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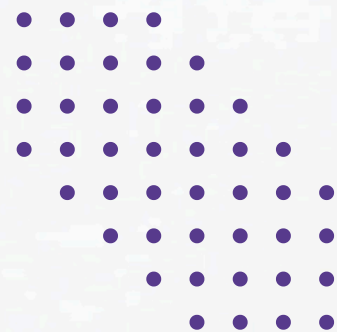
COMMENTS ON TRAI CONSULTATION ON NATIONAL BROADCASTING POLICY

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Written Comments

Comments on TRAI Consultation on National Broadcasting Policy

Authors: Pranav Bhaskar Tiwari, Shruti Shreya and Kriti Singh
Thematic Designer: Akriti Jayant

I.   BACKGROUND

The Dialogue warmly welcomes the Ministry of Information and Broadcasting's initiative to establish a comprehensive National Broadcasting Policy (NBP). This progressive move is particularly timely as it addresses the rapid evolution of the digital landscape, ensuring that India's broadcasting sector remains competitive and responsive to the demands of a digitally connected population.

The recommendations provided herein are designed to ensure that the National Broadcasting Policy not only adapts effectively to digital transformations but also sets a robust framework for the future. By adopting these measures, the policy can be effectively rolled out to achieve its intended goals, ensuring a balanced approach that promotes digital innovation while protecting consumer rights and fostering a healthy media environment. Our suggestions aim to enhance the operational efficiency, content integrity, and consumer satisfaction within the digital broadcasting sector, paving the way for India to become a global leader in digital media and content creation.

The success of this policy will hinge on its implementation strategy, which should include clear guidelines, active stakeholder engagement, and continuous monitoring and adjustment to align with evolving technological and market dynamics. The Dialogue is committed to supporting the Ministry in these efforts, providing insights and analysis to ensure that the National Broadcasting Policy realises its full potential in the digital era.

II. QUESTION WISE RESPONSE

Question 1.

Stakeholders are requested to provide their inputs in framing the preamble, vision, mission and broad objectives for the formulation of the national broadcasting policy (NBP)

In formulating the National Broadcasting Policy (NBP), it is crucial to establish a robust framework that not only acknowledges the current technological advancements in broadcasting but also anticipates future developments. As such, it is recommended that the NBP integrate forward-thinking principles that embrace innovation, ensure service quality, and promote inclusive access. Below are detailed recommendations for the Preamble, Vision, Mission, and Broad Objectives of the NBP, focusing on the technological aspects such as connectivity, and service quality:

A. PREAMBLE

It is recommended that the Preamble acknowledge the swift evolution of broadcasting technologies and the pivotal role of digital platforms in the media landscape. It should emphasise the need for adaptive regulatory frameworks that support technological advancement, safeguard consumer interests, and promote competitive equity.

B. VISION

It is recommended that the Vision for the NBP aim to foster an inclusive, technologically advanced, and competitive broadcasting environment. This vision should enhance access to diverse informational and entertainment content across various demographics and geographical areas, positioning the broadcasting sector as a cornerstone of the digital economy and a hub of cultural and technological innovation.

C. MISSION

The Mission of the NBP should include:

- Ensuring universal access to diverse and quality broadcasting services, supported by robust and reliable connectivity.

- Encouraging the adoption of advanced technologies, such as 5G and future broadcasting standards, to enrich the viewer experience.[1]

- Facilitating a regulatory environment conducive to investment and innovation, while ensuring comprehensive consumer protection and content diversity.[2]

D. BROAD OBJECTIVES

- **Enhanced connectivity:** it is recommended that policies be formulated to spur investments in broadcasting and telecommunications infrastructure, improving service coverage, speed, and affordability throughout the country.

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[1] Al-Falahy, N., & Alani, O. Y. (2017). Technologies for 5G networks: Challenges and opportunities. *It Professional*, *19*(1), 12-20.

[2] Ghasan Fahim Huseien & Kwok Wei Shah, *A review on 5G technology for smart energy management and smart buildings in Singapore*, 7 Science Direct (2022), https://www.sciencedirect.com/science/article/pii/S2666546821000653.

- **Consumer rights:** it is recommended that consumer rights in broadcasting be reinforced through clear policies on pricing, service quality, data privacy, and content diversity.

- **Content development and protection:** it is recommended that the policy encourage local content production and protect intellectual property rights, ensuring a fair competitive landscape for domestic and international content.

- **Education and awareness:** it is recommended that initiatives be launched to educate consumers about new broadcasting technologies and services, empowering them to make informed choices.

- **International collaboration:** it is recommended that the policy foster international cooperation to ensure alignment with global best practices and standards in broadcasting, which will facilitate the exchange of content and technology across borders.

Question 4.

What other policy and regulatory measures should be adopted in the policy for creation and expansion of quality Indian content to make India the 'global content hub'? Further, suggest how to extend support to local talents and content developers in terms of training, infrastructure and incentives. Provide your comments with a detailed explanation.

