

# THE CONVERGENCE MODEL AND CONTENT REGULATION OF OTT PLATFORMS IN INDIA: AN ANALYTICAL STUDY



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## 1. INTRODUCTION:

The internet which begun in the late 1980s had brought a paradigm shift in the media consumption patterns as well as given rise to new mediums for the content developers. It has affected not only the digital media sector but also had an impact on the digital and telecom sector (Srivastava, 2016). With digital and OTT platforms on rise, the revenue generated from film segment in 2019 has increased by 10% to reach Rs. 191 billion (FICCI, 2020). The rise in digital platforms and the rise of Over the Top (OTT) services has led to a change in the media patterns from social to personalised viewing (Heda, 2020). With the rise in content production and distribution through OTT Platforms the issue of regulation has also gained prominence (Vinayak, 2020) (Mandavia, 2020). Ministry of Information and Broadcasting, Government of India has formed a committee to look at the regulatory policies for online and digital content broadcast via social media platforms (Heda, 2020). There are no policies and laws designed to regulate the content and the working of the OTT platforms in India. This gap has led to many media audiences complaining about the content produced and shown on these platforms. Even through the films and shows are censored while shown on television channels and theatres, they are shown in their unedited version on OTT

platforms as the medium does not have any specific broadcast regulations (Sheth, 2020). This research paper thus studies the regulations and regulatory framework for content generated and broadcast on OTT platforms in India with emphasis on the need for self-regulation and the utility and significance of convergence model.

## 2. REGULATION AND SELF-REGULATION OF OTT PLATFORMS: HISTORICAL PERSPECTIVE TO CONTEMPORARY RELEVANCE.

Mediums are regulated through the code of ethics designed by the Government of India. These are imposed as per government's understanding about issues of values and morals and public order which normally were based on the code of ethics designed for regulating the content of films (Neelamlar, 2009). The Ministry of Information and Broadcasting has received a court order in one of its cases to regulate the content on different mediums, but it could not censor the online media content due to lack of appropriate regulations for the medium (Heda, 2020).

One of the basic rules that censor film content is the Cinematographic Act 1952 which was set by the Central Board of Film Certification (CBFC). The act regulated and certified the films based on the content produced with reference to morality, decency and public

order. However, the act does not cater to the film content showcased through digital mediums. Thus, the basic regulation that monitors film content does not provide any regulatory framework for content shown through OTT platforms. The Information Technology Act, 2000 is regulating the content produced and shown on the digital platforms. The online streaming services are also regulated through this act. The act also curbs sexually explicit content, obscene and objectionable data produced or circulated through various online platforms (Kundra, 2005). The intermediary guidelines issued in 2011 through the Information Technology Rules also makes the intermediaries and the aggregators responsible for the content they show on their electronic and digital media platforms (Obhan, 2019).

Even though there are no specific regulations that focus on content shown through OTT platforms, the Indian Penal Code, 1860 mentions certain penalties and punishments that regulate the content on these mediums. Section 295 A, Section 499 and Section 500 regulates content which is against the religious sentiments or defamatory in nature. With this, the Indecent Representation of Women (Prohibition) Act, 1986 also controls the content published through books, films, paintings, advertisements or writings which are against women. The act also covers the content through OTT platforms (A. Obhan, A. Dua, 2016). Most of the streaming platforms like Netflix, Hotstar, Sony Liv and Voot have been following self-regulatory policies for broadcasting their content online (Mishra, 2020). Their regulatory code also includes objecting content that might hurt

religious sentiments or would be against national interest (Kakhal, 2018).

The Convergence Bill was proposed in 2011 with India being the second country in the world to have regulations related to convergent media. Some prominent features of the bill were that it would help in the infrastructure development as well as encouraging plurality of content, news and information. The bill covers all the mediums of communication including print, broadcast, telecom and well as multimedia and provides uniform regulations across various mediums (TRAI, 2015).

Research gap:

There are many research papers that deal with self-regulation and regulatory framework for different mediums (Mishra, 2020) (Neelamlar, 2009) (Kundra, 2005). Also, studies talk about the proposed communication model but not many studies deal with the convergence model with reference to regulatory measures for OTT platforms (Heda, 2020) (A. Obhan, A. Dua, 2016) (Obhan, 2019) (Heda, 2020). This research work thus helps in bridging that gap.

### **3. RESEARCH DESIGN**

#### **3.1: Research Objectives:**

- a) To explain the content regulation rules and the regulatory framework for regulation of content of OTT platforms in India.
- b) To advocate on the importance and need for self-regulation that is the current scenario of the country.
- c) To emphasize the importance and utility of the convergence model for regulating the content of OTT platforms in India.

