valuable security / item being staked is prohibited, regardless of whether it involves an element of skill.

## IT Act

### Online game

game offered on the internet that is accessible through a computer resource or an intermediary

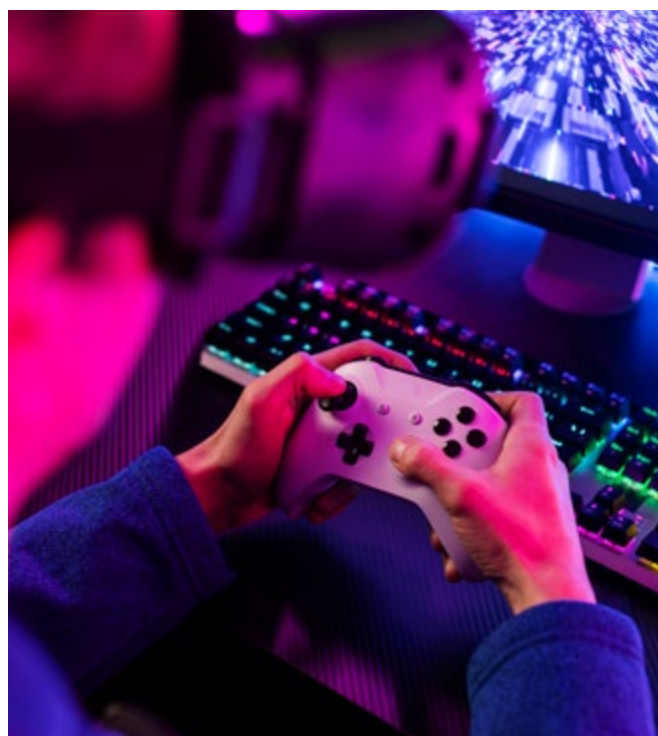
### Online real money game

a game where a user makes a deposit in cash or kind with the expectation of winning a prize in cash or kind based on the performance of the user

### Permissible online real money game

an online real money game verified by a self-regulatory body

Pursuant to the IT Rules 2021, intermediaries that offer online games are authorised to offer only permissible online real money games, i.e. games verified by self-regulatory bodies. These self-regulatory bodies are registered with MeitY subject to fulfilment of certain qualifying criteria and regulate online real money games that are registered with them.



## Due diligence requirements

In addition to the due diligence requirements required to be adhered to by social media intermediaries as set out in the chapter on **Social Media**, an online gaming platform is also required to:

- Intimate its users of change in its terms of use and privacy policy, within 24 hours of the change,
- Provide user information to authorized government agencies within 24 hours upon request,
- Register with a gaming self-regulatory body and display its registration mark,
- Include in their policies: refund details, winning distribution, user fees, KYC process, and deposit protection measures,
- Follow RBI-prescribed KYC guidelines,
- Avoid offering credit directly or through third parties,
- Verify user identity before accepting deposits.

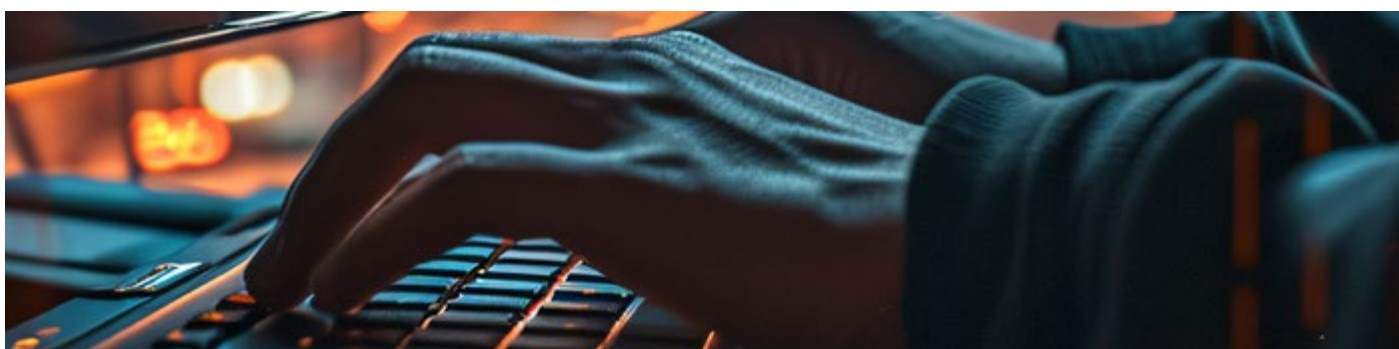
## Key Updates



**Virtual trading games:** SEBI issued an advisory in May 2024 restricting market intermediaries (such as stock exchanges) from sharing real time data in relation to stock prices with third parties. This was aimed at clamping down on stock-price based fantasy games that allowed virtual trading. With the increased proliferation of platforms offering such games, SEBI issued another advisory in November 2024 cautioning investors from using platforms offering such games / services.



**Advertising betting:** MIB issued an advisory to online advertisement intermediaries restricting such platforms from directing gambling and betting related advertisements to audiences in India. Influencers were directed to refrain from promoting offshore online betting and gambling platforms, whether directly or indirectly and social media platforms were directed to create awareness among influencers to refrain from posting such advertisements.



## The Way Forward

India is home to 42.5 Crore gamers, making it the second-largest gaming market globally, after China. The number of gamers is projected to grow to 53.8 Crores by FY 2028. Along with the increasing user base, the gaming industry's revenue is also expected to rise, driven by: (a) a surge in in-app purchases, (b) the development of cutting-edge technologies such as augmented and virtual reality that enhance the gaming experience, and (c) the expanding opportunities for pursuing gaming as a professional career.

As a result, several states may consider liberalizing the regulatory framework around gaming. However, balancing the potential for economic growth with the challenges posed by real-money gaming — such as addiction and the lack of awareness about associated risks — will be crucial. It will be interesting to see how lawmakers strike a balance to create a fair and effective regulatory environment.



# 08

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## Gaming Tax

Rolling the Regulatory Dice



## **GST and Online Gaming sector – specter of past GST liability continues to haunt**

The online gaming sector in India has massive potential to contribute significantly to the overall economic growth of the country. However, lack of clarity on the goods and services tax (GST) payable by gaming companies has led to uncertainty in the industry.

The lack of clarity has led to demands against 'real money gaming' companies that allow players to stake an amount to participate in skilled-based games online, including the biggest ever tax demand in India (of USD 2.6 billion, faced by Gameskraft Technologies which was quashed by the Karnataka High Court in May 2023 (GTPL Case)).

To understand the issue, it is relevant to start with the fact that the taxable event under GST is 'supply'. Schedule III of the Central Goods and Services Tax Act 2017 (CGST Act) contains those activities which were not to be treated as either supply of goods or as supply of services, i.e., they were altogether outside the ambit of the GST. Entry 6 of Schedule III prior to its amendment on 1 October 2023 read as 'actionable claim other than lottery betting and gambling'. Entry 6 therefore meant that 'actionable claims' were outside the ambit of GST. However, if such 'actionable claims' pertained to 'lottery, betting and gambling' – such 'actionable claims' were within the scope of levy of GST. The valuation mechanism was provided for in Rule 31A(3) of the Central Goods and Services Tax Rules 2017 (CGST Rules).

## **Interpretation of the term 'betting and gambling'**

In the foregoing context, the important question that arises is in relation to the interpretation of the term 'betting and gambling'. As per the settled judicial principle, the term 'betting and gambling' only connotes 'game of chance'. As a corollary, 'game of skill', which altogether forms a separate class, is a constitutionally protected activity and cannot be equated with 'betting and gambling'. This has been the consistent judicial position adopted by the Supreme Court and several High Courts in various cases in the past. Please refer to the chapter on [Online Gaming](#) for further details in this regard.

### **The position of the GST Department (for the period pre-October 2023)**

The GST department has taken a view that the online gaming companies (who were paying GST at the rate of 18% being supplier of facilitation services only on the 'Platform Fee' or commission retained by them) were actually involved in supply of 'actionable claim' in the form of chance to win in 'betting and gambling', and accordingly GST at the rate of 28% ought to have been on the entire amounts staked by the players in a gameplay. Additionally, the GST department argues that even in a 'game of skill', if any monetary stakes are involved, it partakes the character of 'betting and gambling' and the underlying nature of the game pales into insignificance.

## Ruling in the GTPL Case:

In the GTPL Case, the Karnataka High Court, after examining the judicial precedents in a detailed manner completely rejected the above argument of the GST authorities thereby reiterating a long settled legal proposition that a 'game of skill' even if played with monetary stakes remains a 'game of skill' and cannot be categorized or taxed as 'betting and gambling'.

Separately from this GST litigation, a bunch of public interest litigations were filed against online fantasy games platform Dream11 across the country which reiterated the proposition that a 'game of skill' even if played with monetary stakes remains a 'game of skill'.

## Amendments made to the GST framework with effect from 1 October 2023:

As discussed above, the Karnataka High Court comprehensively rejected the arguments of the GST department in the GTPL Case.

Post the same, the GST Council recommended that online gaming companies be taxed on the full-face value of the bets at the rate of 28%. In the 51st meeting, this was changed to ensure that the 28% GST is levied only on the initial amount deposited by the players and not on the winnings amounts redeployed for gameplays by the players. Subsequently, amendments were made to the CGST Act and CGST Rules to align the taxation framework with the position being taken by the GST department through these substantive amendments. The validity of these

amendments has been challenged in the case of Kamal Mishra and Associates Pvt Ltd v Union of India (Allahabad High Court, 2023).

Currently, the GTPL Case and a batch of other petitions (transferred from various High Courts and some filed directly before the Supreme Court) are pending before the Supreme Court for a final decision – and recently, a stay has been granted on all proceedings arising from the show cause notices pending before the Supreme Court.

## Supreme Court's Ruling on Taxation of Lottery Distributors:

While the taxation of online gaming remains under judicial scrutiny, a significant ruling by the Supreme Court in the case against Future Gaming Solutions Pvt. Ltd. (2025) has brought clarity to the taxation of lottery distributors. The Court held that the central government cannot levy service tax on lottery distributors, affirming that although a lottery ticket is an actionable claim, the conduct of a lottery scheme is a betting and gambling activity, and that taxation on lotteries falls within the domain of state governments. While this ruling is specific to lotteries, it underscores the broader principle that different forms of gaming and wagering activities must be taxed in accordance with their constitutional classification. It will be interesting to see how its reasoning influences ongoing disputes in the online gaming sector, particularly regarding the treatment of 'actionable claims.'

## Concluding Thoughts

The settlement of this issue will offer some much-needed clarity to the gaming industry and will enable such companies to create a business plan keeping in mind their tax liabilities. In addition to the ongoing GST disputes, the proposed Income Tax Bill, 2025 currently under parliamentary consideration, treats online gaming as a distinct category rather than grouping it with lotteries and gambling in line with the treatment under the Income Tax Act, 1961. It remains to be seen how this interacts with the GST framework, but it signals the government's intent to regulate and tax online gaming comprehensively.



09

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# OTT & Digital Content

Regulations On Demand

OTT platforms have revolutionized media consumption by offering them flexibility and convenience. Platforms such as Netflix, Amazon Prime Video, Disney+ Hotstar, JioCinema and ZEE5 provide a diverse array of content accessible on internet-connected devices. Operating primarily on subscription-based or ad-supported models (or a combination of both), OTT platforms have transformed the entertainment landscape.

## Regulatory Framework

### IT Rules 2021

OTT platforms are classified as Publishers of Online Curated Content under the IT Rules 2021

- Make available online curated content.
- Performs a significant role in determining the online curated content available.
- Excludes individuals publishing content as non-commercial activity.

Content Classification by OTT Platforms

- Self-classification based on context, theme, impact, target audience, etc. as follows:

**U** Suitable for people of all ages including children

**UA 7+** Suitable for persons aged 7 years and above

**UA 13+** Suitable for persons aged 13 years and above

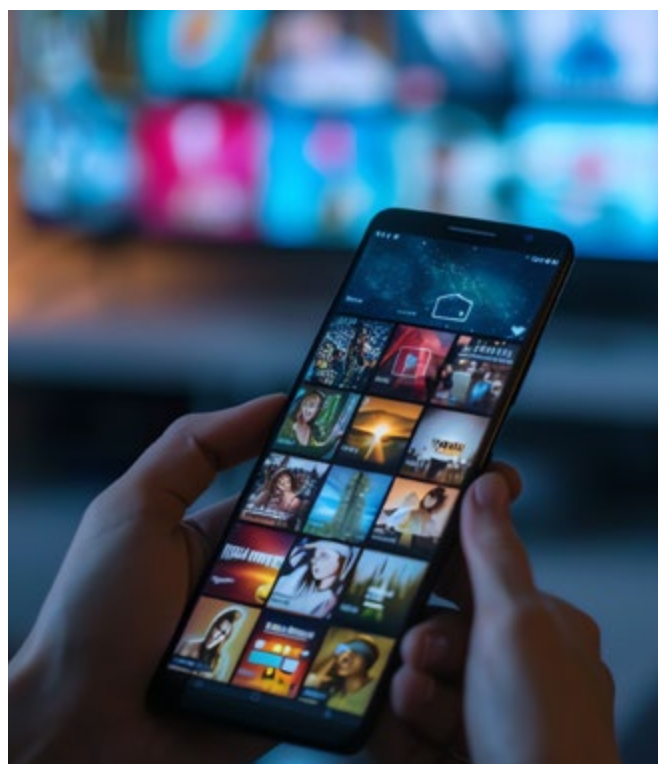
**UA 16+** Suitable for persons aged 16 years and above

**A** Restricted to adults

- Implementation of access control measures to restrict access to 'A' rated content by minors.
- The Cinematograph (Certification) Rules 2024, notified following the 2023 amendment to the Cinematograph Act, introduce similar age-based certifications, aligning with the self-classification categories prescribed for OTT platforms.

### ONLINE CURATED CONTENT

- Curated catalogue of audio-visual content
- Content is owned by, licensed to or contracted to be transmitted by a platform
- Available on demand
- Includes: films, audio visual programmes, documentaries, television programmes, serials, podcasts etc
- Excludes: News and current affairs



## Reporting

On a monthly basis, disclose details of all grievances received, outcome, and action taken, including the replies sent and orders or directions received.

## Grievance Redressal

### Tier One: Self-Regulation by the OTT Platform

- Establish a grievance redressal mechanism
- Appoint a Grievance Officer & publish their name and contact details on the platform
- Become member of SRB

### Tier Two: Self-Regulating Body (SRB)

- SRB will address grievances if the OTT platform fails to resolve them within 15 days
- SRB will hear appeals from Tier One

### Tier Three: Government Oversight

- MIB has established an Inter-Departmental Committee (IDC) for examining grievances.
- IDC will issue recommendations to the MIB and MIB will issue directions to the concerned OTT platform on removal / modification of content.

Agij Promotion of Nineteenonea Media Private Limited v Union of India and Nikhil Mangesh Wagle v Union of India (Bombay High Court, 2021)

The Bombay High Court on 14 August 2021 issued a stay on the operation of the Digital Media Ethics Code under the IT Rules 2021 on the grounds that:

- The Digital Media Ethics Code improperly imposes mandatory compliance to provisions derived from the Programme Code, which is meant for cable TV and is outside the scope of the IT Act; and
- They infringe the fundamental right to freedom of speech and expression.

The matter is pending for final hearing.

## Content regulation under the IT Act



Section 67 - Punishment for publishing / transmitting obscene material in electronic form:

imprisonment up to 3 years (5 years for subsequent convictions)

fine up to INR 5,00,000 (INR 10,00,000 for subsequent convictions)



Sections 67A and 67B - Punishment for publishing / transmitting sexually explicit acts and material depicting children, in electronic form:

imprisonment up to 5 years (7 years for subsequent convictions)

fine up to INR 10,00,000

## Content regulation under other laws

- BNS 2023 - governs content that is defamatory, obscene, is intended to outrage religious sentiments or incite violence, etc.
- Indecent Representation of Women (Prohibition) Act 1986 - prohibits the depiction of women in an indecent or derogatory manner.
- COTP Rules - were amended in 2023 to regulate the depiction of tobacco products in content on OTT platforms, prohibiting their promotion and mandating health warnings.



### OTT platforms displaying tobacco products or their use are mandated to:

Display anti-tobacco health spots for at least 30 seconds at the beginning and middle of the content;

Display a prominent static message carrying anti-tobacco health warning at the bottom of the screen during the period of depiction of tobacco products or their use; and

Display an audio-visual disclaimer on the ill-effects of tobacco use for at least 20 seconds at the beginning and middle of the content.

- MIB advisory on content related to narcotic drugs and psychotropic substances dated 16 December 2024 - emphasizes responsible depiction of drug use to prevent its glamorization and mitigate its impact on impressionable audiences.

Glamorization of prohibited substances under the Narcotic Drugs and Psychotropic Substances Act 1985 like cannabis and cocaine could amount to abetment.

### OTT platforms are required to

- Classify content appropriately
- Include content descriptors, warnings, and disclaimers, and
- Ensure that all content, including library material, aligns with these requirements.

OTT platforms are encouraged to produce content that educates viewers on the risks of substance abuse.

## Key Judicial Precedents

### All India Digital Cable Federation v Star India Private Limited (TDSAT, 2023)

The Telecom Disputes Settlement and Appellate Tribunal (TDSAT) in an interim ruling observed that an OTT platform is not classified as a TV channel, and the OTT platform operator does not require any permission or license from the Central Government.

