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# OTT PLATFORMS AND MARKET DOMINANCE: COMPETITION LAW IMPLICATIONS IN THE DIGITAL STREAMING INDUSTRY

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## ABSTRACT

Over-the-top (OTT) platforms enable on-demand internet access to an extensive entertainment, news, and educational content catalog. This disruption has democratized media consumption but raised competition issues with ongoing legal debates over jurisdictional ramifications. This abstract investigates the legal aspects of competition in the OTT domain, namely market dominance, content exclusivity, and equitable competition practices. Dominant OTT players' monopolistic behavior, exclusive content deals impacting smaller competitors, and potential antitrust law violations are major competition concerns. These platforms often hinder competition by owning both content creation and distribution channels. The absence of equal regulation between OTT services and traditional broadcasters fosters unequal competition. Governments and regulatory bodies face challenges when applying traditional competition law frameworks to the rapidly evolving digital market. In the OTT space, issues such as jurisdictional challenges, consumer protection, and data privacy overlap with competition law. This paper examines the case laws, regulatory interventions, and ongoing debates on antitrust frameworks within the OTT sector to provide a comprehensive understanding of its legal complexities, emphasizing the importance of adaptive legal frameworks that promote innovation, consumer choice, and fair competition in the digital marketplace.

**Keywords:** OTT, Competition Law, Monopolistic Behaviour, Digital Streaming, Antitrust.

## 1. Introduction

Over the last 10 years, OTT platforms have expanded dramatically, changing the way people consume media by providing a wide range of on-demand content at reasonable costs. OTT systems give consumers immediate access to content through internet-connected devices, eschewing conventional distribution techniques. This change has challenged traditional media companies, catalyzed consumer-driven demand for digital streaming, and introduced new competition and regulatory challenges.<sup>1</sup> In addition to posing new competitive and regulatory issues, this shift has put conventional media corporations under pressure and sparked consumer desire for digital streaming. The digital streaming business is now more concentrated, with a small number of powerful companies—like Netflix, Amazon Prime, and Disney+—controlling sizable portions of the worldwide market. The industry's reliance on cutting-edge technology and user data has further highlighted these companies' supremacy in the market, posing serious concerns about fair competition, data access, and monopolistic conduct.<sup>2</sup>

The Indian market is exacerbated when it comes to entertainment expenditures. Because smart gadgets are easily accessible and mobile data plans are reasonably priced, the consumption of digital material is expanding quickly. It is indisputable that Indians' content consumption habits have shifted since Doordarshan gave way to Direct-to-Home (D2H) and OTT platforms. An Eros Now-KPMG study estimates that an Indian over-the-top (OTT) user uses video streaming services 12.5 times per week and for about 70 minutes every day.<sup>3</sup>

## 2. OTT Platforms: A New Rise in Digital Economy

The term "over-the-top" (OTT) refers to extending beyond YouTube or online cable television providers. Reliance Entertainment established BIGFlix, the country's first independent over-the-top (OTT) platform, in 2008. The first over-the-top (OTT) mobile app in India, nexGTV, was released in 2010 by Digivive, a company located in Gurugram both live TV and on-demand programming are available. Live streaming of Indian Premier League matches on mobile devices was initially done by nexGTV in 2013 and 2014. With the purchase of the IPL live-streaming rights in 2015, Hotstar has experienced tremendous development in

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<sup>1</sup> S. Vishnu, "Copyright and Competition: A Legal Tightrope for Streaming Services, 4, JCLP, 27, 27-28 (2023).

<sup>2</sup> Neveen Badr, et. al., "Streaming Wars: An Analysis of Growth and Competitive Landscape of the Subscription Video on-Demand Services Market, 6, EMJM, 23, 25 (2024).

<sup>3</sup> Suhani T., "An Overview of India's Booming OTT Market", Marketfeed, (Nov. 08, 2024, 12:36 PM), An Overview of India's Booming OTT Market | marketfeed.