#### **3.2: Research Questions:**

- R1: What are the content regulation rules

used for different mass mediums in comparison with the current framework that is used for regulating content of (Over-the-top) OTT platforms in India?

R2: What is the significance and utility of the proposed convergence model for regulating the content of OTT platforms in India?

3.3: Hypothesis:

H0: There is no need for new content regulation on OTT platforms and the self-regulation will help to restrict objectionable content.

H1:\_\_\_There is a need for regulating OTT platform content and the Convergence model will help in standardizing media laws as well as regulating content on OTT platforms.

3.4: Methodology: The methodology used for this research paper is hybrid- that includes both qualitative and quantitative approach.

3.5: Method: The method which is adopted for this research paper is in-depth interviews and surveys. The interviews are conducted of the people who develop content on OTT platforms (Production company) and the surveys are conducted of media consumers.

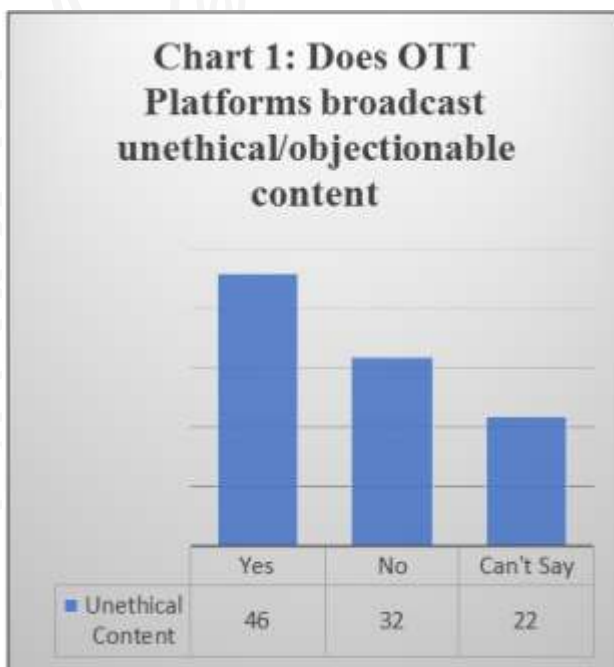
3.6: Sampling: The sampling method that is be used for carrying out the research work is Convenience sampling process. 10 Interviews and 40 surveys are conducted for this research.

3.7: Data Collection and Analysis Technique: Questionnaire are used as a tool for data collection and the analysis is done through statistical approach. Structured questionnaire is used for media consumers whereas unstructured questionnaire is used for media producers. Transcripts from in-depth interviews are analysed through a qualitative method.

#### 4. FINDINGS AND INTERPRETATION

The following are the findings of the survey conducted of media producers and consumers.

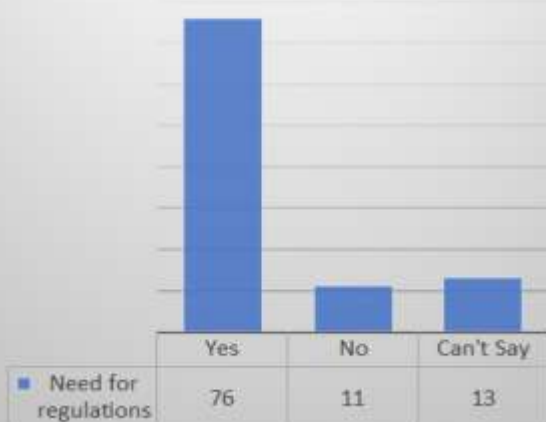
**4.1: Content on OTT Platforms:** 46% of the media consumers responded that the content shown through OTT platforms is unethical and objectionable in nature whereas 32% mentioned that content fits according to the regulatory policies. 22 percentage of media consumers, especially the digital migrants had no precise view about the content and the regulation of content via OTT platforms. As there is no regulatory framework to control the content produced for OTT platforms, there is a need for some regulations which specifically control this medium.



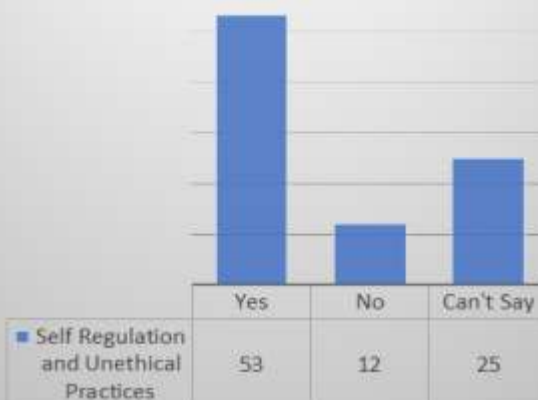
**4.2: Content Regulation on OTT Platforms:** As there are separate laws governing print and broadcast media, there is also a need for separate regulations for digital mediums. On asking about the need for regulating the OTT

platforms, 76 % respondents mentioned that there is a need for some regulatory framework whereas 11% respondents felt that the existing self-regulatory measures are enough. Digital media, being a part of a new media needs to be more liberal and different than the conventional forms of mass media and hence there are no changes suggested in the current self-regulation codes and policies. 13% respondents had no say with regards to regulating the video on demand service platforms.

