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Ministry of Information
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Legal Currents

A Regulatory Handbook on India's Media & Entertainment Sector
2025





FOREWORD



Haigreve Khaitan

Senior Partner

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It is with great pride and a deep sense of responsibility that I present this legal and regulatory handbook on the Indian Media and Entertainment Industry, a collaborative effort between our firm and the esteemed Ministry of Information and Broadcasting, Government of India.

The Indian M&E sector is at a turning point given its 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 improve digital infrastructure and to increasingly incentivise the industry. The implementation of the 5G technology in India has boosted the M&E ecosystem even further, making access to content seamless across borders, languages and mediums. From OTT platforms, streaming music, social interactions, gaming, watching live events, sharing and consuming knowledge, news, education, advertising or commerce—digital mediums have taken center stage, while traditional media 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. Indian content has become mainstream internationally across global platforms, and global players are increasingly engaging with Indian creators. 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. As the Indian M&E industry continues to grow and increase its footprint, the need for a nuanced understanding of legal and regulatory frameworks has never been more critical.

Our collaboration with the Ministry reflects a shared commitment to fostering a transparent, equitable, and innovation-friendly environment for the Indian M&E ecosystem. Whether it's navigating intellectual property rights in the digital age, understanding content regulation, or decoding the impact of emerging technologies like AI—this regulatory handbook aims to serve as both a reference and a catalyst for informed discussion.

I extend my sincere gratitude to the teams at the Ministry and at our firm, Khaitan & Co, whose insights and contribution have shaped this work. We hope that this handbook will not only guide legal and regulatory discourse, but also empower stakeholders across the spectrum to engage with the future of Indian media and entertainment with greater clarity and confidence.



FOREWORD



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Partner

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The media and entertainment industry in India stands at a pivotal juncture. With content consumption reaching unprecedented levels across digital and traditional platforms, and global eyes turning toward Indian creativity, we are on the cusp of a new era in the M&E industry, driven by technological advancements, evolving consumer preferences, and a constantly evolving regulatory environment. In this context, it gives me immense pleasure to introduce this legal and regulatory handbook for the Indian M&E industry—a deep-dive into the laws, policies, and frameworks shaping one of the most dynamic sectors of the Indian economy.

At Khaitan & Co, we have had the privilege of working closely alongside a diverse range of stakeholders across the M&E value chain—from filmmakers and broadcasters to streaming platforms, studios, regulators and innovators, who are not only shaping content but also pushing the boundaries of law. From negotiating complex content deals, witnessing and structuring mergers and consolidation of media houses, helping foreign and domestic

players invest and set up media businesses in India, decoding regulatory nuances for digital OTT platforms, addressing evolving standards in content moderation, or structuring rights and revenue models in an era dominated by digital distribution—our work is deeply embedded in the rapidly evolving interface between law, content, and commerce.

This legal and regulatory handbook is developed in close collaboration with the Ministry of Information and Broadcasting with the aim to decode and contextualize the legal contours shaping both the current and future landscape of the M&E sector.

I extend my deepest gratitude to the Ministry and all collaborators who brought their insights and expertise to this initiative. We hope this publication serve as both a strategic guide and a catalyst for collaborative reform, driving sustainable growth across India's media and entertainment landscape.



Contents

01

Doing Business in India: Key Considerations for M&E Companies	8
---	---

02

Filmmaking in India: Behind the Scenes	15
--	----

03

Film Incentives: Reel Benefits, Real Impact	20
---	----

04

Music & Law: Notes on Compliance	25
----------------------------------	----

05

Broadcasting: Tuning into the Law	32
-----------------------------------	----

06

OTT & Digital Content: Regulations On Demand	39
--	----

07

Social Media: Likes, Shares & Legal Affairs	44
---	----

08

Online Gaming: Risk, Reward & Regulation	49
--	----

09

Gaming Tax: Rolling the Regulatory Dice 54

10

Sports: Game, Set, Fairplay 58

11

Live Events: Staging the Rules 65

12

Advertising: Compliance in Commercials 70

13

Celebrities & Influencers: Red Carpet to Regulation 78

14

Personality Rights: Safeguarding your Personal Brand 84

15

Succession Planning: Laws for a Lasting Legacy 88

16

Artificial Intelligence: From Algorithms to Accountability 94



01

Doing business in India

Key considerations for M&E companies



India's Media and Entertainment (M&E) industry is among the country's most dynamic and rapidly expanding sectors. Driven by a diverse consumer base, accelerating digital adoption, and a thriving content production ecosystem, India offers an attractive landscape for global entities across film, television, music, gaming, digital media, advertising, and adjacent domains. Furthermore, India has emerged as a global hub for content services, with strong capabilities in animation, VFX, game development, and post-production. This section outlines the legal and regulatory landscape for setting up operations in India.

Entry Routes

Foreign entities looking to establish a presence in India can choose from various unincorporated or incorporated options, depending on the nature of the business and the level of control desired.

Incorporated presence

Limited Liability Company

Companies operating in India are primarily regulated under the Companies Act, 2013, and fall under the supervision of the Registrar of Companies. Entities may be incorporated either as Private Limited Companies or Public Limited Companies, depending on their ownership structure and capital requirements.

