

# Broadcasting Rights in the Digital Age: A Critical Analysis of Media Regulation and Policy Frameworks

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**Abstract**—The rapid digitalization of media has fundamentally changed broadcast rights and challenged traditional regulatory models and policy frameworks across jurisdictions. The convergence of broadcasting, telecommunications and the Internet platforms has expanded the distribution of content via over-the-top (OTT) services, social networks and streaming platforms, raising complex legal questions related to copyright protection, licensing, territoriality, competition and freedom of expression. This paper critically analyzes broadcast rights in the digital age by examining the adequacy of existing media regulation and policy frameworks to address technological disruption. It examines how legacy broadcasting laws, originally designed to address spectrum scarcity and territorial broadcasting, struggle to regulate borderless digital platforms and algorithm-driven content distribution. This paper also examines regulatory responses at national and international levels, including reforms to copyright law, content regulation, data protection and platform liability. Particular emphasis is placed on balancing the property rights of broadcasters and public interest objectives such as access to information, cultural diversity and media pluralism. This paper also highlights new challenges, including digital piracy, cross-border enforcement, regulatory fragmentation and the growing influence of private platforms in content governance. Using a comparative and policy-oriented approach, this paper argues for a harmonized and technologically neutral regulatory framework that protects broadcast rights while ensuring fair competition and democratic values in the evolving digital media ecosystem.

**Index Terms**—Broadcasting Rights, Digital Media, OTT Platforms, Media Regulation, Copyright Law, Policy Frameworks.

## I. INTRODUCTION

The concept of broadcasting rights has undergone a profound transformation in the digital age, driven by rapid technological progress and the convergence of media, telecommunications and information technology. Traditionally, broadcasting rights were closely tied to radio and television, governed by regulatory frameworks based on spectrum scarcity, territorial licensing and state oversight. However, the rise of digital technologies, high-speed Internet and online platforms has fundamentally changed the way content is produced, distributed, accessed and monetized. This shift has challenged the relevance and effectiveness of existing media regulation and policy frameworks, necessitating a critical review of broadcast rights in today's digital environment.<sup>1</sup>

In the pre-digital era, broadcast regulation focused on managing limited public resources, such as radio frequencies, ensuring equitable access and safeguarding public interest objectives such as cultural diversity, pluralism and national security. Broadcasters operated within clearly defined territorial boundaries and rights were licensed on an exclusive and geographically limited basis. With the advent of digital broadcasting, satellite communications and, above all, Internet-based platforms, these traditional assumptions have been upended.

Over-the-top (OTT) platforms, video-on-demand services, social media networks and live streaming applications now instantly distribute content across borders, making territorial restrictions increasingly

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<sup>1</sup> Doreen Weisenhaus and Simon NM Young (eds), *Media Law and Policy in the Internet Age* (Hart Publishing 2015).

ineffective and creating complex legal and regulatory challenges. Broadcast rights in the digital age are no longer limited to conventional broadcasters, but extend to a wide range of stakeholders, including streaming platforms, digital intermediaries, content creators, advertisers and consumers. This vast ecosystem has intensified discussions about copyright protection, licensing models, revenue sharing, and the enforcement of exclusive rights in an environment characterized by ease of reproduction and global accessibility.<sup>2</sup>

The Digital piracy, unauthorized streaming and online content sharing have further complicated the protection of broadcasting rights, placing significant economic pressure on traditional broadcasters and rights holders. At the same time, the digital transformation of broadcasting has blurred the distinction between broadcasters and intermediaries. Platforms that were initially seen as neutral conduits for content now play an active role in curation, recommendation and monetization through algorithmic governance. This development raises important questions relating to platform liability, editorial responsibility and regulatory equivalence. While traditional broadcasters are subject to rigorous licensing and content standards, digital platforms often operate with lighter regulation, leading to concerns about regulatory imbalances, unfair competition and unequal protection of broadcasting rights.<sup>3</sup>