India. OTT gained significant traction in India in 2013, when DittoTV (Zee) and SonyLiv made its debuts in the Indian market.<sup>4</sup> The emergence of video cassette recorders and players (VCRs/VCPs) in the 1980s put the conventional methods of moviegoing in jeopardy. Nevertheless, the DVD sector and single screens were essentially destroyed by the emergence of multiplexes in major cities in the early 2000s. OTT platforms' rise is currently having a disastrous effect on multiplexes.<sup>5</sup>

Due to the fact that they were offering streaming services to their subscribers via the internet, these services together began to be referred to over-the-top, or OTT, platforms worldwide. Bigger streaming behemoths like Amazon and Netflix joined the Indian market after observing the growth of the online content sector and began working with Indian filmmakers and producers to create content locally.

By virtue of the fact, that they were offering streaming services to their subscribers via the internet, these services together began to be referred to over-the-top, or OTT, platforms worldwide. Bigger streaming behemoths like Amazon and Netflix joined the Indian market after observing the growth of the online content sector and began working with Indian filmmakers and producers to create content locally.<sup>6</sup> OTT services were formerly thought to pose less of a threat to Indian movie theaters, but the March 2020 coronavirus lockdown fundamentally altered the business. Theaters have been closed for almost 1.5 years, therefore the content streamed online has taken a big leap and is expected to continue growing today. The sector is increasingly viewed as a viable substitute for movie theaters and is fiercely competing with the cable television sector. Individuals may view the finest films on their phones or TVs, and celebrities with a strong reputation at the box office are also eager to appear on OTT platforms.<sup>7</sup>

### 3. Problems with Anti-Trust and OTT Platforms

The purpose of competition legislation is to encourage the equitable distribution of resources

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<sup>4</sup>Dr. I. Chitrakala, et. al., "A Study on Consumers Perception Towards Over The Top Platforms With Special Reference to Coimbatore City", 10, JETIR, g592, g593 (2023).

<sup>5</sup> Suhani T., "An Overview of India's Booming OTT Market", Marketfeed, (Nov. 08, 2024, 12:36 PM), An Overview of India's Booming OTT Market | marketfeed

<sup>6</sup> Ibid note 5.

<sup>7</sup> Aditya Mani Jha, "OTT to the Top: For OTT Platforms, 2020 was a Time for Serious Growth", The Hindu, Dec. 26, 2020, <https://www.thehindu.com/society/ott-to-the-top-for-ott-platforms-2020-was-a-time-for-serious-growth/article33411204.ece>.

and to forbid companies from controlling particular sectors of the economy. Regarding producer or distributor groups, this remark highlights the potential for these partnerships to inadvertently hinder competition. Although advancing the interests of their specific sectors is these groups' main goal, the absence of clear restrictions can lead to actions that negatively affect competition, which are sometimes known as appreciable adverse effects on competition (AAEC). Despite being in its infancy, the application of competition law in the Indian film industry has not been well-studied.<sup>8</sup> Section 3 of the Act states that AAEC is prohibited from operating in the relevant market, which includes the production, distribution, and sale of goods and services. Due to their considerable power, production and distribution companies may draft contracts that impose capricious restrictions, in violation of the Act's requirements. Companies and organizations are not allowed to ally in order to control production, manipulate pricing, or divide market shares based on the vicinity. Apart from outlawing bid rigging, the Act also grants joint ventures that aim to increase efficiency exemptions. Section 3 of the Act also states that agreements that restrict production, restrict the availability of goods, or designate particular market regions for the sale of commodities may also be deemed anti-competitive. In the increasingly crowded and competitive video streaming environment, the question is whether OTT platforms are abusing their market dominance to overshadow or unjustly demand an excessive portion of subscription fees or advertising income from services from newcomers. The economic demands of these new gatekeepers have stalled negotiations between the various parties today, effectively blocking content from consumers who are increasingly eschewing their set-top boxes or satellite providers as a distribution channel for their favorite shows, movies, news, sports, and unscripted series. Their pomposity is being fostered by the expanding power of digital content delivery outlets. In a media ecosystem that is otherwise bursting with dynamic inventiveness and size, consumers may suffer from fewer options and limited content offers. During a worldwide epidemic, when consumers are encouraged, if not compelled, to stay indoors and have significantly increased their consumption of material, such unlawful practices and potentially anti-competitive behavior are especially alarming.<sup>9</sup>