Private Limited Company

Private companies are a preferred structure for foreign investors in India, owing to their greater operational flexibility relative to public companies. They require a minimum of two shareholders and two directors, and can have up to 200 shareholders.

While private companies cannot access capital markets or list their shares on stock exchanges, they benefit from a lighter compliance burden, making them simpler to administer.

The incorporation process is streamlined, and the Companies Act, 2013, offers a comprehensive legal framework governing their formation and functioning. This structure is particularly suited for foreign investors seeking to establish wholly-owned subsidiaries or joint ventures where swift decision-making and operational agility are essential.

Public Limited Company

Public companies present a compelling option for foreign investors aiming to establish a substantial footprint in the Indian market. Incorporation requires a minimum of seven shareholders and three directors, with no cap on the number of shareholders. Public companies are permitted to raise capital from the public by issuing shares, which may be listed on recognized stock exchanges—offering both liquidity and access to a broad investor base.

These entities are subject to rigorous regulatory oversight, including detailed disclosure obligations, corporate governance standards, and compliance with the Companies Act, 2013. The ability to mobilize large-scale capital and the enhanced credibility of a listed entity make this structure well-suited for foreign direct investment in capital-intensive or high-growth sectors.

Limited Liability Partnership (LLP)

Limited Liability Partnerships (LLPs), governed by the Limited Liability Partnership Act, 2008, combine the structural advantages of a partnership with the limited liability protection typically associated with companies. An LLP must have at least two partners, with no cap on the maximum number, and at least one designated partner must be a resident in India. The defining feature of an LLP is that partners' liability is confined to their agreed contributions, thereby safeguarding personal assets from business debts and obligations.

LLPs benefit from a relatively relaxed compliance regime compared to companies, offering ease of administration. However, in the context of foreign investment, LLPs face more restrictive treatment. Foreign direct investment (FDI) in LLPs is permitted under the automatic route only in sectors where 100% FDI is allowed without conditions. Restrictions also apply where FDI is permitted under capped limits or requires prior government approval. Moreover, LLPs are not permitted to access external commercial borrowings or undertake equity share swaps.

Conversions between LLPs and companies are allowed under the automatic route, provided the business operates in an FDI-compliant sector, offering flexibility for restructuring as commercial needs evolve.

Unincorporated presence

For foreign enterprises exploring market opportunities or executing defined projects in India, establishing a business presence without incorporating a separate legal entity can offer strategic and operational benefits.

The Foreign Exchange Management Act, 1999 (FEMA), provides for three such modes of establishment:



Liaison Office

A liaison office functions as the representative arm of the foreign parent company in India, serving as a communication channel between the Indian market and the overseas headquarters. While it plays a vital role in facilitating business relationships, it is expressly prohibited from engaging in any commercial, trading, or revenue-generating activities.

Permitted functions include promoting exports and imports, facilitating technical or financial collaborations, and representing the parent company before Indian stakeholders. Its scope is thus limited to preparatory and liaison activities, without direct participation in core business operations.

Branch Office

A branch office serves as an extension of the foreign parent company in India and is permitted to undertake a wider spectrum of activities than a liaison office. These include the export and import of goods, provision of professional or consultancy

services, conducting research aligned with the parent company's business, facilitating technical or financial collaborations, acting as a buying or selling agent, and representing the parent company for trading purposes.

While branch offices are allowed to generate revenue and repatriate surplus earnings to the parent entity, such remittances are subject to applicable Indian tax laws. However, branch offices are not permitted to engage in manufacturing or retail trading activities within India, thereby limiting their direct operational footprint in certain sectors.

Project Office

A project office is ideal for executing a specific project in India. It is a temporary setup that may only engage in activities relating to the project awarded to the foreign company. A project office is permitted to remit surplus revenues to its foreign parent company subject to applicable taxes.

Project offices are particularly suited for companies executing one-time turnkey or contract-based assignments, where a temporary presence aligned with the project duration is sufficient.

Liaison, branch, and project offices—offer a relatively streamlined entry into the Indian market, however, they are inherently limited in terms of operational scope, autonomy, and long-term continuity. Their activities are strictly regulated, with restrictions on revenue generation and sectoral engagement, depending on the form adopted. For sustained operations or broader commercial engagement, foreign entities often transition to incorporated structures such as private or public companies or LLPs.

Requirements for setting up Liaison Office, Branch Office, and Project Office

General Criteria

- **Applications from Foreign Companies:** Foreign companies seeking to establish a branch office, liaison office, or project office in India must route their applications through Authorised Dealer (AD) Category-I banks, in accordance with guidelines issued by the Reserve Bank of India (RBI).
- **Prior approval:** Prior approval from the RBI is mandatory in the following instances:
 - The applicant is a citizen of or is registered/ incorporated in Pakistan
 - The applicant is a citizen of or is registered/ incorporated in Bangladesh, Sri Lanka, Afghanistan, Iran, China, Hong Kong, or Macau and the application is for opening a branch office/ liaison office/ project office in Jammu and Kashmir, the North East region, and the Andaman and Nicobar Islands
 - The principal business activity falls under Defence, Telecom, Private Security, and Information and Broadcasting sectors, unless prior approval from the relevant Ministry/ Regulator has already been granted
 - If the applicant is a Non-Government Organisation (NGO), Non-Profit Organisation, Body/ Agency/ Department of a foreign government, and if engaged in activities covered under the Foreign Contribution (Regulation) Act, 2010 (FCRA), they must obtain a certificate of registration under the FCRA

