



Exploring The Intersection Of Competition Law And Digital Media In India: The Influence Of Streaming Platforms And Digital Transformation In The Film Entertainment Industry

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Abstract

The advent of digital streaming services has accelerated the digitisation of the media and entertainment business, leading to market consolidation and reshaping content creation, distribution, and consumption. Complex competition law issues are raised by this paradigm change, such as the possibility of anti-competitive mergers, exclusive license agreements, cartel-like pricing fixing, market foreclosure hazards for smaller competitors, and the abuse of power by major digital platforms. This study takes a close look at these problems from the perspective of Indian law governing competition, namely the Competition Act of 2002, by examining the CCI's enforcement efforts, important regulatory reactions, and case laws. In order to promote a fair and competitive media ecosystem, it is important to comprehend how digital platforms alter conventional market dynamics, the efficacy of existing merger controls, and the interaction between copyright and competition law. This paper argues that in order to protect innovation, consumer welfare, and fair competition in the ever-changing entertainment industry, the government should take the initiative and enhance regulatory frameworks. It seeks to provide legal professionals, industry stakeholders, and policymakers with insights to manage the antitrust ramifications of the digital transition and guarantee long-term development in India's film and entertainment business.

Keywords: Competition Law; Entertainment Industry; Digitization; Over-The-Top; Streaming Platforms.

Introduction

The entertainment industry has seen a tremendous shift since the dawn of the digital era, upending long-held beliefs and changing the production, distribution, and consumption of content. The entertainment industry possesses a profound history, developing in tandem with technological innovations and shifts in social dynamics. The industry has historically included the cinema, music, theater, and publishing sectors. Major studios, recording companies, and broadcast networks have a significant amount of power over the production and dissemination of entertainment-oriented material. The main emphasis of this study is the Indian cinema and music industries, as well as television to a lesser degree, which are important sectors of the country's M&E sector. This paper examines the intersection of digital media, the swiftly transforming entertainment sector, and the principles of competition law. It evaluates regulatory actions and case law, examines major competition concerns, including market supremacy, data-driven exclusion, restrictive agreements, and the emergence of Big Tech/OTT platforms, and examines international and Indian legal frameworks. The discourse elucidates the complexities introduced by the rise of platforms, artificial intelligence, and digital convergence, ultimately offering insights for the advancement of competition law in the context of digital entertainment. This paper conducts a comprehensive examination of pertinent case histories and regulatory frameworks, exploring the various methods employed by media giants to bolster their market supremacy, alongside the challenges these strategies present for equitable competition. It also looks at how regulatory bodies like the United States Department of Justice (DOJ) and the Federal Trade Commission, or FTC, work to prevent antitrust violations and counter anti-competitive conduct.

Media and Entertainment Industry: Background

The glitz and glamour of the film industry draw spectators from far and wide. Considering the vastness of the industry, several laws are pertinent to its operation. Competition law serves as a mechanism for decentralization and equitable resource distribution while also regulating governmental actions that may lead to the monopolization of certain sectors. The association of distributors or producers, or the combined association, is the main factor that can be taken into consideration. Associations are fundamentally aimed at enhancing an industry; however, in the absence of clearly defined rules and regulations, the actions of these associations may lead to a significant detrimental impact on competition, referred to as AAEC. The realm of competition law is currently evolving, with limited exploration undertaken regarding its application within the film and entertainment industry in India.¹

The evolution of the entertainment industry, from its inception, encompassing live performances and print media, to radio, movie screenings, and TV broadcasting, has been nothing short of revolutionary. Television and films dominated for a major portion of the 20th century, influencing popular culture and giving audiences a common experience. Nevertheless, the scenario changed dramatically when the digital era

¹ Amey Jadhav, "Antitrust Issues in Entertainment and Film Industry (Part 1)", Mondaq, (February 14, 2022), available at: <https://www.mondaq.com/india/antitrust-eu-competition/1161082/antitrust-issues-in-entertainment-and-film-industry-part-1>. [last accessed on Sept. 23, 2025].

began: with the proliferation of high-speed internet came the invention of digital streaming media and OTT services like Amazon Prime, Netflix, and Hulu.²

The shift towards online streaming services has fundamentally transformed the landscape of content consumption, steering audiences away from the constraints of scheduled linear programming towards a model of on-demand, adaptable viewing that caters to personal tastes. The sector has experienced a notable rise in distinctive digital-first productions and an expansive global audience for artists and producers, fundamentally transforming conventional distribution models and facilitating direct engagement with audiences across the globe, along with an expansive global audience for artists and producers, which is fundamentally transforming conventional distribution models and facilitating direct engagement with audiences worldwide control, rather than prominent studios and broadcasters.³

The media, sports, cultural events, and literary, visual, and performing arts are all included in the entertainment sector. These sectors consistently lead the charge in innovation, frequently unveiling novel concepts and methodologies. From the dawn of human civilization, the art of storytelling has served as a fundamental form of entertainment. Narratives were conveyed through the interplay of visual stimuli, verbal expressions, auditory signals, and physical movements. The conveyance of cultural knowledge across generations has been adeptly achieved through the art of storytelling for centuries. Regardless of the setting, be it around a campfire or in the context of elucidating their cultural nuances to an outsider, individuals persist in narrating stories in a manner that has remained consistent through the ages. Prior to the advent of printed or visual media, folks engaged in the oral tradition of storytelling. Additional fields encompassed within the realm of the "Entertainment Industry" include the following:

- The TV Industry: A multitude of programs are disseminated across the various official languages of India. For broader dissemination, the printing sector generates reproductions of both textual and visual materials. Four
- The digital media domain is focused on the transmission and dissemination of information (text, audio, video, and graphics) via electronic display devices. One of the foremost benefits of digital electronics lies in its capacity to generate, share, modify, view, and preserve digital content in its unaltered state. The term "the filmed entertainment business" serves as an overarching concept that includes both the technical and commercial aspects of filmmaking. The animated versions and visual effects sector often employs a hybrid methodology to achieve desired results, capturing real-world scenarios while seamlessly integrating digitally-created elements. Furthermore, the Live Events Industry encompasses a range of occurrences and activities, prominently featuring live musical performances. The online gaming sector comprises any game played on a smartphone or tablet that requires an internet connection.