#### **4. Dominant Enterprises and Collusive Practices**

Competitiveness and market dominance have been brought about by the emergence of large business organizations. Following the COVID-19 outbreak, the media and entertainment sector

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<sup>8</sup> Baisakhi Pattnaik, et. al., “*Anti-Trust in Media and Entertainment Industry: Legal Implications of Market Consolidation*”, 4, IJIRL, 880, 887-890 (2024).

<sup>9</sup> Supra note 8 at 3

saw unexpected breakthroughs. The market in general and movie theatres in particular have been greatly impacted by the film industry's abrupt transition from theatres to Over-the-Top platforms. Since internet streaming services are more adaptable for individuals, the audience chooses them over the more antiquated theatre releases.<sup>10</sup>

The emergence of the new era of over-the-top (OTT) platforms has led to the emergence of several production businesses offering streaming services. India now has access to more OTT platforms than ever before, including both domestic and foreign firms like Netflix Inc., Disney Hotstar, Amazon Prime Video, Zee5, and others that provide online streaming services and are playing a key role in obtaining significant rights to major production banners in this new online content market. For example, Netflix Inc. was able to obtain all of the streaming rights to the Shahrukh Khan-owned Red Chillies Entertainment banner, while Amazon Prime Video obtained all of the exclusive streaming rights to the Salman Khan Films production globally.<sup>11</sup>

The emergence of large market participants has brought attention to the problem of cartel formation in the Indian market. Several rival entrants have recently come out and experienced the abuse of their position of dominance. Since problems always have remedies, India's first competition law, the Monopolies and Restrictive Trade Practices (MRTP) Act, 1969, was put into effect. The said Act was outdated and superseded by the new Competition Act of 2002, which made certain changes to the Act through a constitutional requirement based on the Raghavan Committee's recommendations, in light of recent developments in the market.<sup>12</sup>

Marvelous streaming service providers like Netflix and Amazon Prime Video can set their pricing without regard to competition after banding together with large production banners, whereas independent and smaller companies are unable to lower their prices to stay in the over-the-top (OTT) market. A cartel is evident when the leading venture partners establish unreasonably high pricing. To ensure that the genuine principles of fair competition are upheld and that the participants with greater financial clout do not violate the inherent rules of fair competition, this industry needs government engagement in its early stages.

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<sup>10</sup> "Sakshi Dave" & "Prakhar Mani Tripathi, *cartelization in the OTT Sector in India: A Legal Panorma*, 6, NUJS J.R.S., 52, 55 (2024) also available at <https://www.nujs.edu/wp-content/uploads/2022/12/vol-6-Iss-4-5.pdf>.

<sup>11</sup> "Amazon Prime Video Versus Netflix: A Tale of Two Competitive Streaming Services in India", Firstpost (Nov. 24, 2024, 7:10 PM) <https://www.firstpost.com/entertainment/amazon-prime-video-versus-netflix-a-tale-of-two-competitive-streaming-services-in-india-3936543.html>.

<sup>12</sup> Supra note 10.

## 5. OTT and Content Consumption

In addition to breaking the old stereotypes of mainstream Indian television, OTT platforms are targeting a new generation of young viewers with open minds and distinct perspectives on the world and its current issues. The programming on these streaming platforms also appeals to the rapidly evolving sensibilities of the young viewers who are fed up with the stereotyped television shows that dominated the Indian small screen for ten years. The market is expanding for material that addresses concerns related to everyday living, current social challenges, and regional languages and dialects. The substance of OTT services distinguishes them from television shows. A lot of effort was poured into the content by large production ventures and their creative teams. New storylines that are presented as web series are becoming increasingly common. In addition, youths are no longer viewing traditional TV shows but rather material on over-the-top (OTT) platforms.<sup>13</sup> With original, captivating, and binge-worthy content, each VoD platform attempts for increased audience engagement. The new standard weekend activity for young people is catching upon series for long hours. Teens are highly picky about high-quality content, but they are generally indifferent to the medium.<sup>14</sup> Therefore, conventional media's high-risk investment culture frequently dissuades producers from taking chances with their stories. However, the development of unique, dark, and diverse content has increased dramatically as a result of OTT platforms voluntarily giving independent and regional filmmakers fruitful possibilities. Stories that appeal to both local and international viewers might be explored by writers as the audience grows eclectic. Additional series that are debuting on OTT platforms, such as *Inside Edge*, *Sacred Games*, *Breathe*, and *Mirzapur*, suggest that they are placing bets on this new trend to draw viewers.<sup>15</sup>

