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A Critical Legal Analysis of Copyright Protection & Digital Piracy on OTT Platforms in India

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Abstract

The constantly increasing exponential growth of Over-The-Top (OTT) platforms in India has radically changed the way content is consumed and has also resulted in unprecedented vulnerabilities in terms of the protection of intellectual property rights. This article critically analyses the law that regulates copyright protection on OTTs in India, questioning the sufficiency of the Copyright Act, 1957, Information Technology Act, 2000, and related judicial progressions in dealing with the burgeoning crisis of digital piracy. Via doctrinal legal study, complemented by comparative jurisprudential study, the study determines essential structural gaps in the Indian anti-piracy framework, analyzes the development and constraints of enforcement systems such as dynamic injunctions and intermediary liability systems, and the extent to which the current law aligns with the current technological reality. The paper argues that India's fragmented and insufficiently modernized legal regime despite notable judicial creativity remains structurally inadequate to protect OTT content at scale. It ends with specific legislative, institutional, and technological suggestions to building an effectively working anti-piracy ecosystem of the Indian digital content sector.

Keywords: OTT Platforms, Copyright, Digital Piracy, Information Technology Act, Dynamic Injunctions, Intermediary Liability, Safe Harbor, India.

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Chapter 1: Introduction

1.1 Background

Over-The-Top streaming business is one of the most impactful changes in the entertainment economy of the whole world in the twenty-first century. In India, this has been a very dramatic disruption. The Indian OTT industry grew to over 22,000 crore in 2023, with an estimated 40,000 crore by 2027, out of what has been a nascent market in 2016, with the shift to OTT content becoming the central driving force of both creative output funded domestically and internationally, and the delivery of that output directly to streaming platforms³

But it is a commercial revolution that has a very problematic legal paradox in it. As investment in original OTT content grows with Indian platforms collectively committing billions annually to original productions the legal infrastructure designed to protect that content from unauthorized exploitation has not evolved commensurately. According to data published by the Asia Video Industry Association, India loses approximately \$2.8 billion annually to online content piracy, with OTT-specific content constituting an increasing and disproportionate share of illegally circulated material.⁴ Piracy networks operating through dedicated websites, mirror domains, Telegram channels, torrent networks, and stream-ripping applications distribute premium OTT content within minutes of release, directly undermining subscription revenue models and deterring content investment.

The legal paradox of the coexistence of formally complete statutory framework and the continued reality of inadequate enforcement lies within the legal paradox of the discrepancy between a formally comprehensive statutory framework and the reality of inadequate enforcement. India has the Copyright Act, 1957 (as substantially amended in 2012), the Information Technology Act, 2000 (amended in 2008), the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and an

³ KPMG India & FICCI, *Indian Media and Entertainment Industry Report 2023* 47–52 (FICCI-EY 2023).

⁴ Asia Video Industry Association (AVIA), *Coalition Against Piracy: India Piracy Report 2023* 12–14 (AVIA 2023).

expanding library of important judicial precedent. This framework, on paper, seems to be able to deal with digital piracy. As a matter of fact, it is constantly being left behind by the technological savvy, legal elusiveness, and sheer size of the modern piracy activities.

1.2 Research Objectives

The paper addresses four main goals, namely: mapping and critically reviewing the statutory and judicial framework of copyright protection in OTT platforms in India, identifying certain structural flaws and legislative gaps that hinder effective anti-piracy efforts, drawing comparative lessons based on the legal approaches the United States, European Union, and Australia have adopted, and finally, proposing a set of consistent and practically oriented legislative, institutional, and technological reforms

1.3 Research Questions

The following research questions were used to structure the paper:

Does the current legal system in India offer sufficient safeguarding to copyright in OTT-delivered content, and at what point are the severe gaps?

How effective are judicial mechanisms particularly dynamic injunctions and John Doe orders in combating OTT piracy, and what are their systemic limitations?

Does the IT Act, 2000, intermediary liability regime strike the right balance to encourage pro-active anti-piracy initiatives by digital intermediaries?

What institutional and legislative changes can be made to establish a resilient and future-proof anti-piracy regime in the OTT ecosystem in India?

1.4 Hypothesis

This paper proceeds on the hypothesis that India's legal framework for copyright protection on OTT platforms is structurally inadequate not for want of foundational legislative instruments, but due to critical gaps in intermediary liability law, the absence of statutory grounding for dynamic enforcement mechanisms, weak criminal enforcement

infrastructure, and insufficient international cooperation frameworks and that these deficiencies require comprehensive legislative reform rather than incremental judicial adaptation.

