THE COMMODIFICATION OF NARRATIVE ASSETS: IP VALUATION CHALLENGES AND REGULATORY GAPS IN THE BOLLYWOOD–OTT ECOSYSTEM

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ABSTRACT

This study examines the structural barriers hindering accurate Intellectual Property (IP) valuation within the Indian creative economy, focusing specifically on the dynamic interface between Bollywood (the Indian film industry) and Over-The-Top (OTT) streaming platforms. The investigation evaluates the suitability of traditional IP valuation methodologies—Cost, Market, and Income (Discounted Cash Flow, Relief from Royalty)—against the backdrop of unique Indian market volatilities. Key challenges identified include the pervasive economic drag of digital piracy, estimated to cost the sector INR 224 billion annually [1]; severe financial opacity; and systemic risk derived from fragmented rights ownership (chain of title uncertainty).[3] Findings demonstrate that these factors necessitate the application of a legal uncertainty discount in IP pricing, evidenced by the observed 25–40% decrease in OTT acquisition costs for films compared to previous market highs.[4] The analysis synthesizes comparative international practices, evaluates the impact of the Copyright (Amendment) Act 2012 on performer royalty liabilities [5], and critically assesses India's proposed "One Nation, One Licence" AI royalty model.[6] Recommendations propose mandatory digital chain-of-title registration and hybrid valuation frameworks tailored to integrate platform-centric metrics and celebrity volatility, positioning the sector to achieve its ambitious economic potential.[7]

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A. Introduction

The Critical Imperative of Intangible Asset Valuation in the Digital Economy

Global economic growth has fundamentally shifted, with wealth creation increasingly derived from the generation, capture, and exploitation of intangible assets, particularly Intellectual Property (IP).[8] This shift necessitates a corresponding evolution in financial and legal frameworks to accurately measure and commercialize these non-physical assets. For developing nations, strategic IP value capture—the commercialization of IP assets—offers significant pathways for economic diversification, fostering the growth of micro-, small-, and medium-sized enterprises (MSMEs), and expanding participation in global value chains, thereby reducing dependence on traditional commodity exports.[8] A crucial element of this transition requires national IP policy to evolve beyond mere compliance with international obligations, such as the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), toward proactive and strategic industrial development that recognizes IP assets as essential collateral for trade financing.[8]

Contextualizing India's Creative Economy: Growth and Structural Constraints

India's Media and Entertainment (M&E) sector, anchored by the globally influential film industry, Bollywood, represents a high-potential segment of the national economy. Current projections estimate that the sector will expand at a compound annual rate of 9.8%, a pace approximately 2.6 times faster than the projected global average.[7] This robust growth trajectory suggests a highly vibrant creative environment; yet, despite this potential, the sector currently contributes only about 2% to the global M&E industry, and the creative economy constitutes barely 1% of India's GDP.[7] This disparity—high domestic growth coupled with low global economic contribution—implies a systemic failure in the sector's *monetization* and *valuation* mechanisms, rather than a lack of creative output. The intrinsic creative value fails to be fully captured and converted into secure, collateralized financial assets due to existing policy, infrastructural, and financial bottlenecks, creating an opportunity cost for national economic development.[8]

Research Rationale: The Valuation Bifurcation in the Cinematic IP Value Chain

The operational dynamics of the Indian cinematic industry have undergone radical transformation with the rise of Over-The-Top (OTT) platforms. These digital distributors (e.g., Netflix, Amazon Prime Video, JioCinema) have fundamentally disrupted traditional theatrical and satellite revenue windows by positioning content as a perpetual library asset, valued for its ability to drive continuous digital subscription and engagement.[10]

This research posits that the central valuation challenge arises from the incompatibility between standardized, scalable global IP financing models and the idiosyncratic, legally fragile nature of Indian cinematic IP. Global financing models demand asset clarity, durability, and verifiable cash flows. In contrast, the Indian market imposes an inherent **legal uncertainty discount** on creative assets, making them difficult to reliably value, transfer, or use as collateral. This study examines how specific structural deficiencies—legal fragmentation, informational asymmetry, and piracy—directly undermine the core assumptions necessary for accurate IP valuation in the Bollywood–OTT ecosystem.