To position India as a 'Global Content Hub,' it is essential to adopt a multi-faceted approach in the NBP that encompasses regulatory measures, infrastructure development, talent nurturing, and incentive provision. The following policy and regulatory measures, alongside specific support mechanisms for local talents and content developers, are recommended:

A. POLICY AND REGULATORY MEASURES FOR QUALITY CONTENT CREATION AND EXPANSION

- **Content Development Fund:** Establish a dedicated fund to finance original content creation across different languages and genres. This could be supported by a small levy on OTT platforms' revenue which is reinvested in local content production.[3]

- **Co-production Treaties:** Negotiate and sign co-production treaties with other countries to facilitate cross-border partnerships in content production. This will help Indian content gain international exposure and expertise.

- **Enhanced Intellectual Property Rights (IPR) Protection:** Strengthen the enforcement of IPR to protect creators' rights and ensure fair compensation. This includes rapid redressal mechanisms for copyright disputes and robust anti-piracy measures.[4]

- **Quality Standards and Certifications:** Introduce quality standards and certification for content produced, to ensure that it meets international benchmarks, thus making it globally competitive.

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[3] *How OTT platforms can remain 'on-demand ready*, KPMG (Oct. 2017), https://assets.kpmg.com/content/dam/kpmg/in/pdf/2017/10/The-Digital-First-journey.pdf.

[4] Chaudhry, P. E., Chaudhry, S. S., Stumpf, S. A., & Sudler, H. (2011). Piracy in cyber space: consumer complicity, pirates and enterprise enforcement. *Enterprise Information Systems*, *5*(2), 255-271.

B. SUPPORTING LOCAL TALENTS AND CONTENT DEVELOPERS

● **Training and Development Programs:** Establish state-of-the-art training facilities in partnership with universities and leading industry players. These facilities should offer courses on advanced filmmaking techniques, animation, visual effects, scriptwriting, and digital marketing.

● **Mentorship Programs:** Launch mentorship programs connecting budding creators with experienced industry professionals. This can facilitate knowledge exchange and provide new creators with valuable industry insights and networking opportunities.

● **Infrastructure Support:** Develop media hubs equipped with modern production and post-production facilities that can be accessed by independent filmmakers and small production houses at subsidised rates.

● **Incentives for Innovation:** Offer tax incentives and grants for projects that employ innovative technologies such as virtual reality (VR) and augmented reality (AR) in content creation. [5] This will encourage creators to experiment with new formats and storytelling techniques.

● **Film Financing:** Create mechanisms for easier access to finance, such as government-backed loans and funding opportunities through public-private partnerships, specifically targeted at small and medium-sized enterprises in the content creation sector.

● **Marketing and Distribution Support:** Provide support in marketing and distribution, particularly for content targeting international markets. This

could include funding participation in international film festivals and trade shows.

● **Promotion of Regional Diversity:** Encourage the production of content in regional languages and dialects, reflecting India's cultural diversity. This can be facilitated by offering additional incentives for projects that focus on regional stories and heritage.

By implementing these policy and regulatory measures and supporting local talents through comprehensive training, infrastructure, and incentives, India can significantly enhance its position as a global hub for high-quality content production. This will not only boost the domestic entertainment industry but also project India's rich cultural tapestry onto the world stage, attracting international audiences and collaborators.

Question 7.

What policy measures and regulatory aspects should be adopted in the NBP to nudge the growth of Indian regional content through OTT platforms?

To nudge the growth of Indian regional content through Over-the-Top (OTT) platforms, the National Broadcasting Policy (NBP) should incorporate specific policy measures and regulatory aspects that promote the creation, distribution, and accessibility of such content. Here are several recommended strategies:

A. POLICY MEASURES

● **Subsidies and Grants:** Offer financial incentives such as subsidies and grants for the production of regional content. This could be particularly effective for genres and languages that are

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5 Yin, J. H., Chng, C. B., Wong, P. M., Ho, N., Chua, M., & Chui, C. K. (2020). VR and AR in human performance research—An NUS experience. *Virtual Reality & Intelligent Hardware*, *2*(5), 381-393.

underrepresented in the mainstream media.[6]

● **Tax Incentives:** Provide tax breaks or rebates to OTT platforms and producers who invest in creating and promoting regional content. This could include deductions on expenses related to the production, marketing, and distribution of such content.

● **Public-Private Partnerships (PPPs):** Encourage PPPs to develop regional content that reflects local cultures and stories. These partnerships can leverage the expertise and resources of both sectors to create high-quality, appealing content.

● **Infrastructure Development:** Invest in improving digital infrastructure in rural and remote areas to enhance the accessibility of OTT services. [7] This includes expanding internet connectivity and increasing digital literacy, allowing more users to access regional content.

B. REGULATORY ASPECTS

● **Content Certification and Ratings:** Establish a clear and transparent system for content certification that respects creative freedom while ensuring that regional content adheres to broadly accepted community standards. This system should be sensitive to cultural nuances.

