

TOWARDS TRANSPARENCY IN OTT REGULATION

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“A survey of OTT regulation in different countries suggests that most of them are yet to come up with a clear statute-backed framework”. File | Photo Credit: PTI

It has been two years since the government issued the [Information Technology \(Intermediary Guidelines and Digital Media Ethics Code\) Rules](#) through which the Ministry of Information and Broadcasting (I&B) was given the task of regulating content on OTT and online platforms. India's approach can be termed as a light-touch 'co-regulation' model where there is 'self-regulation' at the industry level and final 'oversight mechanism' at the Ministry level. The Rules provide for a grievance redressal mechanism and a code of ethics. They mandate access control mechanisms, including parental locks, for content classified as U/A 13+ or higher and a reliable age verification mechanism for programmes classified as 'A' (18+).

A survey of OTT regulation in different countries suggests that most of them are yet to come up with a clear statute-backed framework. Few of them such as Singapore and Australia stand out. In Singapore, the Infocomm Media Development Authority is the common regulator for different media. Aside from instituting a statutory framework and promoting industry self-regulation, its approach to media regulation emphasises on promoting media literacy through public education.

Though the OTT Rules were notified in 2021, there is little awareness about them among the general public. The Rules mandate the display of contact details relating to grievance redressal mechanisms and grievance officers on OTT websites/interface. However, compliance is very low. In many cases, either the complaint redressal information is not published or published in a manner that makes it difficult for a user to notice easily. In some cases, the details are not included as part of the OTT app interface. This underlines the need for ensuring uniformity in the way OTT publishers display key information relating to their obligations, timelines for complaint redressal, contact details of grievance officers, etc. The manner, text, language and frequency for display of vital information could be enshrined in the Rules. The OTT industry associations could be mandated to run periodic campaigns in print and electronic media about the grievance redressal mechanism.

The interpretation of age rating (UA 13+, for example) and the content descriptors ('violence', for instance) could be in the respective languages of the video (apart from English). Such provisions are embedded in law for display of anti-tobacco messages in films. Further, age ratings and content descriptors could be shown prominently in full-screen mode for a mandatory minimum duration instead of a few seconds on screen. Such a rule exists for films under the

Cinematograph Act. The Rules could also provide for clear guidelines to ensure that a film's classification/rating is prominent and legible in advertisements and promos of OTT content in print and electronic media.

A periodic audit of the actual existence and efficacy of access controls and age verification mechanisms and the display of grievance redressal details by each OTT platform may be undertaken by an independent body. While the Rules require disclosure of grievance details by publishers and self-regulating bodies, the reporting formats only capture the number of complaints received and decided. Instead, the full description of complaints received by OTT providers and self-regulatory bodies and decisions given thereon may be published in the public domain.

The Ministry could consider facilitating a dedicated umbrella website wherein the details of applicable Rules, content codes, advisories, contact details for complaints/appeals, etc. are published. OTT providers and appellate/self-regulatory bodies can be made to upload the details of grievances and redressal decisions, which will be visible for the public and government authorities. This approach will aid in enhancing transparency.

The current Rules provide for the third/final tier as the Inter-Departmental Committee (IDC) comprising officer-nominees from various ministries of Central government, and domain experts. The mechanism is such that while IDC recommends the course of action on OTT content violations, the Secretary of the Ministry is competent to take the final decision. The Supreme Court and High Courts have underlined the need for establishing a statutory body for regulating broadcast content. Pending the constitution of such a statutory regulator for the media, the IDC's membership may be made more broad-based and representative and with security of tenure.

There is no provision for the disclosure or publication of an apology/warning/censure on the platform or website. This may be incorporated in the Rules. Financial penalties on erring entities may also be provided. In the present era of media convergence, it is high time we evolve a common set of guidelines for content, classification, age ratings, violations, etc. so that content across platforms is governed uniformly.

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India's OTT regulatory model seeks to be an efficacious combination of self-regulation and legal backing. This is in line with the global trend. The I&B Ministry envisaged that India's OTT regulations "would raise India's stature at an international level and serve as a model for other nations to emulate." The above initiatives towards enhancing media literacy and transparency will help in furthering this objective, realise the efficacy of 'self-regulation' and empower millions of OTT consumers.

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