1.5 Scope and Limitations

The research is limited in scope to the copyright protection as the issue in the context of the OTT-distributed audio-visual materials in the Indian legal framework. It does not cover the issue of trademark infringement, the data privacy concerns that come with OTT platforms, or the issue of content regulation, which is not related to copyright. The comparative analysis is restricted to the United States, European Union and Australia due to the maturity and topicality of the legal frameworks of these countries concerning anti-piracy regulations. The study is more of a doctrinal research that lacks primary data collection.

Chapter 2: Literature Review

2.1 Overview of Existing Scholarship

The field of discussing the overlap of OTT platforms and copyright law in India is still relatively new in academia, which is why the development of the industry is so recent. The current scholarship revolves around three general themes: general sufficiency of the Indian copyright system to digital contexts, the special problem of intermediary liability, and judicial innovations in anti-piracy efforts. Critical analysis of this literature shows that there are important information as well as research gaps that this paper is aimed at filling.

2.2 Copyright Framework and Digital Adequacy.

The original source of this work on the law of copyright in India is Narayanan, which offers the doctrine underpinning the interpretation of the statutory framework of copyright law, and offers a detailed analysis of the Copyright Act, 1957, and its

subsequent amendments.⁵ Prasad also provides extensive doctrinal coverage of intellectual property law in India, but with little discussion of the specific technological vectors of operation of OTT piracy.⁶ More recent work by Basheer and Kochupillai has discussed the technological protection provisions of the Copyright Amendment 2012, with a suggestion that, despite sound concepts, Sections 65A and 65B have drafting gaps that undermine their practical⁷

2.3 Intermediary Liability Scholarship

The topic of the intermediary liability framework has gained so much academic interest after the Supreme Court ruling in the case of *Shreya Singhal vs. Union of India* (2015). Divan's analysis of the judgment praises its free speech implications while acknowledging its complicating effects on copyright enforcement, noting that the requirement of court or government direction before takedown obligations arise effectively weakens rights holder enforcement capacity.⁸ Kaul has argued that the safe harbor framework under Section 79 of the IT Act was designed for a different technological era and has become systematically exploited by platforms that derive economic benefit from hosted infringing content while insulating themselves from liability through technical compliance with notice-and-takedown procedures.⁹ This critique aligns with international scholarship on what economists have termed the "value gap" the disparity between the value platforms extract from content and the compensation creators receive and this paper extends that analysis to the OTT-specific context.

Saikia has described the 2021 Intermediary Guidelines as an essential yet ultimately flawed step toward platform accountability, offering some of the most detailed

⁵ P. Narayanan, *Law of Copyright and Industrial Designs* 1–45 (6th ed. Eastern Law House 2020).

⁶ R. Prasad, *Intellectual Property Law in India* 201–267 (4th ed. LexisNexis 2022).

⁷ Shamnad Basheer & Mrinalini Kochupillai, Protecting India's Traditional Knowledge: The "Innovation" Dimension, 15 *J. World Intell. Prop.* 388, 390 (2012).

⁸ Soli J. Sorabjee & Arvind P. Datar (Divan), *Facets of Media Law* 312–318 (2nd ed. EBC 2019).

⁹ Raman Kaul, The Safe Harbour Illusion: Intermediary Liability and Copyright Enforcement in India, 33 *Nat'l L. Sch. India Rev.* 78, 85–91 (2021).

requirements of grievance redressal, but neglecting the copyright enforcement aspect of platform responsibility.¹⁰

2.4 Judicial Anti-Piracy Developments

The most practically important recent research is about the development of dynamic injunctions in Indian courts. In his analysis of the UTV Software Communication judgment, Sundaram makes the correct observation that the articulation of the doctrine of the rogue website and the procedural innovation of the dynamic blocking order by the Delhi High Court is a sophisticated judicial response to the hydra-headed character of online piracy, but neglects to address the underlying limitation that a judicially-created doctrine, however innovative, does not have the systemic reach or institutional support of statute. The paper will fill that gap directly, with the argument that the dynamic injunction framework should be codified in statutes.¹¹