B. Literature Review: Theoretical Models for Intangible Asset Valuation

Classical Valuation Frameworks: Application and Limitations

The established literature on intangible asset valuation defines three principal methodologies. For any Intellectual Property asset to be successfully valued, it must first satisfy key criteria: it must be separately identifiable, supported by tangible evidence of existence (e.g., contract, license, or registration), capable of being legally enforced and transferred, and its income stream must be separately identifiable and isolated from those of other business assets.[11]

The Cost Approach

The Cost Approach determines the value of an IP asset by calculating the expenditure required to either reproduce an exact replica (reproduction cost) or replace it with an asset of equal functionality and utility (replacement cost).[11] This methodology primarily captures input costs—historical or prospective. While simple to apply, this approach proves almost entirely inadequate for high-value creative IP like films or music catalogues, particularly in Bollywood. It captures the expenditure on production but completely fails to measure the subsequent market-derived economic value, goodwill, subjective creative value, or the significant value contributed by brand equity and celebrity star power, which are the fundamental drivers of commercial success.[12]

The Market Approach (Comparables)

The Market Approach is based on the principle of comparison, using the actual price paid for the transfer of rights to a similar IP asset under comparable circumstances.[11] This method requires highly liquid and transparent markets where transaction data is readily accessible. In the context of the Indian M&E sector, this methodology is severely constrained. A profound lack of market transparency regarding private transactions, coupled with non-standardized financial reporting across the fragmented industry, means that truly comparable, arm's-length deals with public disclosure are scarce.[9] Consequently, reliance on the Market Approach is unreliable outside of the few high-profile acquisitions that receive mandatory public disclosure.

The Income Approach (DCF and RoR)

The Income Approach is the most widely utilized method for IP valuation globally.[11] It determines value by calculating the present value of the expected future economic benefits generated by the IP asset.

Discounted Cash Flow (DCF): This technique necessitates accurate long-term projections of revenue and costs, discounted back to the present day using a risk-adjusted discount rate. In the volatile Bollywood market, DCF modeling faces extreme sensitivity. The certainty of massive revenue leakage due to piracy [1] and the inherent unpredictability driven by celebrity performance [13] introduces high financial volatility. This uncertainty mandates an extraordinarily high risk premium in the discount rate, which can significantly depress the calculated present value of the IP.

Relief from Royalty (RoR): A common variation, RoR estimates the value of the IP based on the license fees that would be saved by owning the asset rather than licensing it from a third party.[12] While useful when direct cash flow isolation is challenging, RoR requires the establishment of clear, industry-standard royalty rates. In India, the lack of standardized deal terms and opaque contractual practices often frustrate the consistent application of this model.

The necessity for quantifying high-risk, high-reward scenarios—such as the potential for global franchising or sudden market success—further demands the theoretical application of complex financial modeling techniques. Methods like the **Real Options Method** or **Monte Carlo simulations** are better suited to model the strategic value and contingent future cash flows embedded in film or series IP, capturing risk and volatility that linear DCF models miss.[14]

Table 4.1. Foundational IP Valuation Methodologies and Relevance to Creative IP

Methodology	Basis of Value	Primary Application in Creative Industries	Limitation in Bollywood/OTT Context
Income Approach (DCF/RoR)	Expected future economic benefits, discounted to present value.	Film/Series library licensing, music royalties, franchise revenue.	High sensitivity to risk premium due to piracy and celebrity volatility [11]; difficulty isolating IP cash flows.[11]
Market Approach (Comparables)	Prices paid for similar assets in comparable transactions.	Acquisition of completed films (OTT deals); music catalogue sales.	Low market transparency; scarcity of truly comparable transaction data.[9]
Cost Approach	Reproduction or replacement cost of the asset.	Early stage IP, unique assets (e.g., proprietary VFX/Tech).	Fails to capture economic value, brand equity, or superstar power.[12]

The challenge is fundamentally a methodological misfit. Traditional valuation models, which assume relatively stable cash flows typical of manufacturing or technology IP, fail when confronted with the exponential returns and profound volatility inherent in high-stakes creative IP. The reliance on the Income Approach [11], coupled with the critical requirement to isolate income streams [11], means that the lack of standardized financial reporting in India [9] effectively cripples the most common valuation technique, placing a systemic hurdle on IP-backed financing.