### Padmanabh Shankar v Union of India (Karnataka High Court, 2019)

Cinematograph Act does not apply to content streamed on OTT platforms, as it is intended for private viewing and not public exhibition.

# The Future is Digital

OTT platforms have revolutionized content creation, enabling creative experimentation and pushing the boundaries of storytelling. However, the regulatory framework governing OTT platforms in India remains in its early stages, balancing a mix of self-regulation and government oversight. Given the significant influence media content can have on public behaviour, effective regulation is crucial. As the OTT landscape continues to evolve, further developments are likely to take place in the regulatory framework to ensure responsible content dissemination while safeguarding freedom of expression and fostering creativity.





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# Broadcasting

Tuning into the Law

The television broadcasting sector in India is one of the largest in terms of revenues. India's television sector continues to dominate the media and entertainment landscape, with revenues expected to rise from INR 1,11,000 Crore in 2023 to INR 1,45,000 Crore by 2028. By 2028, India is set to emerge as the world's fifth-largest linear television broadcasting market. Over the years, the Government has taken steps to encourage foreign investment in general entertainment broadcasting, improve ease of doing business and digitise the process of regulatory approvals. That said, news broadcasting continues to remain strictly regulated.

## Regulatory Framework

### Uplinking and Downlinking Guidelines 2022

The Uplinking and Downlinking Guidelines govern the grant of approvals for, inter alia, the uplinking and downlinking of TV channels. Uplinking and downlinking of TV channels in India is subject to prior permission to be obtained from the MIB. The permission is granted for a period of 10 years.

Please refer to the chapter on **Live Events** for provisions in the Uplinking and Downlinking Guidelines applicable to transmission of live events.



#### What is uplinking?

Transmission of signals of channels to a satellite.

#### What is downlinking?

Receipt of signals of channels from a satellite.

### Entry Requirements

Indian Exchange Control Regulations (as defined in the chapter on **FDI in Media**) provide for sectoral caps for foreign investment and specific compliances for the broadcast of news and general entertainment channels. Please refer to the chapter on **FDI in Media** for further details.

### Eligibility

#### Net worth requirement

##### Non-news Channel

INR 5,00,00,000 for the first channel and INR 2,50,00,000 for each additional channel.

##### News Channel

INR 20,00,00,000 for the first channel and INR 5,00,00,000 for each additional channel.

##### Only Downlinking of Channels

INR 5,00,00,000 for the first channel and 2,50,00,000 for each additional channel.

### Management

#### Uplinking permission

Majority of the directors, key managerial personnel, and editorial staff are required to be resident Indians.

#### In addition, for news channels

- Management and control to be in Indian hands.
- Chief Executive Officer (CEO) / head of the channel is required to be a resident Indian.

### Clearance from other governmental authorities

Clearance by the Department of Space, MHA, and any other governmental authorities, wherever necessary.

Security clearance is required from the MHA for the appointment of the CEO or directors of a company. If the security clearance is denied, such persons cannot be appointed as CEO or directors.

### Other commercial considerations

Payments	Uplinking (per channel)	Downlinking from India (per channel)
Annual Permission Fee	INR 2,00,000	INR 5,00,000
Security Deposit	INR 4,00,000	INR 10,00,000
Performance bank guarantee	Non-news channel: INR 1,00,00,000	NA
	News channel: INR 2,00,00,000	

### Operational compliance

- Operationalise television channel within 1 year of obtaining clearances from WPC and Network Operations Control Centre of the Department of Telecommunications.
- Comply with the Programme Code (as set out below) and Advertising Code, provisions of the Sports Act, and any other code / standards / guidelines etc prescribed by the MIB.
- Keep a record of content uplinked or downlinked for 90 days for sharing with governmental agency.
- Furnish information as required and provide monitoring facility for monitoring of

programmes / content by the MIB or any governmental agency, at the company's cost

- Adhere to the terms and conditions of the Department of Space and WPC including payment of fees / royalty for usage of spectrum.

### Other key considerations

- Broadcast of public service content: Broadcast public service content for at least 30 minutes daily on themes specified in the Uplinking and Downlinking Guidelines and as per the advisories issued by the Government.
- Transfer of permission of a television channel / teleport: Prior permission of MIB is required for the transfer of television channel / teleport. Transfers to an unrelated entity are not permitted for 1 year from operationalisation.
- Mandatory technical and operational requirements: Technical and operational requirements for uplinking satellite television channels, teleports, and Digital Satellite News Gathering (DSNG) / SNG Satellite News Gathering (SNG) to align with Indian Standards by the Telecommunication Engineering Centre, Department of Telecommunications. Any changes in technical parameters need to be notified to the MIB.

DSNG and SNG equipment are used in television broadcasting to transmit live video and audio signals from remote locations directly to a broadcast center via satellite. This technology enables on-site news reporters to broadcast real-time events globally without the need for traditional fixed studio infrastructure.

- Changes in shareholding pattern and foreign direct investment:

A permission holder is required to intimate the MIB of any change in its:

- a. shareholding to the extent of 10% or more
- b. foreign direct investment, within 30 days of such change, where such change is required to conform to Indian Exchange Control Regulations,

along with the revised shareholding and names / details of all investors on the 'broadcast seva' portal.

## Content Regulation and Grievance Redressal

### Content Regulation

Compliance with Programme Code under the Cable TV Rules which require the following compliances:

- Restrictions on content which:
  - (a) offends good taste or decency;
  - (b) criticises friendly countries;
  - (c) attacks religions or communities or promotes communal attitudes;
  - (d) includes anything obscene, defamatory, deliberately false or with suggestive innuendos;
  - (e) could incite violence, disrupt law and order, or promote anti-national sentiments;
  - (f) amounts to contempt of court;
  - (g) casts aspersions on the

President of India or the judiciary; (h) affects national integrity; (i) criticizes, maligns, or slanders individuals or groups; (j) encourages superstition; (k) denigrates women or denigrate children; (l) uses visuals or words that portray ethnic, linguistic, or regional groups in a slanderous, ironical, or snobbish manner; (n) violates the Cinematograph Act; (o) is unsuitable for unrestricted exhibition; (p) includes live coverage of anti-terrorist operations, restricted to government-designated briefings; or (q) depicts animal cruelty or promotes harmful unscientific beliefs.

- Further, cable operators are obligated to carry programmes in their cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.
- Cable operators are prohibited from including any programme to which the operator does not have a right to distribute under the Copyright Act.
- Programmes for children should not contain any bad language or explicit scenes of violence.
- Programmes unsuitable for children should not be carried in the cable service at times when the largest number children are viewing.
- Cable operators cannot include any television broadcast or channel which has not been permitted to be broadcast in India.

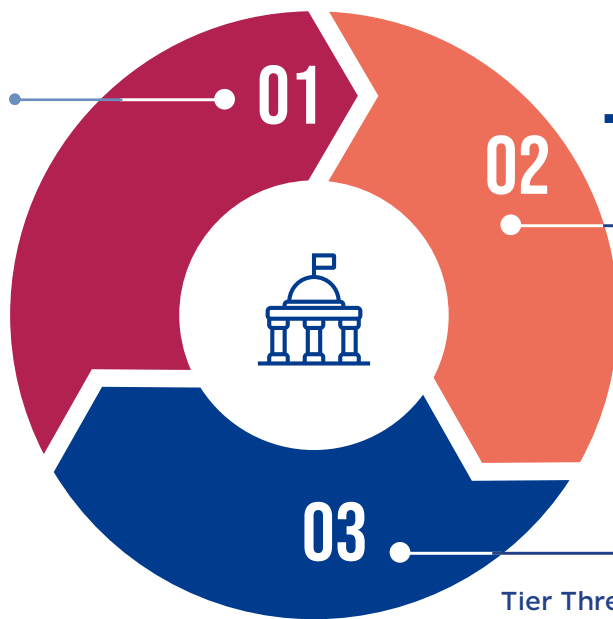


## Grievance Redressal

The Cable TV Rules prescribe a three-tier grievance redressal mechanism for adherence to the Programme Code and resolving grievances against broadcasters:

### Tier One: Self-Regulation by the broadcaster

- Establish a grievance redressal mechanism
- Appoint a Grievance Officer & publish their name and contact details on the website / interface
- Become member of SRB



### Tier Two: Self-Regulating Body (SRB)

- SRB will address grievances if the broadcaster fails to resolve them within 15 days
- SRB will hear appeals from Tier One

### Tier Three: Government Oversight

- MIB has established an Inter-Departmental Committee (IDC) for examining grievances.
- IDC will issue recommendations to the MIB and MIB will issue directions to the concerned broadcaster on removal / modification of content.

## Penalties

### For Contravention of the Programme Code or Advertising Code

MIB can penalise the broadcaster as follows:

- By issuing an advisory or warning to the broadcaster
- Requiring the channel to run an apology scroll
- Directing the director or CEO to read a statement of apology
- Directing the channel to be off-air for a specified number of hours or days
- Suspension or revocation of permission of the channel

### For violation of terms and conditions of broadcast permission or the Uplinking and Downlinking Guidelines

MIB can penalise the broadcaster as follows:

- By issuing a warning to the broadcaster
- Directing the channel to be off-air for a specified number of hours or days
- Suspension or revocation of permission of the channel

## Tariff Orders

Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order 2017 (Tariff Order) regulates pricing, bundling, and offering of television channels by broadcasters to distributors and distributors to subscribers.



### Offering of Channels

- Pay channels
  - À la carte offering – stand-alone offering of channels
  - Bouquet offering – can include channels of the broadcaster, subsidiary, affiliate, or holding company.
- Free-to-air (FTA) channels

Broadcasters are required to publish and enter into reference interconnection agreements with distributors.

### Pricing and bundling regulations

#### Conditions between broadcasters and distributors

- Any pay channel with a maximum retail price (MRP) of more than INR 19 per month cannot be included in a bouquet.
- The MRP per month of the bouquet of pay channels cannot be less than 50% of the total of the MRP per month of standalone channels included in the bouquet.
- The MRP per month of the bouquet is required to be uniform across all distribution channels.
- A bouquet cannot contain any FTA channels.
- The MRP per month of a pay channel cannot be more than the MRP per month of the bouquet containing that pay channel.

- The number of bouquets of pay channels cannot be more than the number of standalone pay channels of the broadcaster unless allowed by the TRAI.
- The bouquet cannot contain both HD and SD variants of the same channel.

#### Conditions between distributors and subscribers:

- The distributor retail price per month for a standalone pay channel cannot exceed the MRP per month of INR 19.
- The distributor retail price per month for bouquet of pay channels cannot exceed the MRP per month set by broadcasters
- The distributor retail price per month of pay channels cannot be less than 55% of the sum of distributor retail distributor prices per month of standalone channels and bouquet of pay channels part of the bouquet
- Any: (i) FTA channel; or (ii) pay channel with an MRP per month of more than INR 19, cannot be included in a bouquet for subscribers;
- A bouquet cannot contain both HD and SD variants of the same channel.
- Distributors can only charge network capacity fees for FTA channels.
- Distributors are required to provide all channels required to be mandatorily provided per the Union Government.

#### Promotions by broadcasters and distributors

Broadcasters and distributors are permitted to offer promotional schemes, on standalone channels for up to 90 days and twice in a calendar year.

#### Reporting obligations and other compliances



**Broadcasters:** Publish on their website and share with the TRAI, information such as name, nature, and language of each channel, MRP per month of pay channels and bouquets, promotional schemes, details of compliance officer, etc.



**Distributors:** Publish on their website and share with the TRAI, information such as network capacity fees, list of channels with their name, nature, and language, distributor retail price per month of pay channels and bouquets, bouquets of FTA channels, long-term subscriptions, platform services, details of compliance officer, etc.

Changes are required to be informed to the TRAI prior to implementation.

#### Financial disincentives for violations

Failure to comply with the Tariff Order can lead to financial disincentives specified in the Tariff Order. Such financial disincentives be up to INR 5,00,000 per calendar year. If a broadcaster or distributor fails to pay the applicable disincentive, the TRAI can charge a penal interest.

# Primetime for Broadcasting

With more than 905 private satellite TV channels — 45% focused on news — and over 2.5 Crore connected TVs in 2023, the linear broadcasting sector's reach is unmatched. Indians spend an average of 226 minutes per day watching television, with sports, especially non-cricket, seeing a sharp increase in viewership. As connected TV and internet advertising gain traction, traditional television remains a central pillar of the media and entertainment industry, underscoring its enduring significance in the landscape of Indian media.





# 11

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## Radio

Regulating Airwaves

The radio sector in India is regulated under the Telecommunications Act 2023 and regulations / policies of the MIB. The MIB issued the Radio Policy in 2011 and has been amending the policy through the years.

Only permission holders can operate FM radio channels in the allocated frequencies.

## Application Process

Period of permission: 15 years.

- Allocation of radio frequencies is conducted through an online auction process, basis city and region.
- The process consists of 4 stages which begins with an invitation to prospective bidders. The Government issued the first phase of auction in 2015, second phase in 2016 and third phase in 2024.



1

Invitation: The government invites prospective bidders

2

Screening of applications, publications of ownership details, pre-qualification test, payment of application fees and furnishing of earnest money as a performance bank guarantee

3

Auction stage where only participants meeting the pre-qualification stage are invited

4

Letter of intent issued by MIB (LOI) to successful bidder MIB and successful bidder enter into into a 'grant of permission agreement' (GOPA)

## Eligibility

- Companies registered in India

## Disqualifications

### Companies controlled by

- Convicted individuals or insolvent persons,
- Trusts or non-profit organizations, and/or
- Religious or political bodies.

### Companies that

- Operate as advertising agencies or are linked to one,
- Are subsidiaries, holding companies, or under the same management applying for the same city,
- Are debarred from bidding, including their subsidiaries or holding companies, and/or
- Have a history of defaults.

## Foreign Investment

The permitted foreign direct investment has been capped at 49% and requires prior approval of the Government. A company undertaking radio broadcasting, should be owned and controlled by: (a) resident Indian citizens; or (b) Indian companies owned and controlled by resident Indian citizens. The largest Indian shareholder is required to hold at least 51% shareholding of such company.

## Net worth requirements

Per city category in each region (North, South, East and West):

- Net worth requirement of applicant company is to be assessed at the time of bidding and its eligibility shall be determined accordingly.
- The cut-off date for determination of net worth shall be mentioned in the tender document.

- Applicant company's net worth shall be interpreted and calculated as per the proforma given in the Radio Policy and certified by the company's statutory auditors.

Categories	Population	Net Worth
D category cities other cities	Less than 5 lakhs and up to 1 lakh	INR 50,00,000
C category cities	5 and 10 lakhs	INR 1,00,00,000
B category cities	10 and 20 lakhs	INR 2,00,00,000
A category cities	More than 20 lakhs	INR 3,00,00,000
A+ category cities	Metro cities of Mumbai, Delhi, Kolkata and Chennai	INR 3,00,00,000
All categories of Cities in all regions	NA	INR 10,00,00,000

## Managerial Eligibility

- Directors on the board of directors of the applicant company and all key executives should be resident Indians.
- The applicant company and the directors are required to be security cleared.
- Government's approval required for change in the board composition.

The applicant company is required to furnish the following details:

- Names of directors, and key executives with evidence of their commercial / managerial competence, and
- Directorship / executive positions held by the directors in other organisations with details of such organisations.

## Restrictions for Private FM Radio Operators



### Channel Limits

- Cannot exceed 40% of radio channels in any city with three or more operators.
- Limited to 15% of national radio channels (excluding certain territories).



### Content and Equipment

May outsource content production and lease equipment but must keep broadcaster rights and avoid conflicts with advertising agencies.



### Financial Restrictions

Financial arrangements are allowed only with recognised lenders or affiliates.



### Content Standards

All broadcast content must be lawful, authorized, and free of obscenity or objectionable material.



### Non-Transferable Rights

Rights under the GOPA cannot be transferred or assigned.



### Brand Changes

Channel identity or brand name changes require prior approval from MIB.

## Content Regulation on Radio

Private FM radio operators are not allowed to broadcast news and current affairs, except for unaltered news bulletins of the All India Radio. In addition to general entertainment, the following is considered non-news and current affairs:



Sporting event information (excluding live coverage)

Traffic and weather updates

Coverage of cultural events and festivals

Examinations, results, admissions and career counselling

Employment opportunities

Public announcements on civic amenities, natural calamities and health alerts

Categories subsequently approved by MIB



Content broadcasted by private FM radio operators is required to adhere to Prasar Bharti's Programme Code and Advertising Code.

### Prasar Bharti's Programme Code

Permission holders must refrain from broadcasting any content that:

- Criticises friendly countries, attacks religions or communities, uses obscene or defamatory language, incites violence or disrupts law and order
- Defames constitutional officeholders or political parties by name
- Hostile criticism of either any state or the Union Government
- Disrespects the Constitution, suggesting violent means of alteration

### Prasar Bharti's Advertising Code

Advertisements should conform to the laws of India and not be against morality, decency and religious feelings of people. Non-permissible advertisements include advertising of cigarettes, tobacco products, liquor, wines, or other intoxicants and advertising is misleadingly presented as news.

### Other content considerations

- At least 50% of broadcast content must be produced in India.
- The same content can be aired across network stations. However, at least 20% of daily broadcasts must be in the local language and promoting local content.
- Under the Sports Act, signals for sporting events of national importance, as notified by the Government must be shared with Prasar Bharti.