² Pramod Singh, "The Evolution of The Entertainment and Media Industry: From Print to Streaming", The Ceo Magazine (Blog), available at: <https://www.theceo.in/blogs/the-evolution-of-the-entertainment-and-media-industry-from-print-to-streaming>. [last accessed on Sept. 23, 2025].

³ Saumya Singh, "The Development of Media Entertainment: The Evolution of the Way We Consume", IPLF, (November 30, 2024), available at: <https://www.ipandlegalfilings.com/the-development-of-media-entertainment-the-evolution-of-the-way-we-consume/>. [last accessed on Sept. 23, 2025].

- The Outside-of-Home Media Sector, commonly referred to as outdoor advertising, encompasses media that can be observed beyond an individual's typical domicile. The radio industry consists of both public and private entities tasked with the creation and dissemination of radio shows and services.
- Alongside prominent record labels, numerous independent musicians actively engage in the music industry.
- Noteworthy advancements in the sports sector have been achieved by both for-profit and non-profit entities, as well as governmental organisations, particularly in areas such as event production, infrastructure enhancement, and promotional activities.

Streaming services have exploded in popularity among consumers in the past decade. The proliferation of on-demand streaming services has given consumers unprecedented access to thousands of films, television episodes, and original productions via companies like Disney+, Prime Video by Amazon, and Netflix. Nonetheless, with the increasing prominence of streaming services, they have encountered considerable legal obstacles, especially in navigating competition regulations.⁴ The transformation within the industry is undergoing a significant evolution, propelled by an increasing consumer appetite for digital experiences. As viewers progressively pursue readily available content, tailored to their preferences and optimized for mobile devices, stakeholders in the industry must adapt swiftly to maintain their competitive edge. This transformation transcends mere content; it is fundamentally altering the essential business structures of the media and entertainment sector. The evolution of streaming platforms, digital content creation, virtual reality (VR), augmented reality (AR), and machine learning (AI) is fundamentally transforming the processes of media production, consumption, and monetization.⁵

Traditionally, the M&E business has been one that relies on customer demand and technical advancements to inspire inventiveness. The phenomenon of globalization and the interplay among diverse economies have facilitated the industry's intrinsic dependence on culture and language, enabling it to adapt to international segments and effectively transcend cultural barriers. The content creator previously held the authority to determine market deals; nevertheless, the current landscape is entirely shaped by consumer demand. This requirement transcends mere consumer preferences, encompassing the format of content that is sought after on both national and international levels.⁶

⁴ S. Vishnu, "Copyright and Competition: A Legal Tightrope for Streaming Services", Vol. 4, CCI-JOCLP, pp. 27-40, (June 2023), available at: Doi: 10.54425/cciijoclp. v4.125. [last accessed on Sept. 21, 2025].

⁵ Kumar Balasubramaniam, "Here's How Technology Impacts Various Aspects on the Media and Entertainment Industry", Bigsun (Blog), (May, 19, 2025), available at: <https://bigsunworld.com/blog/impact-of-technology-on-media-and-entertainment-industry.html>. [last accessed on Sept. 21, 2025].

⁶ Parineet Kaur, "A Critical Study of Copyright and Competition Law Challenges in the Indian Entertainment Industry", (Ph.D. thesis, Dr. Ram Manohar Lohia National Law University, 2021), available at: <http://hdl.handle.net/10603/339815>. [last accessed on Sept. 21, 2025].

Streaming Revolution and the Shift in Global Entertainment Consumption

India, boasting close to 500 million internet users and experiencing an 8% growth rate, stands as a significant catalyst for digital innovation on a global scale. An open investment climate is making it easier for foreign companies to break into the Indian market, and the country has unparalleled possibilities as a market for international media and entertainment. Even the most isolated areas are benefiting from the government's Digital India Initiative by being able to stay connected. The cultural landscape of India places significant importance on entertainment, and the potential for growth within media enterprises and entertainment conglomerates is substantial. Online streaming media services have made their foray into India, with platforms like Netflix and Amazon Prime witnessing an increasing user base throughout the nation. It is quite remarkable to observe the burgeoning popularity of OTT platforms, particularly among villages and smaller cities where the reliability of internet speed has often been a subject of scepticism. In this context, streaming media is poised to catalyse creative thinking and growth in India, primarily due to the immense potential that the Indian market presents.⁷

Welcome to the digital era, where traditional cable television has evolved, making way for streaming platforms that have taken centre stage, including notable names such as Hulu, Amazon Prime, Netflix, etc. From original features, TV series, documentaries, and even live sports, they have revolutionised the way a lot of entertainment-on-demand is available.

In addition, streaming services like Netflix and others have altered our relationship with entertainment, democratizing the use of streaming platforms that have cultivated a binge-watching culture. Conversely, series such as Demon Slayer and One Punch Man can also be equally appreciated in a single sitting. Weekly releases that were less frequent have given way to an endless supply of entertainment. Indeed, the landscape has been significantly shaped by intense competition among streaming services, compelling companies to allocate substantial resources towards the development of original programming.⁸

Regulatory Framework for Streaming Platforms

The intricacies of copyright law, as it pertains to streaming services, are both complicated and multidimensional. Problems with digital rights management, licensing agreements, and copyright ownership are all part of it. According to Loren (2019), streaming services are typically required to acquire the necessary authorisation before they may transmit copyrighted content.⁹ Streaming providers in India need to get an appropriate approval before they can put out copyrighted material. The Copyright Act of 1957 in India outlines the framework for protecting copyrighted material and delineates the rights granted to

⁷ "Regulatory Framework for Over-The-Top (OTT) communication Services", Comments on Regulatory Framework for OTT Services by CPA, Himmatnagar, available at: <https://www.trai.gov.in/sites/default/files/2024-11/ConsumerProtectionAssociationHimmatnagar08012019.pdf>. [last accessed on Sept. 23, 2025].

⁸ Supra note 3.

⁹ Lydia P. Loren, *Copyright Jumps the Shark: The Music Modernization Act*, 99 B.U. L. Rev. 2519 (2019). Available at: https://lawcommons.lclark.edu/faculty_articles/261. [last accessed on Sept. 24, 2025].

copyright owners. The Act was passed in response to both the growing public awareness of writers' rights and responsibilities and the development of communication technology.