**Chart 2: Is there a need for regulating the OTT platforms**



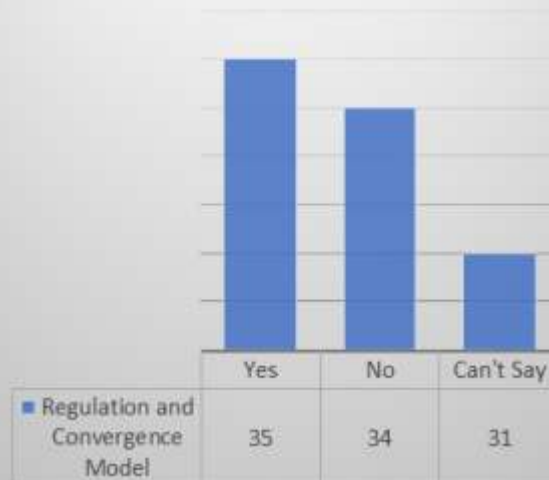
**Chart 3: Will self-regulation restrict/control the unethical practices on OTT platforms?**



#### 4.3: Self-Regulation on OTT Platforms:

Self-regulation, which is followed as a code of ethics by some OTT platforms is also considered as an appropriate method for regulation by 53% respondents whereas 12 % respondents mentioned that there is a need for laws which control the OTT platform through punishments and restrictions rather than self-regulation. These respondents mentioned that self-regulation will be like a toothless tiger which will not help in regulating the content producer as well as the aggregator. 25% respondents could not critic on the existing self-regulatory policies.

**Chart 4: Will Convergence model help in regulating content on OTT platforms?**



#### 4.4: Convergence Model and OTT Platforms:

The convergence model, if implemented will help in bringing all the mediums under one banner in terms of content regulation. 35% respondents expressed a positive response towards convergence model being useful in regulating content over OTT platforms whereas 34% respondents rejected the



idea mentioning that it will not make any difference as the working and content of digital mediums is different than the traditional mediums. 31% respondents were not sure if the model will be useful or it will just be helpful in regulating the traditional mediums.

#### 4. CONCLUSION

There are three major factors responsible for the content regulation and its changes. These factors include government, the media industry and the judiciary. Self-regulation has been used by many OTT platforms to avoid the censorship rules and regulations. Some streaming platforms such as Netflix, Sony Liv, Hotstar, Zee 5, Aree, Alt Balaji and Reliance Jio have signed the code of ethics and self-regulation that were put forward by the Internet and Mobile Association of India. This has helped the medium to formulate self-guiding rules but despite these principles, there are still discrepancies seen in the content production and distribution of these mediums. Regulations must be formulated considering the opinion of all stakeholders and the earlier media regulations.

The Convergence model of regulation will help in bringing all the mediums (Print, broadcast, telecom and multimedia) under one banner and formulate regulations for showcasing content on any mediums. With technological changes and in the era of media convergence, it is utmost essential that uniform regulations must be designed that covers different mediums of content dissemination. Thus, the working hypothesis proves correct as there is a need for regulating OTT platform content and the Convergence model will help in standardizing media laws as well as regulating

content on OTT platforms.

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### Annexure

Questionnaire for media consumers: -

- 1) Which OTT platforms do you access the most?
- 2) Do you prefer OTT services over other video consumption patterns or other

media vehicles like Television?

- 3) What type of content do you prefer to watch on these OTT platforms?
- 4) Do you feel the need for regulating content on OTT platforms?
- 5) Do you feel that self-regulation would suffice or solve the issue and restrict the unethical or vulgar content from getting uploaded on these platforms?
- 6) What are your views/ opinions/ suggestions on content regulation of OTT platforms?
- 7) What are your opinions on the content regulation rules/laws that already exist worldwide that are beyond our jurisdiction in comparison with the self-regulatory approach adopted by Indians?
- 8) Do you agree on the view that the convergence model in the media and entertainment sector would serve as a significant step towards the development appropriate content regulation laws for digital mediums?