2.5 Comparative and International Perspectives.

The application of comparative scholarship on anti-piracy frameworks to the Indian OTT context has been less systematic. Ricketson and Ginsburg's comprehensive treatment of international copyright law provides the theoretical framework for understanding India's obligations under TRIPS and the WIPO Copyright Treaties, but does not address implementation-specific challenges in developing economies.¹² Urban, Karaganis, and Schofield's empirical study of DMCA notice-and-takedown in the United States offers valuable evidence that notice-and-takedown frameworks systematically favor large platforms over individual rights holders—a finding with direct implications for India's analogous framework.¹³ The EU's approach under the 2019 Copyright Directive has been analyzed by Quintais as representing a paradigm shift toward platform responsibility,

¹⁰ Ananth Saikia, *The 2021 Intermediary Rules and Digital Media Regulation: An Incomplete Reform*, 4 *Indian J.L. & Tech.* 102, 118–121 (2022).

¹¹ Rohan Sundaram, *Dynamic Injunctions and Rogue Websites: Analysing UTV Software Communication*, 25 *J. Intell. Prop. Rts.* 145, 148–156 (2020).

¹² Sam Ricketson & Jane C. Ginsburg, *International Copyright and Neighbouring Rights: The Berne Convention and Beyond* vol. 2, 1245–1290 (3rd ed. OUP 2022).

¹³ Jennifer Urban, Joe Karaganis & Brianna Schofield, *Notice and Takedown in Everyday Practice* 23–31 (UC Berkeley Pub. L. Research Paper 2017).

with implications for jurisdictions like India that have not yet adopted equivalent obligations.¹⁴

2.6 Identified Research Gaps

Although the reviewed literature is valuable, it also presents a number of research gaps which are addressed in this paper. To begin with, no current literature offers an integrated analytical approach that considers the statutory, judicial, and technological aspects of the OTT-specific copyright policing in India. Second, comparative literature has not been methodically used in order to produce certain legislative recommendations that could be modified to the Indian institutional and economic setting. Third, the consequences of the 2021 Intermediary Guidelines on OTT copyright enforcement, in particular, have not been strictly evaluated. Fourth, the relationship between the doctrine of judicial dynamic injunction and the statutory framework has not been considered as a location of structural vulnerability that needs to be addressed by legislation. All these gaps are addressed in this paper.

Chapter 3: Research Methodology

3.1 Research Design

The research methodology that is applied in this paper is a doctrinal legal research approach that is complemented by a comparative legal research. Doctrinal research the systematic examination of legal sources including statutes, judicial decisions, subordinate legislation, and authoritative academic commentary to articulate, systematize, and critically evaluate the law is the appropriate methodology for a paper whose central questions concern the adequacy and coherence of an existing legal framework.¹⁵ The paper does not involve primary empirical data collection through surveys or interviews,

¹⁴ João Pedro Quintais, *The New Copyright in the Digital Single Market Directive: A Critical Commentary*, 51 *Int'l Rev. Intell. Prop. & Competition L.* 28, 35–48 (2020).

¹⁵ Terry Hutchinson, *Researching and Writing in Law* 8–12 (4th ed. Lawbook Co 2018).

reflecting the doctrinal orientation of the research questions and the analytical objectives of the paper.

3.2 Legal Data Sources.

Primary Sources: The study will rely mainly on primary legal sources such as the Copyright Act, 1957 (as amended), the Information Technology Act, 2000 (as amended), the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, and other subordinate laws. The major source of case law is judicial rulings of the Supreme Court of India, the Delhi High Court, and the Bombay High Court as these courts played a key role in shaping anti-piracy jurisprudence. Primary sources are the TRIPS Agreement, the WIPO Copyright Treaty (1996), the US Digital Millennium Copyright Act (1998), the EU Directive 2019/790 on Copyright in the Digital Single Market and the copyright Amendment (Online Infringement) Act, 2015 in Australia.

Secondary Sources: Peer-reviewed journal articles, academic monographs, industry reports by organizations such as the Asia Video Industry Association, KPMG, and the Internet and Mobile Association of India and governmental reports, such as the Section 512 Study by the US Copyright Office (2020) are used to put the primary legal materials into perspective and critically assess them.

3.3 Analytical Framework

The paper employs a critical doctrinal approach not merely describing the law as it is, but systematically interrogating the law against normative standards of adequacy, coherence, effectiveness, and proportionality. A comparative approach to methodology adopts a functional approach and identifies the particular legal issues that anti-piracy frameworks are meant to address and how various jurisdictions have done so, instead of assuming structural similarity between different legal systems.¹⁶

3.4 Limitations of Methodology

¹⁶ Konrad Zweigert & Hein Kötz, *Introduction to Comparative Law* 33–47 (3rd ed. OUP 1998).