- **Financial soundness:** Applicants must meet specific financial thresholds to be eligible:



Branch Office

- Must have a profit-making track record for the immediately preceding five financial years in the home country
- Must have a net worth of at least USD 100,000 or its equivalent



Liaison Office

- Must have a profit-making track record for the immediately preceding three financial years in the home country
- Must have a net worth of at least USD 50,000 or its equivalent

If the applying entity does not meet these requirements but is a subsidiary of a parent/ group company that does, it may submit a Letter of Comfort from the parent/ group company if the latter satisfies the profit and net worth conditions.

Foreign Investment Norms in the M&E Sector

India's FDI regime is primarily governed by the FDI Policy 2020 and the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, framed under FEMA. Together, these regulations regulate the entry of foreign investment into various sectors, prescribing sector-specific caps and defining the applicable approval routes.

Government approval route

Prior approval from the competent administrative ministry or department of the Government of India is necessary. Approval is subject to sector-specific conditions and security assessments.

Automatic route

No prior government approval is required. However, compliance with sectoral laws, licensing conditions, and security norms is mandatory.

Most sub-sectors within the M&E industry are liberalised and allow 100% FDI under the automatic route, making India an attractive destination for global investors. These include:



Film and Television Content Creation

- Film production houses
- Animation and VFX studios
- Post-production service providers



Distribution and Exhibition

- Film distributors
- Theatrical chains and cinema exhibition companies



Digital Media and Entertainment Platforms

- Over-The-Top (OTT) platforms streaming music, entertainment, and films
- Online gaming platforms (excluding betting and gambling)



Advertising and Event Services

- Out-of-Home (OOH) advertising firms
- Full-service advertising agencies
- Event and concert management firms
- Exhibition and festival organisers



Broadcasting and Content Distribution

- Teleport operators
- Direct-to-Home (DTH) platforms
- Headend-in-the-Sky (HITS) operators
- Cable TV networks
- Mobile TV services



Certain specific M&E sub-sectors where foreign investments are capped or have certain conditions to such investments are as follows:

Broadcasting



Radio Broadcasting

FDI Cap: 49%

Route: Government approval required

Additional conditions:

The company should be owned and controlled by resident Indian citizens or Indian companies owned and controlled by resident Indian citizens. The largest Indian shareholder must hold at least 51% of the total equity



Television Broadcasting

News and Current Affairs Channels:

FDI Cap: 49%

Route: Government-approval required.

Additional conditions: The company should be owned and controlled by resident Indian citizens or Indian companies owned and controlled by resident Indian citizens.

Non-News and Current Affairs Channels
FDI is allowed up to 100% under the automatic route

Digital News

Entities involved in uploading or streaming news and current affairs content via digital media are subject to an FDI cap of 26%, with prior government approval required. This restriction applies to digital news publishers, news agencies, and news aggregators.


That said, OTT platforms that merely host the digital feed of television news channels—provided these channels have requisite uplinking and downlinking approvals and the feed is carried “as is” without any editorial modification—are not subject to the 26% cap.

Print Media

- **Newspapers and Periodicals with News and Current Affairs:** FDI is restricted to 26%, and investment is permitted only through the government approval route.
- **Scientific/ Technical Magazines and Specialty Journals:** FDI of up to 100% is allowed, subject to prior government approval.
- **Foreign Periodicals and Facsimile Editions:**
 - For Indian editions of foreign publications that cover news and current affairs, FDI is capped at 26% under the government route.
 - Facsimile editions of foreign newspapers are permitted up to 100% FDI, also requiring government approval.

Production And Co-Production Incentives

The Indian government has introduced several incentives to position India as a prominent filming destination and attract investment from international filmmakers. These incentives are aimed at both co-productions and productions in India. Please refer to Chapter 3 ([Film Incentives](#)) for further information on production and co-production incentives.



Conclusion

India's M&E sector presents significant opportunities for foreign investors and content creators. A flexible range of business entity structures, liberalised FDI norms, and a suite of production and co-production incentives position India as an attractive hub for investment and creative collaboration.

Foreign enterprises can tap into India's expansive and rapidly evolving M&E ecosystem—spanning theatrical exhibition, content production, OTT platforms, animation and VFX studios, advertising agencies, gaming ventures, and digital media platforms. The sector's scale, diversity, and momentum make it a compelling landscape for establishing a sustained and impactful presence.

02

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?