## 6. OTT Platforms and Business Designs

Subscription Video on Demand (SVOD), Advertising Video on Demand (AVOD), and Transactional Video on Demand (TVOD) are the three segments of the OTT market. The OTT business in India is still mostly centered on the ad-based model (AVOD), in which all money is generated by commercials, while the subscription-based market (SVOD) is also expanding rapidly. In an attempt to attract new customers, Netflix launched a smartphone and tablet plan

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<sup>13</sup> Priya Tyagi & Nitin Kumar, "Rise of OTT Platforms in India: A Case Study of Monetisation Models and Regulatory Concern", 22, GMJ, 1, 3-4 (2024).

<sup>14</sup> Ibid note 13.

<sup>15</sup> Dr. Ajay Kumar Singh & Dr. Kuldeep Siwach, "OTT Platforms viewership: An Alternative to Movie Theaters", 3, IJEMASS, 87, 88-89 (2021), also available at <https://www.inspirajournals.com/uploads/Issues/1283502544.pdf>.

in 2019 for just Rs 199 per month. However, despite this, Netflix is only available to value-conscious Indian consumers. Zee5 has confirmed 15 direct-to-digital releases for 2021, while Amazon Prime Video announced the direct-to-digital distribution of a few Indian films during the countrywide shutdown in May 2020. They also just partnered with TVF. The techniques of direct-to-digital releases and reasonable pricing are aiding OTT platforms in growing their clientele. Affordable subscription plans and personalized content are being offered by OTT operators in an effort to increase their market share and deepen their market penetration. To transition from traditional and outdated media to OTT-based services, other local OTT providers like Zee, ALT Balaji, and Reliance Bigflix are investing a lot of money.

To improve subscription rates and get a more substantial market share, major SVOD operators in the streaming industry are trying out combination pricing tactics and pack duration. In India, where consumers are price-sensitive and mostly seek free content, this approach may aid OTT streaming companies in becoming more widely accepted. These services are showcasing more localized content, such as online series and film, and are undoubtedly benefiting from this marketing decision, enabling them to link up with the country's regional audience. To facilitate the customer experience in the early stages, several streaming sites actively advertise themselves by providing free material. Once the user demonstrates advantageous choices, they then seek an incremental premium cost.<sup>16</sup>

Because of their essentially zero responsibilities under India's media regulatory legislative framework, digital streaming service providers are exempt from the additional operational expenses that come with adhering to broadcast and television regulations. OTT service providers gain an unjust edge as a result, which undermines competition in the sector. Ongoing disenfranchisement and unfair treatment of TSPs will ultimately result in a monopolistic market situation, where OTTs will have a disproportionate impact on consumer demand and TSPs will play a minor role despite providing equally good and verified content.<sup>17</sup>

## **7. Digital platform: The self-regulatory function of dominating platforms and the kill zone phenomena**

New businesses can thrive in an atmosphere created by a digital platform. Nonetheless, the

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<sup>16</sup> Ibid note 15.