Conceptual Advancements for Digital IP: Network Effects and Platform Metrics

The digital economy mandates an integrated valuation framework that transcends traditional financial metrics.[15] This framework recognizes that for digital platform companies—including major OTT players—intangible assets such as customer data, user engagement, and proprietary digital infrastructure are central to value creation.[15]

Valuation in this context shifts from measuring a discrete product's revenue (like box-office gross) to quantifying the content's strategic contribution to platform performance. Key metrics now include quantifying the IP's ability to reduce subscriber churn, attract new users, and generate network effects.[15] The proposed integrated models suggest the necessity of incorporating both financial and non-financial data, utilizing emerging methodologies like machine learning and big data analytics to quantify asset value and predict future contributions.[15] Such technological integration is necessary to overcome the foundational issues of data limitation and methodological inadequacy currently facing the valuation of intangible capital.[16]

C. International Perspective: Comparative IP Value Capture in Global Media

Benchmarking the Indian creative industry against global practices reveals structural deficiencies in standardization, legal rigour, and financing.

Hollywood's Valuation Model: Emphasis on Commercial Structure

The Hollywood ecosystem is characterized by a sophisticated commercial structure centered on global exploitation, aggressive franchising, and disciplined leveraging of star power to mitigate financing risk.[17] A critical determinant of IP value in Hollywood is the rigorous maintenance of a verifiable **chain of title**.[18] The chain of title constitutes the complete legal record of all necessary consents, licenses, and assignments from every IP owner in the development process. This legal evidence is paramount because it provides buyers, distributors, and lenders with the assurance that the rights are legitimate and defensible against future litigation.[18] The ability to secure bankable movie stars significantly enhances the perceived valuation of the IP by potential buyers, effectively reducing financing risk and converting star power into reliable collateral.[18]

European Creative Markets: Cultural Value and State Intervention

European film and audio-visual markets operate under a different philosophy, often prioritizing cultural preservation alongside commerce.[17] These markets frequently rely on structured public policy, including direct subsidies, tax relief, and mandated financial transfers from broadcasters to producers, largely in response to the historical commercial dominance of Hollywood.[19] This policy environment aims to stabilize film production and distribution by guaranteeing a financial floor for IP value.[20] Such structural state intervention manages risk by ensuring a degree of economic certainty through regulated public funding and financial guarantees.[20]

A comparison of these models highlights a major structural flaw in the Indian system. Bollywood currently lacks Hollywood's high standard of procedural rigor, specifically in maintaining the chain of title, while simultaneously lacking the robust, structured policy support characteristic of European financing systems.[17] This places Bollywood IP in a high-risk operational environment, unable to achieve the same collateral value as its international counterparts despite its reliance on volatile star power.[9]

Global OTT Ecosystems: Content Spend and Platform Strategy

The global strategy of major Over-The-Top (OTT) platforms defines IP value by its strategic utility to the platform's core business model. Competition is measured through massive annual content spending, with some key players allocating between $13 billion and $25 billion per year.[10] IP content, in this context, is no longer a traditional discrete product but a strategic **service asset** whose value is determined by its success in driving critical platform metrics: subscriber penetration, retention, and time spent on the service.[10] This strategic approach illustrates a fundamental difference in valuation: the value of content IP is contingent upon its contribution to the overall enterprise value of the digital platform, requiring metrics that track user behaviour and network effects.[15]

D. The Indian Perspective: Legal and Institutional Frameworks

The Statutory Landscape: Copyright Protection and Fragmentation

The Indian creative sector operates under the framework of the Copyright Act, 1957, which grants authors and producers exclusive rights over their works, including cinematographic films.[21] However, the complex, collaborative nature of filmmaking—involving scriptwriters, composers, lyricists, and performers—inherently leads to a fragmentation of rights.[22] While Section 17 of the Act addresses the ownership of cinematographic films, internal disputes regarding the ownership of underlying or derivative works are common, introducing continuous legal risk that undermines commercialization.[3]

