

# Critical Summarisation of “OTT” In Light of “Censorship” - In India

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## Abstract

The Indian Cinema always renowned for the grace, elegance and beauty. The Indian and International audience always admired the charm of Indian Cinema. The recent decades the Entertainment industry generates substantial revenue to the state. The growth of Artificial Intelligence (AI) has outset the most appealing and fascinating Entertainment content. The emergence and flourishing industry of Over-The-Top platforms (OTT) have been intimate to general public. The (OTT) has been the most economic, easily accessible preferential entertainment.

The traditional Entertainment Industry was exhaustive in its forms and presentation, the disability of which has been overcome by OTT. The traditional Entertainment was broadcasted with limitations and curtails of Censorship. Censorship means a way of prohibition to publish or deliver the matter to the public in an objectionable way (S.R.Myneni., 2014). The film censor means cutting the indecent material. The Central Board of Film Certification (CBFC), the regulatory film body of India, strike down the offensive, nudity, violence or subjects objectionable from the films. Nevertheless the OTT platform streaming the content irrespective of age bar has overcome the hurdles of Censorship, which would otherwise trim the publication of objectionable content. In India the codification of Indecent Representation of Women Prohibition Act 1986, aimed to prohibit and regulate the Representation of and portrayal of women in mainstream media (Indecent Representation Of Women (Prohibition) Act, 1986) (Indecent Representation Of Women (Prohibition) Act, 1986). In India the different broadcast or films are covered and governed under different codification statues such as The Cable Networks Television (Regulating) Act 1995, governs television the exhibition of films is controlled under Cinematograph Act 1952. The provisions of the Cinematograph Act are primarily applicable to those films that are shown in theatres and not applicable to the ones which are transmitted through the medium of the internet. Any certifications of a film by CBFC do not apply to the contents streamed on OTT. (Censorship plays : regulating obscene content on OTT media websites) Adolescence and the underage to view the content which would otherwise should be prohibited for them. In this paper the Authors try to study the critical analysis of OTT with regards to Indecent Representation of Women Prohibition Act 1986, in the light of Censorship.

**Keywords:** *Censorship, Cinematography, Entertainment, Indecent, OTT*

## Introduction:-

**What is OTT** - Over-the-top platforms, audio and video hosting and streaming services started out as content hosting platforms but soon branched out into the production and release of short movies, feature films, documentaries, and web series themselves.

(Censorship Of OTT Platforms And Its Various Aspects) .

**What is Censorship**- The censorship is basically an order not to publish or deliver any matter which is prohibited. The new medium of moving pictures was likely to disgrace the morals and ethics of the heritage. The indecent content of the film was trimmed down by regulatory body “The Central Board

of Film Certification” which usually censor offensive, including sex, nudity and violence from the film. In 2002, the Indian film maker and former Chief of the Country’s film censor board, Vijay Anand, Kicked up a controversy with the proposal of to legalize the exhibition of X-rated films in selected cinemas across the country, saying “Porn is shown everywhere in India clandestinely, and best way to fight this onslaught of blue movies is to show them openly in theaters with legally authorized licenses.” He resigned within a year after taking charge of the censor board after facing widespread criticism of his movies. (Myneni, 2014) . In K.A Abbas v. Union of India, (AIR 1971 SC481), the censorship of films was challenged as unconstitutional and it is an unreasonable restriction over freedom of expression. The Supreme Court has held that the pre-censorship of films is justified under Article 19(2) on the ground that the film has to be treated differently from other forms of art and expression because of its instant effect on persons who watch particularly on adolescents. (Myneni, 2014)

The above summary analysis shows that Indian Cinema is very particular about the publication or delivering of the content to the audience. The OTT have flourished with ample of contents, with the constant uplift of AI. The OTT has opened the global markets for the employment and generated new forms of employment.

The emergence of Covid-19 Pandemic have however accelerated the business of OTT, as the people feel more reasonable and prudent to get entertained without the risk of getting infected, but on contrary we are continuously in the exposure to prohibitory contents which is somehow against the moral and legal ethics of our state. The OTT have not only violated the norms of broadcasting but also succumb the codification under Indecent Representation Of Women (Prohibition) Act, 1986. The Entertainment industry flourished by the propagation of network system converted the traditional entertainment with a on demand preferable contents.

### **Legislation governing the Entertainment Industry -**

The regulatory body which governs the entertainment sector in India is personified in the Cable Networks Act 1995 and Prasar Bharti Act 1990. The ministry of information and Broadcasting and Prasar Bharati are the government bodies which regulate this sector of media and these are the structure which has the authority to issue guidelines, policies, regulations and to grant licenses in order to broadcast in media.