## Security, Preservation of Records and Inspection

### Requirements of permission holder

- Preserve broadcast recordings for at least 3 months and provide them to the Government on request.
- Provide necessary equipment and facilities to enable MIB to monitor technical parameters.
- Supply information requested by the Government or TRAI, including annual reports with audited accounts, shareholding patterns, and details on key executives.
- Allow inspections by the Government, MIB, or TRAI of broadcasting facilities at any time without notice.
- Permit MIB to conduct technical audits of infrastructure to ensure compliance.



## Looking Ahead: Digitisation of Radio

Private radio broadcasters currently operate in the FM band (88 MHz to 108 MHz). Digital radio provides superior audio quality, efficient spectrum usage, additional data services like metadata transmission, and enhanced user experience. It can also support encryption and upgrades. However, adopting digital radio would require infrastructure investment and supportive policy measures.



# 12

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## Print Media

Reading the Fine Print

Industry reports indicate that the print media industry has continued to grow despite the shift to digital media in India. Advertisers have also focused on the print sector for their advertisements. Publishers are adopting a synergistic approach, catering to audiences across mediums by bundling their titles on print and digital.

## Legal Framework

Print media is governed by the PRA and the Press and Registration of Periodicals Rules 2024. The PRA has replaced the Press and Registration of Books Act 1867 (Old Act).

The PRA has made significant changes in the regulatory framework, including the simplification and digitisation of processes and decriminalisation of non-compliances.

It has streamlined the processes by eliminating multiple physical declarations and approvals, which were required under the Old Act, such as declarations for setting up a printing press or changing publication frequency. The changes in the procedural regime brought in by the PRA, facilitate ease of doing business in the print-media sector.

## Scope of Regulation

Regulation of 'Periodicals' - any publication, including a newspaper, which is published and printed at regular intervals containing public news or comments on public news.

### Exclusions

Books and journals of scientific, technical and academic nature.

## Regulator

Press Registrar General of India (Press Registrar)

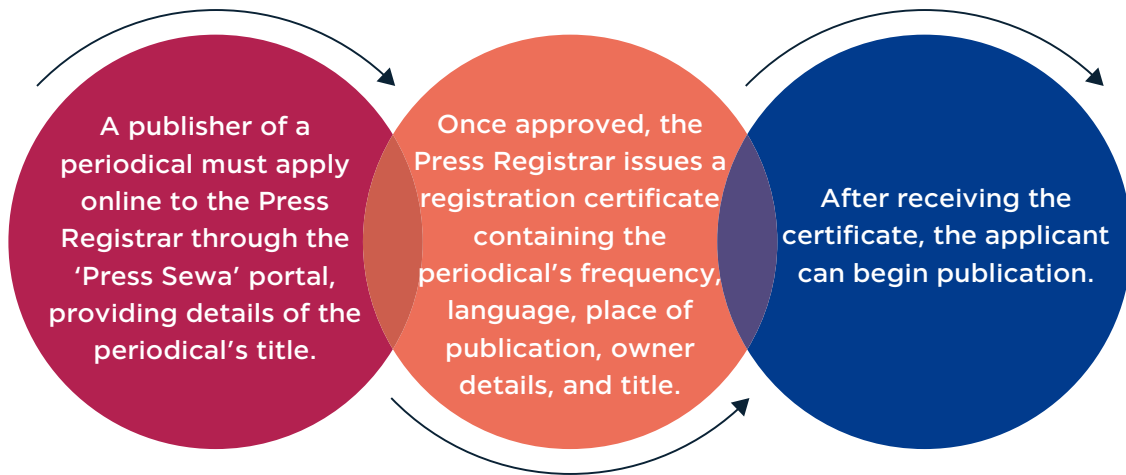
## Key Considerations under the PRA

- **Registration:** Every periodical is required to be registered with the Press Registrar
- **Unique Title:** The title of the proposed periodical should not be similar to an existing publication in the same language or in another language but same state.





- Digitised application process



- Annual Statement:** The publisher of a Periodical is required to submit an annual statement, containing a record of the circulation of the Periodical on the Press Portal to the Press Registrar by 31 May of a calendar year, in respect of the preceding financial year.
- Transfer of Ownership:** The owner of a Periodical can transfer ownership of the Periodical to a third party after obtaining a written approval of the Press Registrar. Further, the owner of a Periodical is required to intimate any change in the shareholding of the company to the Press Registrar within 15 days of such change.
- Foreign Periodicals:** A facsimile / replica edition of a Periodical printed and published outside India (Foreign Periodical) may be printed in India with the prior approval of the Union Government on the 'National Single Window System' and as per guidelines made in this regard; please refer to the chapter on **FDI in Media** for the guidelines for publication of Foreign Periodicals. Further, the registration of such Foreign Periodical is to be obtained from the Press Registrar.

## Penalties Under the PRP Act

The Press Registrar can impose penalties for the following:



### Non-Compliance

- Publishing a Periodical without registration
- Failure to submit the annual statement within a year from the end of the financial year in which the statement was due



### Penalty

- Up to INR 5,00,000 (Indian Rupees Five Lakh) along with a directive to cease publication.
- Continued publication of a periodical 6 months after being ordered to cease or publication of another periodical without registration, may result in 6 months of imprisonment.
- INR 10,000 (Indian Rupees Ten Thousand) to INR 20,000 (Indian Rupees Twenty Thousand), and in case of subsequent defaults up to INR 2,00,000 (Indian Rupees Two Lakh).

## The Future is set on Paper

The PRA has ushered in substantial modifications to the regulatory framework governing newspapers and periodicals in India. The move towards online registration and the decriminalisation of certain offenses mark progressive steps towards digitisation of legal processes and decriminalisation.

The introduction of mandatory annual statements, pre-approval for changes in ownership, and requisite government sanctions for foreign facsimile editions will require compliance by industry participants. To navigate these changes effectively, publishers must adjust their strategies, dedicating sufficient resources to compliance and strategic foresight to cushion potential effects on their operations and expansion prospects.



# 13

## FDI in Media

Global meets Local

Over the last few decades, foreign direct investment (FDI) has played a crucial role in the growth and evolution of the Indian media industry. FDI is an avenue through which foreign entities or individuals can invest in India. Such investments into India are governed by the Foreign Direct Investment Policy 2020 and the Foreign Exchange Management (Non-Debt Instrument) Rules 2019 (NDI Rules) under the Foreign Exchange Management Act 1999 (collectively Exchange Control Regulations). Foreign investors who invest in India through this route, acquire ownership or control in the Indian business enterprise, often along with rights to participate in the management and operations of the Indian enterprise. Broadly, FDI is permitted through two routes:



**Government approval route:** where approval of the concerned government ministry(ies) is required prior to the investment



**Automatic:** where no government approval is necessary.

Foreign investments in different business sectors are also subject to specific sectoral conditions and investment thresholds, as set out in the Exchange Control Regulations.

Set out below is an overview of the manner in which foreign players may invest in different sectors of the Indian media industry.

## Broadcasting

### Radio Broadcasting

#### Sectoral cap of 49%. Government-approval route

The company should be owned and controlled by: (i) resident Indian citizens; or (ii) Indian companies owned and controlled by resident Indian citizens. The equity held by the largest Indian shareholder is required to be at least 51% of the total equity. The largest Indian shareholder means – (i) in case of an individual, collectively, the individual, his relatives and entities controlled by the individual and (ii) in case of a company, collectively, the company and companies under common control.

### Television Broadcasting

#### News and current affairs channels

**Uplinking:** Sectoral cap of 49%. Government-approval route.



#### The company should be owned and controlled by

- Resident Indian citizens; or
- Indian companies owned and controlled by resident Indian citizens. The equity held by the largest Indian shareholder is required to be at least 51% of the total equity.



#### The largest Indian shareholder means

- In case of an individual, collectively, the individual, his relatives and entities controlled by the individual and
- In case of a company, collectively, the company and companies under common control.

**Downlinking:** 100% FDI permitted. Automatic route



## What is News and Current Affairs?

Not defined under Exchange Control Regulations or the Uplinking and Downlinking Guidelines.

IT Rules 2021 define 'news and current affairs' content as **"newly received or noteworthy content**, including analysis, especially about recent events **primarily of** socio-political, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content".

MIB categorises sports channels as non-news and current affairs.

### Non-news and current affairs channels

100% FDI permitted. Automatic route

### News and current affairs on digital Media

Sectoral cap of 26%. Government-approval route.

Per a clarification of the Department for Promotion of Industry and Internal Trade on 16 October 2020, the sectoral cap applies to the following entities:

### Sectoral Cap for News and Current Affairs in Digital Media

- Digital media entity streaming/uploading news and current affairs on websites, apps or other platforms
- News agency which gathers, writes and distributes / transmits news, directly or indirectly, to digital media entities and/or news aggregators
- News aggregator which using software or web application, aggregates news content from various sources, such as news websites, blogs, podcasts, video blogs, user submitted links, etc in one location.

MIB requires digital news platforms to furnish information about themselves. This information includes details of portal (website/app), social media accounts, language, details of the entity, contact information, grievance mechanism, details of grievance officer, self-regulatory body, content managers (in case of publishers of online curated content) or news editors (in case of news publishers).

However, the MIB clarified in 2023 that the 26% threshold would not apply to OTT platforms hosting the digital feed of TV news channels on 'as is basis' without any editorial intervention. Such OTT platforms are not involved in any aggregation or curation of the news and current affairs content.





### Activity

Publication of newspaper and periodicals with news and current affair

Publication of scientific / technical magazines / specialty journals or periodicals



### Sectoral Cap And Approval Route

26%. Government-approval route.

100%. Government-approval route.

### Foreign Periodicals and Facsimile Editions

Publication of Indian editions of foreign magazines dealing with news and current affairs:

'Magazine' is defined in the NDI Rules as a 'periodical publication, brought on non-daily basis, containing public news or comments on public news'.

Facsimile edition of foreign newspapers

26%. Government-approval route.

100%. Government-approval route.

## Guidelines for Foreign Periodicals and Facsimile Editions:

- Entity seeking permission for foreign investment should have sound credentials and international standing.
- Only entities incorporated or registered under the Companies Act 2013 can publish facsimile editions of foreign newspapers.
- MIB approval required prior to alteration of the shareholding of the largest Indian shareholder
- Changes to foreign shareholding (subject to the sectoral cap) to be reported annually to MIB.
- Entities must notify the MIB within 15 days of any changes to their board of directors, key executives, or editorial staff, which is then subject to post-facto approval by the MIB.
- Entities must seek prior clearance from the MIB for employing or engaging foreigners / NRIs for more than 60 days per year, or as regular employees.



### Key considerations for foreign investment in Indian entities publishing periodicals with news and current affairs content

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Application to be made to the MIB with fees duly paid.

Title verification to be conducted by Press Registrar.

At least 50% of foreign investment is required to be through issue of fresh equity and the balance can be through transfer of equity.

3/4th of the directors and all key executives and editorial staff of the investee entity are required to be resident Indians.



### Key considerations for facsimile / replica editions of foreign newspapers

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Foreign investment to be made by owner of the original foreign newspaper.

3/4th of the directors and all key executives and editorial staff of the Indian company to be resident Indians.

The facsimile edition should not carry: (a) advertisements aimed at Indians; and (b) any locally generated content / India-specific content not simultaneously published in the original edition.

The facsimile edition should clearly state that it is a facsimile edition and carry the masthead, editorial page and place of publication of the original foreign newspaper.

## Key Insights

The Indian media and entertainment sector is ripe for inflow of FDI and the Government has already relaxed sectoral caps for activities such as: (a) the uplinking and downlinking of non-news and current affairs television channels; (b) publication of scientific / technical magazines / specialty journals or periodicals; and (c) publication of facsimile editions of foreign newspapers.

However, the news and current affairs sector remains tightly regulated due to national and international concerns and the impact of such content. Notwithstanding this, the Indian media and entertainment industry is one of the largest in the world and provides an opportunity for investment across a diverse audience, languages and cultures.





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# Social Media

Likes, Shares & Legal Affairs

Social media has radically revolutionised the way people now communicate, breaking down geographical barriers to enable instant exchange of information and ideas. Due to the proliferation of the internet and the accessibility of smartphones, India's digital footprint on social media platforms has increased exponentially.

Social media platforms play a pivotal role in information dissemination, shaping public discourse, and commerce. However, this also poses challenges, including data privacy concerns, spread of misinformation, and hate speech.

India's regulatory framework aims to regulate social media platforms while ensuring freedom of speech and expression.

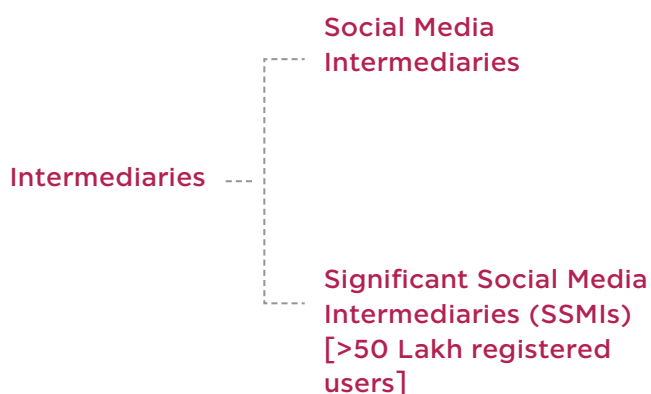
## Regulatory Framework

### IT Act

The IT Act lays down the primary legal framework for governing social media platforms in India and classifies them as intermediaries.

### What is an Intermediary?

Any person who on behalf of another person receives, stores, or transmits that record or provides any service with respect to that record



Intermediaries can avail safe harbour from liability.

### What is safe harbour?

Immunity from liability for acts of or content posted by users

To avail safe harbour:



#### Intermediary should:

Not create, modify, or select content

Not initiate or modify transmission of content

Comply with the due diligence requirements under law



#### Intermediary should not:

Conspire, abet, aid or induce illegal activity on its platform

Upon receiving actual knowledge, fail to remove or disable access to illegal content

### What is actual knowledge?

The 'actual knowledge' requirement for an intermediary to take down content has to be read to mean either an intimation in the form of a court order or on being notified by the government.

Shreya Singhal v. Union of India (Supreme Court of India, 2015)

## IT Rules 2021

### Obligations of intermediaries

- Publish terms of use and privacy policy
- Inform users of prohibited activities, such as posting obscene or infringing material, etc.
- Notify users that violating terms of use or privacy policy may lead to termination of access to the platform
- Upon receiving actual knowledge of prohibited content, disable access within 24-36 hours and retain the information for 180 days for investigation
- Retain user data for 180 days after account deactivation
- Ensure platform security as per the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules 2011 (SPDI Rules)
- Share information to prevent or investigate cybersecurity threats within 72 hours of a government order
- Appoint a grievance officer and publish their name and contact details on the platform
- Ensure that complaints received by the grievance officer are resolved within 15 days of receipt.

### Additional obligations on SSIMs

- Establish a physical contact address in India
- Appoint a chief compliance officer, a nodal contact person and a resident grievance officer
- Deploy technological measures to identify harmful content
- Provide users with a voluntary identity verification mechanism

- Publish monthly compliance reports with details of complaints received and action taken.

SSIMs that enable content transmission for a direct financial benefit or own / control content are required to clearly identify such content as being advertised or owned, as appropriate.

### Penalties for non-compliance

If an intermediary fails to comply with the IT Rules 2021, it may lose the safe harbour protection and be held responsible for offences under applicable laws.

#### Whatsapp LLC v. Union of India (Delhi High Court, 2021)

SSIMs that primarily provide messaging services are required to enable identification of the first originator of information within India.

WhatsApp has challenged this rule before the Delhi High Court on the grounds that this would violate fundamental rights.

## Copyright Act

**Intermediaries can be held liable for infringement if they:**

- Permit the use of their platform for communication of infringing content to the public
- Are aware or have reasonable grounds to believe that such communication constitutes an infringement.

**Merely facilitating access without altering the content does not amount to infringement, provided the platform:**

- Is unaware that the content is infringing
- On being notified of any infringing activity, disables access to the content within 21 days



**Super Cassettes Industries Ltd. v. MySpace (Delhi High Court, 2016)**

Merely facilitating access to content by does not amount to infringement.

Intermediary is required to have 'actual knowledge' of such infringing activity and not just a general awareness.

## BNS 2023

Under the BNS 2023 several provisions have implications for social media intermediaries, particularly concerning their role in disseminating or moderating content such as:

Actions intended to provoke religious sentiments

Defamation

Creation, dissemination or publication of false information

Inciting secession, armed rebellion, or separatism.

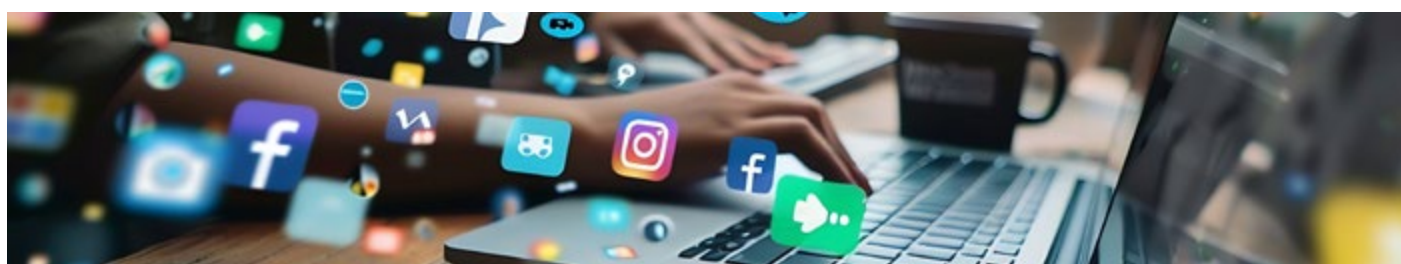
It is therefore crucial for intermediaries to fulfil due diligence requirements and implement adequate filters for monitoring content, to avoid being platforms for such activities.