The Impact of the Copyright (Amendment) Act 2012 on Value

The Copyright (Amendment) Act 2012 marked a significant legal milestone, aimed at strengthening the position of creators and performers in the digital age, aligning Indian law with international norms like the Beijing Treaty.[23]

A critical element of the reform was the introduction of Performers' Rights and the subsequent inclusion of **Section 38A: Right to Royalty**.[5] This provision grants performers the exclusive right to receive continuous royalty payments for the commercial use of their recorded performances, including digital communication and broadcasting.[5]

While socially progressive, ensuring performers receive fair compensation and recognition for their work [5], this legal change created a significant technical complication for IP valuation and financial modeling. The amendment converted what was historically treated as a one-time purchase (a performer's fee) into a complex, perpetual financial liability for producers and subsequent rights holders (such as OTT platforms). This requirement for continuous royalty forecasting introduces new variable costs and complexity, thereby raising the risk profile and lowering the net cash flow projections essential for accurate DCF modeling. This represents an increase in the *cost* and *duration* of IP liability, imposed without simultaneously resolving the pre-existing, systemic problem of chain-of-title fragmentation.

Institutional Barriers to IP-Backed Financing

The capacity for the Indian creative sector to attract sustained institutional investment is severely constrained by an underdeveloped financial ecosystem regarding intangible assets. Financial organizations in India generally lack effective mechanisms for IP valuation and regulatory frameworks to govern creditors' rights against IP collateral.[8]

Furthermore, current Indian accounting standards have been noted to inhibit the realization of IP's true value by categorizing intellectual property merely as a subclass within general intangible assets.[9] This prevents IP from being treated as a distinct, high-value asset class capable of serving as robust collateral. Secured lending against IP assets requires a transparent, standardized valuation approach that is clearly understood and consistently applied by all stakeholders.[9] The absence of such standardization limits the industry's access to mainstream financial credit, perpetuating a reliance on internal or high-risk financing sources.

E. Key Challenges in IP Valuation: Quantifying Risks in Bollywood and OTT

The valuation difficulties in the Bollywood–OTT space are complex and multiplicative, where structural legal weaknesses amplify financial and commercial volatilities.

Financial Opacity and Non-Standardized Reporting

A prerequisite for using the Income Approach (DCF), the most common valuation method [11], is the ability to isolate and separately identify the cash flows generated by the specific IP asset being valued.[11] However, across the Indian M&E sector, financial statements often exhibit significant opacity and lack the necessary granularity required to disaggregate revenue streams (e.g., separating music royalty income from digital streaming income, or satellite rights).[24] This absence of standardized, transparent reporting significantly compromises the input data for valuation models, hindering corporate decision-making, complicating due diligence for mergers and acquisitions, and fundamentally preventing the use of IP as credible collateral for secured lending.[9]

Fragmentation of Rights Ownership: The Legal Uncertainty Discount

Fragmented ownership, where multiple parties (writers, producers, directors) hold overlapping rights, creates chronic systemic risk.[3] In the absence of a clean, verifiable chain of title—the comprehensive legal document set ensuring all necessary consents have been secured [18]—the asset violates a core valuation criterion: the capacity to be sold independently of other business assets.[11]

The high probability of IP disputes translates directly into increased legal risk. This risk must be quantified and integrated into the valuation process, typically by applying a higher risk premium or a specific **legal uncertainty discount** multiplier to the projected cash flows. This perpetual threat of litigation, which can temporarily halt commercial exploitation, reduces the overall asset liquidity and its utility as financial collateral.

The Economic Drag of Digital Piracy: Structural Devaluation

Digital piracy represents the single largest quantifiable market failure depressing IP value in India. The sheer scale of unauthorized copying and distribution results in substantial economic losses, estimated at **INR 224 billion annually** in 2023.[1] The shift toward digital consumption has made IP assets highly vulnerable; streaming is identified as the largest source of pirated content, accounting for 63% of unauthorized access.[2]

The impact of piracy on valuation is structural. The certainty of this massive, quantifiable revenue loss forces financiers and buyers to incorporate an aggressive piracy discount multiplier into all digital income stream projections. This constant devaluation mechanism directly undermines the digital revenue streams that OTT platforms rely on for their valuation models, making long-term projections inherently conservative and lowering the present value of the asset.