From a policy perspective, governments and regulators face the difficult task of balancing multiple and sometimes competing objectives. On the one hand, it is necessary to protect the legitimate proprietary and commercial interests of broadcasters and content owners. On the other hand, regulatory authorities must ensure the protection of fundamental rights such as freedom of expression, access to information and the public's right to receive diverse and trustworthy content. digital media regulation must address broader concerns related to data protection, market dominance of global platforms, cultural sovereignty and democratic accountability. The

regulatory response to these challenges has been fragmented and uneven across jurisdictions. Some states have sought to extend existing broadcasting rules to digital platforms, while others have pursued sector-specific reforms in copyright, competition law and information technology regulation. At the International level, the lack of a harmonized legal framework for digital broadcasting rights has given rise to jurisdictional conflicts and enforcement challenges, especially regarding cross-border distribution of content.<sup>4</sup>

## II. LEGAL FRAMEWORK GOVERNING BROADCASTING RIGHTS: INTERNATIONAL AND NATIONAL PERSPECTIVES

The combination of international legal instruments and domestic regulations, each seeking to respond to technological changes while safeguarding the economic and moral interests of broadcasters. At the international level, broadcasting rights are primarily protected by a series of intellectual property treaties, which recognize broadcasters as holders of neighboring or related rights. The Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 1961, constitutes the fundamental instrument in this regard, granting broadcasters<sup>5</sup> exclusive rights to authorize or prohibit the retransmission, fixation, reproduction and public communication of their broadcasts. The Treaty of Rome was framed in a pre-digital context and largely concerned traditional terrestrial and satellite broadcasting. Although it sets minimum standards of protection, its scope is limited in addressing contemporary digital practices such as internet streaming, simulcasting and on-demand broadcasting, exposing gaps in the international protection of broadcasters in the digital environment. Complementing the Rome Agreement, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), administered by the World Trade Organization, integrates broadcasting rights into a

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<sup>2</sup> Richard Haynes, *Media Rights and Intellectual Property* (Edinburgh University Press 2005).

<sup>3</sup> Lawrence Lessig, *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity* (Penguin Press 2004).

<sup>4</sup> Irini Katsirea, *Press Freedom and Regulation in the Digital Era* (Oxford University Press 2024).

<sup>5</sup> International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention) 1961.

broader trade-oriented intellectual property framework.

The TRIPS Agreement requires member states to comply with the substantive provisions of the Rome Convention, globalizing minimum standards of protection and linking broadcasting rights to international trade and enforcement mechanisms. However, the TRIPS Agreement does not explicitly address Internet broadcasting and leaves considerable latitude to member states to adapt their national laws to digital realities. The World Intellectual Property Organization (WIPO) has played a crucial role in modernizing the international discourse on broadcasting rights through initiatives such as WIPO's proposed Broadcasting Organizations Treaty, which aims to extend protection to digital broadcasts, including webcasting and simulcasting.<sup>6</sup>

Although consensus on this treaty remains elusive due to concerns over freedom of expression, access to information and technological neutrality, WIPO's normative efforts underscore the growing recognition that traditional international instruments for regulating broadcasting rights are insufficient in the digital age. At the national level, broadcasting rights are governed by a combination of copyright laws, broadcasting laws and industry-specific regulations. Most jurisdictions recognize broadcasters' rights as neighboring rights under copyright law or as statutory rights under broadcasting law. In India, for example, broadcasting rights are protected by the Copyright Act of 1957, which grants broadcasters special rights to retransmit, record and publicly communicate their broadcasts.

Added to these rights is the regulatory control exercised through the Ministry of Information and Broadcasting and sectoral bodies such as the Telecom Regulatory Authority of India (TRAI). Broadcasting rights in the UK are governed by the Copyright, Designs and Patents Act 1988, alongside regulatory oversight from Ofcom, which ensures compliance with content standards, licensing standards and public service obligations. In the United States, broadcasters' rights are protected by a combination of copyright

laws and communications regulation by the Federal Communications Commission (FCC), reflecting both a regulated and market-oriented approach.<sup>7</sup>

Despite differing case law, national frameworks generally struggle to keep pace with the rapid expansion of digital broadcasting, particularly with regard to over-the-top (OTT) platforms, live streaming services and user-generated content platforms operating outside of traditional licensing models. One of the main challenges of national regulation of broadcasting rights is achieving regulatory parity between traditional broadcasters and digital platforms. While traditional broadcasters are subject to strict licensing requirements, content regulations and ownership restrictions, digital platforms often benefit from more lenient regulatory treatment, raising concerns about unfair competition and an erosion of broadcasters' exclusive rights.<sup>8</sup>