This may entail signing distribution contracts with content providers, acquiring licenses from copyright holders, or producing unique content that respects others' rights. There could be serious legal consequences and hefty fines for not getting appropriate clearance.

Streaming services make sure they have the authority to broadcast content to viewers in addition to securing the appropriate licensing. To stop illegal distribution and safeguard users' security and privacy, this may include putting Digital Rights Management, also known as DRM, technology into place. The usage and dissemination of copyrighted content will be heavily regulated by copyright law as streaming platforms continue to gain traction. Copyright law is complicated, and streaming providers must handle it to stay within the law's limitations and offer users useful services.¹⁰

The unauthorised distribution of copyrighted content presents significant legal challenges for streaming services. Unauthorised streaming is an infringement since copyright law gives owners the sole authority to distribute, reproduce, and alter their works. In the *Super Cassette case*,¹¹ the Delhi High Court emphasised the irreversible harm and monetary loss plaintiffs experience when their works are exploited online for profit without permission. Indian courts have continuously upheld these rights through robust legal measures. The court acknowledged the plaintiff's dependence on royalties/fees for future investment and ordered an interim restraining order against unauthorised streaming. Piracy continues to be a significant concern, particularly through unauthorised streaming platforms and peer-to-peer connections, resulting in increased revenue losses and potential threats to user privacy. The Delhi High Court used the guidelines established in the UTV Software case to issue dynamic injunctions and allow further action against mirror and redirect websites in the *Warner Bros. case*.¹² designating the infringing websites as "illegal and unauthorised websites." This legal strategy makes copyright enforcement more robust in the digital age.¹³

Courts stress the value of strong preventive measures and DRM (Digital Rights Management) technology in order to mitigate these dangers. The legal foundation for enforcement is provided by the Copyright Act, 1957 (Sections 14 and 51), and the Information Technology Act. Compliance is essential for long-term and equitable market competitiveness in the online entertainment industry since streaming services that disregard DRM or disseminate content lacking authorisation risk restrictions, liabilities, and significant monetary sanctions.¹⁴

¹⁰ S. Vishnu, "Copyright and Competition: A Legal Tightrope for Streaming Services", Vol. 4, No. 1, CCI JCLP, (June 2023), pp. 27-40, available at: Doi:10.54425/cciijclp.v4.125. [last accessed on Sept. 24, 2025].

¹¹Super Cassettes Industries Ltd. v. My Space Inc. 2011 (48) PTC 49 (Del).

¹²Warner Bros. Entertainment Inc. Vs Moviesflix.Net_ & Ors.CS(COMM) 457/2019.

¹³ Ajay Singh, "Delhi High Court Blocks Rogue Websites for Streaming Copyrighted Content of Warner Bros., Netflix, Disney & Ors.", Legal Era, (Sept. 18, 2024), Available at: <https://www.legaleraonline.com/from-the-courts/delhi-high-court-blocks-rogue-websites-for-streaming-copyrighted-content-of-warner-bros-netflix-disney-others-925143>. [last accessed on Sept. 24, 2025]

¹⁴ Biswajit Sarkar, "Copyright Infringement on OTT Platforms", Blog, (Jan. 30, 2025), available at: <https://www.biswajitsarkar.com/blog/copyright-infringement-on-ott-platforms.html>. [last accessed on Sept. 24, 2025].

"With great authority comes great accountability." Nonetheless, the industry's leading streaming providers have voiced reservations about new antitrust worries. While the Paramount Consent Decrees' termination was much-needed, it nevertheless leaves antitrust policy lacking in its treatment of streaming services' complex business practices. The growing popularity of streaming services in the movie and television industries may make it impossible for current antitrust regulations to shield consumers from potential consequences. Vertical integration and associated corporate activities rehash antitrust infractions from the era of the Paramount Consent Decrees, which was more than seventy years ago. So, to avoid a repeat of past mistakes, anticompetitive consideration is of the utmost importance. For streaming services, the relevance of the antitrust laws is an additional consideration. Competition laws are in place in several countries, including India, to guarantee fair competition between enterprises and curb anti-competitive behavior.¹⁵

Streaming services must refrain from engaging in practices that could undermine competition or confer an undue advantage over their rivals. The issue of market dominance is a crucial one in the context of competition regulations that needs to be assessed by digital streaming networks. Market-dominant streaming services could be subject to further rules and inspection in order to avert anti-competitive behavior. For the sake of openness and honesty in the market, they could also have to let other content suppliers use their platform.

Unauthorised streaming of copyrighted content and disputes over contracts for licensing are commonplace; significant copyright infringement litigation is highlighted by seminal cases. While international standards mandate that streaming services make sure that rights are appropriately cleared and fees are paid to content owners, as per section 51 of the Copyright Act, 1957, which addresses infringement and remedies.

Enforcement of Geographical Restrictions: Geographic licensing limitations are difficult for streaming services to enforce since users usually use VPNs to get around them. This results in the implementation of technical enforcement, potential legal repercussions, and the development of adaptive policy measures; for instance, Netflix's actions against VPN usage, which are backed by its Terms of Service and applicable regional intellectual property laws.

Royalties, Profit Distribution, and Exclusive Content: Content creators' claim to fair remuneration, profit-sharing agreements, and digital distribution exclusivity are perennial points of contention. Legal actions filed against Spotify by artists, along with clashes between platforms like Disney and Netflix, highlight the increasing examination of competition and copyright laws, including the Copyright Act of 1957 and the Competition Act of 2002.¹⁶

¹⁵Megan Elizabeth Norris, "Now Streaming: How Streaming Services Are Following in the Antitrust Footsteps of Hollywood's Golden Age", 31 U. MIA Bus. L. Rev. 160 (2023), available at: <https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1410&context=umblr>. [last accessed on Sept. 24, 2025].

¹⁶Amit Jaju & Lucina Roy, "Legal Disputes in the Digital Content and Streaming Industry: Challenges and Solutions", Ankura, (July 31, 2024), available at: <https://angle.ankura.com/post/102je3v/legal-disputes-in-the-digital-content-and-streaming-industry-challenges-and-solu>. [last accessed on Sept. 24, 2025].