## Cybersecurity

For protective measures, preventive actions, and obligations to be undertaken by intermediaries related to cyber incident responses, please refer to the chapter on **Cybersecurity**.

## Data Protection

For details on data protection obligations please refer to the chapter on **Data Protection** and **Media**.





## Key Judicial Precedents

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### **Kunal Kamra v Union of India (Bombay High Court, 2024)**

The Court invalidated Rule 3(i)(II)(A) and (C) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023, which empowered the MeitY to designate a Fact-Checking Unit (FCU) to flag false or misleading information about the Government of India on digital platforms. Intermediaries would lose safe harbour protection if flagged content was not removed.

### **X Corp (formerly Twitter) v Union of India (Karnataka High Court, 2022)**

Blocking orders issued under Section 69A of the IT Act are legally binding, and intermediaries must comply to retain safe harbour protections under Section 79 of the IT Act. Intermediaries have a role in safeguarding free expression, they are obligated to respect national security and public order concerns as per Indian law.

# Regulatory Ripples

The regulation of social media in India reflects the need to balance the benefits of digital connectivity with the responsibility of ensuring user safety, data privacy, and compliance with legal frameworks. While social media platforms play a critical role in communication, commerce, and information exchange, they also face growing regulatory scrutiny. Emerging challenges such as AI-generated misinformation, misuse of deepfakes and the concern over user privacy, underscore the evolving risks in the digital landscape and highlight the complexities of online content management and accountability.

A significant global trend is the increasing number of countries imposing restrictions on social media access for children to protect them from harmful content, cyberbullying, and data exploitation. This raises important questions for India's regulatory approach and what responsibilities platforms should bear in verifying and protecting younger users. As social media continues to shape public discourse and commerce, India's regulatory approach is expected to evolve in response to emerging risks, with a focus on strengthening accountability, enhancing user protection, and ensuring platform responsibility. Achieving this balance will be essential in fostering a safer, more transparent, and inclusive digital ecosystem.



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# Advertising

Compliance in Commercials

With the evolution of social media and technological advancements, together with growing urbanization across India and increased consumption power of the Indian population, the advertising sector has seen a steady year-on-year growth. The India advertising market is projected to witness a CAGR of 10.10% during the forecast period FY2025-FY2032, growing from USD 11.41 billion in FY2024 to USD 24.65 billion in FY2032. According to market reports, the Indian advertising market has demonstrated a 40% higher growth rate than the global growth rate average, and online advertising is expected to touch USD 9.84 billion by 2028.

The regulatory framework governing advertising has also evolved to deal with the growing complexities of advertising on traditional mediums and the digital eco-system.

The CPA is the primary legislation regulating advertising in India. The Central Consumer Protection Authority (CCPA) has also

introduced the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022 (Misleading Advertisement Guidelines) and other sector-specific guidelines, to address the unique challenges of the relevant sector. Additionally, the Advertising Standards Council of India (ASCI) is a self-regulatory body that has industry support and has notified a comprehensive code for regulating advertisements (ASCI Code). Its members include advertisers, advertising agencies, and PR agencies. Akin to the CPA, ASCI has also notified several sector-specific guidelines. Set out below is a brief overview of the regulatory framework for advertising:

## Regulatory Framework

The CPA and the ASCI Code regulate advertisements on all platforms in all modes and mediums.





## Prohibited Advertisements

The following advertisements are prohibited under the CPA and the Misleading Advertisement Guidelines -

### Misleading Advertisements

- Untruthful and dishonest representation
- Misleading about scientific validity, capability, or risk to consumer's security, or deliberately concealing information
- Claims not capable of substantiation
- Exaggeration / false guarantees
- Distortion of information through omissions or implications
- Suggest a claim as universally accepted despite significant division of scientific opinion

### Unfair Trade Practices

- False representation about quality, composition, use, characteristics etc or sale of spurious goods
- False guarantee / warranty, promise to repair / replace
- Disparagement of competitor products / services
- Misrepresentation of price / discounts / offers
- Sale of goods not conforming to government prescribed standards

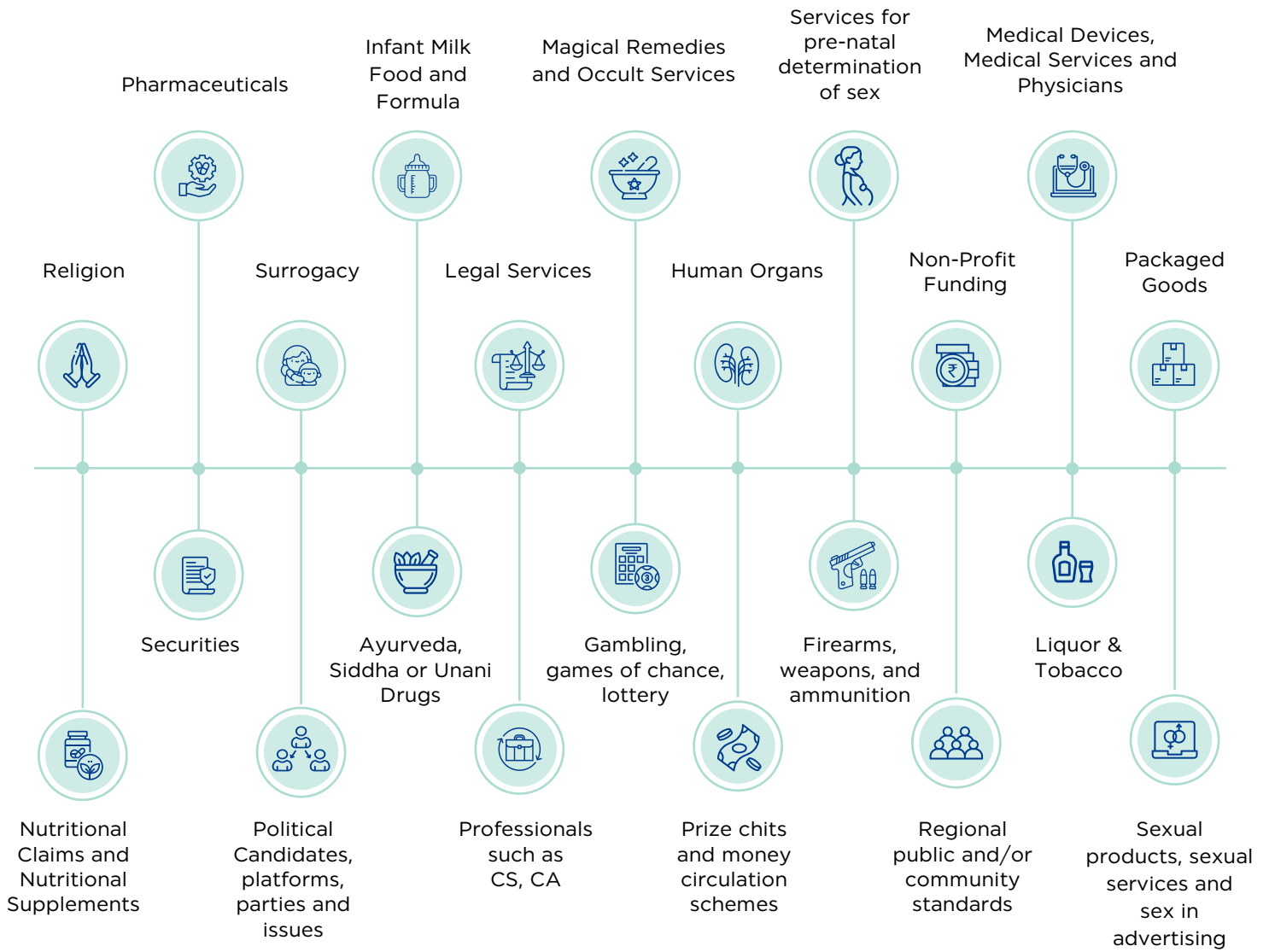
### Surrogate Advertisements

- Advertising of prohibited goods / services disguised as permissible goods / services
- An advertisement will be deemed to be a surrogate advertisement if it - (i) directly or indirectly references prohibited goods / services, and (ii) uses brand elements (name, logo, colour, layout) associated with prohibited goods / services
- ASCI sets criteria like sales turnover, fixed assets and long-term contracts to verify that an advertisement is a genuine brand extension and is not indirectly promoting prohibited goods or services

### Indian Medical Association v Union of India (Supreme Court, 2024)

Addressing the challenges arising from misleading advertisements in the health sector, the Supreme Court required all advertisers publishing any advertisements on any mode or medium, in the food and health sector to submit a self-declaration providing that the advertisement does not make any misleading claims and is in compliance with applicable laws. The MIB subsequently issued an advisory implementing the court's directive.

Additionally, the following products are prohibited from being advertised



## Regulated Advertisements

The CPA lays down certain conditions to be fulfilled in relation to the following advertisements –



### Discount Advertisements

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- Goods / services to be sold at the advertised price
- Adequate supply for expected demand to be ensured
- Limited availability of goods / services to be indicated in the advertisement
- Restrictions like age, geographical conditions etc to be clearly set out
- No inducement to purchase in less favourable market conditions

### Free Claim Advertisements

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No claim of free goods / services to be made if:

- Any cost (except unavoidable costs) is to be incurred for availing the good / service
- Quality / quantity of the good / service is reduced
- Price of free good / service is already included in the package price

## Advertisements targeting / featuring children

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Should not

- Encourage dangerous behaviour
- Claim that a product is healthy without scientific confirmation
- Develop a negative body image in children
- Make exaggerated claims to mislead children
- Feature sportspersons / actors / musicians in advertisements for products / services that require health warnings for children

### Additional conditions applicable to all advertisements

#### Disclaimers

ASCI has set out detailed guidelines on disclaimers in advertisements, in relation to the content, visibility, font, size, duration, medium, and legibility of disclaimers. The guidelines require that such disclaimers should not contradict the main message of the advertisement, correct any misleading statement made in an advertisement, or attempt to hide any material information from consumers.

#### Endorser's responsibility

Endorsers are required to conduct due diligence before advertising a product / service and are required to disclose their connection with the brand. Please refer to the chapter on **Celebrities and Influencers** for more information on the framework for endorsers.



### Advertiser/Manufacturer's responsibility

- Ensure all claims are capable of substantiation
- Specify the date if a claim is based on independent research
- Not reference a person or institution that gives an unjustified advantage or ridicules another product / service
- Not make misleading claims about the advertised product
- Not exploit the trust of consumers

### Guidelines under the CPA and ASCI Code

**Guidelines for Prevention of Misleading Advertisement in Coaching Sector 2024 and ASCI's Guidelines for Advertising of Educational Institutions, Programmes, and Platforms:** prescribe specific guidelines for advertisements by coaching institutes.

**Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims 2024 and ASCI's Guidelines for Advertisements Making Environmental / Green Claims:** regulate environmental claims in advertisements.

**Guidelines for Prevention and Regulation of Dark Patterns 2023 and ASCI's Guidelines for Online Deceptive Design Patterns in Advertising 2023:** advertisers, sellers, and platforms selling products / services are prohibited from engaging in the following dark patterns:

Design elements that hide vital information

Implying false popularity or scarcity

Disruption of user to effectuate a transaction

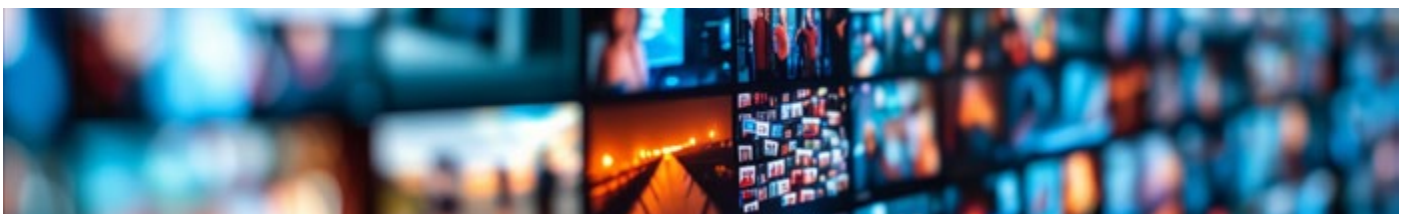
Create fear/ share/ guilt to nudge the user to act in a certain way

Disguising an ad as other types of content

Use vague language to misguide a user

Advertising as free when additional charges are applicable

Force a user to purchase goods / share personal information



## Other sector-specific guidelines by ASCI



### Depiction of automotive vehicles

Guidelines on portrayal of reckless driving and stunts, and violation of traffic rules



### Skin Lightening Products

Guidelines to stop perpetuation of notion that dark skin is undesirable / unattractive



### Online real money game

Guidelines on portrayal of reckless driving and stunts, and violation of traffic rules



### Greenwashing

Guidelines on portrayal of reckless driving and stunts, and violation of traffic rules



### Food and beverages

Higher standard of ethics to provide honest information and not make exaggerated claims of health benefits



### Celebrities / Influencers

Celebrity / influencer's responsibility for advertisement content and disclosure requirements



### Virtual Digital Assets

Higher standard of ethics to provide honest information and not make exaggerated claims of health benefits



### Charitable Causes

Higher standard of ethics to provide honest information and not make exaggerated claims of health benefits



### Educational institutions, programs and platforms

Regulates claims of accreditation, past success, guaranteed results, infrastructure, testimonials



### Awards / Rankings

Guidelines to avoid claims of superiority, mislead consumers about quality through awards / rankings



### Harmful Gender Stereotype

Regulates claims of accreditation, past success, guaranteed results, infrastructure, testimonials

## Consequences of non-compliance

- **For violation of provisions of CPA and Misleading Advertisement Guidelines:** Advertisers / manufacturers may be liable to: (i) discontinue the advertisement and / or (ii) pay a fine ranging from INR 10 Lakhs to 50 Lakhs (including for subsequent contraventions) and / or (iii) face imprisonment for a period ranging from 6 months to 5 years (including for subsequent contraventions).
- **For violation of the ASCI Code:** Although ASCI is a self-regulatory body, it has received statutory recognition under the Cable TV Rules, which provides that no advertisements that violate the ASCI Code should be carried on cable services. Courts in India have taken contrary views on ASCI's power to regulate non-members



### Teleshop Teleshopping v ASCI (Bom High Court, 2014)

Since ASCI is private entity and membership is voluntary, it lacks statutory authority under the constitution of India and cannot impose restrictions on non-members.



### Metro Tyres Ltd v ASCI (Delhi High Court, 2017)

If an entity is engaged in advertising, ASCI's code is applicable to such entity, even if such entity is not a member of ASCI.

In *Procter and Gamble Home Products Private Limited v Hindustan Unilever Limited* (Delhi High Court, 2017), the Delhi High Court held that ASCI is not a dispute resolution body, and accordingly, ASCI can only 'recommend'

changes to / removal of non-compliant advertisements and cannot compel compliance or levy fines.

That said, ASCI has the power to work in collaboration with governmental authorities and may notify the CCPA or any other relevant authority in case of non-compliance with ASCI's recommendations, leading to regulatory action.

## Other sector-specific regulations

**Cable TV Rules:** prescribe guidelines in relation to advertisements on television.

The Advertising Code under Rule 7 of the Cable TV Rules requires advertisements to comply with all Indian laws and not offend the morality, decency, or religious sentiments of the viewers.

Certain advertisements such as those promoting violence, criminality, or social evils or depicting women and children in an objectionable manner are prohibited.