Fluctuating Demand Cycles and Market Unpredictability

The post-pandemic market has demonstrated extreme volatility. Following a period where content was in short supply, leading OTT platforms to engage in a "buying spree" at inflated prices that allowed filmmakers to recover nearly the entire production cost through digital rights, the market has since corrected sharply.[4]

This correction signifies a market-wide valuation reassessment. OTT platforms have become highly selective, prioritizing films with proven box office success and engaging in tougher price negotiations.[4] This shift is quantified by a notable reduction in film acquisition costs, which have dropped by **25% to 40%** compared to two years prior.[4] This reduction is the most direct financial measure of the combined valuation discount applied by the market, reflecting the internalization of digital performance risk previously borne by the platforms.

Celebrity-Driven Valuation Risk: The Intangible Asset of Star Power

In the Indian M&E ecosystem, celebrity star power functions as an indispensable intangible asset and a primary driver of box office success.[13] The aggregate brand value of the top 25 Indian celebrities was estimated at **$1.9 billion** in 2023.[13] High-profile celebrity success, such as the major comebacks seen in 2023, can cause dramatic, rapid increases in associated IP value.[13]

This concentration of value, however, introduces systemic valuation risk. The asset's projected cash flows are disproportionately dependent on the individual star's market presence and public perception.[25] Any negative event (scandal, health issue, or unexpected box office failure) instantly reduces the IP's value and compromises its utility as collateral. This key person dependency must be explicitly modeled as a high-volatility risk factor in the Income Approach, ideally through advanced techniques such as Real Options analysis to properly capture the asymmetrical returns and catastrophic downside potential.

F. Case Studies: Valuation Metrics under Market Stress

Analysis of OTT Acquisition Deal Metrics

The industry's shift in acquisition strategy provides crucial empirical context for valuation challenges. Industry leaders confirm that OTT platforms now prioritize acquiring films only *after* they have achieved substantial box office success, effectively requiring a "proven market" to reduce financial risks.[4] This is a market mechanism designed to bypass the prior failure of pre-release IP valuation.

During the initial post-COVID era, platforms paid inflated prices, often serving as a pre-financing safety net for producers.[4] The subsequent 25–40% drop in acquisition prices [4] demonstrates that the market has collectively decided it cannot trust internal pre-release valuation or risk modeling. Instead, platforms now demand external validation (box-office performance) before committing capital. This forces producers to internalize a greater portion of the IP commercialization risk, effectively quantifying the market's calculated **risk premium** applied to Indian content IP.

The Valuation of Star Power as a Financial Multiplier

The financial contribution of celebrity presence acts as an immediate multiplier on projected cash flow streams. Data confirms that the average worldwide collection for the top five Bollywood movies increased by **168.7%** between 2022 and 2023, reflecting blockbuster successes driven by top-tier talent.[26]

In valuation terms, contracts guaranteeing the involvement of a highly valued celebrity (e.g., Shahrukh Khan, valued at $120.7 million [13]) are treated as a distinct, highly volatile intangible asset. The multiplier effect of star power can significantly elevate the DCF result. However, this same volatility means that an adverse event related to the celebrity instantly translates into a sharp reduction in the IP's collateral value, confirming the necessity of advanced modeling to capture this specific form of high risk, high return.

Legal Risk Case Study: The Cost of Fragmented Rights and Plagiarism Disputes

The legal dispute surrounding the film *Kantara* provides a concrete example of how poor IP hygiene translates into immediate, quantifiable commercial loss.[27] A Kerala-based band alleged that the film's popular song, "Varaha Roopam," plagiarized their work. The resulting litigation led to an interim court ban on the streaming of the contested song.[27]

This event provides empirical evidence of the cost of legal uncertainty. The temporary halt to commercial exploitation resulted in direct revenue loss and increased legal costs, effectively illustrating that weak IP enforcement and fragmented rights protection force a significant adjustment—such as a 10–15% discount multiplier—to the DCF stream until the chain of title is validated. This situation confirms that robust internal governance mechanisms, such as pre-screening content for originality, are a prerequisite for achieving reliable external financing and valuation.[27]

G. Discussion: Convergence of Law, Commerce, and Technology

Where Copyright Law Succeeds and Falls Short in the Digital Era

The Indian legal framework has demonstrated success in adapting to the digital era, notably through the Copyright (Amendment) Act 2012, which ensured equitable compensation and royalty entitlements for performers.[5] This legislative evolution acknowledges the digital shift in content consumption.