Analysis of Market Dynamics and Behavior¹⁷

Some significant trends are influencing the dynamics of the streaming industry:

- Streaming operators are making significant investments in original content in order to set themselves apart from rivals. In order to draw customers and foster brand loyalty, exclusive TV shows, films, and documentaries are essential.
- Exploring New Global Markets: With the saturation of domestic markets, streaming platforms are shifting their focus towards expanding internationally. Capturing global audiences requires techniques such as regional alliances and localised content.
- Complimentary Offerings: Streaming providers are bolstering their value propositions by establishing strategic alliances and providing complementary digital service bundles. By offering more varied entertainment options, this strategy seeks to improve subscriber retention.
- Advertisement-Based Models: In an effort to draw in budget-conscious customers and diversify their revenue sources, some platforms are investigating ad-supported tiers. These business strategies give viewers a more affordable choice by charging less for subscriptions in return for sporadic ads.

The Vitality of the Internet Generation and Its Lasting Impact on The Entertainment Sector

The entertainment market has been significantly altered by the digital era, which has also challenged long-standing conventions. The following outlines several key aspects of the internet age and its impact on this sector.¹⁸

- **Making content production more accessible**

Entry barriers have been removed by digital technology, which has enabled anybody to become a content producer. A new generation of artists, singers, authors, and filmmakers can bypass the conventional gatekeepers and create and disseminate their work on a worldwide scale with the use of inexpensive gear, editing software, and internet platforms. By encouraging innovation, variety, and curiosity of unique narrative styles, this has resulted in a boom in user-generated content.

- **Cutting out the middlemen and offering directly to customers**

Bypassing conventional middlemen, the emergence of streaming services and internet platforms has allowed content producers to communicate directly with viewers. Independent producers have the chance to make money from their work and increase their exposure via various platforms available. As a result of this shift away from relying on conventional distribution methods, content producers now have more say over their work and better financial opportunities.

¹⁷ Alejandra Fran, “Streaming Wars: Navigating the Competitive Landscape”, vol. 22, Global Media Journal, pp. 1-3, (Aug. 29, 2024), available at: <https://www.globalmediajournal.com/open-access/streaming-wars-navigating-the-competitive-landscape.pdf>. [last accessed on Sept. 24, 2025].

¹⁸ Bharat Dhiman, “A Paradigm Shift in the Entertainment Industry in the Digital Age: A Critical Review”, Global Media Journal, 21:64, (2023), available at: <https://www.globalmediajournal.com/open-access/a-paradigm-shift-in-the-entertainment-industry-in-the-digital-age-a-critical-review.php?aid=93411>. [last accessed on Sept. 26, 2025].

- **The complexities of pirated digital content and the ensuing challenges related to copyright law**

The advent of the digital era has introduced complexities, notably in the realm of digital piracy. Makers and right-holders have seen a decline in income due to copyright violations brought about by the convenience of sharing and duplicating digital information. To combat this, various approaches to IP protection have emerged, including anti-piracy methods, licensing agreements, and digital rights management.

- **Consumers' shifting patterns and standards**

The need for immersive, on-demand, and personalized experiences has increased as a result of the way digital technologies have changed consumer behavior. Viewers may now watch a plethora of stuff available online on their gadgets at any moment. As a result, viewers now demand interactive features, tailored suggestions, and the opportunity to create and share material, which has led to a change from passive viewing to lively participation.

- **Market segmentation and data-driven findings**

Content producers and distributors may now access analytics and user data like never before, allowing them to better understand their audiences' tastes, habits, and demographics. User engagement and happiness are increased by this data-driven strategy, which enables customized suggestions, focused marketing initiatives, and the creation of content for certain audiences.

- **Strategies for generating income and regulating finances**

Beyond conventional approaches, new revenue models have to be investigated in the digital era. Content producers may now make money via subscription-based streaming services, pay-per-view schemes, crowdsourcing websites, brand collaborations, and targeted advertising. Focused sponsorship and marketing possibilities have also emerged as a result of user data gathering and analysis.

- **Reaching a global audience and cultural interaction**

The digital era has made it easier for information to reach a worldwide audience, promoting exposure to a variety of viewpoints and cross-cultural interaction. International audiences are readily accessible to content producers, promoting cross-cultural understanding and increasing business prospects. The globalization of content has resulted in a multitude of stories, categories, and narratives that contest conventional dominance while offering a platform for marginalized groups.

More innovation, accessibility, interaction, and worldwide connectedness have all been made possible by the information age, which has completely transformed the entertainment sector. The digital era has brought forth many difficulties, including business models and piracy, but it has also greatly expanded the prospects for viewers, distributors, and content producers. The entertainment sector must embrace change and new ideas if it wants to fully benefit from the digital era. The cultural sectors have changed as a result of the digital age's democratization of content production, ability to distribute material globally, and movement in consumer expectations towards immersive and on-demand experiences. There is now more variety,

innovation, and competitiveness in narrative formats as a result of independent producers being able to directly contact audiences across the world using digital platforms and affordable technology, circumventing old established barriers. The emergence of leading streaming platforms raises significant concerns regarding antitrust and competition law, as the consolidation of the market could foster anti-competitive behaviours such as restrictive agreements, preferential listings, or inequitable revenue distributions, thereby attracting scrutiny under legislative frameworks like India's Competition Act, 2002. As a result, although the digital age has opened up new avenues of expression and accessibility, it has also increased the need for constant governmental oversight to safeguard artists and audiences from predatory practices and guarantee the long-term viability of businesses.¹⁹

Competitive Concerns in Vertical Integration

Vertical integration, in which businesses have control over several stages, including production, distribution, and exhibition, is still a complex antitrust problem in the worldwide film and entertainment sector. The significant United States. A significant precedent was established by the Paramount decision, which held that a vertically integrated business is not always prohibited under the Sherman Act but becomes illegal when it leads to anti-competitive actions such as price-fixing, rival foreclosure, or restrictive domination over exhibition channels. For example, firms with vertical integration might exploit their market accessibility or utilize their standing in ways that prejudice competitors and newcomers, thereby suppressing competition and adversely affecting options for consumers. Integral to the question of legitimacy in such instances are the goals of the agreement and its consequences on the market as a whole.²⁰