<sup>17</sup> Kinjal keya & Aditya Pratap Singh. "OTT Regulation: A need for Modern Day Entertainment", (Nov. 10, 2024, 10:27 PM), <https://csipr.nliu.ac.in/copyright/ott-regulation-a-need-for-modern-day-entertainment/>.

platform owner often can remove applications that are currently using their platform. Each app on the platform is therefore within the kill zone of the platform owner and possesses the capacity to witness innovation blossom on its platform is a crucial component of the kill zone phenomena. A particularly successful innovation can be seen by the platform owner, who can then jump on it and eat it whole. Big digital media and entertainment firms collect vast data on billions of consumers from their enormous client bases. The information is used to improve the services that are offered on online platforms. The proliferation of structural platforms tends to destabilize competition law, creating challenges it cannot handle in its current form.<sup>18</sup>

In an economic analysis of a product market, the concept of competition created by the Act is incompatible with the nascent digital streaming market. There are several highly concentrated digital markets, where a single dominant company controls a significant amount of the market.<sup>19</sup>

#### **8. Position of the relevant market: Embracing the idea of boundary-less and zero-price marketplaces as a digital platform**

The relevant market definition determines whether an agreement will be subject to de minimis (insignificant) limits, whether it will be exempt from general block exemption regulations, whether an undertaking will be in a dominant position, and, to a significant extent, whether a merger will be permitted. A conventional view of markets serves as the foundation for current competition law: More fangs and new ideas are needed by India's competition body to control digital streaming and OTTs. Digital platforms, however, have given rise to a new type of location. Network effects and multifaceted Ness, high switching costs, economies of scale, and several levels of data management are characteristics of digital platforms that are crucial in identifying the appropriate market. The hypothetical monopoly test and small but significant non-transitory price increases (SSNIP) are based on pricing methods and may not be helpful tools to assess a relevant market when digital platforms offer free goods or services in exchange for information. Content that has previously been released was streamed via OTT platforms in the past, but this practice has changed recently.<sup>20</sup>

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<sup>18</sup> Anushka Singh, "Interplay of the Growing Digital Media and Entertainment Industry with Competition Laws," 30, *Supremo Amicus*, (2022).

<sup>19</sup> *Ibid* note 18.

<sup>20</sup> *Ibid* note 18.

## 9. OTT Services: Online content distribution and cartelization

At the same time, we have witnessed a surge in the consumption of digital media worldwide, as people sought entertainment from the comfort of their homes via OTT (Over the Top) platforms, since theaters remained closed due to the pandemic. The monopolistic tendencies of the dominant digital media platform in this case exert extra effort to gain control over the distribution of content, potentially leading to a range of anti-competitive actions and combinations. The low barrier to entry for new services is one of the main advantages of an over-the-top service provider as no infrastructure investment is needed in each country where the service would be available. The over-the-top provider may create and implement the service in one country while obtaining almost immediate access to the rest of the world.<sup>21</sup>

It could be necessary to bring OTT services within the present regulatory frameworks of each nation to a certain degree. OTT providers vary widely in terms of their scale, value chain placement, and product offerings. Proportionality should be emphasized while imposing obligations. Traditional Internet Service Provider (ISP) revenue streams that are utilized to retain or attract customers are being undermined by some OTT services that compete with and replace them. Concerns regarding antitrust concerns are raised by these variables. CCI plans to investigate film distribution and the effect of over-the-top (OTT) on theatrical debuts. Movie theater owners have complained to the antitrust agency about distributors not supplying films and about big players like producers and big multiplexes controlling release dates. Since a few companies control the OTT market, cartelization is dangerous. A large audience was waiting to be served, yet there was minimal content available, so the OTT platforms went into acquisition mode.<sup>22</sup>

According to the ruling in *FICCI Multiplex Association of India v. United Producers/Distributors Forum*<sup>23</sup>, "controlling and fixing the market" is a prerequisite for the establishment of cartels. There was cartelized behavior by the Film and Television Producers Guild of India Ltd. and the Association of Motion Picture and Television Program Producers. Operators and producers/distributors came to certain agreements to limit supply. Among the points of contention put out by the opposing parties was the requirement that the agreement

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<sup>21</sup> Ibid note 20.

<sup>22</sup> Javed Farooqui, "*Cartelisation in OTT Space is Dangerous: Siddharth Anand Kumar*", Exchange4Media,(Nov. 10,2024 11:00 PM) Cartelisation in the OTT space is dangerous: Siddharth Anand Kumar.