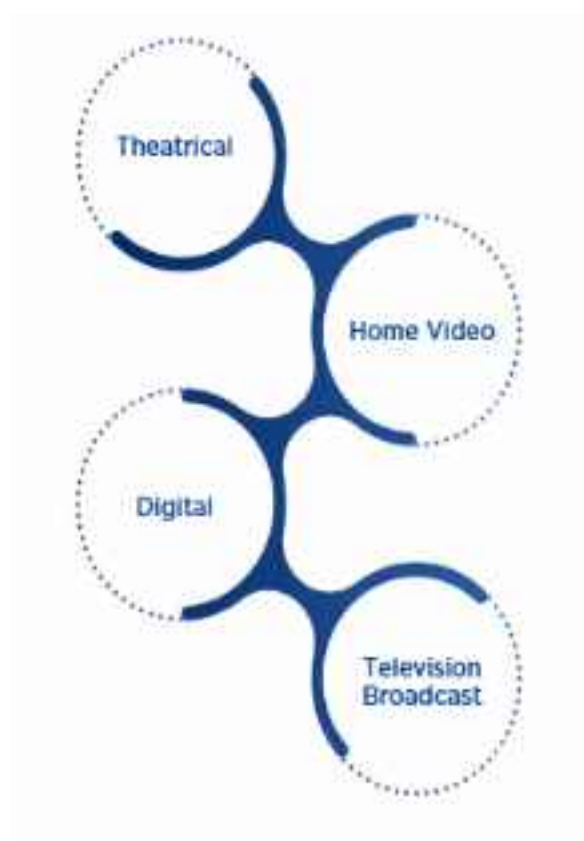
The producer is the first owner of the copyright in a film. This ensures clarity in ownership, particularly in collaborative environments like filmmaking, where producers, directors or companies often secure

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:

CONTENT RESTRICTIONS



Glorification of alcohol, tobacco or drug consumption



Indecent representation of women or children



Content contemptuous to any religion, race or other group



Threatening integrity, sovereignty, security of India



Defamation of individuals, or any body



Glorification of violence or incitement of offences

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 6 (**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.

03

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.

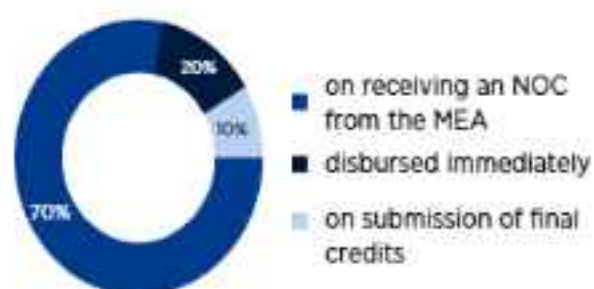
- Exclusions: Costs relating to, inter alia, financing, marketing, and international travel.

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.

04

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

Musical
Composition

+

Lyrics

=

Sound Recordings

A sound recording is a fixed recording of music composition and lyrics, along with the performance of singers and musical instruments.

Ownership of rights



Lyrics And Musical Composition



Sound Recording

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 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.

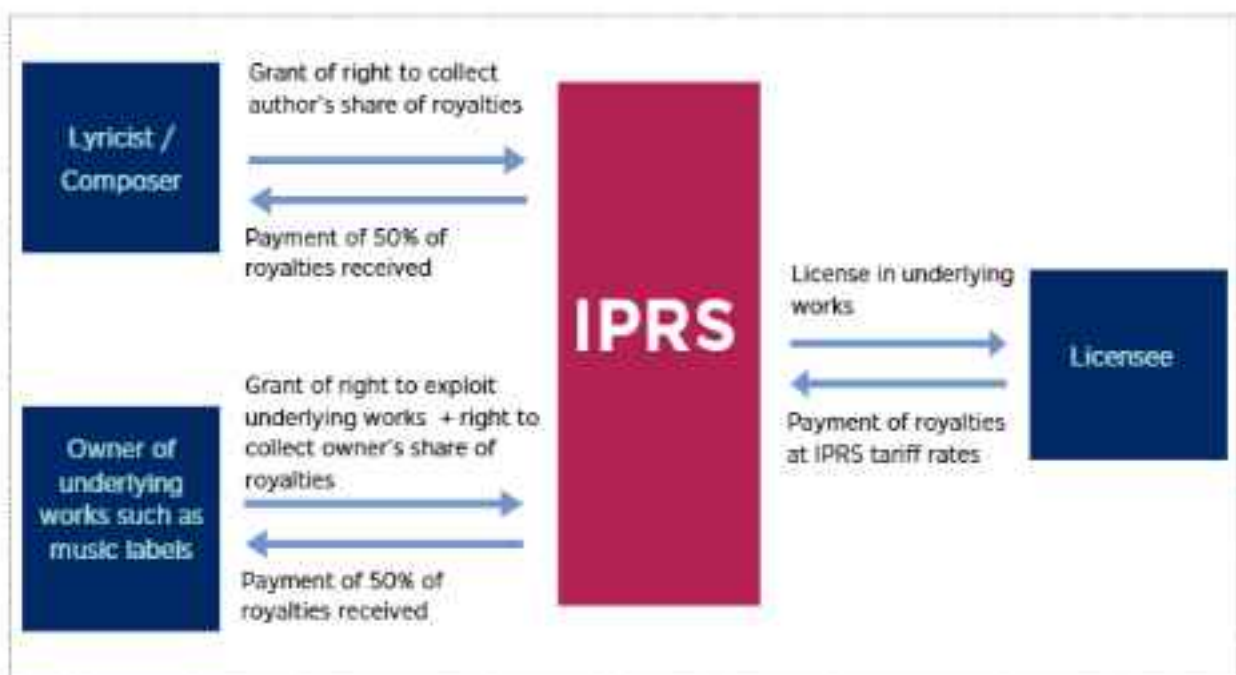


The royalty payable in case of a compulsory license or a statutory license is determined by the IPAB and is not commercially negotiated by rightsholder and the licensee.

