

Self- Regulation Code Adopted by OTT Services

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India's 17 largest streaming services recently launched a self-regulation toolkit, under the aegis of the Internet and Mobile Association of India (IAMAI), pre-empting government plans to bring out a code for all over-the-top (OTT) services. The toolkit is a step forward from the Universal Self-Regulation Code IMAI had launched in September 2020, The Universal Regulation Code was rejected by the government.

In news: 17 OTT platforms release self-regulation toolkit

Placing it in syllabus: Law & Policy

Dimensions

- What are OTT services?
- Provisions of the Self Regulation Code
- Government on OTT services
- Should the Government allow Self Regulation?

Content:

What are OTT services?

- Over the top (OTT) is film and television content that is provided via the Internet as opposed to the traditional means of a cable or satellite provider.
- **OTT platforms or services are** audio and video hosting and streaming services which 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.
- Common examples of OTT include services such as Netflix, Amazon Prime Video, Hulu, and HBO Now.
- These platforms offer a range of content and use

artificial intelligence to suggest users the content they are likely to view based on their past viewership on the platform.

- OTT allows individuals to avoid having to pay for bundles that are typical of cable and satellite, while selectively choosing their providers, at a much lower cost.
- Most OTT platforms generally offer some content for free and charge a monthly subscription fee for premium content which is generally unavailable elsewhere.
- The premium content is usually produced and marketed by the OTT platform themselves, in association with established production houses which historically have made feature films.
- With a market size of nearly Rs 500 crore at the end of March 2019, the online video streaming platforms may become a Rs 4000-crore revenue market by the end of 2025, according to reports. At the end of 2019, India had as many as 17 crore OTT platform users.

Provisions of the Self Regulation Code

- The code applies to any online curated content providers who work in India, and is developed by them.
- Its members agree to take up “reasonable efforts in good faith” to implement its principles.
- The code requires signatories to invest in parental controls and content descriptors that provide viewers with information on mature content.
- The code argues that since OTT platforms are on-demand, they constitute private exhibitions that don’t fall under laws that apply for theatrical releases and TV broadcasts.
- It also argues that this content is subject to “user-initiated access controls”, presumably passwords and parental controls.

The stated objectives are:

- To empower consumers to make informed viewing choices for themselves and their families;
- Nurture creativity and abide by freedom of speech and expression,
- Preserve the creative economy's independence,
- Encourage members to abide by the guiding principles and "add predictability to the sectoral environment";
- Elevating professional standards regarding self-regulation; and
- Provide consumers a grievance redressal mechanism.

Regulatory environment:

- The code says that the Information Technology Act, 2000 is the "primary governing statute" for online content (this has been an issue of considerable debate), and that the constitution guarantees freedom of expression.
- It adds that no restrictions beyond what is in the constitution under Article 19(2) should be considered.

Detailed age ratings:

- The code details the age ratings that members are required to implement in more detail than before.
- The standards for age ratings are based on increasing intensity of violence, sex, nudity, drug use, and profanity.
- There are five categories: All Ages, 7+, 13+, 16+, and 18+.
- The code also requires that for some of these categories, information be prominently displayed on which facets of mature content are featured in a show.

Two-tier internal complaints system:

- **Tier 1:** Signatories are required to create a Consumer Complaints Department, an Internal (or Appellate) Committee, and an Advisory Panel.
- **Tier 2:** If a signatory creates a CCD, then the second

level will be an Appellate Committee; if not, complaints go directly to an Internal Committee. The IC is staffed with the streaming service's own employees, and the Advisory Panel, which deals with escalations, will have a minimum of two executives from the OTT platform, and one independent advisor.

- The code does not mention if the Advisory Panel's decisions are binding, though the name suggests otherwise.

Issues Involved in regulation of OTT:

- ***Unequal treatment of similar service providers***
 - There is no oversight on the OTT platforms at present similar to the print was regulated by the Press Council of India and Television (both News and Entertainment) were being regulated by the Cable Networks Regulation Act (2005)
 - Though there is no regulatory mechanism for OTTs as of now, all such platforms come under the Information technology Act, 2000 as they qualify to be called as Intermediaries.
 - Section 79 of the IT Act, intermediaries must exercise due diligence while streaming content. The Guidelines for due diligence have also been framed by the government in 2011.
- ***Ensuring Age-appropriate content for consumer well being***
 - OTTs also creates the problem of providing age-appropriate content for Children.
 - If children are subjected to violent or malicious content, it can lead to various psychological issues in the future.
- ***Influence of foreign content on society***
 - OTTs are streaming a lot of cross-cultural content which is conducive for creating a cosmopolitan world.

- However, it has aggravated some of the means in society like cultural imperialism.

Government on OTT services

- The government has brought video streaming over-the-top (OTT) platforms such as Netflix, Amazon's Prime Video, Hotstar, and others under the ambit of the Ministry of Information and Broadcasting.
- These platforms were earlier under the purview of the Ministry of Electronics and Information Technology.
- The notification on 9 November, issued under the allocation of business rules, essentially means that the Union I&B Ministry will now have principal administrative jurisdiction over online news portals and OTT/streaming platforms.
- Bringing the OTT platforms under the I&B ministry means that these platforms would have to apply for approval of the content they wish to stream.
- This in itself is likely to give rise to many conflicts as most OTT platforms have content that could otherwise be censored in India.
- The I&B Ministry had been working with the OTT sector for nearly two years on a self-regulation code and grievance redressal mechanism.
- There have been three separate versions between January 2019 and September 2020.
- The I&B Ministry has raised objections related to the absence of a list of prohibited content in the self-regulation code.

Should the Government allow Self Regulation?

- Growth of OTT channels has infused creative talent into film-making, aided by the absence of overbearing censors and vested interests
- It has been argued that OTT platforms provide people the

- right to choose whatever they want to see, thus regulation by the Government may be unnecessary.
- The OTT industry has led to the Democratisation of Media and is benefiting numerous content producers and artists. It also helps in accessing regional films around the country as well as globally.
 - Creative freedom is necessary to provide unbiased information to millions of citizens about the situation of the country, thus indirectly demanding transparency and accountability from the Government.
 - Self Regulation Code is consistent with the recommendations of the I&B Ministry's Expert Committee on film certification chaired by Shyam Benegal in 2016.
 - The panel upheld creative expression and full ownership of any visual production, leaving viewing decisions to audiences, more accurately classifying films by viewer age, and ensuring transparency in the way reviewing bodies are constituted.
 - Regulation if becomes over-regulation can curb creativity and in turn freedom of speech and expression
 - As OTT platforms are relatively less subjected to censorship, it helps bring socio-political content or matters to a common man, which otherwise are censored in mainstream media.

Is Self Regulation Enough?

- The diverse nature of Indian society in terms of religion, economic status, caste and language underlies the issue of regulation of content.
- The effect that OTT has on society forms the basis of its regulation by the state.
- Article 19 which gives a fundamental right to freedom of expression comes with reasonable restrictions of decency and public morality, public order, defamation, incitement to offenses, etc.
- In times of fast-changing entertainment media, the

government and other stakeholders must come together to bring a proper framework that will balance the freedom of expression and necessary restrictions for the sake of law and order.

- Other countries of the world such as China and the USA have come forward to devise laws in the wake of progress in artificial intelligence and Internet-of-things. India with its huge diversity and demographic nature cannot remain behind.

Mould your thought: What are OTT Services? Should the government allow the Self regulation of OTT platforms in India?***Approach to the answer:***

- Introduction
- Define OTT service and their impact
- Discuss the Self regulation code in brief
- Write the arguments for self regulation of these platforms
- Conclusion