<sup>23</sup> (25.05.2011 – CCI), Case No.01/2009.

reached by the producers/distributors' association resemble a joint venture intended to boost efficiency. Nevertheless, the CCI rejected the arguments of the opposing parties and penalized the defendants because the producers/distributors were unable to show how the contested agreement improved production, supply, and other areas of efficiency, and instead showed that the restricted/controlled supply of the films raised prices. The following are some instances of cartelization as defined under section 3(3): Distributors are required to refrain from providing Malayalam and Tamil movie prints to M/s. Crown Theatre by the Kerala Film Exhibitors Federation (KFEF). A distributor is boycotted and their films are not shown in the State of Kerala's member theatres if they disregard KFEF's instructions.<sup>24</sup>

Furthermore, M/s PVR Ltd. claimed that rather than enabling PVR negotiate directly with the association's distributors, the FDA (K) had compelled PVR into a revenue-sharing agreement. Along with imposing fines and penalties for disobedience, they also prohibited the exhibition of films in other cinemas throughout Kerala. According to the CCI, the Karnataka Film Chamber of Commerce (KFCC) cannot legitimately restrict the market access to films or programs in other languages as a filmmaker or artist has the choice of transposing their work in another language or not. In the same way, viewers need to have options in the movies or shows they watch. Furthermore, M/s PVR Ltd. claimed that rather than enabling PVR to negotiate directly with the association's distributors, the FDA (K) had compelled PVR into a revenue-sharing agreement. Along with imposing fines and penalties for disobedience, they also prohibited the exhibition of films in other cinemas throughout Kerala.<sup>25</sup> According to the CCI, the Karnataka Film Chamber of Commerce (KFCC) cannot legitimately restrict the market access to films or programs in other languages as a filmmaker or artist has the choice of transposing their work in another language or not. In the same way, viewers need to have option in the movies or shows they watch. These long-standing organizations are used as platforms to stifle innovation, competition, and the entry of new businesses. Since the competitive forces reflected in consumer choices will gain control and will not be shielded by competition legislation, the film associations cannot oppose contemporary technologies or innovative and superior technical solutions masquerading as associations. Numerous instances of cartelization may be found in the traditional M&E sector, which is expected to rise in the

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<sup>24</sup> Re:M/S. Crown Theatre vs Kerala Film Exhibitors COMPETITION COMMISSION OF INDIA, Case No. 16 of 2014

<sup>25</sup> M/s Cinemax India Limited (now known as M/s PVR Ltd.) v. M/s Film Distributors Association (Kerala) (Competition Commission of India) 62/2012 | 23-12 2014

digital age because of the industry's explosive expansion.<sup>26</sup>

## 10. The Digital Competition Law Bill: A Step Forward

On March 13, 2024, the Government-appointed Committee on Digital Competition legislation, which examines the necessity of competition legislation for India's digital markets, delivered its report to Finance Minister Nirmala Sitharaman. Large technology businesses classified as Systemically Significant Digital Enterprises (SSDEs) should be subject to restrictions to counteract their dominance in digital marketplaces, according to the report that is part of the Draft Digital Competition Bill. It contends that in order to guarantee fair competition in digital marketplaces, ex-ante duties under the proposed Digital Competition Law are required, as the current ex-post competition framework, led by the Competition Commission of India (CCI), and ex-ante regulation by sectoral regulators are insufficient. The goal of ex-ante regulation, like the now-repealed rule banning monopolistic commercial practices, is to stop an issue before it starts. The Committee study contends that because digital technology is dynamic and ever-evolving, ex-post frameworks are insufficient, and therefore ex-ante laws are necessary. Businesses that provide core digital services (CDS), including social networking, online search engines, and video-sharing platforms, and that satisfy the Bill's minimal standards for user base, market capitalization, and turnover are known as SSDEs. Based on market research, new international trends, and the CCI's previous enforcement action, core digital services are those that are allegedly vulnerable to concentration and anti-competitive activity. Over 35 video-on-demand services are presently available in India, according to the Ministry of Information and Broadcasting, and they are all competing for the limited attention of consumers. Intense competition among these services also results in the adoption of tiered pricing strategies, with subscription package prices varying according to device, picture quality, duration, ad support, and type of content offering, according to the CCI's Market Study on the Film Distribution Value Chain in India.<sup>27</sup>

## 11. Conclusion

Visual entertainment will continue to have a powerful influence on global culture and trends, whether it is viewed by Indians or a worldwide audience. The stories of the average person

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<sup>26</sup> Anushka Singh, *supra* note 20 at 8.