● **Fair Competition Rules:** Implement regulations which ensure that smaller regional content producers can compete fairly in the market. This could involve

scrutinising agreements between OTT platforms and content providers to avoid exclusivity clauses that disadvantage regional players.

● **Consumer Rights:** Strengthen consumer rights in digital broadcasting, ensuring transparency in subscription models, fair billing practices, and the right to access diverse content, including regional languages.[8]

● **Accessibility Standards:** Encourage OTT platforms to include accessibility features such as subtitles, sign language interpretation, and audio descriptions in regional languages on a best effort basis. This will make content accessible to people with disabilities, further broadening the audience base.

C. PROMOTIONAL EFFORTS

● **Showcase and Promotion:** Create initiatives like regional content festivals, awards, and dedicated segments on popular OTT platforms to showcase regional films, series, and documentaries. This can help increase visibility and attract a wider audience.

● **International Exchange Programs:** Facilitate international exchange programs to showcase Indian regional content on foreign platforms and vice versa. This can help Indian content reach global audiences, promoting cultural exchange.

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[6] Park, S., & Kwon, Y. (2019). Research on the Relationship between the Growth of OTT Service Market and the Change in the Structure of the Pay-TV Market.

[7] Michalis, M. (2014). Infrastructure as a content issue and the convergence between television and broadband Internet: Insights from the British market. *International Journal of Digital Television*, *5*(1), 75-90.

[8] Telecom Regulatory Authority of India, Consultation Paper No. 2/2015, Regulatory Framework for Over-the-top (OTT) Services (March 27, 2015).

Question 9.

Online gaming being a rising sector holds potential for contributing to the economy, what policy and regulatory aspects should be adopted for the orderly growth of online gaming in India? Further, suggest measures to support local game developers to compete and grow. Also suggest safeguards to protect the general public (especially underage players) from negative and psychological side effects, while promoting healthy gaming.

A. POLICY AND REGULATORY ASPECTS FOR THE ORDERLY GROWTH OF ONLINE GAMING IN INDIA

In recognition of the Prime Minister's emphasis on the Animation, Visual Effects, Gaming, and Comics (AVGC) sector, as reflected in the establishment of the AVGC task force announced in the Union Budget 2022-2023 and further supported by the Ministry of Information and Broadcasting (MIB) report on the AVGC sector[9], it is acknowledged that India is one of the top five mobile gaming markets globally. This underlines the significant potential and growth opportunities presented by online gaming.

India's online gaming market is significant, boasting 42.5 crore users (FY23) and ranking as the world's second-largest after China.[10] Valued at INR 16,428 crore (FY23) and growing at 28% CAGR, it attracts investments of over INR 22,931 crore.[11] The industry's positive impact extends to government revenue, with GST from online gaming reaching Rs 3,470 crore (Oct-Dec 2023 quarter), a five-fold increase from the previous quarter, as reported in media[12]. For instance, the fantasy sports segment with the online gaming ecosystem grew 31% to INR 6800 crore (FY22) and is expected to reach INR 25,240 crore by FY27.[13] This growth is fueled by increased fan engagement, with 60% of users watching more sports due to fantasy participation.[14]

However, despite having the second-largest user base, India has only ~1% of the global market today [15]. Therefore, a uniform and stable regulatory framework is imperative for unlocking the sector's potential. This strategic approach would align with the draft policy's high-level objectives, including job creation, investments, and economic contribution.

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[9] AVGC-XR - Task Force Promotion Report - 2022. (n.d.). https://mib.gov.in/sites/default/files/AllFlipBooks/AVGC-3-2022/index.html

[10] *Navigating the Evolving Landscape for Online Gaming in India*, Ernst and Young (December 2023), https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/news/2023/12/ey-new-frontier-online-gaming-report.pdf.

[11] *Navigating the Evolving Landscape for Online Gaming in India*, Ernst and Young (December 2023), https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/news/2023/12/ey-new-frontier-online-gaming-report.pdf.

[12] PTI, *Monthly GST mop-up from online gaming companies jump 400 pc since October 1*, The Economic Times (Apr. 30, 2024), https://economictimes.indiatimes.com/news/economy/finance/monthly-gst-mop-up-from-online-gaming-companies-jump-400-pc-since-october-1/articleshow/107366341.cms?from=mdr.

[13] *Fantasy Sports: A catalyst for the sports economy,* FIFS & Deloitte (April 2023), https://www2.deloitte.com/content/dam/Deloitte/in/Documents/in-tmt-FIFS-Fantasy-Sports-Industry-Report-noexp.pdf.

[14] Tewari, S. (2020, August 28). 60% of fantasy sports users follow sports more now: Survey. LiveMint.

https://www.livemint.com/sports/news/60-of-fantasy-sports-users-follow-sports-more-now-survey-11598615859192.html

[15] New frontiers: Navigating the evolving landscape for online gaming in India' (Ernst and Young, December 2023) https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/news/2023/12/ey-new-frontier-online-gaming-report.pdf

- **Uniform Definitions**: The draft acknowledges the differentiation between online gaming and gambling (paragraph 2.81), emphasising skill as a determining factor. To achieve consistency and alignment within the legal framework governing this sector, it is recommended that the definition adopted by the notified Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 [Clause 2(1)(qa)] [16] be considered for application. It is also important to note that online games played with or without money, when predominantly skill-based, are games of skill, and the involvement of money does not alter the nature of the game.

