

Date: 30.04.2024

To,
Shri Tejpal Singh,
Advisor (B&CS),
Telecom Regulatory Authority of India.

Subject: Written Comments on the Consultation Paper on Inputs for Formulation of National Broadcasting Policy – 2024 dated April 2nd, 2024.

Dear Sir,

We, MET Legal, a law firm which specializes in the media and entertainment sector, write to you with respect to the subject matter to provide our comments/ suggestions on some of the issues mentioned in the Consultation Paper. Please see our responses below:

Q1. What policy measures and regulatory aspects should be adopted in the National Broadcasting Policy to nudge the growth of Indian regional content through OTT platforms?

The regional OTT content is on the rise in India. In 2023, regional OTT content volume (in terms of hours of content) for the first time exceeded that of the Hindi language content and is expected to continue growing¹. The resounding success of regional films over the past few years has created a market for other regional films on OTT platforms. We are also seeing an increase in film dubbing with major theatrical releases now being dubbed in multiple Indian languages, and in some cases as many as seven languages. The state governments must use this opportunity to promote regional content by creating funds dedicated to films promoting local culture, freedom fighters/ other famous personalities from the region, local folklore, and other art forms.

French regulations require licensed television broadcasters to ensure that at least 60% of the audiovisual works and films broadcasted must be produced in the European Union and 40% must be produced originally in French². Further, European Parliament has issued a directive that its member states shall ensure that media service providers of on-demand audiovisual media services under their jurisdiction secure at least a 30% share of European works in their catalogues and ensure prominence of those works.³

¹ [#Reinvent: India's media & entertainment sector is innovating for the future \(ey.com\)](#)

² [In review: media law in France - Lexology](#)

³ [DIRECTIVE \(EU\) 2018/ 1808 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL - of 14 November 2018 - amending Directive 2010/ 13/ EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services \(Audiovisual Media Services Directive\) in view of changing market realities \(europa.eu\)](#)

The National Broadcasting Policy (NBP) can mandate multi-language OTT platforms to carry a minimum percentage of regional content (specific regional languages can be identified for promotion) on their platforms at all times. While acknowledging the high demand for international content in India, the OTT platforms can be directed to maintain a catalogue of regional content on their platforms. Further, such OTT platforms can be mandated under the policy to finance regional films and shows from the revenues generated from the Indian regional market and engage local artists, technicians and crew in the production of such works. This will promote growth of regional OTT content as well as create employment opportunities for skilled workers across India.

Q2. What new strategies and measures should be envisaged in the policy for the film industry to enhance audience engagement, infrastructure development, upskilling artists, reduce piracy, increase foreign direct investment or any other aspect? What steps are required to make India a preferred filming destination? Provide your comments with detailed justification.

In the latest Ankura Piracy Statistics report 2022, India is ranked as the third highest contributor (after U.S. and Russia) of visits to content piracy websites with over 7 billion visits through torrent sites⁴. The report signifies that piracy remains a major concern worldwide, including in developed countries. The Digital Millennium Copyright Act (DMCA) provides a takedown service to remove copyrighted content from any website within 24-48 hours. The Motion Picture Association (MPA) of the USA is advocating for a site-blocking law which will require internet service providers to block websites dedicated to sharing pirated content⁵ which steals jobs from workers and monies from the economy.

In India, leading entertainment companies such as Netflix, Amazon and Warner Bros, etc. have approached the Delhi High Court for a permanent injunction against platforms/ websites hosting copyrighted content owned by such companies⁶. While the court has directed an injunction, such websites tend to crop up with a new link the moment they are blocked thereby, unable to permanently block online piracy.

The governmental authorities must consider regulations and provide effective tools and processes to smoothen the process for the companies to block pirated content, including through permanent and dynamic injunctions, rather than a court-based administrative process which is expensive and time consuming. Such regulations must provide timebound measures against such online piracy websites including blocking the website and any other website subsequently originated from the website carrying the copyrighted content. The governments must collaborate to create tools for effective protection of copyright.

⁴ [More Than Seven Billion Visits to Content Piracy Websites, Originated From India in 2022 – Ankura Piracy Statistics Report, Amit Jaju](#)

⁵ [Major Movie and TV Studios Advocates for Site-blocking Law \(medianama.com\)](#)

⁶ [Netflix Approach Delhi HC Against Copyright Infringement \(medianama.com\)](#)

Q3. Online gaming being a rising sector holds potential for contributing to 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 general public (especially underage players) from negative and psychological side effects, while promoting healthy gaming.

Current regulations in India address only online gambling, lacking specific regulations for other forms of player exploitation through monetization activities in online gaming. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("**IT Rules**") currently propose a self-regulatory mechanism for online gaming companies' registration, regulation, and grievance redressal.