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. However, courts in India are currently adjudicating on whether organisations other than registered copyright societies can grant such licenses.

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.



05

Broadcasting

Tuning into the Law



Television Broadcasting

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, the news broadcasting continues to remain strictly regulated.

Regulatory Framework

Uplinking and Downlinking Guidelines 2022

The Guidelines for Uplinking and Downlinking of Satellite Television Channels in India 2022 (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.



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 laws provide for sectoral caps for foreign investment and specific compliances for broadcast of news and general entertainment channels. Please refer to our chapter on foreign direct investment 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, Ministry of Home Affairs (MHA), and any other governmental authorities, wherever necessary.

Security clearance is required from the MHA for 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

Applicants are required to make payment of annual permission fee, security deposit and performance bank guarantee.

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 News channel: INR 2,00,00,000	NA

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.

Changes in shareholding pattern and foreign direct investment

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

- Shareholding to the extent of 10% or more,
- 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 Television Networks Rules, 1994 (Cable TV Rules), Advertising Code, provisions of the Sports Broadcasting Signals (Mandatory sharing with Prasar Bharati) Act, 2007, and any other code / standards / guidelines etc prescribed by the MIB.
- 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, 1952, (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.



Grievance Redressal

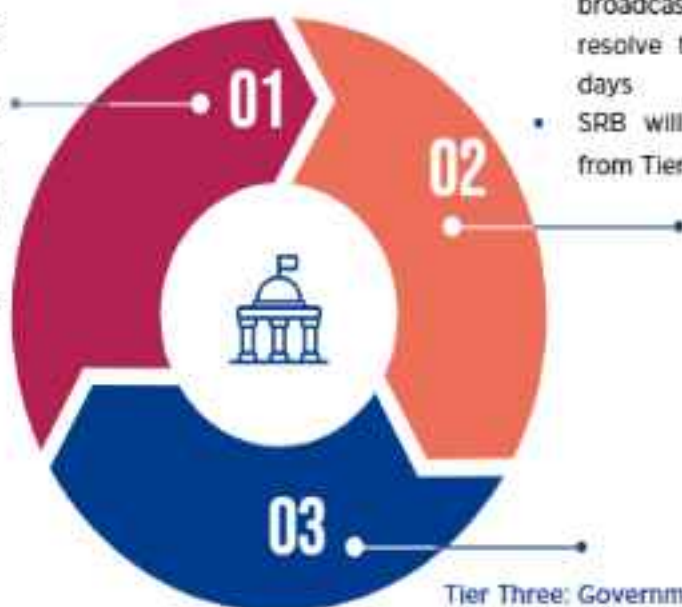
The Cable TV Rules prescribe a three-tier grievance redressal mechanism for adherence to the Programme Code and resolving grievances against broadcasters.

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 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

Radio

The radio sector in India is regulated under the Telecommunications Act, 2023 and regulations / policies of the MIB. The MIB issued the FM Phase-III Policy in 2011 and has been amending the policy through the years (Radio Policy). Only permission holders can operate FM radio channels in the allocated frequencies.

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: (a) sporting event information (excluding live coverage); (b) traffic and weather updates; (c) coverage of cultural events and festivals; (d) examinations, results, admissions and career counselling; (f) employment opportunities; (g) public announcements on civic amenities, natural calamities and health alerts; and (h) 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.

- Signals for sporting events of national importance, as notified by the Government must be shared with Prasar Bharti.



A collage of vintage televisions in a dimly lit room, with a blue sofa in the foreground. The televisions are stacked and arranged in a way that suggests a collection or a display. The lighting is warm and ambient, with a blue glow from the screens and the sofa. The overall mood is nostalgic and cozy.

Primetime for Broadcasting

The Indian broadcasting sector continues to thrive with unparalleled reach, encompassing over 905 private satellite TV channels, of which 45% are dedicated to news, and more than 2.5 Crore connected TVs in 2023. Indians spend an average of 226 minutes per day watching television, with a notable surge in viewership for sports, particularly non-cricket events. Despite the growing prominence of connected TV and internet advertising, traditional television remains a cornerstone of the media and entertainment industry, reinforcing its enduring importance in India's media landscape.

Meanwhile, the private radio broadcasting industry, operating in the FM band (88 MHz to 108 MHz), is poised for transformation with the advent of digital radio. Offering superior audio quality, more efficient spectrum usage, additional data services, and an enhanced user experience, digital radio presents significant potential for the industry. However, its widespread adoption hinges on substantial infrastructure investment and favourable policy support. Moving forward, both television and radio are positioned to evolve alongside emerging digital trends, ensuring their continued relevance and growth in the rapidly shifting media environment.

06

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 establish 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.



Agilj 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 has stayed the implementation of 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 other laws:

- Bharatiya Nyaya Sanhita, 2023 (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.

Content regulation under the Information Technology Act 2000



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

Glamourization 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.