- **Ministry of Electronics and Information Technology (MeitY) as Nodal Ministry:** The online gaming sector is already recognised within the existing governmental framework. As per the amended Allocation of Business Rules, MeitY serves as the nodal ministry for online gaming intermediaries. MeitY introduced amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, [17] establishing a two-tier regulatory framework for online gaming.

- **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021:** Tier 1 of the aforementioned framework emphasises self-compliance, due diligence, and grievance redressal mechanisms implemented directly by online gaming intermediaries. Tier 2 introduces self-regulatory bodies (SRBs), which MeitY designates to operate with limited governmental oversight. The IT Rules are solely applicable to permissible online real-money games, verified by the SRBs as activities "not wagering on any outcome," and offered by online gaming intermediaries complying with due diligence requirements. The SRBs are further mandated to develop a framework to ensure safeguarding users from potential risks of addiction and financial loss.

- **Advertisement Rules:** The Ministry of Information and Broadcasting (MIB) and the Advertising Standards Council of India (ASCI) have consistently issued advisories regarding the advertisement of betting and gambling activities alongside advertisements for online games. Therefore, if the draft policy incorporates online gaming under its purview, it is suggested that only measures pertaining to responsible advertising be reinforced to prevent regulatory overlap and ensure sectoral growth and stability. [18]

This legislative harmonisation will enable trust among users and help them clearly distinguish between permissible and non-permissible platforms, which has become a major concern, as noted in the draft as well (para 2.82).

B. PROMOTION AND DEVELOPMENT OF LOCAL GAME DEVELOPERS

The regulatory certainty will enable the startups in this sector to flourish on a level playing field.

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[16] Ministry of Electronics and Information Technology (2023 January 3) Information Technology

(Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules 2023, retrieved from
https://www.meity.gov.in/writereaddata/files/Draft%20notification%20for%20amendment%20to%20IT%20Rules%202021%20for%20Online%20Gaming.pdf

[17] The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, Vide G.S.R. 139(E), dated 25.2.2021, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), dated 25.2.2021.

[18] *Advisory on Celebrity/Influencer Endorsements and Advertisements, including Surrogate Advertisements, of Offshore Online Betting/Gambling Platforms- reg.*, No. DM/15/2022-DM, Ministry of Information & Broadcasting (Mar. 21, 2024).

India's rich cultural heritage, art forms, and stories hold immense potential for captivating narratives in the video game industry. The National Broadcasting Policy can be pivotal in nurturing a vibrant domestic game development ecosystem.

● **Cultural Significance:** Games have the potential to be unparalleled ambassadors for culture, art, and folklore, and India can leverage this given its diverse landscape. By weaving these elements into gameplay, India can preserve its heritage and promote it globally in a compelling, contemporary format.

● **Global Exposure:** Gaming offers a platform to celebrate Indian characters and stories globally. This can lead to a flourishing export industry built on intellectual property (IP) and products created in India.

● **National & State Policies:** The combined efforts of the draft National AVGC Policy[19] and various state AVGC initiatives, such as those by Karnataka[20], have carved out an INR. The 20 crore fund dedicated to the AVGC sector and Kerala[21], which aims to add 50,000 jobs through its hub and spoke model for this sector, can catalyse domestic game development. This will allow India to claim a significant share of the global gaming market. Hence, it is recommended that the draft AVGC Policy is implemented at the earliest.

● **Centres of Excellence (CoEs):** Establishing a National CoE and state-level CoEs, as proposed in the draft National Policy and state policies, is crucial for realising the government's

vision of empowering local game developers. Strengthening the support ecosystem will increase export revenues and create employment. Promoting skill development will create a pool of designers and artists and stimulate the growth of already existing AVGC-XR companies, which are the stated actionable objectives of the draft National AVGC policy.

● **Strengthening the ecosystem:** Establishing a nodal agency under the Ministry of Information & Broadcasting (MIB) for the AVGC sector, alongside a dedicated sub-group for online gaming within the Ministry of Electronics and Information Technology (MeitY), will provide focused support and streamline development processes.

● **State-Centre Collaboration:** Fostering greater synergy between central and state governments will ensure the holistic development of online gaming in India. This can involve knowledge sharing, joint initiatives, and streamlined regulations.