Although the doctrinal approach is suitable to the research questions asked, it has its limitations. It is unable to create empirically testable conclusions regarding the real behavioral outcomes of legal regulations on piracy rates, platform behavior, or rights owner investment choices. The data used in the paper relating to industry is based on reported figures by the interested parties and should be interpreted as such. The comparison is not exclusive to three jurisdictions or purport to be comprehensive. These are agreed to be limits to the extent of conclusions which can be made, without invalidating the doctrinal and comparative analysis made.

Chapter 4: The Statutory Framework Adequacy and Critical Gaps

4.1 The Copyright Act, 1957 Core Provisions and OTT Relevance

Copyright is the main legal tool to protect creative works in India, which is the Copyright Act, 1957, as revised by the Copyright Amendment Act, 2012. For OTT platforms, the critical provisions concern cinematograph films and sound recordings the principal forms in which OTT content is embodied. Section 14(d) provides that the owner of the copyright in a cinematograph film has the exclusive right to reproduce the work, sell or hire it out, communicate the work to the outside world, and create other works based on the work. The right to communicate to the public established in the Section 2(ff) to make the work available through wire and wireless communication such as broadcasting and the use of the internet constitutes the direct directive of the right to communicate, and the legal status of OTT streaming is established by the fact that it only grants exclusive rights to the licensed work to OTT streaming.¹⁷

Section 51 establishes copyright infringement to mean any unauthorized use of rights to which the owner of the copyright is entitled and authorizes premises to infringe performances and import infringing copies. The 2012 Amendment strengthened technological protection through Section 65A prohibiting circumvention of effective

¹⁷ Copyright Act, 1957, §§ 14(d), 2(ff) (India); *ESPN Star Sports v. Global Broadcast News Ltd.*, (2008) 36 PTC 492 (Del).

technological protection measures and Section 65B protecting rights management information from unauthorized modification or removal. These laws were created specifically to deal with infringement in the digital age and can directly apply to the DRM circumvention that facilitates the OTT piracy of content. Nevertheless, the general exemptions of Section 65A(2) that allow circumvention as a legitimate use of encryption research, security testing and privacy protection have been criticized as likely to be abused by advanced interests that develop justifications to circumvent the law on pretextual grounds.

4.2 Important gaps in the Copyright Act.

The Copyright Act has severe gaps when it comes to OTT, in spite of its underlying importance. The Act does not specify what constitutes an "OTT platform" or a streaming service, which leads to a lack of definition of what specific rights bundle applies to various types of online content delivery. More significantly, the civil remedies framework under Section 55 while permitting injunctions, damages, and accounts of profits has produced chronically inadequate damage awards that do not reflect actual economic harm from large-scale commercial piracy, undermining deterrence. The criminal enforcement regime of Section 63-65, which offers imprisonment of up to three years and fines, is seldom triggered against commercial piracy operators, as a matter of resource limitations by the prosecutor, as well as the nature of evidence in the digital environment.

4.3 The IT Act, 2000 Intermediary Liability and Its Tensions

Section 79 of the IT Act provides safe harbor protection to intermediaries encompassing ISPs, search engines, social media platforms, and hosting services who satisfy due diligence requirements and act expeditiously upon receiving knowledge of illegal content. Although this framework forms the basis, it establishes structural incentives of platform passivity. Safe harbor protection is conditional on the intermediary "not having initiated the transmission, not having selected the receiver, and not having selected or modified the information."¹⁸ In the OTT piracy context, platforms hosting user-uploaded

¹⁸ Information Technology Act, 2000, § 79(2) (India); *Shreya Singhal v. Union of India*, (2015) 5 SCC 1, ¶¶ 118–127.

infringing content technically satisfy these conditions regardless of the economic benefit they derive from hosting popular, high-traffic pirated material what scholars have identified as the "value gap" problem.