<sup>27</sup> Noyanika Batta & Mohit Choudhary, "Digital Competition Bill: Video-Sharing Services not Anti-Competitive", (Nov. 12, 2024, 11:15 AM), <https://www.esyacentre.org/perspectives/2024/3/26/digital-competition-bill-video-sharing-services-not-anti-competitive>.

eagerly organizing his or her day to ensure that he or she doesn't miss his or her favorite show, such as "Ramayan" or "News Hour," or the entire family anticipating the Sunday night telecast of a movie on Doordarshan are not just sentimental recollections; they depict the beginnings of the shift to the point where we can now choose and personalize the content in terms of what, where, when, and how to watch. This is not a sudden shift; rather, technology in its purest form has transformed the idea of "feasibility" over time.<sup>28</sup>

The OTT Cartels' growth impetus is being caused by the responsible authorities' lack of attention. Those with resources in the industry have been led to believe that they may continue to make enormous profits by engaging in anti-competitive agreements because this new sector is still mostly immune to the antitrust authorities' grip. As demonstrated by the Columbia Pictures case, if the market's dominant players begin using their power to change the market conditions to their advantage, the market, the government, and the consumer are at risk. Therefore, the government must come up with a way to continuously monitor the licensing of films and television shows by the production companies.

This cartel conduct would also have a negative impact on the economy because fewer businesses would be able to concentrate money in their hands and employment would be significantly impacted if there were only three or four market participants. Additionally, many of the nation's talented artists require a venue to display their skills; less competing streaming outlets would deny them this chance. When large companies control the market, it is simple to set prices, which leads to predatory pricing in the marketplace and prevents new and smaller firms from entering the market to showcase artistic potential. To prevent artists from being taken advantage of, organizations like CINTAA that represent actors and artists in India must be informed about these collusive arrangements. Producers and filmmakers should also be cautioned against entering into any agreements that go against the principles of free markets. Therefore, the OTT industry's cartelization and collusion must be monitored and controlled. The gravity of the problem and how it would cause chaos in the streaming industry if it is not promptly remedied should be taken into account by the antitrust authorities.<sup>29</sup> It is crucial that the CCI carefully examine the question of a "relevant market," and more specifically, the question of whether the online and offline distribution segments of such a market are

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<sup>28</sup> Krishna Mohan, et. al. "Analyzing the Influence of OTT Platforms Over Movie Theatres in the Light of post Pandemic Scenario", 14, JCT, 169, 179 (2024).

<sup>29</sup>"Sakshi Dave" & "Prakhar Mani Tripathi, *cartelization in the OTT Sector in India: A Legal Panorma*, 6, NUJS J.R.S., 52, 64-65, also available at <https://www.nujs.edu/wp-content/uploads/2022/12/vol-6-Iss-4-5.pdf>.

interchangeable in each case and industry, given the speed at which India's digital sector is growing and the range of problems brought about by this expansion. The inquiry process would be more effective and streamlined with a prima facie study of the "relevant market." Considering the wide range of business models in use today and the substantial number of companies with supplementary "online" streaming channels, a "one-size-fits-all" approach to this subject will not work.<sup>30</sup>

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<sup>30</sup> Simran Dhir, et. al., "*Digital Markets Must be Defined Well for Competition Regulation*", (Nov. 27, 2024 10:00 PM), <https://www.mondaq.com/india/antitrust-eu-competition/1194564/digital-markets-must-be-defined-well-for-competition-regulation>.