C. SAFEGUARDS TO PROTECT THE GENERAL PUBLIC (ESPECIALLY UNDERAGE PLAYERS) FROM NEGATIVE AND PSYCHOLOGICAL SIDE EFFECTS WHILE PROMOTING HEALTHY GAMING

The notified amended IT Rules 2023[22], awaiting implementation, prescribe a comprehensive set of measures and additional due diligence to be followed by the online gaming intermediaries and enforced by SRBs. These measures take into account each stage of the user experience lifecycle and are designed to protect users and

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[19] AVGC Promotion Task Force Report: Draft Model State Policy for Growth of AVGC-XR Sector in India. (n.d.). https://mib.gov.in/. https://mib.gov.in/sites/default/files/Annexure%20D_Draft%20Model%20State%20Policy%20for%20AVGC-XR%20Sector.pdf

[20] Karnataka AVGC-XR Policy. (n.d.). In https://itbtst.karnataka.gov.in/. https://itbtst.karnataka.gov.in/storage/pdf-files/AVGCPolicy.pdf

[21] AVGC-XR POLICY | Kerala Startup Mission. (n.d.). https://avgcpolicy.startupmission.in/.

[22] The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, Vide G.S.R. 139(E), dated 25.2.2021, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), dated 25.2.2021.

promote a safe and responsible online gaming environment. To protect minors, it expressly limits access to online real money games (RMG) to users below 18 years of age.

- **Key Measures**: Online gaming intermediaries are prohibited from hosting any RMG that the MeitY-appointed SRB does not verify. Advertisements for online games must promote only permissible games verified by the SRB. The online gaming intermediaries must display a visible registration mark on all SRB-registered games. Additionally, they must provide users with clear information within terms and conditions regarding online games, potential financial risks, KYC requirements, and SRB registration.

- **Grievance Redressal and Compliance:** Similar to other intermediaries under the Rules, online gaming intermediaries must appoint Grievance Officers, Chief Compliance Officers, and Nodal Officers, all of whom must be Indian residents and OGI employees. They are also required to ensure timely redressal of user grievances and publish monthly compliance reports.

- **Financial Safeguards:** Online gaming intermediaries must deploy a know-your-customer process per the RBI directives. They are not permitted to offer financial incentives (credit) directly or facilitate third-party financing for online gaming activities.

- **IAMAI Voluntary Code of Ethics:** In the interim period preceding the appointment of SROs, industry federations like the All India Gaming Federation (AIGF), Esports Federation of India (EGF), and Federation of Indian Fantasy Sports (FIFS) have adopted a Voluntary Code of Ethics[23].

This code outlines responsible gaming measures that all member companies are expected to adhere to. These measures encompass responsible gaming practices, safeguards for minors, fair play policies, financial safeguards, responsible advertising, and other initiatives promoting a safe, secure, and reliable online gaming experience.

The timely appointment of SROs remains vital for the comprehensive implementation of the IT Rules framework to ensure a uniform and stable regulatory regime for online gaming in India. This will ensure a safe, secure, and responsible online gaming environment in India. The effectiveness of the legislation will require close coordination between the central and state governments, ministries, and industry. The regulatory approach will be crucial in ensuring India's emergence as an online gaming hub.

Question 13.

With the continuous advancement of technologies and convergence of the telecom, information technology and broadcasting sectors, what policy and regulatory measures are required, beyond the existing ones, to facilitate the growth of the broadcasting sector with ease of compliance? Elaborate your comments with proper reasoning and justifications to the following issues:

The rapid evolution of India's digital landscape, emphasised by its vision to become a trillion-dollar digital economy, necessitates a nuanced approach to the regulation of various digital communication services. It is crucial to highlight the importance of distinct regulatory frameworks for internet intermediaries, telecom services, and broadcasters. Each service category, with its

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[23] Voluntary Code of Ethics for online gaming intermediaries. (n.d.). In *https://fifs.in/*. https://fifs.in/wp-content/uploads/2023/12/Voluntary-Code-of-Ethics-for-Online-Gaming-Intermediariess.pdf

unique operational dynamics and impact on the digital ecosystem, requires tailored governance to ensure robust development, competitive fairness, and effective consumer protection.[24]

A. DISTINCT REGULATION FOR INTERNET INTERMEDIARIES UNDER IT RULES

● Internet intermediaries, such as OTT platforms, play a pivotal role in India's digital economy. They offer a myriad of services that transcend traditional communication roles, integrating diverse functionalities within a single platform. The dynamic nature of these services, coupled with their evolving technological landscape, makes it impractical to confine them within rigid regulatory categories.

● Under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021,[25] OTT platforms are already subject to comprehensive regulations addressing issues like user privacy, data protection, and content management. [26] This regulation provides a tailored approach that recognizes the distinct nature of internet services as opposed to traditional telecommunication services, avoiding unnecessary burdens that could stifle innovation and restrict market entry.

B. REGULATION OF TELECOM SERVICES UNDER THE TELECOM ACT

● Telecom services, regulated under the Telecom Act, require a distinct approach primarily due to the economic implications of spectrum management—a scarce and valuable natural resource. The licensing regime for telecom service providers is justified by the need to ensure equitable access to this resource, prevent monopolistic practices, and ensure service quality. [27] The Supreme Court of India has, over a long period of time, across judgments such as the *Ministry of Information and Broadcasting v Cricket Association of Bengal and Ors (1995)* [28], *Centre for Public Interest Litigation and Ors. v Union of India (2012)*[29] and *Bharti Airtel v Union of India (2015)* [30] maintained that spectrum is a valuable and scarce resource that degrades when not used efficiently.