These analogous principles apply to the Indian film and entertainment industry under the Competition Act of 2002, where the Competition Authority of India examines cases where dominant film and entertainment giants, particularly those that own both content and major distribution platforms, practice unfair terms and conditions, deny independent filmmakers opportunities and access to the market, or engage in activities that may lead to cartelization or abuse of dominance. Although vertical integration may yield certain efficiencies, it poses challenges when it creates barriers to entry, limits the autonomy of autonomous exhibitors, or distorts market dynamics, reflecting concerns raised in the Paramount case. It follows that the legality of vertical integration in the entertainment business in both India and the United States depends on how it affects competition, customer choice, and market health.²¹

At the start of the 21st century, technological innovations transformed how cinema and TV programs are distributed. A new wave of media companies began offering "over-the-top" streaming content as internet

¹⁹Jeff Goldstein, Mark Endemáño, and et.al., "The Streaming Wars: The battle over the next generation of TV", Media & Entertainment Industry Predictions Report, Alix Partners, (2025), available at: <https://www.alixpartners.com/media/ow1n5vey/2025-media-entertainment-industry-predictions-report.pdf>. [last accessed on Sept. 24, 2025].

²⁰ Lola Thrower, "ANTITRUST FOR THE STREAMING ERA: A CASE FOR REGULATING STREAMING GIANTS", David Zaring, Elizabeth F. Putzel, Associate Professor, (Legal Studies & Business Ethics Department), THE WHARTON SCHOOL, UNIVERSITY OF PENNSYLVANIA, (Dec. 2023), available at: <https://repository.upenn.edu/server/api/core/bitstreams/d8d01c5e-3202-44aa-bcd8-989f343f2568/content>. [last accessed on Sept. 26, 2025].

²¹ Supra note 20.

access grew, enabling a direct-to-consumer model for content delivery. This shift gave rise to the "Streaming Video on Demand" (SVOD) market, with Netflix leading the way. Unlike traditional studios that sent film reels to theaters and depended on box office and distribution windows, streamers mainly upload videos to their servers, focusing on engaging subscribers and expanding their platforms. By the late 20th century, SVOD became a recognized alternative to conventional methods, opening new opportunities for independent filmmakers, providing consumers with a broader range of options, and establishing a more direct connection with audiences. The disruptive impact of SVOD is evident in the recent entry of internet giants like Amazon and Apple, along with traditional studios such as Disney and Paramount, into the streaming industry. Their strategic moves reflect an acknowledgment of the streaming model's dominance.

Risks Associated with Anti-Competitive Practices and the Abuse of Market Power

Market share alone does not constitute abuse of a dominant position; additional behaviours that exclude or take advantage of others, such as denying rivals access to audiences or technology or cartel-like collaboration among OTT providers, can. Antitrust concerns from Hollywood's Golden Age are resonating in the entertainment industry as a whole, particularly with the rise of vertical integration and consolidation among streaming services, which might reduce customer choice and increase hurdles to entry. There has been an obvious uptick in the merging of more analogue forms of media like radio and television with more modern forms of media like over-the-top (OTT) services and online gaming platforms in the entertainment and media (M&E) industry. One of the best examples of this trend, which makes it harder to distinguish between different media, is Disney's takeover of Star India. Consolidation may benefit content neutrality and competitiveness, but uncertainties remain. While approving the Disney-Star India merger, the Competition Authority placed many conditions meant to safeguard sports television competition and ensure content neutrality. Such restrictions are established to balance competition, consumer fairness, and market competitiveness.

Emergence of Tech Powerhouses: The expansion of large multinational technology corporations into the digital sphere, such as Amazon and Google, is also having an impact on M&E in this dynamic setting. The CCI examined Google's Play Store policy modifications since this digital monopoly might affect the market. It should be underlined that regulators' control is equally important for consumer and competitive interests; this has been apparent as a warning about the increased power of internet titans in the M&E sector, which regulators should take into consideration.

Evolution of Subscription-Based Revenue Models: Such aggregation platforms, headed by Disney+ Hotstar, and new subscription-based models like Netflix and Hotstar have only increased customer appetite for digital entertainment providers. Legislation addressing these emerging and changing M&E firm formations has not yet reflected this. The CCI's set of transparent requirements for subscription and aggregation platforms, as well as the formation of a regulatory framework suitable for the changing market circumstances of late development.

The challenge of balancing local content promotion with international competition is a big concern for regulators and policymakers. Recent amendments to the Foreign Direct Investment (FDI) regulations restricting the involvement of foreign stakeholders in the news media industry are one example of how the government has enacted legislation to stimulate local content development in accordance with its cultural values. In this context, the globalisation of M&E raises questions about the management of transmission and the promotion of local episcopal cultures.

Revision of Regulation Strategy: While adapting to new difficulties and market situations, the regulatory policy for the CCI M&E sector also evolves. Recent regulatory approvals, such as the Zee-Sony Pictures merger, indicate a more nuanced approach to regulation, incorporating market share and other variables that may impact competition and consumer safety. A proactive regulator is now responsible for ensuring a competitive and sustainable M&E environment. This emphasises the need for adaptable laws.

Abuse of Dominance: In accordance with Section 4 of the Competition Act, 2002. It has been shown that major internet platforms abuse their power by placing unfair restrictions on market participants. Google was fined, for instance, for requiring its applications to be installed before using Android TV gadgets and for preventing device makers from offering devices running other Android forks, thereby preventing rivals from entering the market. *Kshitiz Arya & Others v. Google LLC & Others*. Bundling Google's applications with the Google Play Store reduces competition and innovation in adjacent areas.²²

Self-Preferring and Exclusive Agreements: Exclusive license agreements have been made by streaming services, which might limit the availability of material and hurt competition. The goal of the proposed Digital Competition Bill is to limit anti-competitive content distribution practices and to control platform self-preferring.²³

Discriminatory and anti-competitive tactics have been raised in cases involving denial of market access, such as Apple's ban on third-party app stores and in-app purchases, which it enforces by charging developers an excessive fee.