A person is seen from behind, sitting on a couch and watching a television. They are wearing a white turtleneck sweater with horizontal stripes in blue and orange. The television screen displays a streaming service interface with various movie and show thumbnails. One prominent thumbnail features the word 'MOVIE' in large, stylized letters. The room is dimly lit, with two bedside lamps providing warm light. A dark blue semi-transparent box with white text is overlaid on the right side of the image.

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.

07

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.

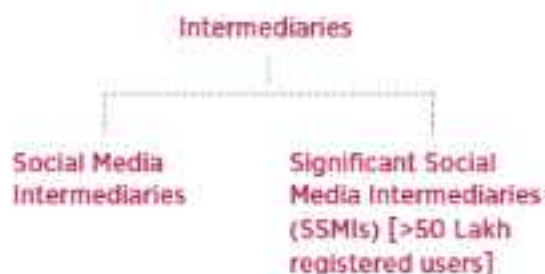
Regulatory Framework

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.

SEBI issued an advisory in March 2025, mandating all SEBI-registered intermediaries such as stockbrokers, investment advisers, and research analysts to use their SEBI-registered email IDs and mobile numbers when registering to publish advertisements on social media platforms like Google and Meta. The social media platforms are required to verify the credentials of these advertisers before allowing them to post ads. This move aims to enhance accountability and curb

the rising instances of securities market frauds perpetrated through social media channels. SEBI's initiative to tighten social media advertisement regulations is a proactive step towards safeguarding investors in the digital age and addresses the challenges posed by anonymous and misleading online financial advice by ensuring that only verified entities can promote financial products online.

Additional obligations on SSMIs

- 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.

SSMIs 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)

SSMIs 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.



Key Judicial Precedents

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.

08

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 *M J 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 have 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.

Industry Self-Regulation

In a coordinated effort to institutionalize responsible gaming standards across India's online skill-based real-money gaming sector, the All India Gaming Federation (AIGF), the Federation of Indian Fantasy Sports (FIFS), and the E-Gaming Federation (EGF) jointly adopted a comprehensive Code of Ethics (CoE), aimed at ensuring user safety, promoting transparency, and standardizing ethical practices across member platforms.

This initiative mandates the implementation of global best practices for responsible gaming such as age-verification, Know Your Customer (KYC) protocols, user-controlled spending limits, and self-exclusion mechanisms among all member operators. Crucially, compliance is stratified based on financial thresholds:

- Operators with annual revenues of INR 100 crore or more are required to achieve full CoE compliance within 6 (six) months
- Operators below the threshold are granted a 9 (nine) months' window.

To enforce accountability, the CoE stipulates annual third-party independent audits, with a renewable one-year certification issued upon successful completion and any non-compliance can now result in actions against the member operators. Furthermore, the CoE will undergo annual revisions to align with emerging global standards and regulatory shifts, ensuring its continued relevance and efficacy. This development underscores a coordinated realignment of India's online gaming landscape toward legality, fairness, and user protection, backed by structured oversight and a unified industry voices.

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.



A person wearing a headset and celebrating a victory in a gaming environment. The person is wearing a yellow shirt and has their right arm raised in a fist. They are wearing a large black headset with a microphone. In the background, there is a computer monitor displaying a game, a keyboard, and a mouse. The scene is lit with blue and purple light, creating a gaming atmosphere.

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.

09

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.'



A close-up photograph of a hand typing on a mechanical gaming keyboard. The keyboard has a dark, possibly black or dark grey, keycaps with white and red lettering. The keys are illuminated with a vibrant red light, which is visible through the translucent keycaps. A hand is shown in the foreground, with fingers pressing down on the keys. The background is dark and out of focus. A semi-transparent dark grey text box is overlaid on the right side of the image, containing the title 'Concluding Thoughts' and a paragraph of text.

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.



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 Bharti 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, Commonwealth 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.

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. Courts in India are currently adjudicating on whether organisations other than registered copyright societies can grant such licenses.



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.

Environmental clearances from relevant environmental authorities:

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

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).

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. While there is no specific central legislation explicitly prohibiting ticket scalping, provisions under the Bharatiya Nyaya Sanhita, 2023 and Consumer Protection Act, 2019 (and the e-commerce

rules framed under this act) may be invoked against unfair trade practices.

Such incidents have intensified calls for stricter regulation and enforcement to curb scalping and to ensure fair access to events.

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.