● Telecom services, involving more traditional forms of communication over established network infrastructures, necessitate stringent quality and service standards that differ significantly from the more flexible and innovative nature of internet-based platforms.

C. REGULATION OF BROADCASTERS UNDER BROADCASTING LAWS

● Broadcasters operate under a different set of dynamics, primarily regulated by the Ministry of Information and Broadcasting. This sector includes traditional television and radio services, which are distributed over airwaves and

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[24] Tripathi A, Rizvi, K, Sahiba, J, Birla B (2023), Convergence of Internet and Telecom Services: Assessing the Impact on Digital Ecosystem, The Dialogue, Retrieved from: https://thedialogue.co/wp-content/uploads/2023/06/RESEARCH-REPORT_-Convergence-of-Internet-and-Telecom-_-The-Dialogue.pdf

[25] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

[26] Part III, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

[27] Tiwari, P.B. & Tripathi, A. (2023), Unpacking the Telecommunications Act, 2023: Insights and Implications, The Dialogue

[28] Ministry of Information and Broadcasting v. Cricket Association of Bengal and Ors [(1995) 2 SCC 161].

[29] Centre for Public Interest Litigation and Ors. v. Union of India AIR 2012 SC 3725.

[30] Bharti Airtel v. Union of India AIR 2015 SC 2583.

cable networks. The regulation focuses on content appropriateness, broadcasting ethics, and spectrum management, ensuring that content reaching the public adheres to national standards and public morality.[31]

● The distinct regulatory framework for broadcasters is crucial to manage the unique challenges of content distribution that can have wide-reaching impacts on national culture and public opinion. This approach helps in addressing the concerns that arise from a mass-media perspective, which are fundamentally different from the personalised and user-driven content typically found on internet platforms.

D. THE NECESSITY FOR DISTINCT REGULATORY FRAMEWORKS

● Each of these sectors—intermediaries, telecom, and broadcasting—operates on fundamentally different principles and technological foundations, impacts the market in different ways, and interacts differently with consumers. A one-size-fits-all regulatory approach would not only be impractical but could also impede growth and innovation in these sectors. Instead, a distinct regulatory approach ensures that:

● **Innovation and market entry are fostered:** By recognizing the unique characteristics of each service, regulation can be designed to encourage innovation and reduce barriers to entry, particularly important for internet intermediaries and OTT platforms.

● **Resource management is optimised:** For telecom services, where spectrum is a limited resource, regulation ensures fair distribution and efficient use, which is crucial for maintaining service quality and fairness in market competition.

● **Content standards are maintained:** In broadcasting, regulation helps maintain content standards and ethical broadcasting practices, ensuring that the content disseminated is in line with national values and public morality.

E. CONCLUSION

● As India progresses towards its goal of a robust digital economy, it is essential to uphold distinct regulatory frameworks that cater to the specific needs and challenges of different communication services. This approach not only aligns with global best practices but also supports the country's broader objectives of digital inclusivity, innovation, and consumer protection. Moving forward, enhanced coordination and harmonisation among regulators can further streamline governance and bolster the growth of India's digital landscape.

Question 14.

What additional measures should be adopted to combat piracy and ensure content security through copyright protection in the broadcasting sector? How can the technology driven solutions be developed and deployed to prevent unauthorised distribution and detection of the source of original content. Provide your comments with detailed explanations.

To effectively combat piracy and ensure content security in the broadcasting sector, it is imperative to adopt a comprehensive approach that

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[31] Tiwari, P.B., Shreya, S., and Saxena, G. (2024), Recommendations on the Draft Broadcasting Regulation Service Bill, 2023, The Dialogue.

combines legislative action, technological solutions, and international cooperation.

A. LEGISLATIVE AND REGULATORY MEASURES

- **Enhanced Copyright Laws:** Undertake a comprehensive review and amendment of the current copyright framework to explicitly cover all aspects of digital content creation, distribution, and consumption, including streaming, downloading, and sharing across various platforms. [32] The digital age requires a dynamic legal framework that addresses the rapid changes in technology and consumption habits. The laws must be robust enough to impose significant penalties that act as a genuine deterrent to piracy. [33] This entails defining clear penalties for violations, mechanisms for enforcement, and provisions for compensatory damages to rights holders.

- **Establishment of Monitoring and Enforcement Mechanisms:** Establish a dedicated authority or enhance the capabilities of existing regulatory bodies to monitor and enforce copyright laws in real-time. [34] Piracy often outpaces enforcement due to its online and anonymous nature, making rapid response crucial. A specialised enforcement body would ensure a focused and sustained effort against piracy, reducing the burden on general law enforcement and improving compliance across platforms.[35] This body

would also act as a central point for copyright complaints, making it easier for rights holders to seek redress.

- **Public awareness campaigns:** launch a national campaign to educate the public about the legal, economic, and creative consequences of piracy. This campaign should use various media, including television, radio, internet, and social media, to reach a wide audience and should involve stakeholders from the creative industries.