The Cinematograph Act of 1952 that includes the provisions for licensing and certifying the cinematography of films and it also includes the regulation of exhibition by means of cinematography. (Industry) . The traditional film and a decade back the heroines were portrait in a sophisticated outlook which would to create a graceful appearance for the audience but the changing trend of entertainment industry have thoroughly changed the concept of grace and the indecent pattern is being served to the viewers. In Directorate General of Doordarshan v. Anand Patwardhan (AIR 2006) the Hon’ble Supreme Court lamented the vagueness of the definition of obscenity and consequently difficulty in applying it. (Divan)

**Legislative Status of OTT-** The discretionary unrestricted publication of OTT has imputed and controversially enlarged the scope of Article 19 (1) (a) the freedom of Speech and expression. The featuring contents of OTT have altered the definition of morality and obscenity has identified by Hon’ble Supreme Court in Bobby Art International v. Om Pal Singh Hoon (Bandit Queen) AIR 1996. The Hon’ble Supreme Court held in the aforesaid case that frontal nudity of humiliated rape victim was not to arouse prurient feelings but revulsion for the perpetrators, wherein it meant that the nudity published did not arouse any obscenity as it portrayed of the sufferings a victim undergone through entire crime. (Divan)

The OTT publish unreasonable nudity and obscenity not competent to be protected under above precedent. The lack of codified regulation for the publication of content on OTT have widened the indiscriminately scope of screening the unusual contents. The Hon’ble judiciary was face with the

difficulty for interpretation the enlargement of various laws governing the publication sector. The Supreme Court has recognized that there can be no uniform test of obscenity and each case as to be judged on its facts. In Rajit D. Udeshi, Honle Supreme Court referenced the Hicklin Test, which purported to examines that the impugned matter tends to “deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall.” This test was found not to violate Article 19 of the Indian Constitution. Under Hicklin, a work should be viewed as a whole, but the obscene matter should also be separately considered to see if it violates the test (Global Freedom of Expression, Columbia University). In November 2010, concluded the broadcasting of Big Boss 4 against the good taste and decency and unsuitable for child viewers, eventually shifting the show from prime time to 11:00 pm. In Ajay Goswami the Supreme Court recognized the rights of adults to the entertainment, according to which entertainment of adult population could not be restricted only upon child contents. (Divan)

Summing up the above entire it would be very well concluded that no industry would carry out its business without statutory guidelines or regulatory body, OTT is no exception to it. In the light of above discussion and precedents cited it would be comprehended that OTT contents are unregulated, uncontrolled and unfit to be screened as they illustrate the nudity and outraging the modesty of women. Under the section 2 (c) “Indecent Representation of Women Act, 1986”, the term “indecent representation” is defined as meaning “indecent representation of women” in any way to have the effect of being indignant or derogative of a woman, or of being corrupt or of being susceptible to public morality, or moralistic depravity (Divan) The contents of OTT are not only victimizing the modesty of women but changing the entire norms and culture of the Indian Entertainment. The early and easy expose of Virtual base to the under age children and Adolescence have nurtured the untimely maturity eventually bypassing the norms and cultural heritage. The term “expression” under Article 19(1) (a) of the constitution includes the right of an individual to entertain as also the right of the audience to be entertained. (Divan) .

The Youngsters are dragged and engulf in the misleading content of OTT, which eventually gets triggered for the unusual act and crime.. With regard to explicit visual content which could trigger trauma content scenes that are often a part of action films or films surrounding mental health, there should be a content warning disclaimer. Again a content warning disclaimer is not censorship of content but a piece of information for the potential viewer about what they should expect from the film. Film censorship is a tricky field since it has no objective boundaries it is based on the viewer's sense of morality, to a large extent is subjective. There were multiple questions have been raised regarding the autonomy of the CBFC to stop the motto of the CBFC'S to ensure the certification of films without restricting artistic liberties expression. (Censorship Of OTT Platforms And Its Various Aspects)

### **Pros and Cons of OTT**

The Reduced cost is the most attractive feature of the OTT programs with a monthly subscription. Freedom to access international web series, shows, live sports telecasts, and favorite flicks on the go is one of the greatest pros of streaming platforms. The quality of the content is high deficiency. The video and audio quality of the movies are usually high, which is a great advantage of using an OTT platform like HBO and Netflix. On the plus side, you can customize the video and audio quality per your liking. Instant viewing irrespective of time of release is added advantage of the OTT Platform. The multiple services is the distinguished feature of the OTT platform.

The most crucial and cursing cons of OTT Platform OTT platforms is it operate independently and without following governmental policies. No age bar for the viewership either as controversially enlarged the scope of audience which would else was available only to adult audience. The only purpose is to bring content that attracts more viewers on board. One of the concerning disadvantages of OTT Platform is that there is restrictions on the content. Such content may be harmful to underage users. (Advantages and Disadvantages of OTT Platform)

## Suggestions

Summing up the above study the Researcher wants to propose the below:

- 1) The need of censorship is the need of time to check the contents and curtail the discretionary Freedom of speech and expression of OTT.
- 2) The OTT should be more utilized for providing a learning contents rather than exploiting the norms of society.
- 3) The adult content should have a proper age restriction factor for accessing.
- 4) The state government should impose the reasonable restrictions on the OTT while exercising the fundamental right i.e. freedom of speech and expression.

## Conclusion

In the modern, civilized and industrial era, the entertainment industry is stimulating the market advancement and the OTT have become indispensable part of this Entertainment Industry. The OTT platform should be used in more restricted, prudential and reasonable way to safeguard our future generation. The contents flooding are indecent with unusual sex, nudity, terror and violence. The OTT contents should be applied and restricted to give the sophisticated outcome. The AI should be for improving quantity and quality in positive sense. The privatization of entertainment industry created a fundamental shift to the traditional industry into digitalized industry having desertion in competition in content. The legislation should be more prominent, restricted and specific towards the media and entertainment industry as the visual impact of applicability though fascinating it is violating the cultural norms of community. The applicability of AI is the need of hour and should not be restricted as it is the dynamic mode to stand in the global achievements.

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