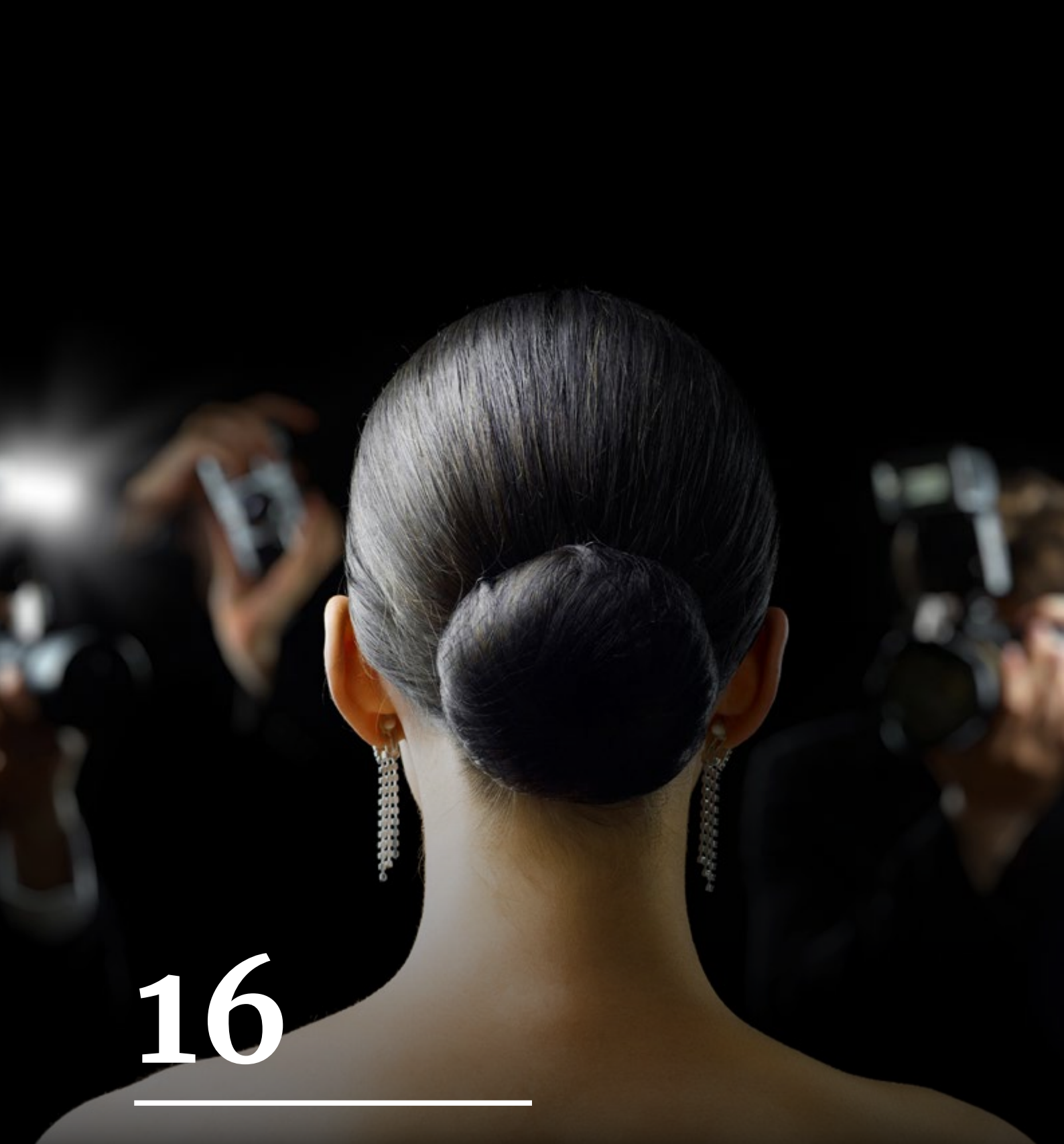
The Cable TV Rules also require advertisements to adhere to the ASCI Code, maintain appropriate audio levels, and be clearly distinguishable from programs. Programmes are prohibited from carrying advertisements for over twelve minutes an hour, which may include up to ten minutes per hour of commercial advertisements, and up to two minutes per hour of a channel's self-promotional programmes.

The government can prohibit the transmission or re-transmission of a programme or a channel if, in its opinion, the advertisement being carried is in violation of the ASCI Code.

## Scripting the Future

The regulatory framework for advertising aims to balance the interests of consumers with those of manufacturers and advertisers. With a strong focus on consumer protection, there has been a significant increase in efforts to crack down on misleading advertisements. The imposition of compliance requirements on all parties involved—manufacturers, advertising agencies, endorsers, and advertising platforms—highlights the government’s commitment to upholding high standards of accountability. Advertisers should implement checks and balances to ensure compliance with regulations.

Additionally, the introduction of the DPDPA is poised to transform the advertising landscape by reducing reliance on third-party data brokers and emphasizing the collection of data directly from consumers, with explicit consent. As technology, particularly AI, continues to advance, it will be interesting to see how these developments interact with the evolving compliance landscape under the DPDPA, and how they will influence the overall growth of the advertising sector in India.



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# Celebrities & Influencers

Red Carpet to Regulation



Over the past two decades, the digital revolution in India has significantly expanded the country's social media presence and democratised content creation. Celebrities and influencers now leverage their online presence to shape trends and influence consumer behaviour. The ability of influencers to connect with niche audiences through personalised content has positioned them as trusted voices, enabling brands to reach consumers in a more organic way. However, the rapid growth of influencer marketing has also raised critical concerns around transparency, consumer protection, and accountability of influencers given the blurred line between genuine recommendations and paid promotions.

According to a joint report by Ernst & Young and Collective Artists Network titled 'The State of Influencer Marketing in India', the Indian influencer marketing sector is projected to reach INR 3,375 crore by 2026, growing at a CAGR of 18%, reflecting the increasing reliance of brands on influencer collaborations to drive consumer engagement and revenue.

## Legal framework governing endorsers in India

### CPA

CPA regulates celebrity endorsements, which also extends to social media influencers. The CPA established the CCPA, a regulatory body to protect and enforce the rights of consumers and prevent misleading advertisements and unfair trade practices.

### Misleading Advertisements Guidelines

The Misleading Advertisements Guidelines safeguard consumers from deceptive advertisements, and outline obligations on both brands and endorsers.

#### Compliance for endorsers:

- Endorsement should reflect their current opinion based on adequate information or experience
- Any material connection with the brand, like paid promotions or free products, should be clearly disclosed.

#### Penalty for non-compliance:

- Up to INR 10,00,000 on both the brand as well as the endorser, and for subsequent contraventions, the penalty may go up to INR 50,00,000.
- Ban on endorser from making any endorsements for up to 1 year, with an extension of up to 3 years for repeat offences.

#### Protections for endorser:

Under the CPA, endorsers are not liable for misleading advertisements if they demonstrate they conducted 'due diligence' in respect of the advertisement. However, there is no prescribed standard of such 'due diligence' under the CPA.

Under the CPA, a 'misleading advertisement' is one which:

- Falsely describes the product or service being advertised, or
- Gives a false or misleading guarantee in relation to such product or service, or
- Conveys a representation which would constitute an unfair trade practice, or
- Deliberately conceals important information regarding the product or service being offered.

As a good practice, endorsers should:



Ask the brand for documentation to support claims made in the advertisements and have such claims reviewed by an independent legal practitioner



Take adequate representations, warranties, and indemnities for the endorsed products or services

### Endorsement Know-Hows

On 20 January 2023, the Department of Consumer Affairs released the 'Endorsements Know-hows!' for celebrities, influencers, and virtual influencers, requiring transparent disclosure of material connections with advertisers. Disclosures are required to be clear, prominent, and in the same language as the content, avoiding concealment within hashtags or links.

The Know-Hows also provide specific guidelines for the inclusion of disclosure labels for various formats of advertisements and advise endorsers to conduct due diligence and ensure that they have personally used or experienced the product or service being endorsed.

### Guidelines for Influencer Advertising in Digital Media, 2021

ASCI introduced the Guidelines for Influencer Advertising in Digital Media (ASCI Influencer Guidelines) on 27 May 2021, requiring influencers to appropriately label any promotional content posted on social media.

## Allocation of responsibility

### Influencers

Influencers are required to disclose any material connection with an advertiser when promoting a product or service. The ASCI Influencer Guidelines prescribe detailed specifications on the form and manner, duration, and placement of such disclosures. Influencers are advised to review and satisfy themselves that the advertiser can substantiate their claims.

### Advertisers

The advertiser is required to ensure that the advertisement complies with the ASCI Code and guidelines. The responsibility of disclosure of material connection with the influencer is also on the advertiser. Advertisers must ensure influencers delete or edit ads or disclosure labels as needed to comply with the ASCI Code and guidelines.

## Consequence of non-compliance

Although the ASCI Influencer Guidelines are not legally binding, the Supreme Court has recognized ASCI's self-regulatory mechanism for advertisements. ASCI's members, including most Indian advertisers, voluntarily adhere to its Code and guidelines. To encourage compliance, ASCI maintains a public list of non-compliant influencers, prompting influencers and brands to follow the guidelines to preserve trust and credibility with their audience and partners.

If an influencer / advertiser disputes that a piece of content is not an advertisement, they are required to submit as evidence to ASCI:

- A declaration from the advertiser stating that there is no material connection between them and the influencer on the date of the post, signed by a senior member of the advertiser's organisation, or
- If the advertiser is difficult to trace in spite of reasonable efforts or if the content features multiple brands, then proof of purchase of featured products and brands.

## Disclosures are required to be:



### Placement and visibility

Prominent and hard to miss by an average consumer.

### Duration

Depending on the length of the video, varying from 3 seconds to the entire segment mentioning the brand, as prescribed under the ASCI Influencer Guidelines.

### Language

Understood by an average consumer, in English or the language of the advertisement

### Terms

Use of terms such as "advertisement", "sponsored", "collaboration" or "paid partnership".

## Virtual Influencers

A virtual influencer is required to prominently disclose to consumers that they are not interacting with a real human being.



## Health / financial influencers

Influencers in the: (i) Banking, Financial Services, and Insurance (BFSI), and (ii) health and nutrition sectors, are required to be qualified to provide advice in relation to these categories, and their qualifications are required to be clearly disclosed in their posts.

## Health and Nutrition Sector

Influencers are required to have relevant qualifications such as a medical degree, or be a certified nurse, nutritionist, dietician, physiotherapist, psychologist etc. depending on the advice offered.

## BFSI Sector

- **Stock / investment-related advice:** Influencers are required to be registered with SEBI and state their SEBI registration number alongside their name and qualifications.
- **Other financial advice:** Influencers are required to have suitable qualifications such as an IRDAI insurance license, CA, CS etc., depending on the nature of advice offered

## Requirement for registration of influencers with SEBI

In August 2024, SEBI amended key regulations to prohibit SEBI-regulated entities from associating with individuals providing securities advice or making performance claims unless they are registered or authorized, targeting unregulated “influencers”. However, exceptions exist for collaborations via Specified Digital Platforms (SDPs), recognized by SEBI, which ensure compliance.

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## Key Judgements



**Castrol India Limited v Gaurav Taneja (Bombay High Court, 2024):** Endorsers should ensure that they have authorization from the brand before using or modifying any partnered content, especially where the concerned brand owns intellectual property rights in the content. Any unauthorized use, may lead to a claim of copyright infringement.



**Marico Ltd v Abhijeet Bhansali (Bombay High Court, 2019):** Influencers should ensure that claims made by them pursuant to review of products and services are based on credible research and due diligence. Courts have emphasized influencers’ responsibility to use their significant influence ethically and responsibly.

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# Key Takeaways for Celebrities and Influencers

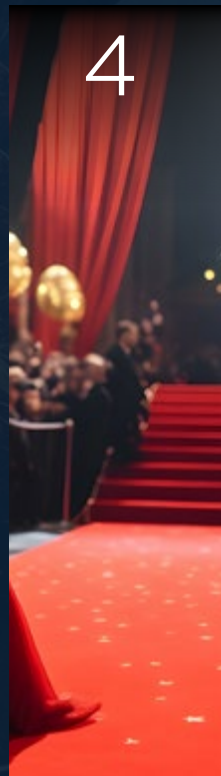
Stay updated on regulatory changes

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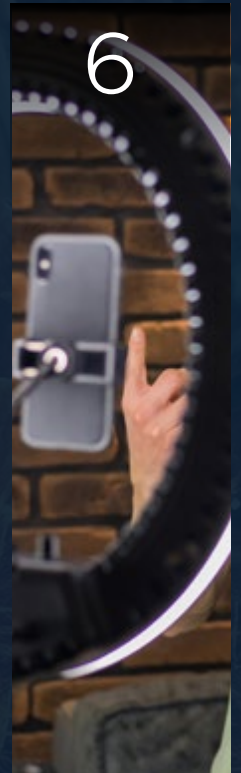
Provide genuine opinions, avoid making false or exaggerated claims

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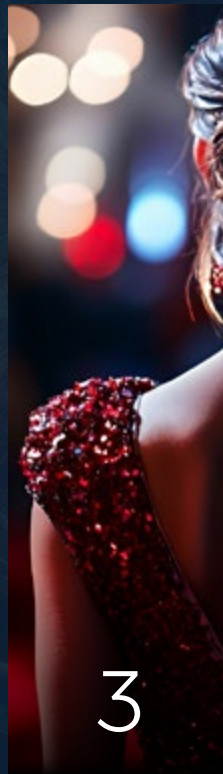
When in doubt, consult a legal practitioner

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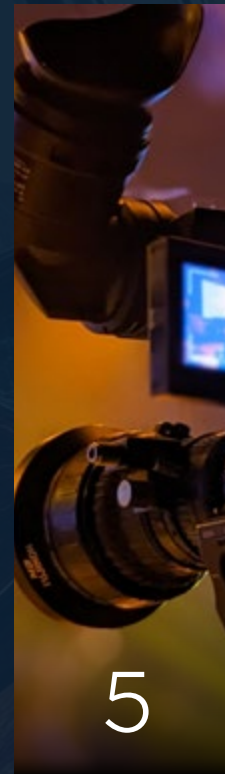
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Have clear contracts with brands covering deliverables, compensation, rights, and dispute resolution



3

In product / service reviews, avoid disparaging claims about brands without adequate research



5

Disclose sponsored content or paid partnerships



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# Personality Rights

Safeguarding your Personal Brand

Personality rights protect the attributes and 'persona' of celebrities from unauthorized use or commercial exploitation, giving celebrities control over how their persona is used. These attributes may include the celebrity's name, voice, image, likeness, mannerisms, gestures, etc.

## What are Personality Rights



**Publicity Rights:** These rights protect the celebrity's 'brand', i.e., their name, image, voice, likeness and other attributes from unauthorised use.



**Privacy Rights:** These rights protect celebrities from unauthorised intrusion over their private life and affairs.

## Who can claim protection of personality rights?

### Can claim protection

- Well-known or prominent personalities.

### Cannot claim protection

- Heirs of a deceased celebrity - personality rights extinguish upon death of the person.
- Companies - protection is for natural persons only.

## How are these rights enforced?

'Personality rights' is an umbrella term encompassing various rights such as privacy rights and right of publicity (both of which are not statutory rights) and may also involve elements of trademark and copyright laws. This area of law has primarily developed through judicial decisions and continues to evolve.

To establish an infringement of publicity rights, an individual is required to demonstrate:



An enforceable right in their identity or persona

The defendant's unauthorized use of the individual's identity

Evidence of the defendant's intent to profit from the unauthorized use

### Protection under Trade marks Act 1999

By registration of name, signature etc. as trademarks.

### Protection under Copyright Act

Through performers' rights, which provide exclusive rights over live performances, including over recording, reproduction, broadcasting, and distribution.

A case for copyright infringement may also be made if copyrighted content is used to create any unauthorized altered or deepfake materials.

# Key Judicial Precedents

1994

## **R Rajagopal v State of Tamil Nadu (Supreme Court, 1994)**

The court held that (i) the right to privacy is inherent in the right to life and personal liberty under Article 21 of the Constitution, and (ii) publishing details of an individual's private life without their consent is prohibited unless the information is derived from public records.

1995

## **Phoolan Devi v Shekhar Kapoor and Others (Delhi High Court, 1995)**

The court issued an interim injunction, preventing the exhibition of the film "Bandit Queen" for concerns over the violation of Phoolan Devi's right to privacy due to explicit portrayals of sexual violence and nudity depicted in the film without her consent.

2011

## **Arun Jaitley v Network Solutions Private Limited and Others (Delhi High Court, 2011)**

The court granted an injunction restraining the defendants from using the domain name "arunjaitley.com" and ordered its transfer to Mr Jaitley, emphasizing the need to protect personal names from misuse in the digital domain.

2010

## **DM Entertainment v Baby Gift House (Delhi High Court, 2010)**

The court recognised that unauthorized commercial use of a celebrity's persona, such as selling dolls resembling Daler Mehndi without consent, infringes on his right of publicity, and emphasized that individuals have the exclusive right to control and profit from the commercial use of their identity.

2012

## **Titan Industries Limited v Ramkumar Jewellers (Delhi High Court, 2012)**

Right to publicity is the "right to control commercial use of human identity" and the unauthorized use of a celebrity's image in commercial advertising constitutes an infringement of the celebrity's personality rights.

2023

## **Anil Kapoor v Simply Life India and Others (Delhi High Court, 2023)**

Protection of personality rights also includes protection of an individual's unique mannerisms, catchphrases, and other elements that are intrinsically tied to their identity.



## What may not constitute an infringement of personality rights?

Parodies and satires constitute fair use under the Copyright Act, if they serve as criticism or review of the original work. Parody, when transformative and not merely imitative, may be considered a form of creative expression and may not constitute an infringement of a celebrity's personality rights, provided it does not directly harm the celebrity's persona. This balance allows for the co-existence of personality rights with freedom of expression in parody works.

In *Jackie Shroff v The Peppy Stores and Others* (Delhi High Court, 2024), the court noted that the term "Thug Life", widely used in internet culture, was humorously applied in a YouTube video featuring Jackie Shroff, made by the defendant, to highlight his assertive persona. The video was deemed a tribute rather than a derogatory portrayal. The court acknowledged that such content serves as a livelihood source for content creators and fosters artistic expression and refused to grant an injunction against the video. However, the final decision, in this case, is awaited, and may clarify the balance between personality rights and artistic freedom.

## Remedies for infringement of personality rights

Celebrities in India can protect their personality rights through legal remedies such as issuing cease and desist notices or approaching the courts to issue injunctions to stop unauthorized use and takedown orders for infringing content hosted on websites. In certain instances, they can also seek damages / compensation from the infringer for the wrongful gains accrued from unauthorized use of the celebrity's identity and any reputational damage. Defamation suits also provide recourse if the unauthorized use harms the celebrity's reputation.