The national copyright laws are often based on territorial principles that grant rights within defined geographic boundaries. This approach becomes increasingly problematic in the digital context, as broadcasts are accessible worldwide, often without regard to national borders or licensing agreements. As a result, broadcasters find it difficult to enforce their rights against unauthorized digital retransmissions from foreign jurisdictions. *ESPN Star Sports vs Global Broadcast News Ltd*<sup>9</sup> is a landmark decision on the protection of broadcasting rights in India, particularly in relation to live sports broadcasts. ESPN Star Sports held exclusive broadcasting rights for international cricket matches and alleged that Global Broadcast News (GBN) infringed these rights by unauthorisedly using live footage and match visuals in its news broadcasts.

The central issue before the Delhi High Court was whether the use of short clips of live sports events for news reporting constituted copyright infringement or was protected under fair dealing exceptions. The Court held that broadcasting organisations enjoy special rights under Section 37 of the Copyright Act, 1957, which are distinct from copyright in underlying works.

<sup>6</sup> World Trade Organization, Agreement on Trade-Related Aspects of Intellectual Property Rights (1994) arts 9 and 14.

<sup>7</sup> World Intellectual Property Organization, Standing Committee on Copyright and Related Rights: Broadcasting Organizations (WIPO SCCR/41, 2021).

<sup>8</sup> Telecom Regulatory Authority of India, Consultation Paper on Regulatory Framework for Over-the-Top (OTT) Communication Services (TRAI 2020).

<sup>9</sup> *ESPN Star Sports vs Global Broadcast News Ltd* 2008 (38) PTC 477 (Del).

While news reporting is a recognised exception, the Court clarified that repeated and substantial use of live broadcast footage goes beyond fair dealing and undermines the commercial value of exclusive broadcasting rights.

The judgment emphasised that broadcasters invest significant resources in acquiring exclusive rights and such investments deserve legal protection, even in the context of freedom of the press. This case is particularly relevant in the digital age, as it underscores the tension between public access to information and the proprietary rights of broadcasters, especially where content is rapidly disseminated across multiple platforms. Jurisprudential challenges represent one of the most complex aspects of broadcasting rights regulation in the digital age. Digital broadcasting, by its nature, involves cross-border transmissions, making it difficult to determine the applicable law, competent forum and enforcement mechanisms. Issues such as online piracy, unauthorized live broadcasts of sporting events and cross-border retransmission of television content illustrate the limits of territorially limited legal frameworks.

In the case *Star India Pvt Ltd vs Piyush Agarwal*<sup>10</sup>, Star India Pvt Ltd sought an injunction against the defendant for unauthorised live streaming of cricket matches through online platforms and websites. The dispute highlighted the growing challenge of digital piracy and illegal online retransmission of broadcast content. The Delhi High Court examined whether unauthorised internet streaming of live television broadcasts amounted to infringement of broadcasting reproduction rights under Indian copyright law. The Court affirmed that live Internet streaming without authorisation squarely falls within the ambit of infringement under Sections 37 and 39A of the Copyright Act, 1957. It recognised that digital platforms pose unique enforcement difficulties due to anonymity, cross-border access, and ease of duplication.<sup>11</sup>

Importantly, the Court adopted a proactive approach by granting dynamic injunctions, allowing rights

holders to block not only existing infringing websites but also mirror and redirect websites that emerge subsequently. This judgment is significant for digital broadcasting regulation, as it reflects judicial adaptability in responding to technological realities. It strengthens the enforcement framework for broadcasters by recognising that traditional injunctions are insufficient in the fast-moving digital ecosystem. The case demonstrates India's evolving jurisprudence in aligning broadcasting rights protection with international best practices in the digital age.<sup>12</sup>