The Section 69A blocking power, although giving administrative power to grant content blocking, does not specifically mention copyright infringement as a reason supporting blocking orders. This omission necessitates judicial rather than administrative routes to content blocking, creating procedural delay, resource burdens, and enforcement gaps that piracy operators exploit.¹⁹ The 2021 Intermediary Guidelines, while strengthening due diligence requirements for significant social media intermediaries and establishing grievance mechanisms for OTT platforms as "publishers of online curated content," focus primarily on content regulation concerns obscenity, national security, misinformation rather than copyright enforcement, leaving the anti-piracy dimensions of platform responsibility inadequately addressed.

4.4 Technological Protection Measures Implementation Challenges

The obligatory use of Digital Rights Management systems, content watermarking and content fingerprinting technology is an important facet of OTT copyright safeguarding that the current legislation fails to properly cover. Although Section 65A forbids the circumvention of the technological protection measures, it does not entail some affirmative duties of the OTT platforms to adopt certain protective technologies. This regulatory void implies that the degree of technological protection installed on different platforms differs greatly, with smaller platforms setting up the least amount of DRM protection that can easily be bypassed by free ripping software.²⁰

Chapter 5: Judicial Evolution Dynamic Injunctions and Their Systemic Limitations

¹⁹ Nehaa Chaudhari & Nakul Nayak, Judicial Website Blocking and the Copyright Act, 24 J. Intell. Prop. Rts. 223, 229–232 (2019)

²⁰ Vidya Subramanian, Digital Rights Management and the Law in India: Gaps and Opportunities, 16 NUJS L. Rev. 44, 52–58 (2021).

5.1 John Doe Orders Origins and Application

The Indian courts came up with a pre-emptive anti-piracy protection mechanism known as the John Doe or Ashok Kumar order, which involves granting an injunction against unnamed defendants who are expected to violate copyright on an upcoming release event. The initial use of this mechanism by the Bombay High Court in the context adjacent to OTT defined that rights holders might request prospective injunctions against unidentified involved in the unauthorized dissemination of material and require ISPs to block identified websites and any mirror or redirect sites. The practical significance of this innovation lies in its pre-emptive character rights holders need not wait for infringement to occur before seeking judicial protection but its effectiveness is constrained by the speed differential between mirror site proliferation and judicial order modification.

5.2 The Dynamic Injunction Framework UTV and Its Progeny

The most conceptually important evolution of Indian anti-piracy jurisprudence is the dynamic injunction model as expressed by the Delhi High Court in *UTV Software Communication Ltd. v. 1337x.to & Ors.* (2019).²¹ Justice Pratibha Singh's landmark judgment established the "rogue website" doctrine identifying websites "primarily and predominantly" engaged in piracy as distinct from those that incidentally host infringing content and held that such sites warrant dynamic blocking orders that can be modified to encompass new mirror sites without fresh litigation. The court came up with a multi-factor test on the identification of rogue websites which comprised of the main purpose of the site, the registration and operation transparency, legitimate business operation and previous history of hosting infringing materials.

The procedural innovation of allowing rights holders to approach a designated court registrar with evidence of new mirror sites rather than filing fresh suits dramatically reduces the cost and time of enforcement. Later rulings on *Disney Enterprises v. Kimcartoon* (2020) and similar cases further developed the framework to form an

²¹ *UTV Software Communication Ltd. v. 1337x.to*, CS(COMM) 724/2017 (Del. H.C. Apr. 10, 2019) ¶¶ 45–78.

elaborate judicial doctrine that is directly sensitive to the hydra-headed character of internet piracy. These innovations are a true and recognized international judicial innovation.

5.3 Systemic constraints of the Judicial Approach.

Even with their doctrinal proficiency, judicially-developed anti-piracy systems lack systemic capacity to be an effective response to OTT piracy on a large scale. The resource intensity of litigation even with streamlined dynamic injunction procedures effectively restricts meaningful access to enforcement to large corporate rights holders, leaving independent creators, small production houses, and individual artists without practical recourse. The damages received in successful infringement actions are in a chronic low compared to the actual economic damages, crippling the deterrence role of the civil enforcement.

Critically, the entire judicial website-blocking paradigm the foundation of India's anti-piracy enforcement architecture is structurally inadequate to address the increasingly dominant piracy vectors of encrypted messaging platforms (particularly Telegram), peer-to-peer networks, and private Discord servers.²² These channels operate outside the website architecture that blocking orders target, distribute content through encryption that frustrates monitoring, and reach enormous audiences while evading the notice-and-takedown and blocking mechanisms upon which the current enforcement regime depends. The extraterritorial enforcement problem where piracy sites are hosted in jurisdictions beyond Indian court reach further limits the practical effectiveness of judicial orders that cannot compel compliance from foreign-hosted operators.