## Looking Ahead

The regulatory landscape in India protecting personality rights is an evolving field, primarily shaped by judicial precedents rather than codified law. While celebrities enjoy robust protections over their persona, the enforcement of these rights often involves navigating a complex interplay of laws. The Indian judiciary has played a pivotal role in recognizing and safeguarding these rights, however, the balance between protecting personality rights and preserving artistic freedom remains a nuanced and ongoing challenge. As legal interpretations continue to evolve, it is imperative for both celebrities and content creators to stay informed and vigilant in understanding the scope and limitations of personality rights in India.



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# Succession Planning

Laws for a Lasting Legacy

Succession planning, which is traditionally considered a strategy for family-owned businesses, is equally important for individuals in the entertainment and media industries. Celebrities and media personalities, often seen as larger-than-life figures, typically spend a significant portion of their lives building public personas, amassing individual wealth, and establishing careers that transcend traditional job roles. However, the unpredictable and unique nature of the entertainment world creates a pressing need for succession planning. Having a well thought through structure ensures that their legacy, wealth, intellectual property, and public image are preserved and managed smoothly.

### What is Succession Planning?

Succession planning involves creating a roadmap for a smooth transition of leadership, assets, and responsibilities from one individual or group to another. For family businesses, this usually involves passing on control of the business from one generation to the next. However, for celebrities and media personalities, succession planning encompasses a variety of elements beyond just a transfer in shareholding and hence, control - such as wealth management, brand continuity, control over intellectual property, and the careful management of their image and legacy in the public eye.

### Why Succession Planning is Important for Celebrities

Celebrities typically generate substantial income through multiple sources: appearance fees, endorsement deals, royalties, investments, and independent business ventures. They also hold valuable intellectual property, such as trademarks, copyrights, and patents related to their name, likeness, and work. As such, succession planning is essential to ensure:

- No dilution / misuse of wealth and brand
- Allocation of assets according to celebrity's values and wishes
- Minimising the risk of financial mismanagement
- Avoiding long legal battles among family members leading to misallocation of resources and eventual fragmentation of assets



## Key Components of Succession Planning for Celebrities and Media Personalities

### Establishing a Business Entity

Where business deals and commercial decisions are fraught with potential liability, celebrities, who endorse and promote these businesses, whether their own, or another, put their likeness out, leading to a strong association between themselves and the brand. This is also true where reliance only on films / media appearances is no longer enough, and celebrities branch out into business ventures, such as production houses, or projects closely tied to the celebrity like fitness, clothing, beauty and skincare, by launching direct to consumer brands. This makes celebrities easy targets for lawsuits, due to their association with goods / services / projects.

In such scenarios, establishing a business entity, such as a limited liability partnership, or a company in place of a sole proprietorship or personally contracting has the following benefits:



- Avoids direct liability of the celebrity
- Makes tax efficient structures more easily available
- Offers additional privacy and confidentiality to celebrities
- Ensures an arm's length relationship between a celebrity and their brand, allowing for ease of succession planning
- Creates distance between the celebrity and commercial transactions

### Clear Will and Trust

The most important step and a must have in succession planning is having a clear testamentary will and trust.

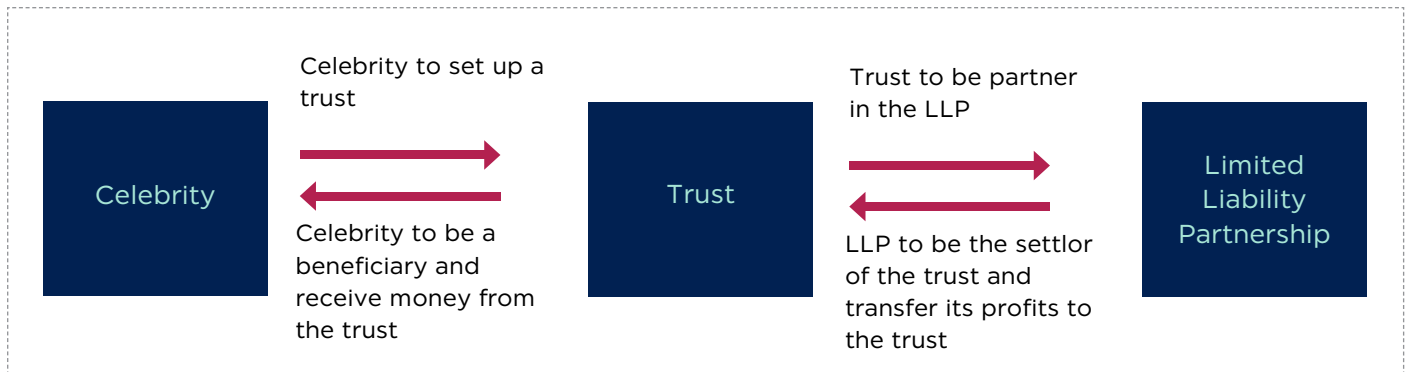


Will outlines how an individual's estate will be distributed upon death and should specify ownership of financial assets as well as intellectual property, brand rights, personal effects

Trust allows for flexible, ongoing management of assets and properties, including IP and provides protection against potential estate duty, marital and creditor protection and smooth transition of wealth to the next generation

When setting up a trust, the settlor of the trust is the person who transfers assets to the trust and the beneficiary is the person who benefits from the same assets. Typically, the thumb rule when creating a trust is to avoid having the settlor be the beneficiary, by relying on a family member (such as a member of an older generation or a spouse) to settle the trust for the beneficiary. However, while that may work for a business family, in case of the celebrity, the income for the services rendered by the artist are received in the celebrity's personal capacity.

Therefore, the structure set out below may be explored:



The trustee will be responsible for overseeing the distribution of assets, handling any legal matters, and ensuring that the celebrity’s wishes regarding their public persona and brand are respected. The celebrity will also have to grant rights to the LLP to execute agreements on behalf of the celebrity.

**Benefits of the above structure:**

- The LLP will pay tax on profits but no tax on upstreaming profits to the trust (which is a partner in the LLP) and on transfer of the same moneys from the trust to its beneficiary i.e. the celebrity.
- No requirement to have a family member aid in transferring the assets and income into the trust.
- While India does not have an inheritance tax, a trust can provide protection against estate duties if such taxes are introduced.
- Freedom for celebrity to prescribe conditions in the trust deed in relation to use of assets, particularly intellectual property of the celebrity, even after celebrity’s demise, granting long term control over assets and legacy (for instance, an owner of a song may include a condition in the trust that the song will not be included in content depicting violence).

- Setting up a trust also ring-fences assets of the celebrity and protects against claims arising from divorce, family related liabilities etc.



**Practical Insight**

Celebrities should determine the scope of assets owned by them and based on legal and tax considerations determine whether such assets and intellectual property should be held through a trust / LLP, or be held individually and be bequeathed by way of a will on a case-to-case basis



## Protecting Intellectual Property

A celebrity's brand is everything, and the consequence of this is the important role that intellectual property rights plays in their wealth creation and legacy. In a world where artificial intelligence is on the verge of fully capturing voice, actions, image and likeness of a celebrity, effectively allowing them to live forever, the handling of these rights becomes extremely important. Set out below is a list of factors to consider when protecting intellectual property:

- Identify IP linked to the individual's lifetime such as personality rights and which are independent of the individual, such as a recording a celebrity's performance
- Determine whether surviving assets should be owned by a limited liability partnership, trust, company, or bequeathed via a will
- Vesting of IP such as brand, voice, likeness with a trust facilitates control by the celebrity, even posthumously, by prescribing conditions on use of celebrity's attributes under the trust documents
- Analyse terms of use of social media platforms to see if personal accounts of celebrities will be deleted or can be used posthumously.

By addressing the aforementioned during their careers and creating comprehensive plans, celebrities can navigate the complexities of their professional and personal lives while safeguarding their image and also protecting their heirs.

The background of the entire page is a close-up, slightly blurred image of several hands of different skin tones. In the center, a white silhouette of a family—a man, a woman, and two children—is being held gently in the palms of the hands. The overall color palette is a deep, muted blue.

## Preparing for the Future

Succession planning is a critical yet often overlooked strategy for celebrities, ensuring that their wealth, intellectual property, brand, and legacy are effectively preserved and passed on. By addressing the above during their careers and creating comprehensive plans (including establishing business entities, creating clear wills and trusts), celebrities can navigate the complexities of their professional and personal lives while safeguarding their image and also protecting their heirs. In a rapidly changing world and with evolution of technology, it is imperative that celebrities strategise with legal and tax advisors to protect their unique legacy.





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## IP & Piracy

Battling Content Theft

Piracy is the illegal copying, distribution, or sale of copyrighted material without the owner's permission. While piracy is a type of copyright infringement, it usually refers to large-scale, commercial infringement of copyrighted materials.

Piracy remains one of the most persistent and complex challenges for the creative industries. Traditionally, the Indian media and entertainment industry has witnessed Intellectual Property (IP) violations in the space of pirated video cassettes, copying of scripts/musical works/sound recordings, publicity rights, public performance rights, film titles, remakes/adaptations, IP contractual disputes etc. While the phenomenon is far from new, its scale and sophistication have been magnified by advancements in technology and the proliferation of digital platforms.

EY-IAMA's publication titled "Rob Report", published in October 2024, estimates the size of the piracy economy in India at a staggering USD 224 billion, of which theatres potentially lost INR 13,700 Crores, and OTT platforms lost INR 8,700 Crores in 2023 due to piracy. However, the damage extends beyond plain revenue - it discourages the growth of small and independent players, it leads to job losses, and it causes economic strain on various stakeholders in the media industry, impacting investment in innovation and creativity.

## Legal Protections Against Piracy

### Copyright Act

Provides for penal action for copyright infringement of songs, films, television programs, broadcasts and any other copyrighted material. Infringement includes reproduction, distribution, public performance, display, or the creation of derivative works based on the original content. Examples include unauthorized streaming or downloading of music or films, re-broadcasting live events, and distributing counterfeit physical or digital copies of content.

- Copyright infringement is a criminal offence, punishable with imprisonment of 6 months up to 3 years along with fine of INR 50,000 up to INR 2,00,000.



**Knit Pro International v The State of NCT of Delhi (Supreme Court, 2022)**

The offence of copyright infringement is a cognizable and nonbailable offence.

- The copyright holder is also eligible to remedies such as injunction and payment of damages.



With the enactment of the Commercial Courts Act 2015, several Indian courts (including the Delhi High Court, the Madras High Court, and the Calcutta High Court) have established specialised IP benches to deal with cases related to IP violations

- The Copyright Act also provides legal protection against the circumvention of technological measures employed to protect copyrighted works, prohibiting unauthorized actions such as breaking digital rights management (DRM) systems. DRM systems are digital safeguards used by copyright holders to control access, copying, and distribution of their digital content, ensuring it is used only as intended.

### IT Act

Under the IT Act, intermediaries such as social media websites are required to observe due diligence in respect of content uploaded on their platforms, to protect against infringement of copyright. Intermediaries are required to take down any infringing content upon receipt of intimation of its existence on their platform. Non-compliance with the due diligence requirements may lead to loss of safe harbour and may make the intermediary liable for piracy. Please refer to the chapter on **Social Media**, for further details in this regard.

### Cinematograph Act

- Prohibits unauthorized recording or transmission of films in cinemas or other venues.
- Penalty for camcording in theatres and unauthorised exhibition of films: fine of INR 3,00,000 up to 5% of the audited gross production cost, and imprisonment of up to 3 months.

### Policy Measures

The National IPR Policy has also led to creation of the Cell for IPR Promotion and Management (CIPAM) which was established under the aegis of the Department of Industrial Policy and Promotion. Time and again CIPAM has worked in tandem with members of the media and entertainment sector circulate videos creating anti-piracy awareness featuring celebrities and shown to nation-wide audiences. CIPAM has also worked closely with the Maharashtra Cyber Digital Crime Unit and successfully suspended over 200 infringing websites illegally hosting and distributing films, TV shows, music, software, games and e-books. Another initiative is the CIPAM IPR Enforcement Toolkit for police officials which conducts training programs for law enforcement and judiciary in battling piracy.

### Contractual Protections

On the contractual front, with Indian courts holding that infringement claims are arbitrable (if agreed under the contract), IP owners should consider if they should leave infringement claims out of the arbitration mechanism in the contract. Resolution of infringement claims through arbitration could come with the following disadvantages:

- the jurisdiction of courts for infringement claims could be restricted in the contract,
- arbitration actions are usually handled by a separate roster of judges in courts whereas usual IP infringement claims (outside of arbitration process) are handled by specialised IP judges/benches/rosters, and
- the reliefs granted under usual IP infringement claims (outside of arbitration process) could be wider and stronger.

## Judicial measures

Judicial enforcement against piracy have also bolstered the industry's defence to piracy. Measures taken include:

- **John Doe orders (Ashok Kumar orders):** enable action against anonymous infringers, thereby granting primacy to originally created content. Such orders are typically issued in cases where the defendant cannot be identified due to such defendant's identity being hidden under several layers of security, and in cases where there is an apprehension of infringement.
- **Dynamic injunctions:** allow rights holders to maintain revolving lists of infringing websites without the need for filing cumbersome cases for each instance before the court. The plaintiff can approach the joint registrar of the relevant High Court with relevant evidence to extend the injunction to additional mirror websites / domains where the infringing content appears. Prior to this, plaintiffs were required to file a fresh suits or use a John Doe order and a new party to the existing suit as and when instances of infringement were discovered. This innovation has proven instrumental in staying ahead of digital piracy tactics.



### Star India Private Limited v Jio Live.TV (Delhi High Court, 2023)

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The court restricted the practice of live-streaming the ICC Cricket World Cup 2023 by pirate websites even prior to the commencement of the world cup, by issuing a dynamic injunction. These websites were identified as they have in the

past indulged in piracy of copyrighted content, and were very likely to continue communicating copyrighted works to the public, including illegal streaming of the ICC Cricket World Cup 2023. The order extended to any mirror / redirect / alpha numeric variations of the websites identified by the plaintiffs, including websites associated to pirate websites based on name, branding, source of content.

- **Blocking orders:** blocking orders issued by courts against pirate sites that have historically evaded URL blocking orders by simply setting up clone/mirror links and alternative websites, like the mythical Hydra.



### Sony Music Entertainment v YTIS.COM (Delhi High Court, 2023)

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The court ordered ISPs in India to block 20 stream ripping sites, marking the first such action in the country and a significant step against music piracy. Stream ripping involves making permanent copies of copyright material from digital streaming websites and applications. These websites provided services whereby copyrighted content on various platforms could be downloaded in MP3 or MP4 format by copying the streaming link in the space provided on the website.

## The Road Ahead

Although Indian courts are committed to act against the misuse of technology to undertake piracy, it will be interesting to see how the legal framework will develop with newer technologies such as AI being employed by persons to disseminate pirated content.



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# Artificial Intelligence

From Algorithms to Accountability

The rapid growth and adoption of AI has revolutionised the way content is created and consumed, ushering a shift in the industry and irreversibly impacting the media experience. Alongside the technological strides being undertaken for the advancement of AI tools and machine learning, legal frameworks are evolving to address the challenges posed by AI, fostering responsible innovation while ensuring compliance and accountability.

## Present regulatory framework in India for AI

While India's approach towards AI regulation so far has been fragmented, it has broadly favoured a "pro-innovation" stance. In November 2024, during the G20 Summit in Rio de Janeiro, India, Brazil and South Africa issued a joint communiqué emphasizing the importance of Digital Public Infrastructure (DPI), AI and data governance in driving inclusive and sustainable development. The declaration highlighted the significance of responsible AI deployment and robust data governance frameworks to ensure privacy, security, and ethical use of technology.

While India explores a comprehensive AI regulation, it presently relies on the existing information technology laws and remedies available under criminal laws to address emerging issues such as misuse of deepfake technology.

## IT Act

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The IT Act provides recourse through several provisions, including:

- Section 66C: identity theft;
- Section 66D: cheating by personation using a computer resource; and
- Section 67: obscene content distribution.

## BNS 2023

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The recently enacted BNS 2023 which supersedes the Indian Penal Code 1860, further strengthens the framework under the IT Act by addressing various aspects of fraud, personation, forgery, and defamation.





## AI Advisories Issued by MeitY

The MeitY released advisory on 7 November 2023, requiring intermediaries detect and take down misinformation and deepfakes within 36 hours of reporting, as required by the IT Rules 2021.

This was followed by a subsequent advisory released on 26 December 2023, highlighting the necessity for intermediaries to explicitly communicate categories of prohibited content, and specifically outline impersonation, as part of their user policies and agreements.

MeitY issued two more advisories in March 2024 on deployment of AI tools by intermediaries and platforms, requiring platforms to:

- Implement user warnings through consent mechanisms for under-tested AI models; and
- Label AI-generated content, that could be used for misinformation or deepfakes, through unique identifiers that would trace such misinformation back to its original creator.

## Advisory on deepfake technology by the Indian Computer Emergency Response Team (CERT-In)

In response to the growing concerns surrounding deepfake technology, the CERT-In issued a comprehensive advisory on 27 November 2024, aligning with MeitY's advisories. The advisory addresses the multifaceted risks posed by sophisticated deepfake technology, including misinformation propagation, fraudulent activities, and reputational harm.