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

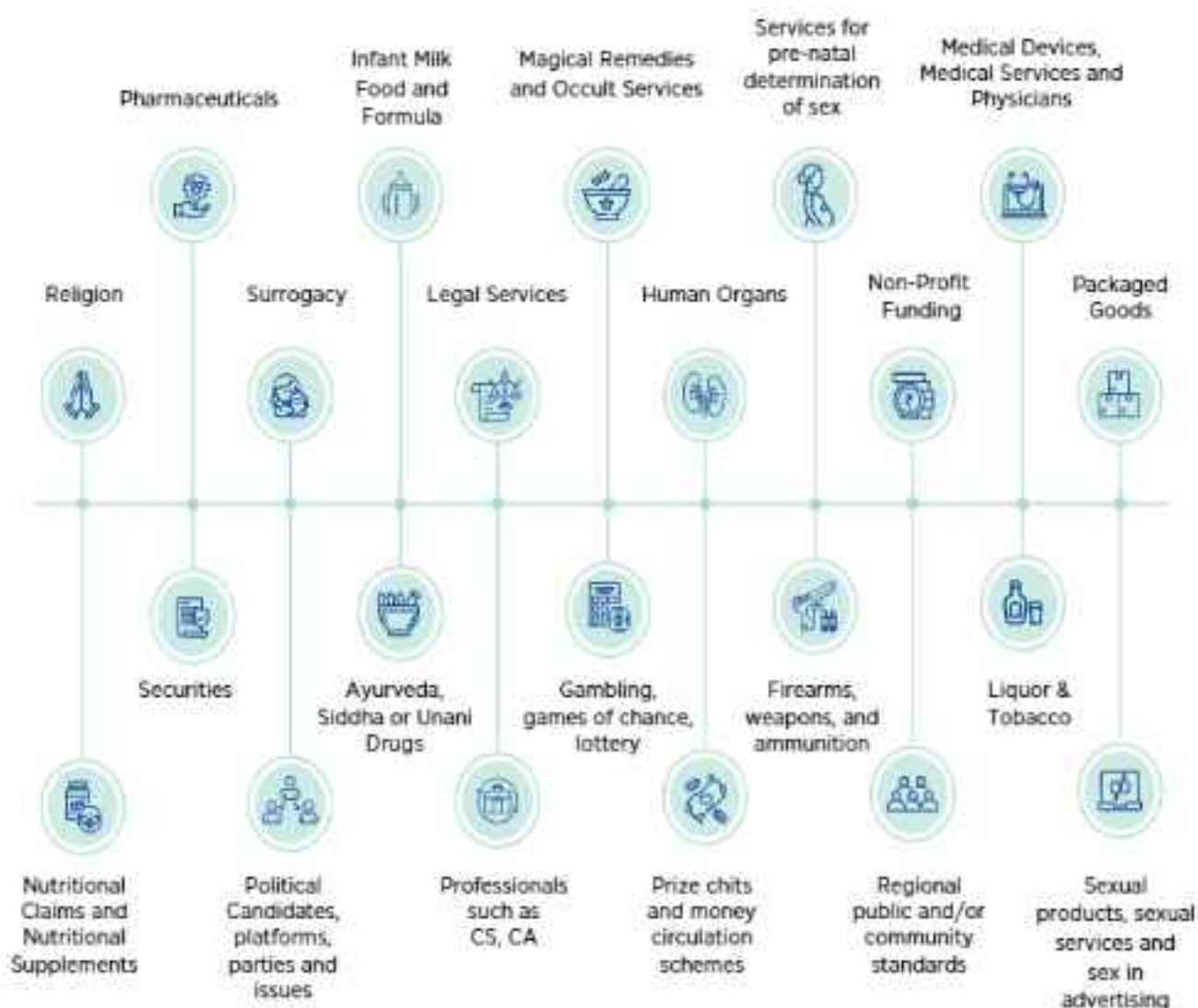
Surrogate Advertisements

- 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

- 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

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

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 13 ([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.



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.

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.

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.

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.

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

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.

Self-Regulation through Code of Standards

The Indian Influencer Governing Council (IIGC), a self-regulatory organisation comprising brands, influencer agencies, and influencers, adopted a code of standards (Influencer Code) in April 2025.

The Influencer Code addresses fundamental concerns within the influencer industry, including the non-disclosure of paid partnerships, content regulation related to language and tone, and issues surrounding health and safety, as well as alcohol and gambling. Additionally, the Influencer Code tackles emerging challenges such as AI-generated influencers and the phenomenon of 'deinfluencing.' As such, the Influencer Code is both timely and forward-looking. The Influencer Code mandates strict adherence from all members, and the IIGC has established a consumer complaint forum where complaints can be submitted and upon review, the IIGC will issue appropriate verdicts.

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.

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.



Key Takeaways for Celebrities and Influencers



1

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

Stay updated on regulatory changes



2



3

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

Provide genuine opinions, avoid making false or exaggerated claims



4



5

Disclose sponsored content or paid partnerships

When in doubt, consult a legal practitioner



6

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

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.

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.

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.

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.

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.

A close-up, low-angle shot of a person's legs in a vibrant red, pleated dress, standing on a red carpet. The lighting is warm and dramatic, highlighting the texture of the fabric and the carpet. The background is blurred, suggesting a high-profile event like a film premiere.

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.

15

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.