With rapid advancements in gaming technology, global jurisdictions are concurrently introducing new legislations and regulatory guidance. In our opinion, India requires specific regulations to distinguish between online gaming and online gambling. The IT Rules currently establish conformity with gambling laws in India as a prerequisite of an online game. Although there is abundant literature on how microtransactions illicit psychological responses akin to gambling, it is a far more nuanced issue that requires equally nuanced regulations to address.

MeitY introduced amendments to the IT Rules as of April 6th, 2023 (the "**Gaming Amendments**"), primarily targeting online games involving real money. These amendments focus on central-level regulations for "**Online Real Money Games**", where users stake cash or assets with the expectation of winning more in return. Among the additional rules on verification of the type of games the IT Rules stipulate that only those online real money games which don't involve 'wagering' on outcomes are permissible to be registered as an Online Real Money Game. Another defining feature of an Online Real Money Game would be the requirement of players to make 'deposits' before playing, but there is currently no definition on what a 'wager' or 'deposit' would constitute.

Currently, several video games operate on a 'Freemium' model, where a game is downloaded for free, but players are influenced to get bonuses and other in-game advantages in exchange for an in-game currency which must be purchased with real money, such transactions are referred to as microtransactions. Microtransactions also commonly take the form of loot-boxes which are in-game rewards that a player can purchase to garner in-game advantages through a system or random chance. Many online games from recent years also try to monetize itself in many ways, like influencing players to buy in-game resources by introducing a steep difficulty curve after a particular level, having cool-down mechanics which introduce an energy system in to games wherein the player either has to wait several hours for their energy to re-fill and are influenced to buy energy to continue playing the game, purchase of 'Battle Passes,' where players get a range of randomized in-game items or influencing players to purchase a Battle Pass, which would net them a higher tier of rewards.

The Gaming Amendments, although provides the possibility for future regulations to classify games with such microtransactions as Online Real Money Games, it must be defined specifically to differentiate microtransactions from online gambling. Currently as it stands due to the lack of a definition or judgements interpreting what a wager or a deposit could constitute, microtransactions remain outside the regulatory framework. Thus, there is a crucial need to address the criteria to fill the gap and prevent developers from exploiting potential loopholes in the regulatory system.

In response to microtransactions in online gaming activities some countries, like Japan and Belgium, have outright banned in-game purchases, while China requires the game developers to provide transparency on loot boxes where the developer must disclose all possible items and the probability to get these items as a reward. The Netherlands regulations require gaming companies to obtain a license to introduce loot box mechanics in games. Meanwhile, the UK is debating a law regulating microtransactions in video games, and US senator Josh Hawley has recently introduced a bill in the United States to ban pay-to-win and loot box transactions.

Regulations to protect minors from gaming addiction is also something that is absent from the current regulatory framework in India. As this is a global concern, countries like China, South Korea, and Japan have already opted to enact regulations limiting screen time or enforcing log-out measures for minors.

The fact that the Gaming Amendments to the IT Rules have been welcomed by the gaming industry in India, does indicate a willingness to comply and represents a crucial opportunity for India to regulate online gaming.

Q4. What further steps and initiatives should be adopted by the Central and State Governments and the industry for the growth of animation, VFX and post-production segment? Provide your comments with detailed reasoning and justification.

The animation industry in India contracted by 5% in 2023 due to lack of local demand⁷. The animation industry requires seeding support from central and state governments for its growth in the Indian market. One of the key concerns is the lack of dedicated funds for the animation industry, particularly the adult animation content. The existing film funds are expensive and unaffordable for most artists aiming to establish themselves in the industry. Netherlands has dedicated funds for animation projects thereby incentivizing artists to pursue creation of animation works⁸. Further, the government of Japan started the 'Cool Japan Fund' in 2013 with a budget of USD 500 million for promotion of Japanese culture including animes overseas⁹. On similar lines, state governments must create funds for production of regional animation content focused on regional stories and characters. This would encourage local skilled animators to undertake projects. The availability of good animation content

⁷ [#Reinvent: India's media & entertainment sector is innovating for the future \(ey.com\)](#)

⁸ [Funding Options | Filmfunds](#)

⁹ ["Cool Japan" gives anime heroes a new mission: boost the economy | Reuters](#)

could also help in creating a demand for such content in the market for animation films. Once substantial animation content is available, the central government could also direct OTT platforms to carry a minimum percentage of regional animation content on their platforms similar to the examples from France and EU given above regarding audiovisual content.

Further, the government could provide animation as part of the school curriculum under the National Education Policy and in collaboration with Atal Tinkering Labs. Government could also engage artists to create animated explainer videos for its government policies or videos commemorating special events, renowned individuals and art and culture and arts forms practiced across India.