### III. DIGITAL PLATFORMS, OTT SERVICES, AND THE TRANSFORMATION OF BROADCASTING RIGHTS

The rise of digital platforms and over-the-top (OTT) services has fundamentally changed the nature, scope and enforcement of broadcast rights, marking a decisive shift from traditional spectrum-based broadcasting to internet-based on-demand content distribution systems. OTT platforms such as Netflix, Amazon Prime Video, Disney+ Hotstar, YouTube and other streaming services bypass conventional broadcast infrastructure and deliver audiovisual content directly to consumers over the Internet. This transformation has significantly changed the television ecosystem by expanding consumer choice, enabling personalized content consumption and disrupting the established business models of television broadcasters. Unlike traditional broadcasting, which operates under strict licensing regimes and public service obligations, OTT platforms operate in a relatively deregulated environment, raising critical legal and policy questions regarding regulatory equivalence, content management and the protection of broadcast rights.<sup>13</sup>

The rise of OTT platforms has redefined the very concept of broadcasting. Traditional broadcasting catered to multiple people within defined territorial boundaries, while digital platforms enable both linear streaming and on-demand access without geographic

<sup>10</sup> *Star India Pvt Ltd vs Piyush Agarwal* 2013 (53) PTC 308 (Del).

<sup>11</sup> Copyright, Designs and Patents Act 1988 (UK), ss 6, 20 and 73.

<sup>12</sup> European Commission, Audiovisual Media Services Directive (EU) 2018/1808.

<sup>13</sup> Lionel Bently, Brad Sherman, Dev Gangjee and Phillip Johnson, *Intellectual Property Law* (5th edn, Oxford University Press 2018).

restrictions. This shift has blurred the distinction between broadcasters, distributors and intermediaries, with digital platforms often taking on multiple roles, including content aggregation, curation and monetization. Thus, broadcasting rights are no longer limited to scheduled broadcasts, but also extend to simulcast services, catch-up television and video on demand. Existing regulatory frameworks, largely designed for terrestrial and satellite broadcasts, struggle to accommodate these technology-driven forms of content distribution, leading to regulatory uncertainty and enforcement challenges.<sup>14</sup>

The Licensing, exclusivity and territoriality constitute the central legal basis of broadcasting rights, but these principles are under increasing pressure in the digital environment. Traditionally, broadcasting rights were licensed on an exclusive, territorial basis, allowing broadcasters to monetize content in specific geographic markets. However, OTT platforms rely on global or multi-territory licensing models and often negotiate complex rights agreements covering multiple jurisdictions simultaneously. While this approach improves market efficiency and consumer access, it undermines the territorial exclusivity that broadcasters rely on to generate revenue. Additionally, geo-blocking mechanisms intended to enforce territorial licenses are often circumvented via virtual private networks (VPNs), further weakening the effectiveness of traditional licensing models. As a result, rights holders face significant challenges in maintaining control over the geographic use of their content in the digital space.<sup>15</sup>

The digital transformation of broadcasting rights has also increased concerns about market dominance and competitive imbalance. Large OTT platforms have significant financial and technological resources that allow them to acquire exclusive rights to premium content around the world, particularly in the field of sports and entertainment. This concentration of rights marginalizes small broadcasters and local content producers and raises questions about media pluralism

and cultural diversity. From a regulatory perspective, the lack of consistent licensing requirements and content standards for OTT platforms creates a level playing field, as traditional broadcasters remain subject to strict regulatory controls while digital platforms operate more flexibly.<sup>16</sup>

Digital piracy and unauthorized retransmission are among the most pressing challenges to broadcasting rights in the OTT era. The ease of copying, streaming and sharing digital content has led to widespread illegal distribution of live broadcasts, particularly of sporting events. Unauthorized live streaming websites, social media platforms and mobile applications allow real-time access to unlicensed premium content, causing significant economic losses for broadcasters and rights holders.

In *Super Cassettes Industries Ltd vs MySpace Inc*<sup>17</sup> case, the Delhi High Court addressed intermediary liability and its implications for digital broadcasting and content dissemination. T-Series alleged that MySpace facilitated large-scale copyright infringement by hosting unauthorised music uploads. The Delhi High Court held that intermediaries can claim safe harbour protection only if they exercise due diligence and act expeditiously upon receiving notice of infringement. The Court recognised that digital platforms play an active role in content organisation and monetisation, thereby influencing public communication of works. This reasoning is particularly relevant for OTT platforms and streaming services that function as content aggregators and distributors. The judgment establishes accountability standards for platforms and strengthens enforcement mechanisms against unauthorised digital dissemination of broadcast content.