To gain an unfair advantage over smaller rivals, video streaming platforms may utilise price-gouging tactics (such as free or lower-cost services) and bundling. This might lead to the exclusion of these competitors from the market. This kind of behaviour is subject to investigation under the Act's prohibiting monopolies and anti-competitive agreement sections 3 and 4.²⁴

Compliance with Laws and Regulations: Companies such as Google and Meta have been hit hard by the CCI for breaches of Section 4, leading to penalties of over Rs. 1,300 crores in 2022 and over WhatsApp policy shifts in 2024, respectively. This reflects a more stringent stance against anti-competitive services in the digital content sector. Regarding streaming and over-the-top (OTT) platforms in particular, the

²² Pankhudi Khandenwal, "Tying, Self-preferring and the Digital Competition Bill: A changing landscape for competition intervention?", Indian Journal of Law and Technology: Vol. 19, pp. (2024), DOI: doi: 10.55496/RRXT3484 Available at: <https://repository.nls.ac.in/ijlt/vol19/iss2/3>. [last accessed on Sept. 26, 2025]

²³ Ibid. note 22.

²⁴ Id. Note 23.

Committee on Digital Competition Law's 2024 Report suggests pre-emptive regulation that prioritises interoperability, non-discrimination, and equitable access to information markets. Based on case law and statutory provisions mainly derived from the Competition Act of 2002, as well as continuing legislative growth, these points clarify India's expanding regulatory structure for combating anti-competitive actions in the video streaming-based film and entertainment business.

The M&E industry has been hit especially hard by digital transformation, and it is becoming even more challenging to apply competition legislation to digital media marketplaces. Conventional media have been compelled to drastically change their business models at all levels of the value chain, including in the areas of promotional technology, end-user access, and broadcasting. When contrasted with more conventional business models, the digital economy stands out as fresh and innovative. The peculiarity of digital services rests in their network effects, which means that the product's or service's value increases in proportion to the number of users. This promotes market concentration on the one hand, and it opens up new channels for providing end users with digital services on the other. This suggests that upstarts may more easily and swiftly pose a threat to established players in the market. Conventional approaches to competition, which centre on price and consumer welfare, are finding it more difficult to address the expanding competition problems in the digital economy, as highlighted by regulatory agencies. Determining market size and establishing dominance in digital marketplaces requires meticulous consideration of a number of factors, including the ever-changing nature of digital markets, zero-price services, network implications, market shifts, monopoly effects, and multi-homing.²⁵

A major development in marketing strategy is taking place in the motion picture and entertainment business as a result of digital technologies like machine learning and artificial intelligence. By precisely targeting the market segments and assessing audience behavioral patterns, these innovations allow video streaming services to make the switch from conventional mass advertising to highly tailored promotional strategies. With streaming services like Amazon and Netflix Prime Video dominating in India by using artificial intelligence-powered data to optimize viewer retention and participation, this trend has radically altered the way entertainment content is offered. There are issues about competition as outlined in the Competition Act of 2002. The market behavior and consolidation of the OTT sector are relevant to Section 3 of the Act, which forbids anti-competitive agreements, and Section 4, which deals with the misuse of dominant position. As an added layer of regulation, the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, provide a framework for over-the-top (OTT) services in India by regulating the distribution of information and responsibility on digital platforms. To avoid market foreclosure and guarantee fair competition, the film industry must be diligent in its antitrust enforcement in response to the

²⁵ Anushka Singh, "INTERPLAY OF THE GROWING DIGITAL MEDIA AND ENTERTAINMENT INDUSTRY WITH COMPETITION LAWS", vol. 30, Supremo Amicus, pp. 1-29, (July 2022), available at: <https://supremoamicus.org/wp-content/uploads/2022/07/Anushka-Singh.pdf>. [last accessed on Sept. 26, 2025].

dominance of a few OTT platforms that threaten conventional companies' income streams and market access.²⁶

The Competition Act, implemented by the CCI, governs competition in India. However, the Cable Television Networks (Regulation) Act and Cinematograph Act affect M&E mergers. When evaluating a merger, the CCI takes several key factors, including market dominance, entry barriers, and vertical integration, into account to determine the effects on competition. Media-associated issues, including content variety, views, and editorial autonomy, are also examined. The issue continues unabated despite the film industry's pervasiveness in the entertainment sector. These competitive situations have posed numerous new challenges and difficulties, especially in light of the horizontal concentration and vertical integration of companies in the product and service sectors at an ever-growing technological pace. To ensure the producers' interests are protected and the exhibitors' operational activities are regulated efficiently, self-regulatory organisations or bodies have emerged in the Indian film industry. These organisations handle the administrative and financial facets of film production and distribution, as well as the registration of movie titles to limit the number of contemporaneous releases and the oversight of negotiations between producers and distributors. India is unquestionably in the forefront of global film production, but the nation is struggling to maximise profits from theatrical screenings due to infrastructure constraints. Therefore, pre-release activities like strike agreements and swapping digital rights to films across different platforms are on the rise. While there is a legitimate worry about piracy, the fact that it is economically feasible to acquire pirated content makes it more appealing to consumers than having the choice to put money into licensed streaming. This means that recent developments have become more pressing in the industry's own rebalancing.²⁷

The industry that has evolved to grasp every aspect of the digital era may be shaped by developing solutions, which can lead to fluid difficulties and possibilities. A combination of factors, including rising living standards and accessibility to the internet, has led to a reshaping of India's entertainment and multimedia (M&E) industries, particularly among the country's younger demographic. Concerns about the potential negative impacts on competition have heightened the degree of M&A (mergers and acquisitions) activity, which has expanded dramatically due to the aforementioned expansion. That being said, it is the duty of the professionals working in the media and entertainment industry in the country to efficiently manage their development, enforcement, and governance of the system, and the ever-changing market landscape.²⁸

The rise of internet-based streaming services has intensified anti-competitive practices within the Indian film and entertainment sector, prompting significant review under the Competition Act, 2002. Meta

²⁶ Md Hasan, "OTT PLATFORMS IN DIGITAL ENTERTAINMENT AND LEGAL ISSUES", Woxsen University, available at: <https://woxsen.edu.in/woxsen-law-review/wlr-papers/OTT%20PLATFORMS%20IN%20DIGITAL%20ENTERTAINMENT%20AND%20LEGAL%20ISSUES/>. [last accessed on Sept. 26, 2025].