The CERT-In Advisory, emphasising deepfakes as high-risk threat suggests a dual-pronged approach to identifying, preventing and responding to deepfakes:

### FOR INDIVIDUALS

- Source verification protocols
- Information cross-referencing
- Personal data protection strategies
- Enhanced security measures such as multi-factor authentication

### FOR ORGANISATIONS

- Digital watermarking implementation for media
- Enhanced verification protocols for all digital communication
- Deployment of advanced detection systems
- Enhanced forensic capabilities and regular security audits



The evolution of a more comprehensive regulatory framework awaits the findings and recommendations of MeitY's dedicated deepfake committee, which will be presented to the Delhi High Court in response to the public interest litigations which are currently pending adjudication before the Court (please see the section below on key judicial updates on AI). This development is expected to establish more definitive guidelines for addressing the challenges posed by deepfake technology in the Indian context.



### Application concerning deepfake videos by the National Stock Exchange (NSE) before the Bombay High Court

As a result of morphed videos of its officials being circulated on social media, the NSE filed an application directing Meta to protect its trademark and prohibit impersonation and fake news through deepfakes. Taking cognizance of this concern, the Bombay High Court directed Meta to take down the deepfakes within 10 hours. MeitY, following up on this order by the Court, reiterated the obligation on intermediaries to undertake thorough due diligence and promptly act on misinformation to protect larger public interests.

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### Petitions filed by Chaitanya Rohilla and Rajat Sharma on regulation of deepfakes (Delhi High Court, 2024)

In response to writ petitions by Rajat Sharma, editor of India TV, and Advocate Chaitanya Rohilla, concerning the misuse of deepfake technology, the Delhi High Court directed the government to form a committee to develop a statutory framework for its regulation (Deepfake Committee). The Deepfake Committee is tasked with consulting stakeholders to draft recommendations that address the risks posed by deepfakes, including misinformation, defamation, and reputational harm.

## Copyright Act

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The Copyright Act does not explicitly address AI-generated works, leaving the legal status of such creations ambiguous. The Copyright Act grants copyright protection to “original works”, typically understood to mean those arising from human authorship. However, AI-generated content raises questions about whether AI systems or their developers can qualify as “authors” under the Copyright Act. Courts have yet to clarify the threshold of originality or human involvement required for copyright protection of AI generated or assisted works.

In 2020, the Copyright Office rejected an application that listed AI (RAGHAV) as the sole author of an artwork. However, in a subsequent application where a natural person and the AI were named as co-authors, the registration was granted. The basis for this grant remains unclear. About a year later, the Copyright Office issued a withdrawal notice, requesting clarification from the applicant regarding the legal status of the AI tool, Raghav Artificial Intelligence Painting App. This development highlights the complexities and evolving challenges in addressing AI-generated works within India’s copyright framework.

The rapid advancement of AI technologies in India such as deepfakes that can create realistic representations of individuals without their consent has significantly impacted

personality rights, particularly concerning the unauthorized use of individuals’ images and voices. In response, Indian courts have increasingly recognized and protected personality rights. Please refer to the chapter on **Personality Rights** for an overview of these judicial decisions, which underscore the evolving legal landscape aimed at safeguarding individuals against AI-driven infringements.

### **Arijit Singh v Codible Ventures LLP (Bombay High Court, 2024)**

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The Court granted interim relief protecting singer Arijit Singh’s personality rights against AI voice cloning. The Court’s decision recognized the unauthorized use of AI-generated voice replications as a violation of personality rights, directing the breaching entity to remove content that exploited the artist’s attributes without consent. Given the rising use of creative works in AI-generation, consent requirements form part of a best practices approach till further clarity is gained.

## **ANI Media Private Limited v Open AI Inc. (Delhi High Court, 2024)**

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The Delhi High Court is presently examining fundamental questions regarding AI training data and copyright infringement. ANI's allegations against Open AI encompass both the unauthorized use of its content for training Open AI's chatbot 'ChatGPT' and the direct reproduction of its copyrighted material. Open AI's defense rests on fair use provisions under the Copyright Act and the fact that they have subsequently blocklisted ANI's content from their training data as of October 2024.

This case will establish crucial precedents regarding the interpretation of fair use in the context of AI training. As of January 2025, the Federation of Indian Publishers and the Digital News Publishers Association have filed intervention applications to join the as parties to the petition, citing that the outcome of the case would have broader implications, affecting copyright owners across various industries.

## **PIL filed before the Delhi High Court on unauthorised use of artists' original content by AI**

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A public interest litigation filed by model Kanchan Nagar, photographer Vikas Saboo, and Mash Audio Visuals Private Limited seeks comprehensive legislative amendments to address the unauthorized use of artistic works in AI training and generation. Companies engaged in buying and selling creative output would benefit with such strong emphasis on curbing unauthorised use to protect their artist rights and business interests.



# Regulation and Opportunities

As AI-generated content becomes more prevalent, regulatory scrutiny is expected to intensify. The key AI litigations pending before the Delhi High Court, are all scheduled for hearings in early 2025, along with the anticipated recommendations from MeitY's Deepfake Committee. Additionally, in January 2025, MeitY's AI Subcommittee released a report on 'AI Governance and Guidelines Development' for public consultation, proposing enhanced transparency requirements, accountability measures for AI-generated content, and safeguards against deepfakes and misinformation.

These developments are poised to significantly influence India's legal framework for AI regulation, particularly in areas of content protection, intellectual property, personality rights, and responsible AI deployment.



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# Data Protection

New Frontiers in Media

In today's digital-first world, the Indian media and entertainment industry is a behemoth powered by data. Streaming platforms recommend binge-worthy shows tailored to our tastes, social media channels keep us engaged with algorithms that seem to know us better than our friends, and digital advertising connects us with products we didn't know we needed. Behind this seamless experience lies a vast ecosystem of data collection and analysis, a reality that makes data privacy not just a business imperative but a regulatory concern as well.



## The Data Touchpoints in Media and Entertainment

The Indian media and entertainment sector involves myriad data touchpoints where personal data is collected, processed, and utilised.

### Content Consumption Platforms / streaming Services

- Collect viewing history, preferences, and device data
- Personalize recommendations and analyse user engagement

### Subscription Services

- Gather personal details (e.g., billing information, location)
- Manage accounts and prevent fraud

### Social Media Platforms

- Track likes, shares, and interaction data
- Refine marketing strategies and enhance user engagement

### Online Advertising

- Use advertisements and cookies to gather data (e.g., geolocation, browsing habits)
- Enable targeted advertising

### Live Events and Ticketing

- Collect personal data (e.g., payment and contact details)
- Facilitate event management and audience targeting

### Interactive Experiences (AR/VR)

- Capture biometric data and motion patterns
- Enhance user interactivity and immersive experiences

## Personal Data at the Core of Personalisation

The cornerstone of the media and entertainment industry's success lies in its ability to track usage patterns and leverage this data for personalised recommendations and targeted marketing. Online streaming platforms utilise viewing histories, preferences, and even pausing habits to curate tailored content libraries for each user. This level of personalisation not only enhances user engagement but also increases the likelihood of content discovery, driving platform loyalty and revenue. However, this data-driven approach may come under scrutiny with the introduction of the Digital Personal Data Protection Act, 2023 (DPDPA), which places emphasis on cardinal data protection principles such as 'purpose limitations' for the processing of personal data.

## Existing Legal Framework: A Nascent Stage

India has long grappled with outdated data privacy regulations that struggled to keep pace with the rapidly evolving digital landscape. The IT Act and the rules framed thereunder provided a basic framework but lacked the granularity needed to address modern privacy concerns. Moreover, the enforcement of the law was almost negligible.

## The Digital Personal Data Protection Act 2023



### Purpose Limitation & Consent

- Personal data must be processed only for explicit, specific, and legitimate purposes, as consented to by the user.
- For the media and entertainment industry, this will restrict the flexibility of repurposing data for broader marketing or algorithmic enhancements.



### Personalised Marketing Challenges

- Personalised marketing, a key revenue driver, will face tighter constraints.
- Targeted advertising and data-driven recommendations require more explicit user consent.
- For example, cross-platform behavioural tracking for targeted advertising - a common practice - may conflict with the DPDPA's emphasis on purpose limitation and user consent.



### Clear Notice Requirements

- Users must be informed about why and how their personal data is collected.
- Businesses must provide transparent disclosures on data processing purpose, nature, and duration.
- Significant impact on tracking mechanisms often operating in the background now need explicit user awareness.



### Impact on Tracking Mechanisms

- Tracking mechanisms are a cornerstone of the industry's success and will be required to operate transparently and with user consent.
- Platforms must obtain clear and explicit consent for cookies, pixels, and other tracking mechanisms.
- Opt-in requirements will reduce the granular data available for analysis, compelling platforms to innovate within constraints imposed by the DPDPA.
- The industry will be required to innovate to maintain user engagement while adhering to compliance.

## Impact on Children's Personal Data

Another critical aspect is the DPDPA's emphasis on children's data protection. The following are some salient aspects of the DPDPA:



### Heightened Protection for Minors

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- Requires verifiable parental consent to process children's personal data
- Prohibits tracking, profiling, or targeted advertising aimed at children, further limiting the scope of data-driven strategies in family-oriented content or platforms targeting younger demographics.



### Operational Overhaul

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- Platforms must implement robust age verification mechanisms.



### Strict Data Retention Policies

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- Companies are required to delete personal data once its purpose has been fulfilled or upon user request.



# New Regulatory Pathways

For the media and entertainment industry, undoubtedly, personal data has been critical to understanding users. Despite the challenges, the DPDPA presents an opportunity for the industry to redefine its relationship with users. Compliance should be viewed not merely as a regulatory obligation but as a chance to build trust through transparency and ethical practices. Educating users about their rights under the DPDPA, such as data access, rectification, and withdrawal of consent, can foster a culture of informed consent.

Collaboration with regulators and tech providers can further streamline compliance efforts and develop industry-specific best practices. Businesses must embed privacy by design into their systems, ensuring compliance from the ground up. This may involve redesigning algorithms and data workflows to respect 'purpose limitations' while maintaining functionality. Further, enhanced cybersecurity measures, including encryption and threat detection, are essential to safeguard user data and build trust.

As the media and entertainment industry continues to innovate, it must strike a delicate balance between leveraging data for personalisation and respecting the privacy rights of its users. In the digital age, user trust is the currency that will drive sustainable growth.



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# Cybersecurity

Securing the Digital World

Cybersecurity challenges present unique risks to the media and entertainment industry as a result of its global distribution network. The nature of activities in the industry including content production, which involves reliance on multiple independent global stakeholders, creates numerous vulnerability points for potential cyber-attacks. This risk is further exacerbated by the ideological significance and high value nature of media production and content, making it susceptible to theft and disruption.

While these risks have always been a concern for the industry, the increased sophistication of cyberattacks and malware requires players of the industry to adopt a future-forward approach to protect their interests. The governance structure propounded by cyber laws in India offers a solid foundation to such a successful cyber strategy.

## Battling Cyber Risks in the Media Industry

IT Act is the key legislation in India, protecting cybersecurity interests and contains stringent norms and penalties aimed at empowering internet platforms and users. Cyber terrorism is a punishable offence under the IT Act.

**What is Cyber Terrorism?**

- Tampering with computer source documents
- Using unique identifications of a person fraudulently
- Unauthorised access and use of computer resources

Beyond general protections, Section 43A of the IT Act places obligations on corporate entities holding or dealing with sensitive personal data or information such as financial, biometric, medical or such other information (SPDI) to “maintain reasonable security practices and procedures”.

The SPDI Rules prescribe the IS/ISO/IEC 27001 international standard on “Information Technology - Security Techniques - Information Security Management System - Requirements” as one such standard to comply with the reasonable security practices and procedures. Any wrongful loss caused by the negligence of a body corporate in this regard may make such entity liable for compensation to be paid to the person who has suffered such loss.

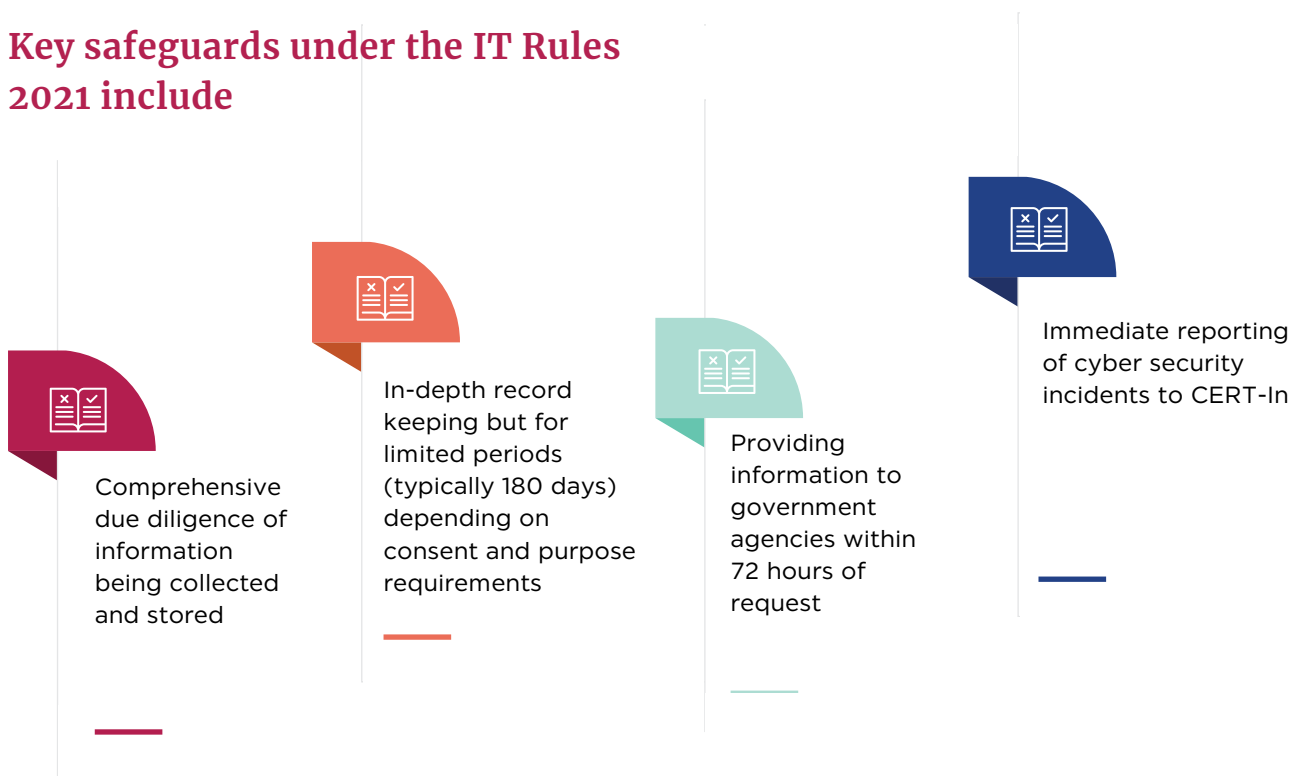
Additionally, under Section 45 of the IT Act, failure to comply with the SPDI Rules is also punishable with a penalty of up to INR 1 Lakh and payment of compensation to the person affected by such violation up to INR 10 Lakhs.

Among several directions, reliance is placed on the SPDI Rules and IT Rules 2021, which place varying obligations on entities to protect their operations and users from cyber risks. The SPDI Rules require all entities that collect or store personal data to:

- Seek prior consent of the data provider for: (i) collection of SPDI; and (ii) disclosure of SPDI to third parties; and
- Ensure that the transferee of any SPDI in India or overseas adheres to the same level of data protection as prescribed under the SPDI Rules.

The IT Rules 2021 reiterate the obligations under the SPDI Rules for intermediaries and media entities, and further enhance their applicability to the media and entertainment sector.

## Key safeguards under the IT Rules 2021 include



## CERT-In Directions 2022

The directions issued by CERT-In dated 28 April 2022 (CERT-In Directions 2022) require intermediaries, service providers and body corporates to mandatorily

- Report all cyber incidents within 6 hours of noticing such incidents to CERT-In
- Provide prompt information or assistance in mitigating such incidents
- Designate a point of contact to liaise with CERT-In.

Penalties for non-compliance with the CERT-In Directions, 2022:

- Imprisonment for a term up to 1 year
- Fine up to INR 1 Lakh

## Key Takeaways

A robust and multi-faceted cybersecurity strategy, combined with active cooperation with regulatory authorities, forms the backbone of protecting digital assets in the media and entertainment industry. Given the industry's reliance on digital platforms, cloud-based workflows, and the continuous exchange of intellectual property, a proactive and adaptive approach to cybersecurity is not just advisable, but imperative.



23

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## Spotlight on Southern India

Successes, Challenges & Future Prospects

## South Indian Cinema: A Force to Reckon With

The South Indian media industry has emerged as a formidable force within the Indian entertainment landscape, consistently outperforming its Hindi counterpart in theatrical and OTT releases. With blockbuster hits, critically acclaimed films, and robust fan engagement, South Indian cinema has set new benchmarks.

For instance, KGF Chapter 2, a Kannada film, received widespread acclaim for its gripping narrative, high-octane action sequences, and stellar performances. Similarly, RRR, a Telugu film, achieved global recognition and even clinched Oscars for its song Nattu Nattu, which became a viral sensation worldwide. All We Imagine As Light, a multi lingual film, made waves at the Golden Globes. The success of these films showcases the inherent strength of regional storytelling and filmmaking.