  Awareness is key to changing consumer behaviour. By highlighting the impact of piracy on creators and the broader economic implications, these campaigns can foster greater respect for intellectual property and encourage legal consumption of content. The involvement of well-known public figures and creators can help personalise the message and make the campaigns more effective.

- **Global Collaboration for Anti-Piracy Efforts:** Strengthen international collaborations by actively participating in global treaties and working groups focused on intellectual property enforcement and anti-piracy measures.[36] This includes sharing best practices, joint operations, and mutual legal assistance to combat piracy. Digital piracy is not confined by national borders, making international cooperation essential. [37] By aligning with global standards and

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[32] Palfrey, J. G., Gasser, U., Simun, M., & Barnes, R. (2009). Youth, creativity, and copyright in the digital age. *Berkman Center Research Publication*, (2009-05).

[33] Xalabarder, R. (2002). Copyright: Choice of law and jurisdiction in the digital age. *Ann. Surv. Int'l & Comp. L.*, *8*, 79.

[34] Banerjee, D. S. (2003). Software piracy: a strategic analysis and policy instruments. *International Journal of Industrial Organization*, *21*(1), 97-127.

[35] Banerjee, D. S. (2003). Software piracy: a strategic analysis and policy instruments. International Journal of Industrial Organization, 21(1), 97-127.

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participating in international enforcement efforts, India can better handle cross-border piracy issues. This will also help in lobbying for stronger global measures against piracy and ensuring that Indian content receives adequate protection worldwide.

B. TECHNOLOGICAL SOLUTIONS

● **Implementation of Digital Rights Management (DRM):** Enforce the adoption of sophisticated DRM systems across all digital broadcasting platforms. [38] These systems should be capable of managing and controlling the rights associated with digital content, including the ability to restrict copying, limit viewing to certain devices, and monitor usage. [39] DRM technologies serve as a technological barrier to unauthorised access and distribution, safeguarding content across various platforms.[40] By implementing robust DRM solutions, content providers can control how their content is consumed, ensuring that it remains within legal channels. Additionally, DRM helps in enforcing licence agreements, making it difficult for pirated copies to retain functionality once separated from their DRM protections.

● **Adoption of Watermarking and Fingerprinting Technologies:** Integrate state-of-the-art digital watermarking and fingerprinting technologies during the production and post-production phases of content creation. [41] Ensure that these identifiers are robust against various forms of tampering and degradation such as compression and cropping, which are common in pirated content. Watermarking and fingerprinting allow for the tracking and monitoring of content as it moves across the internet. If content is found on unauthorised platforms, these technologies can help trace it back to the source of the leak, supporting enforcement actions. This not only aids in identifying the distribution channels of pirated content but also acts as a deterrent to potential pirates who know that the content can be traced back to them.

● **Leveraging Blockchain for Copyright Management:** Explore and pilot blockchain-based systems for a decentralised, transparent, and immutable registry of copyright transactions and rights assignments. [42] Such a system could manage licences, track content distribution, and facilitate automatic royalty distributions based on predefined smart contracts. Blockchain technology offers a secure and transparent way to manage and enforce copyright on digital platforms. Its decentralised nature prevents tampering and unauthorised alterations, ensuring that each transaction related to a piece of content is recorded and verifiable. This can help reduce disputes over ownership and improve the efficiency of royalty payments, providing a direct benefit to content creators and rights holders.

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Question 17.

What other strategies should be adopted in the policy document for ensuring a robust grievance redressal mechanism to address and resolve complaints with respect to content as well as services effectively? Provide your comments with proper explanation.

For a robust grievance redressal mechanism to effectively address and resolve complaints regarding content and services in the broadcasting sector, the policy document should incorporate several key strategies. These strategies are designed to ensure transparency, efficiency, and fairness in handling complaints.

A. MULTI-TIERED REDRESSAL FRAMEWORK

- **Tiered Approach:** To address concerns related to potential excessive executive control as outlined in the Broadcasting Bill 2023 [43], it is crucial to refine the approach to the grievance redressal mechanism within the broadcasting industry. Towards this it is important to have a multi-tiered grievance redressal mechanism where the initial authority for addressing complaints rests with the broadcasting service providers. If the issue remains unresolved, it can then be escalated to higher independent bodies such as an ombudsman or regulatory authority.

  This tiered structure is designed to empower broadcasting service providers to resolve issues promptly at the first point of contact, thereby enhancing service efficiency and customer satisfaction. Providing service providers with the authority to address complaints directly promotes a quicker resolution

process and reduces the burden on higher-level mechanisms. Escalation options ensure that consumers still have avenues for redress if they are dissatisfied with the initial handling of their complaints.

B. INDEPENDENT OMBUDSMAN

- **Independent Broadcasting Ombudsman:** Establish an independent ombudsman for the broadcasting sector, tasked with handling the second and higher tiers of complaints that cannot be resolved by service providers. An ombudsman serves as an impartial entity that consumers can turn to for a fair resolution of their complaints. The independence of the ombudsman ensures that decisions are made without bias and are based solely on the merits of each case.