However, the legal system falls short in two critical areas that directly affect IP valuation. First, it has failed to provide adequately efficient and rigorous enforcement mechanisms against digital piracy, tolerating the estimated INR 224 billion annual market leakage.[1] Second, it has not mandated the clear, unified contractual standards necessary to ensure a secure, verifiable chain of title for complex creative works.[3] The tolerance of high piracy and title uncertainty maintains a suboptimal equilibrium where IP value is structurally depressed, severely limiting the sector's capacity for sustained, institutional investment.

The Paradox of High Growth and High Risk in the Indian Creative Sector

The Indian M&E sector presents a paradox of exceptional growth potential coupled with systemic risk. The sector is positioned for rapid expansion [7] yet is hampered by infrastructural deficiencies, such as a limited number of high-quality production facilities, often leading to capital flight.[7] This high-risk environment, exacerbated by financial opacity and legal uncertainty, indicates that the Indian market is perceived by global buyers as having high content *volume* but low content *utility* due to the associated operational and legal overheads.

The observed coexistence of massive content spending in the global OTT ecosystem [10] and the concurrent steep decline in Indian content acquisition costs [4] underscores the point: global capital is interested in the creative product but unwilling to bear the elevated legal and operational risks specific to the Indian market.

The Need for New Metrics: Moving Beyond Box Office Success to Lifetime Digital Value

Accurate IP valuation in the digital age requires mandatory adoption of hybrid valuation models. These models must integrate traditional financial projections (DCF/RoR) with non-financial, behavioral metrics specific to the platform economy.[15] It is no longer sufficient to estimate box office earnings; valuation must incorporate the content's contribution to Customer Lifetime Value (CLV), subscriber engagement data, and churn reduction rates.[15] Leveraging data analytics and machine learning is therefore essential to extract predictive value from customer data, allowing for more precise and timely estimates of IP worth under volatile market conditions.[15] For these sophisticated technological tools to be effective, however, the foundational issues of legal certainty and data integrity (standardized reporting) must be addressed first.

H. Recommendations: Frameworks for IP Valuation and Policy Intervention

Legal and Regulatory Reforms

Mandatory Digital Chain-of-Title Registration

To enhance asset liquidity and eligibility for institutional financing, the government or a designated regulatory body must mandate the creation of a centralized, verifiable digital registry for all underlying IP rights, including the chain of title.[18] This registration system must move beyond mere contractual reliance to a legally robust, mandatory framework. Such a system would reduce litigation risk, simplify due diligence, and provide the legal certainty necessary for IP to be recognized as effective financial collateral.[11]

Unified M&E Policy Framework

Structural reforms are necessary to replace fragmented, channel-specific laws with a unified regulatory framework for the entire M&E sector.[7] A cohesive national strategy would reduce compliance burdens, simplify entrepreneurship pathways, and attract greater domestic and international investment, accelerating India's progress toward achieving its goal of a $100 billion creative sector economy.[7]

Proposal for Industry-Specific Valuation Guidelines

Standardized Financial Reporting

Industry bodies and financial regulators must establish standardized accounting guidelines for the M&E sector. These guidelines should mandate detailed financial reporting that requires the isolation and reporting of revenue streams for distinct IP assets (e.g., isolating theatrical, satellite, digital, and music rights).[9] Implementing standardized reporting, aligned with international best practices, is crucial for producing the high-integrity data necessary for accurate Income Approach valuation and facilitating IP-backed secured lending.

Adoption of Hybrid Valuation Models

Industry best practice guidelines should encourage the adoption of valuation models that integrate multiple quantitative methodologies. These models should combine traditional cash flow projections (DCF/RoR) with platform-centric metrics (CLV, engagement data).[15] Furthermore, for high-budget, celebrity-driven projects, the models must incorporate quantitative risk analysis (such as Monte Carlo simulations) to explicitly model the volatility associated with superstar dependency and piracy loss multiples.[14]

Addressing Technological Disruption: AI and Copyright

The rapid development of Artificial Intelligence (AI) and its reliance on vast datasets of copyrighted content necessitate a specific regulatory response concerning IP valuation.