²⁷ Baisakhi Pattnaik & Biswajit Dash, "ANTI-TRUST IN MEDIA AND ENTERTAINMENT INDUSTRY: LEGAL IMPLICATIONS OF MARKET CONSOLIDATION", Vol. IV, IJIRL, pp. 880- 893, available at: <https://ijirl.com/wp-content/uploads/2024/06/ANTI-TRUST-IN-MEDIA-AND-ENTERTAINMENT-INDUSTRY-LEGAL-IMPLICATIONS-OF-MARKET-CONSOLIDATION.pdf>. [last accessed on Sept. 26, 2025].

²⁸ Ibid. note 24.

(WhatsApp and Facebook) and Google (Android TV and YouTube) are two of the most dominant companies in digital content distribution, and they are under investigation for allegedly abusing their market dominance to stifle legitimate competitors. The following highlights key aspects of anti-competitive behaviors in India's film and entertainment industry with the advent of online streaming services, along with citations and references to relevant laws. Competition and dominance have been ushered in by the emergence of large corporate organisations in the market. There were unexpected developments in the media and entertainment sector after the COVID-19 pandemic. Cineplexes and the market as a whole have been profoundly impacted by the sudden transition of the film industry to OTT (Over-the-Top) platforms. The transition from traditional theatre releases to contemporary internet streaming services is quite apparent, with audiences increasingly favouring the latter due to its enhanced flexibility for individuals. A plethora of production businesses offering streaming services have emerged with the new era of over-the-top (OTT) platforms.²⁹

In this emerging world of online content, companies like Amazon Prime Video and Netflix have been instrumental in securing significant rights from big production banners. One example is how Shah Rukh Khan's Red Chillies Entertainment banner was completely licensed to Netflix. The exclusive streaming rights of Salman Khan Films' productions globally were bought by Amazon Prime Video. A vertical agreement is evident in each of these situations in accordance with section 3(4) of the Competition Act of 2002. Only when vertical agreements restrict competition are they deemed invalid; otherwise, they are not inherently anti-competitive or void. The current situation is so skewed that new over-the-top (OTT) service providers have very little chance of succeeding due to predatory alliances between production companies and streaming platforms. Major film studios were found to have engaged in collusive vertical integration in the well-known case of Paramount Pictures, Inc. The market would effectively become oligopolized as a result of the theatre chains showing only films made by the studios that owned them. J. William O. Douglas proposed a seven-point test that included shared ownership, collaborative agreements, block scheduling, and clearance agreements. Block bookings and clearance agreements were viewed as restrained in trade practices, while joint ownership and pooling agreements were regarded as legitimate trade practices. More independent filmmakers were able to enter the market after this case, free from the influence of the dominant studios.³⁰

There was concern about the formation of cartels in the market in India when the large firms entered the scene. Recent years have seen the emergence of several competitive players who have experienced the abuse of their position of dominance. The Monopolies and Restrictive Trade Practices (MRTP) Act, 1969, the first competition legislation in the world, was enacted in India in response to the country's challenges. As the market developed, the outdated MRTP Act was superseded by the new Competition Act of 2002, which made certain changes to the Act via a constitutional requirement based on the Raghavan Committee's recommendations. To address the abusive behaviour of dominant firms that impose unfair and prejudiced

²⁹ Sakshi Dave & Prakhar Mani Tripathi, "CARTELIZATION IN THE OTT SECTOR IN INDIA: A LEGAL PANORAMA", Vol. 6, NUJS, Journal of Regulatory Studies (JRS), pp. 52-65, 55-56, (2022), available at: <https://doi.org/10.69953/nurs.v6i4.180>. [last accessed on Sept. 26, 2025].

³⁰ United States v. Paramount Pictures Inc., 334 U.S. 141, 167.

conditions on consumers and to prohibit all anti-competitive agreements that limit competition and harm consumer rights, the competition statute is designed to be both broad and specific. The Supreme Court upheld the CCI's order³¹, ruling that horizontally operating associations' actions attracted the element of "Anti-Competitive Agreement" under section 3(3) of the Competition Act, 2002, because the association restricted broadcasting of dubbed serials, which had a significant negative impact on the competitive position of the relevant commercial entities in the market.

The Sherman Antitrust Act, a significant piece of legislation in the United States, was enacted in 1890 under the auspices of Senator John Sherman. The Clayton Antitrust Act, passed by the US Congress in 1914, was another antitrust measure designed to bolster the Sherman Act. Promoting economic competition and fairness among market participants is the goal of the antitrust act. The well-known case of American Telephone & Telegraph Company³² involved a lucrative firm that had become a monopoly in the telecommunications industry, preventing any new competitors from entering the market. As a result, the firm faced multiple accusations under the Sherman Antitrust Act. In an effort to limit the company's ability to bundle its monopoly, the U.S. government and the firm reached an agreement to split the parent company into seven smaller entities, which led to the formation of many new companies. comparably, the Indian streaming sector must undergo continuous scrutiny to ensure that no singular entity dominates the market landscape. The development of a subscription cable network named "Premiere" by many film companies in an effort to rival HBO was the subject in a separate case³³. To boost their revenue, the studios chose to provide a nine-month exclusive licence to this new platform.

Collaborative pricing practices between big production companies and Indian streaming services like Amazon Prime Video and Netflix have been seen, suggesting collusion in the business. Due to pricing pressure, this makes it challenging for standalone or smaller OTT providers to compete and may even force them out of business. Collusive pricing practices like this violate the Competition Act, 2002's Section 3(1)³⁴ because they limit customer choice and damage competition. At this nascent phase of market evolution, the necessity for government intervention is underscored to safeguard against the potential exploitation of financial dominance by larger entities. This action is imperative to maintain the tenets of equitable competition and to avert anti-competitive practices, as stipulated under the Act of 2002.³⁵

In order to alleviate financial strain and adjust to shifting customer tastes, classic cinema chains PVR and INOX amalgamated after the COVID-19 outbreak and the explosive growth of digital entertainment choices. As a consequence of this action, their market dominance was consolidated, and the merged

³¹ CCI v. Coordination Committee of Artists and Technicians of W.B. Film and Television and Ors, A.I.R. 2017 S.C. 1449 (India)

³² American Tel. & Tel. Co. v. United States, 299 U.S. 232 (1936).