C. DIGITAL COMPLAINT MANAGEMENT SYSTEM

- **Online Complaint Management Portal:** Develop a centralised digital platform where consumers can easily file and track the status of their complaints. This portal should be accessible via multiple devices and offer support in multiple regional languages. A digital platform simplifies the process of filing complaints, enhances transparency by allowing consumers to track the progress of their cases, and makes the grievance redressal mechanism more accessible to a broader audience.

D. REGULAR REPORTING AND AUDITING

- **Transparency and Accountability Measures:** Require broadcasting service

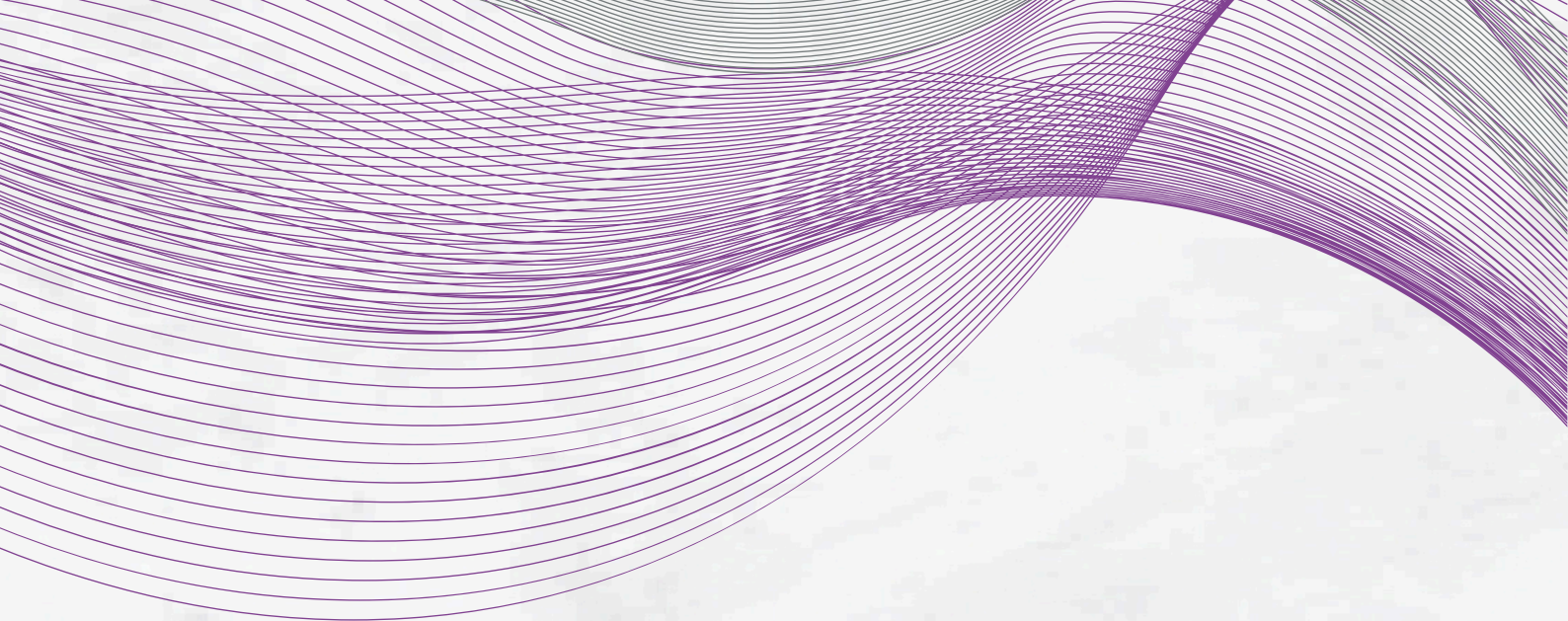---

[43] Broadcasting Services (Regulation) Bill, 2023.

providers and the ombudsman to publish regular reports detailing the number of complaints received, resolved, and the average time taken for resolution. Periodic audits should be conducted to assess the effectiveness of the grievance redressal mechanisms. Regular reporting and auditing ensure that the entities involved in grievance redressal are held accountable for their performance. This promotes continuous improvement in service quality and complaint handling processes.

E. STAKEHOLDER TRAINING AND AWARENESS

- **Training and Awareness Programs:** Conduct regular training for service providers on the legal requirements and best practices for handling complaints.

Additionally, run awareness campaigns to educate consumers about their rights and the processes for lodging complaints. Training ensures that service provider staff are equipped to handle complaints effectively and in accordance with regulatory requirements. Consumer awareness campaigns ensure that the public knows their rights and understands how to seek redressal when necessary.

By adopting these strategies, the policy document will help create a grievance redressal system that is not only effective and user-friendly but also trusted by consumers for its fairness and responsiveness. This comprehensive approach is essential for maintaining consumer confidence and ensuring the integrity of the broadcasting sector.