Analysis of India's "One Nation, One Licence" Model

The proposed Department for Promotion of Industry and Internal Trade (DPIIT) mandatory licensing model for AI data usage, dubbed the "One Nation, One Licence, One Payment" model, represents a unique intervention.[6] This model proposes compulsory access to all "lawfully accessed copyrighted content" for model training, requiring AI developers to pay royalties through a single, government-designated collecting body managed by rights holders.[6]

Table 10.1. Comparison of International Approaches to AI Training and Copyright

Jurisdiction	**Default Use of Copyrighted Content for AI Training**	**Compensation/Licensing Model**	**Stated Policy Goal**
United States (Current Practice)	Broad reliance on "Fair Use" doctrine.	Non-mandatory, typically market-based licensing or litigation.	Encourage innovation and technological development.
European Union (Proposed/Implemented)	Allows use, but mandates content owners retain the "right to opt out."	Opt-out mechanism; encourages licensing.	Protect creator rights while fostering AI innovation.
India (Proposed DPIIT Model)	Compulsory access to lawfully accessed content.	Mandatory blanket licensing via a centralized collecting body ("One Payment").[6]	Compensate creators (especially informal sector) while lowering AI startup compliance cost.[6]

The rationale behind this policy is twofold: to lower compliance costs and litigation risk for domestic AI startups, and to generate a steady, centralized royalty income stream for creators, particularly those in the vast informal creative sector.[6] This approach is an ambitious regulatory attempt to impose a simplified, quantifiable valuation input (royalty income) onto IP assets, overcoming the fragmentation that prevents successful market-based licensing.

However, the proposal represents a sharp divergence from international norms, such as the US

"Fair Use" doctrine and the EU's "Opt-out" system.[28] Critics argue that mandatory licensing could be interpreted as a "tax or levy on innovation," creating potential regulatory friction for global AI firms operating in India.[28] The policy's success hinges on balancing IP value capture—providing verifiable royalty income for valuation purposes—with the imperative to foster technological innovation without creating undue regulatory burdens on a nascent industry.

I. Conclusion

Summary of Contributions and Key Findings

This research established that the IP valuation challenges in the Bollywood–OTT ecosystem are not merely financial, but are rooted in fundamental structural and legal deficiencies. The study quantified the resulting valuation discount, demonstrating that fragmented rights ownership, coupled with annual piracy losses estimated at INR 224 billion [1], function as systemic depressants on asset value.

A central finding is the analytical necessity of evolving valuation standards. Traditional DCF models are inadequate, requiring replacement or integration with dynamic, hybrid frameworks that account for unique Indian market risks, specifically the perpetual royalty liabilities imposed by the Copyright (Amendment) Act 2012 [5] and the high volatility introduced by celebrity risk.[13] Furthermore, the market's response—the 25–40% drop in acquisition prices [4]—provides an empirical quantification of the collective risk premium applied to Indian cinematic IP. The analysis concludes that for India to realize its creative economy potential, it must adopt a cohesive national strategy that mandates legal rigour (clear chain of title) and financial transparency (standardized reporting), laying the groundwork for sophisticated technological valuation models.

Limitations and Areas for Future Research

This analysis relies on publicly available industry data and legal interpretation; consequently, a limitation exists in the empirical assessment of confidential contractual deal structures and the specific discount rates applied by private investors.

Future research should focus on three critical areas. First, longitudinal empirical tracking is required to assess the long-term economic efficacy of Section 38A (Performers' Royalty

Rights) on the distribution of revenue between performers and producers, examining its net impact on overall content financing costs. Second, there is a necessity for the development and testing of a proprietary hybrid valuation framework specific to the Indian M&E sector, one that quantitatively integrates celebrity-driven volatility and measurable piracy loss multiples into the risk-adjusted discount rate. Finally, rigorous analysis of the specific fee structure and implementation mechanisms of the proposed "One Nation, One Licence" AI policy, once details are formalized, is critical to determine its final economic and innovative impact on both domestic creators and international technology firms.

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