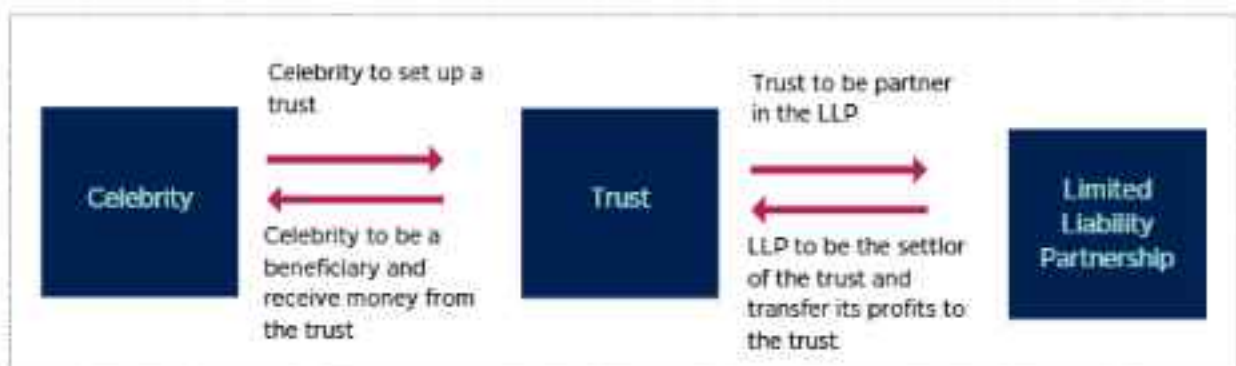


Will outlines how an individual's estate will be distributed upon death and should specify ownership of financial assets as well as intellectual property, brand rights, personal effects

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.



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.

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

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

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.

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

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 14 (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)

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)

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

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.

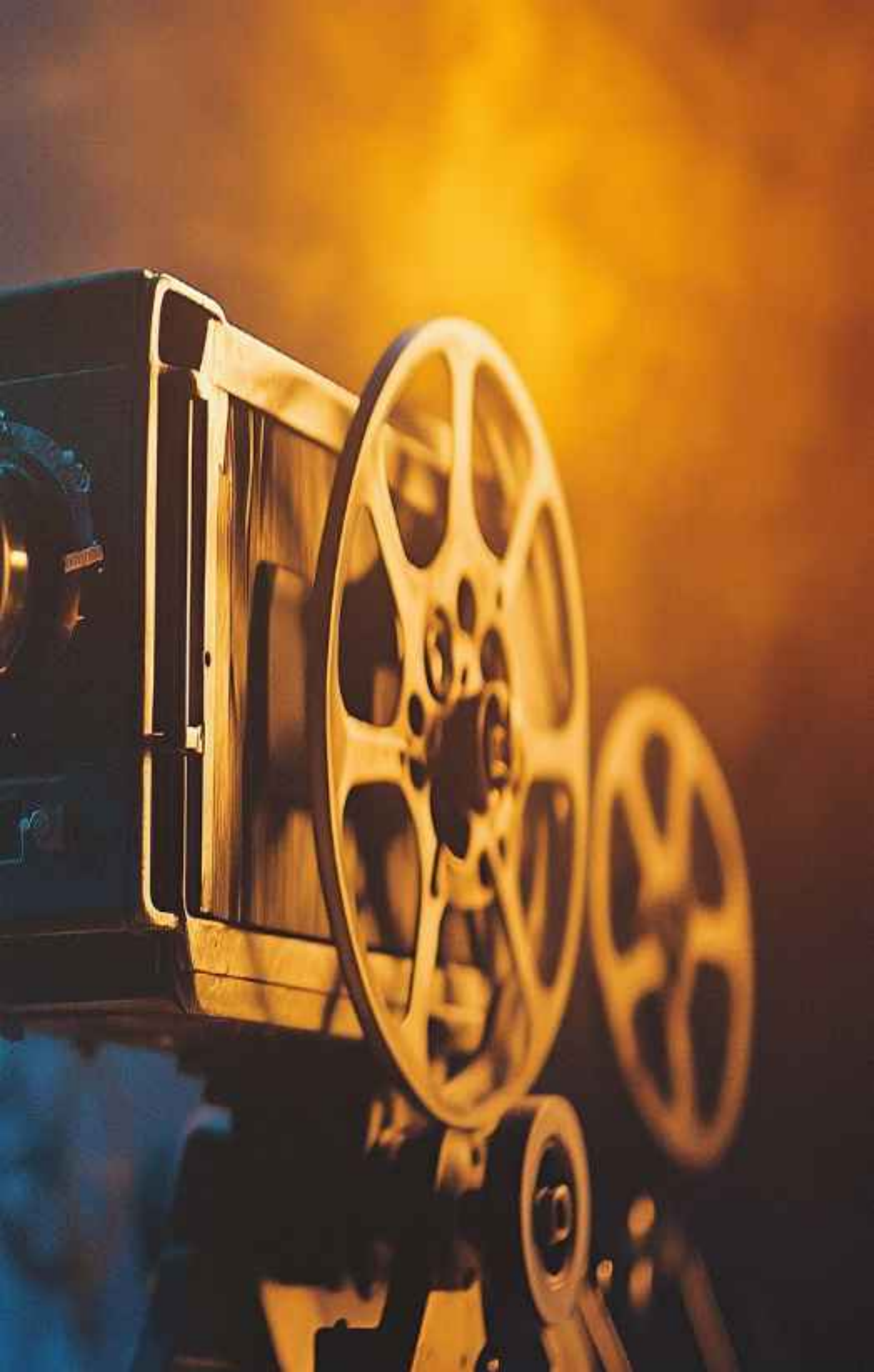
A background image featuring a sunset sky with orange and yellow hues. On the left, a white robotic hand with black joints is reaching out. On the right, a human hand is shown from the palm side, reaching up towards the robotic hand.

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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