Chapter 6: Comparative Perspectives and Reform Imperatives.

6.1 The United States DMCA Lessons

²² Prashant Reddy Thikkavarapu, *The Telegram Piracy Problem: Why India's Anti-Piracy Framework is Failing*, 28 J. Intell. Prop. Rts. 67, 71–76 (2023),

The United States Digital Millennium Copyright Act of 1998 (1998) provided the so-called notice-and-takedown model, which India later implemented under Section 79 of the IT Act. The experience of American with this framework brings systemic limitations which can be applied directly to the Indian context. In 2020, the 512 Study commissioned by the US Copyright Office determined that the system of notice-and-takedown was now unbalanced, systematically disadvantaged rights holders, and that rights holders typically did not have resources to monitor the internet effectively, and file notices. The study's findings that notices are routinely ignored, that repeat infringer policies are inadequately enforced, and that the "whack-a-mole" dynamic of site and content reappearance renders notice-and-takedown practically ineffective against determined large-scale piracy have direct implications for India's analogous framework, which suffers from equivalent structural defects without the more developed enforcement infrastructure that partially compensates for them in the US context.

6.2 The European Union A Rights-Holder-Oriented Paradigm

The 2019 Copyright Directive by the EU can be seen as a radical shift in the paradigm of safe harbor-like passivity to platform responsibility. Article 17 obliges websites that store large amounts of user-generated material to either license the rights holders or apply substantial technological solutions to preclude the upload of infringing material, essentially reversing the distributions of the lifting of liability inherent in the notice-and-takedown. While Article 17 has generated controversy regarding its free expression implications and has been the subject of constitutional challenges in several member states it represents a considered legislative judgment that platforms deriving significant economic value from content must bear meaningful responsibility for copyright compliance. There is no serious engagement with similar commitments on the part of India and India has barely registered the policy discussion on upload filters in its political discussion even in the wake of the extent of user-upload-facilitated piracy on platforms where Indian platforms are currently operational.

The enforced infrastructure of the EU such as the Enforcement Directive (2004/48/EC) that has the provision of proportionate, efficient and dissuasive remedies such as evidence

preservation orders, corrective measures and damages based on real prejudice gives an example on how India should have an enhanced remedies regime, where damage awards continue to be insufficient in comparison to the real prejudice.

6.3 Australia Statutory Site-Blocking as a Model

The most instructively comparative model to India is Australia, Copyright Amendment (Online Infringement) Act 2015, which adds Section 115A, to the Copyright Act 1968. Section 115A enables rights holders to obtain Federal Court orders requiring ISPs to block access to overseas websites with the "primary purpose" of infringing or facilitating copyright infringement substantially equivalent to India's judicially-developed rogue website doctrine but with the critical advantage of statutory codification. The statutory nature offers legal predictability, prescribed procedures, clear search engine de-indexing order authority, and there is a clear outline of the compliance requirements of the ISP. The success of statutory site-blocking as an anti-piracy measure was confirmed as a 2020 government review found that there had been a measurable decrease in the ability to access blocked piracy sites and that there had been some displacement to legitimate streaming services following the introduction of Section 115A.

The effective if informal result of Section 115A, its imitation in the dynamic injunction jurisprudence used in India, has its full complement of judicial creativity, institutional support, and search capabilities, lacking only the legal certainty and authority. The priority legislative reform recommendation of this paper statutory codification of the dynamic injunction framework is directly informed by the Australian model.

Chapter 7: Conclusion and Recommendations.

7.1 Overview of important findings.

The critical analysis provided in this paper confirms that the Indian copyright protection law in online tributary bases has a structural and increasing gap between the statutory provision and the actual enforcement one. The Copyright Act, 1957, offers conceptual

protection to the OTT content, but has drafting weaknesses in their technological protection and has longstanding insufficiency of remedies, and numerically lacks the OTT dissimilar provisions that acknowledge the peculiarities of streaming-delivered contents dissemination. The intermediary liability regime required by the IT Act systematically encourages platform passivity, disproportionately enforces on rightsholders, and prominently omits a fundamental change to the regulation of copyright infringement by excluding Section 69A blocking ground in the IT Act. Platform responsibility in terms of copyright enforcement is not addressed appropriately in the 2021 Intermediary Guidelines, despite the positive sign of a move forward in regulation.