Collectively, South Indian cinema dominated the country's theatres with a revenue collection of INR 5,646 Crores in 2024, which is nearly 20.67% higher than Hindi cinema. Hindi cinema's box office collection dropped from INR 5,380 Crores in 2023 to INR 4,679 Crores in 2024. As per the Ormax Box Office Report for 2024, Telugu action thriller Pushpa The Rule: Part 2 was the highest-grossing film of 2024, with gross box office collections of INR 1,403 Crore. Its dubbed Hindi version achieved a box office collection of INR 889 Crore, setting a new record as the highest-grossing 'Hindi' film of all time. The PVR-INOX merger has also banked heavily on the performance of South Indian films, which accounted for a substantial share of total box office collections.

## Key Success Factors

The South Indian film industry is undergoing a remarkable transformation, driven by advancements in technology, diverse storytelling, and a growing pan-Indian appeal. One of its success factors is its compelling storytelling that blends regional authenticity with universal themes, as seen in films like RRR, Kantara, and Baahubali. High production values, meticulous set designs, stunning cinematography, cutting-edge visual effects and immersive sound design, have elevated technical standards, making these films visually spectacular. Collaborations with international VFX studios, such as those involved in RRR, have helped achieve global standards in visual quality. Star power, combined with dedicated fan bases, have also ensured strong initial box office collections.

The surge in streaming platforms like Netflix and Amazon Prime has further broadened the reach of South Indian cinema, bringing it to global audiences and encouraging significant investment in regional content. This digital revolution has provided a platform for diverse voices, ensuring that South Indian films continue to thrive both locally and internationally.

Moreover, the trend of re-releasing classic films has gained momentum, as seen with movies like Baahubali and Sivaji: The Boss, which drew large crowds to theatres upon their re-release.

The unique storytelling and rich cultural backdrop of South Indian films have inspired numerous remakes and adaptations in other languages, further solidifying their pan-India and global appeal.

## Lights, Camera, Incentives! – Film Incentives in South India

Incentives provided to filmmakers by Andhra Pradesh, Kerala, Tamil Nadu, and Karnataka share a common goal of promoting regional cinema by offering financial support to filmmakers. States prioritise the production of films in their respective regional languages and focus on supporting low-budget projects to encourage local talent. Additionally, the states recognize award-winning films at the state, national, and international levels, incentivizing high-quality content that represents their culture globally.

Andhra Pradesh also offers GST reimbursement and cash subsidies for films that reflect local culture, while Tamil Nadu provides a straightforward subsidy without budget restrictions. Kerala ties its subsidies to the use of state-owned studios, ensuring that local infrastructure benefits from film productions, whereas Karnataka offers a diverse range of subsidies for various themes such as historical, literary, and children's films. Budget limitations also vary, with Andhra Pradesh capping low-budget films at INR 4 crore, while Tamil Nadu and Kerala focus more on thematic and infrastructural considerations. Karnataka has adopted a tiered approach, rewarding films based on their alignment with literary works, tourism promotion, and social themes.

The cultural impact of these incentives is significant, as they help preserve and promote regional traditions, histories, and identities through cinema. By mandating local production, states create employment

opportunities for regional artists and technical crews, boosting the local economy. Collectively, these incentives strengthen the regional film industries and contribute to the larger cultural and economic ecosystem of the South Indian states. For an overview of incentives offered by each state, please refer to the chapter on [Film Incentives](#).

## Challenges Faced by the South Indian Film Industry

Despite its success, the South Indian film industry faces unique challenges that demand careful navigation:

### Regulatory Hurdles

The Andhra Pradesh government vide a 2022 order fixed rates of admission for different categories of cinema halls and multiplexes. As part of this order, the Andhra Pradesh government also reserved the right to affix higher rates for a period of 10 days for “super high-budget films” where the production cost exceeds INR 100 Crores (excluding the remuneration paid to directors and actors).

In a public interest litigation filed before the Andhra Pradesh High Court (*P. Rakesh Reddy v. Union of India, 2024*) challenging the government's decision to increase the 'rate of admission' for film 'Kalki 2898 AD', for a period of 14 days instead of 10 days as allowed in the government order, the Andhra Pradesh High Court is set to consider the larger question of whether the government is empowered to fix the admission rate.



## Law and Order Concerns

In response to the tragic stampede during the screening of 'Pushpa 2: The Rule', which resulted in one fatality and left a child critically injured, Telangana Chief Minister Revanth Reddy met with prominent Telugu film industry figures to discuss crowd control and public safety measures, urging celebrities to work closely with law enforcement to prevent such incidents. The incident led to the Telangana government announcing stricter policies on special benefit shows and ticket price hikes, which could impact upcoming high-budget films.

## State-Specific Legal Considerations

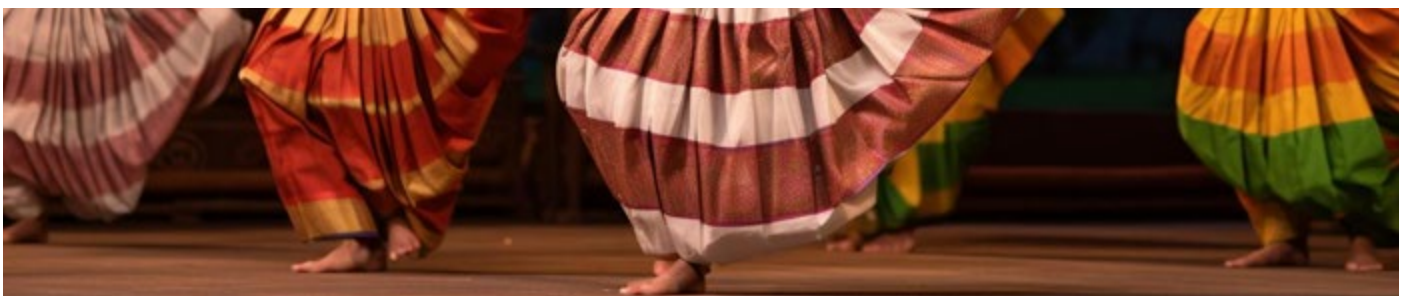
Each South Indian state has taken unique legislative measures to support and regulate the film industry. For instance, in Andhra Pradesh, industry insiders anticipate film-centric reforms, including infrastructure development and tax incentives to encourage Tollywood to shift back to the state. The government is also exploring film-driven tourism as a key investment opportunity.

The Tamil Nadu government has offered tax exemptions for films with Tamil titles and social messaging, influencing content creation. Known for its strong independent cinema movement, Kerala government has also implemented favourable tax structures for films promoting cultural values and tourism.

## Virtual Battles, Real Laws: Gaming Regulations in South India

The legal landscape for gaming in South India varies across the states of Tamil Nadu, Andhra Pradesh, Kerala, Telangana, and Karnataka. According to a report released in November 2024 by gaming-focused venture capital firm Lumikai, South Indian metro cities of Chennai, Cochin, Madurai and Bengaluru reported the highest amount of time spent in gaming. In South India, gaming laws lean towards stringent regulation on the activity of gaming, especially where stakes are involved. Across the region, legislations often cite concerns about gambling addiction, financial losses, and the potential impact on youth.

Tamil Nadu and Andhra Pradesh, for instance, have justified bans on online gaming to curb social evils. That said, Courts in Karnataka, Kerala, and Tamil Nadu have intervened to protect games of skill from blanket bans, emphasizing constitutional rights under Article 19(1)(g) (freedom of trade and profession). With the rising youth interest in esports and casual gaming, along with the region's growing IT and entertainment sectors, there is a push for regulatory frameworks that balance consumer interests with economic opportunities, leading to legal challenges and evolving policies.



## Karnataka

In October 2021, Karnataka amended the Karnataka Police Act 1963, to ban all forms of online gaming, including online games of skill played for stakes. However, in February 2022, the Karnataka High Court struck down the amendments as unconstitutional, emphasizing the protection of games of skill under Article 19(1)(g) of the Constitution.

## Telangana

Telangana was among the first states to ban online gaming, amending the Telangana Gaming Act 1974 in 2017 to prohibit all forms of online gambling, including games of skill played for stakes.

## Andhra Pradesh

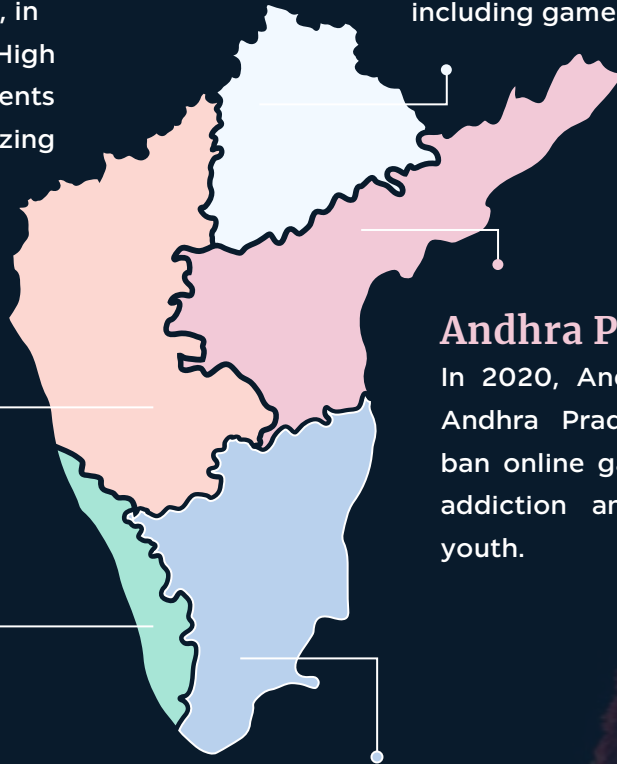
In 2020, Andhra Pradesh amended the Andhra Pradesh Gaming Act 1974 to ban online gaming, citing concerns over addiction and financial losses among youth.

## Kerala

The Kerala Gaming Act 1960, prohibits gambling but exempts games of skill. In 2021, the Kerala High Court overturned a state government notification that sought to ban online rummy, reaffirming its status as a game of skill.

## Tamil Nadu

In April 2023, Tamil Nadu enacted the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act 2022, aimed at banning online games of chance, including rummy and poker. However, in November 2023, the Madras High Court struck down the prohibition on rummy and poker as unconstitutional, while upholding other provisions of the Act. The state has since filed a Special Leave Petition challenging this decision. In February 2025, Tamil Nadu introduced new regulations to strengthen oversight of online real-money gaming platforms. These regulations prohibit minors from playing online real money games, mandate Aadhaar-based KYC verification at the time of account creation and require platforms to restrict user access between midnight and 5 AM in the morning. Platforms are also required to: (i) display cautionary pop-up notifications to players after more than one hour of continuous gameplay and every thirty minutes thereafter, (ii) implement daily, weekly and monthly monetary limit for each player with a pop-up notification prominently indicating the monthly limit and amount spent, and (iii) display a warning on their login page regarding the addictive nature of online gaming.



# The Big Picture

The South Indian film and media industry has successfully positioned itself as a powerhouse, contributing significantly to India's cultural and economic landscape.

This success has been supported by a combination of visionary filmmakers, investments in state-of-the-art infrastructure, and the adoption of advanced technologies in production and post-production. The regional government incentives, including subsidies for film production, single-window clearance for shooting permits, and promotion of international collaborations, have further bolstered growth. Audience engagement, fueled by a deep cultural connect and evolving digital platforms, has ensured a steady expansion of the market, making South India a formidable hub for entertainment.

However, while the film and media industry enjoy a structured path to growth, the gaming industry faces a far more complex trajectory. The growing gaming ecosystem, comprising mobile, console, and online gaming, is affected by a fragmented regulatory landscape. Lack of a unified regulatory framework also adversely impacts consumer interests. Addressing these challenges could transform the region's gaming industry into a global contender, much like its film counterpart. This requires collaboration between state governments, industry leaders, and policymakers to create an ecosystem that fosters growth, encourages investment, and safeguards consumer interests while promoting cultural and creative innovation.

# About Khaitan & Co

Khaitan & Co is a top tier and full-service law firm with over 1200 legal professionals, including 270+ leaders and presence in India and Singapore. With more than a century of experience in practicing law, we offer end-to-end legal solutions in diverse practice areas to our clients across the world. We have a team of highly motivated and dynamic professionals delivering outstanding client service and expert legal advice across a wide gamut of sectors and industries.

The Technology, Media and Telecom practice of Khaitan & Co specialises in regulatory, transactional, commercial and policy matters across the media, entertainment and technology sectors including music, filmmaking, sports, gaming, advertising, digital, satellite and print media. The Firm also regularly advises on evolving digital regulations and emerging technologies and has led several high-value mergers, acquisitions, private equity transactions, and strategic investments that are shaping the future of digital and live entertainment.

To know more, visit [www.khaitanco.com](http://www.khaitanco.com)



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## About FICCI

Established in 1927, FICCI is the largest and oldest apex business organisation in India. Its history is closely interwoven with India's struggle for independence, its industrialization, and its emergence as one of the most rapidly growing global economies. A non-government, not-for-profit organisation, FICCI is the voice of India's business and industry. From influencing policy to encouraging debate, engaging with policymakers and civil society, FICCI articulates the views and concerns of industry. It serves its members from the Indian private and public corporate sectors and multinational companies, drawing its strength from diverse regional chambers of commerce and industry across states, reaching out to over 2,50,000 companies. FICCI provides a platform for networking and consensus building within and across sectors and is the first port of call for Indian industry, policymakers and the international business community.

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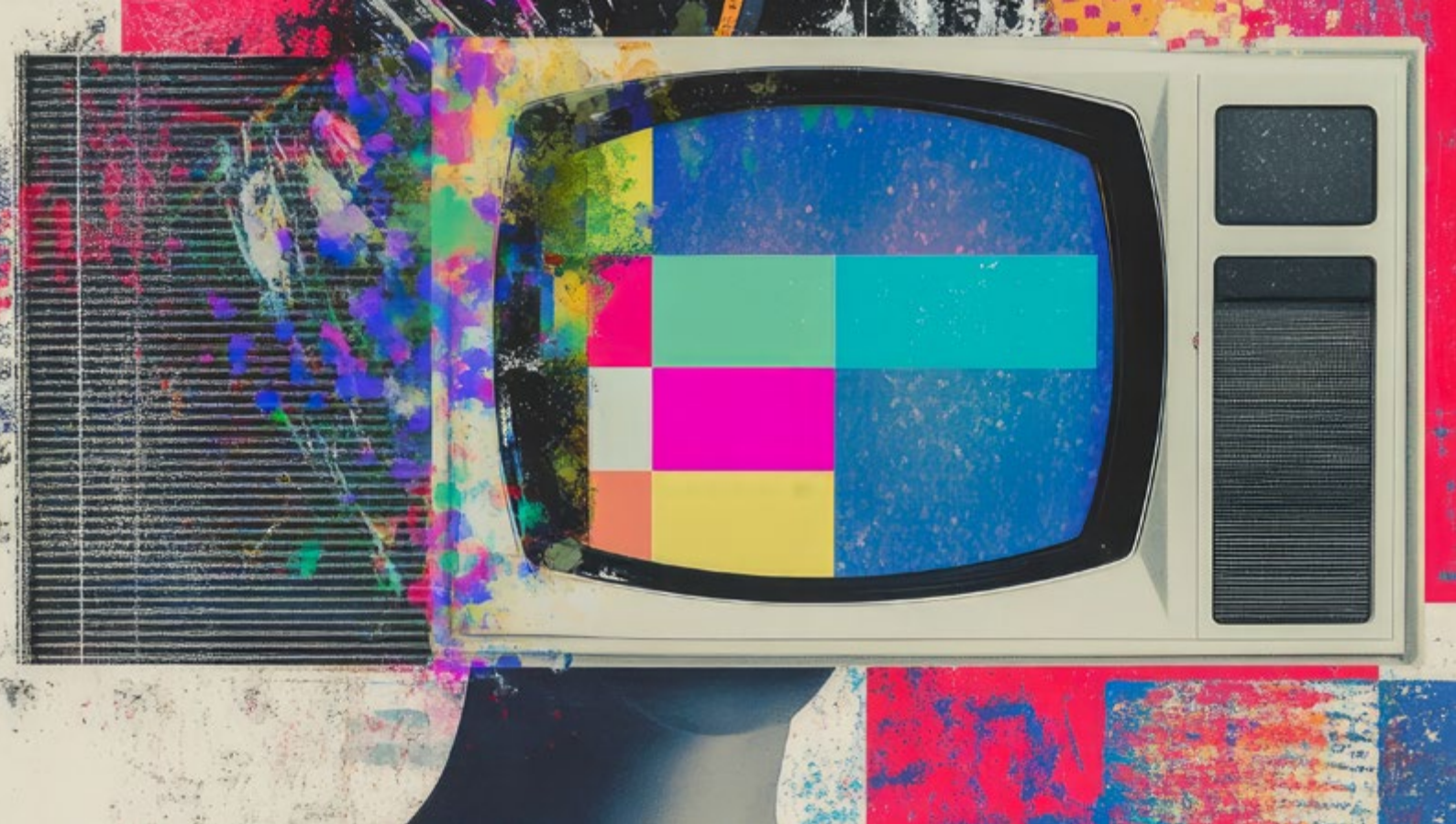
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