³³ United States v. Columbia Pictures Corporation, 189 F. Supp. 153 (S.D.N.Y. 1960).

³⁴ Section 3(1), "No enterprise or association of enterprises or person or association of persons shall enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India.", The Competition Act, 2002, (Act no. 12 of 2003).

³⁵ "NCLAT set aside CUTS' petition seeking CCI probe in PVR INOX merger", Business Standard, (Aug 10 2023), available at: https://www.business-standard.com/companies/news/nclat-set-aside-cuts-petition-seeking-cci-probe-in-pvr-inox-merger-123081000932_1.html. [last accessed on Sept. 27, 2025].

company, PVR INOX Ltd., now controls about half of India's multiplex screens. There were fears that increased market concentration may reduce customer options, drive up costs, and hurt competition. Given the restricted prospects for new entrants owing to previously saturated prime areas, consumer organisations like CUTS claimed that this merger might have an appreciable adverse impact on competition (AAEC). Nevertheless, the merger did not need necessary approval from the Commission since the merged entity's turnover dropped below the statutory standards after the outbreak of the virus. Both the CCI and the NCLAT later rejected the complaints, explaining that suspicions of anti-competitive behaviour are not enough to warrant regulatory action; the only thing that has to happen is a real abuse of power. Under the Competition Act, Sections 3(1) and 4, dominance is not inherently illegal unless it is combined with practices such as unfair pricing or exclusive agreements. The required sector consolidation and the need to be vigilant against anti-competitive behaviours sparked by the growth of digital platforms are at odds, as these instances demonstrate. In addition, these developments have reignited debates over possible legislative changes that would enable the CCI to proactively examine substantial mergers, regardless of whether they do not meet the present notifiable financial requirements; this would guarantee strong competition in the era of digitalisation.³⁶

The merger of Zee Entertainment Enterprises Limited and Sony Group Corporation (SGC), which would create India's biggest TV network, was provisionally allowed by the Competition Commission of India on October 4, 2022. Serious competition concerns were raised by the CCI's investigation, particularly because the combined business would likely acquire 40–45% of the Hindi-language TV market, increasing the possibility of controlling channel pricing and advertising. The parties decided to sell several channels, including Zee Action, Zee Classic, and Big Magic, and pledged to do fair business after the merger to allay these worries and prevent a drawn-out probe. To avoid additional market concentration, Viacom18 and Star India Pvt. Ltd., two prominent competing media companies, were not allowed to purchase these sold properties. The Competition Act, 2002's Section 6 permits the CCI to accept, alter, or forbid mergers that are likely to have a significant negative impact on competition. This section was used to make these behavioural and structural changes. By requiring efficient remedies that preserve competition and guarantee consumer choice in the changing broadcasting and digital environment, the CCI's ruling confirms its competence and commitment in managing significant media acquisitions.³⁷

production, limit the availability of goods, or assign specific market regions for the selling of commodities may also be considered anti-competitive according to Section 3 of the Act. Competition legislation promotes resource distribution and prevents industry monopolies. This declaration addresses producer-distributor relationships and their potential to hinder competition. Although these groups aim to promote their industries, the absence of clear restrictions may lead to activities that harm competition, known as appreciable adverse effects on competition. Despite the Indian film industry's present developing stage, the application of competition legislation has been mostly overlooked. Section 3 of the Act prohibits adverse

³⁶ Supra note 28.

³⁷ Shankar B, "Zee-Sony Merger: Assessing the competition concerns", CCLE, available at: <https://www.icle.in/resource/zee-sony-merger-assessing-the-competition-concerns/>. [last accessed on Sept. 28, 2025].

effects on competition in the relevant market, including manufacture, supply, and distribution. Major production and distribution companies might negotiate agreements that impose arbitrary limits, breaching the Act. Collusion to manipulate pricing, restrict output, or allocate market shares based on proximity is forbidden globally. The Act not only forbids bid rigging but 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 products, or designate certain market areas for the sale of goods may also be deemed anti-competitive.³⁸

Conclusion

Inspiring unprecedented market concentration and posing complicated problems to competition law, the fast digitisation and expansion of video on demand services have radically changed the entertainment sector. Digital platforms have brought new risks that might threaten inclusiveness, equitable access, and consumer autonomy. These include the possibility of cartelisation, restricted arrangements, vertically integrated businesses, and obstruction to market access. India's Competition Act, 2002, has typically provided a strong framework to address mergers, abuses of dominance, anti-competitive agreements, and similar practices. With the use of structural and behavioural remedies, the Competition Commission of India is becoming more adept at managing large transactions, ensuring that markets remain fair. The ever-changing dynamics and technical developments influencing this industry need ongoing adaptation of legislative solutions, although there are still gaps in effective compliance. Indian regulators must keep an eye on the digital media ecosystem and be willing to be flexible in their approach if competition law is to continue playing an important role in protecting innovation, plurality, and fair play.

Digital streaming platforms have unique concerns, including algorithmic transparency, data domination, and discriminatory tactics. Establish explicit, revised regulations to address these issues. Reform digital merger reviews and financial standards to avoid massive but low-revenue consolidations from evading inspection. Require structural and behavioural remedies: To avoid market foreclosure following mergers, enforce divestitures, non-discriminatory access, and exclusive licensing limitations. Diversity and Openness to New Entrants: Ensure that material is acquired transparently and that distribution conditions are fair, encouraging regional and independent content producers to enter the market. Develop CCI and other relevant agencies' specialised teams and cross-disciplinary competence to manage fast-evolving digital marketplaces and tech-driven anti-competitive behaviour. In addition to legislative control, encouraging self-regulation within the sector is crucial for promoting standards of behavior, open-ended standards of excellence, and partnerships between producers and distributors to ensure fair competition. To keep up with the ever-changing media and entertainment industry and its emerging company models and technological breakthroughs, it is important to have an ongoing dialogue with stakeholders such as industry organisations, consumer advocacy organisations, and technical specialists. As digital streaming services continue to increase in importance and industries undergo continuous change, these proposals may help make the regulatory and legal structure more agile and effective in protecting consumers, new products, and services.

³⁸ Supra note 28.