Judicially, India has produced internationally significant innovations the John Doe order mechanism and particularly the dynamic injunction framework of UTV Software Communication that demonstrate sophisticated judicial understanding of the piracy problem. Nevertheless, these innovations are structurally limited due to their reliance on a judicial, as opposed to statutory, power, their resourcefulness which limits the practical use to smaller rights holders, their failure to tackle Telegram-based and peer-to-peer vectors of piracy and the endemic issue of extraterritorial infringement outside of the jurisdiction of Indian courts.

7.2 Legislative Recommendations

Statutory Codification of Dynamic Injunctions: The single most important legislative reform is the enactment of a dedicated provision either within the Copyright Act or through an amendment to the IT Act codifying the dynamic injunction framework, establishing the rogue website doctrine in statutory form, specifying procedural requirements and evidentiary standards, mandating ISP compliance timelines, and explicitly authorizing search engine de-indexing orders. Laws would give the statute legal legitimacy, border litigation by expanding the reach of the framework to areas outside the judiciary that has generated it, and send a message that India is not playing around in regard to enforcing anti-piracy laws.

Amendment of Section 69A: Section 69A of the IT Act must be amended to permit copyright infringement to be a specific category of ground to objected to in

administrative content-blocking order so that government-directed blocking could supplement court proceedings and ensure quicker reaction to the emergence of piracy threats.

Recalibration of Intermediary Liability: The intermediary liability regime must be revamped to bring in a tiered approach that would differentiate passive conduits, active hosting sites, and algorithmically edited sites that have an editorial control over the material. Social networking sites in the second groups are expected to contain greater due diligence responsibilities such as compulsory adoption of content fingerprinting and recognizing technologies, as befits their technical capacity and economical size.

Strengthening of Damages Framework: Section 55 of the Copyright Act should be amended to provide statutory minimum damages for commercial-scale infringement and to require courts to consider the full economic harm to the rights holder including lost subscription revenue, reduced investment incentive, and harm to the market for the work rather than limiting awards to demonstrable direct losses.

7.3 Institutional Recommendations

The establishment of a dedicated Digital Copyright Enforcement Authority equipped with technical expertise, statutory enforcement powers, international liaison functions, and authority to maintain a nationally coordinated dynamic blocking registry is essential to professionalizing anti-piracy enforcement. This Authority should also deal directly with ISPs, CDN vendors, domain registrars, and foreign platforms, avoiding the reliance on litigated judgments on a case-by-case basis. Institutionalized industry-government working arrangements, following the example of the City of London Police Intellectual Property Crime Unit in the UK, ought to be instituted to capitalize on the industry attentiveness and experience currently in place.

7.4 Technological Recommendations

Mandatory watermarking of OTT content enabling attribution of leaked content to specific transmission points should be required by law for platforms operating at scale in India. Compulsory application of content fingerprinting technologies that are already

mandatory in the case of broadcast must be made applicable to the user- upload OTT platforms. Regulatory enforcement of these technological requirements is preferred to voluntary adoption, and the Digital Copyright Enforcement Authority is the supervisory body.

7.5 International Cooperation

India ought to focus on bilateral and multilateral deals of cooperation, specifically on law enforcement on digital copyright matter, the formalization of domain registrar responsibility norms by negotiating through diplomatic means at WIPO and WTO for improving the international responsibility laws on anti-piracy measures. Being involved in the INTERPOL IP Crime unit and international anti-piracy coalition should be institutionalized to be among the policy priorities.

7.6 Final Conclusion

The Legal predicament of OTT piracy in India cannot be boiled down to a problem of a legislative loophole or a problem of failure to enforce the law. It is a symptom of the cumulative impact of an archaic statutory model that has not been sufficiently updated to the streaming age, the structural mismatch of intermediary liability principles, judicial creativity but institutional under resources enforcement regimes, and the technological savvy of modern piracy networks. The proposed reforms in this paper are bold; however, they are scaled to the magnitude of the challenge. OTT industry in India has the ambition to be an OTT powerhouse that can be global with all the creative potential, investment, and a mass following. Realizing that potential requires legal infrastructure commensurate with the industry's ambitions infrastructure that the current framework, despite its genuine strengths, does not yet provide. Creators, workers and the cultural richness of the Indian digital future will disproportionately bear the cost of legislative inaction.

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