*UTV Software Communication Ltd vs 1337x. To & Ors*<sup>18</sup> is a landmark ruling on online piracy and website blocking. The Delhi High Court classified rogue websites facilitating large-scale piracy and permitted pre-emptive blocking of such platforms. The Court held that digital piracy severely undermines the

<sup>14</sup> Irini Katsirea, 'Public Service Broadcasting and the Internet: From State Regulation to Self-Regulation?' (2018) 26 *European Journal of Communication* 309.

<sup>15</sup> Nicolas Suzor, 'Digital Constitutionalism: Using the Rule of Law to Evaluate the Legitimacy of Governance by Platforms' (2018) 4 *Social Media + Society* 1.

<sup>16</sup> Sam Ricketson and Jane Ginsburg, *International Copyright and Neighbouring Rights* (2nd edn, Oxford University Press 2006).

<sup>17</sup> *Super Cassettes Industries Ltd vs MySpace Inc* 2017 (69) PTC 1 (Del).

<sup>18</sup> *UTV Software Communication Ltd vs 1337x. To & Ors* 2019 (78) PTC 375 (Del).

economic viability of content creators and broadcasters. By recognising the futility of targeting anonymous infringers individually, the Court endorsed website blocking and ISP-level enforcement as proportionate remedies. The ruling has wide implications for OTT platforms and broadcasters, particularly in protecting exclusive digital and broadcasting rights against unauthorized online exploitation.

The borderless nature of the Internet further complicates enforcement, as counterfeit platforms often operate from foreign jurisdictions that are outside the direct reach of domestic regulators and courts. Judicial and regulatory responses to digital piracy have evolved to address these challenges, with courts increasingly recognizing the inadequacy of traditional remedies. To combat unauthorized transfers, measures such as dynamic court orders, website blocking orders and liability frameworks for intermediaries have been put in place. However, these mechanisms remain reactive and fragmented and often lag behind technological innovation. Persistent piracy highlights the need for a comprehensive and technology-neutral regulatory framework that integrates copyright enforcement, platform liability and international cooperation.

#### IV. MEDIA REGULATION AND POLICY FRAMEWORKS IN THE DIGITAL AGE

The digital age has forced regulators and policy makers to rethink traditional media regulatory frameworks in order to cope with the profound transformation of broadcasting and content distribution. Conventional broadcasting regulation was based on spectrum scarcity, territorial jurisdiction, and state licensing, with a strong emphasis on public interest obligations such as pluralism, cultural diversity, and content standards. However, the rise of digital streaming, OTT platforms and social media has made many of these assumptions obsolete. Digital broadcasting runs on Internet infrastructure rather than scarce public resources, enabling global distribution of content across national borders.<sup>19</sup>

<sup>19</sup> Monroe E Price, *Media and Sovereignty: The Global Information Revolution and Its Challenge to State Power* (MIT Press 2002).

As a result, regulatory approaches in the digital age have shifted from strict ex ante licensing models to more flexible hybrid frameworks that combine sectoral regulation with general copyright, competition and information technology laws. An important regulatory response is the extension or adaptation of existing broadcasting rules to digital services. Several jurisdictions have attempted to impose content standards, advertising rules and public service obligations on OTT platforms to ensure parity with traditional broadcasters. The European Union's audiovisual media services framework has gradually expanded its scope to include on-demand and video-sharing platforms, reflecting a movement towards technology-neutral regulation. In contrast, other jurisdictions, including India, have taken a more incremental approach by relying on self-regulatory mechanisms for OTT platforms, complemented by regulatory oversight under information technology and broadcasting laws. These divergent approaches highlight the lack of global consensus on how to best regulate digital broadcasting while preserving innovation and freedom of expression. Platform liability and content management have emerged as central concerns in the digital regulatory landscape.<sup>20</sup> Digital platforms are taking an increasingly active role in content curation, recommendation and algorithmic monetization, blurring the distinction between neutral intermediaries and traditional publishers. This development raises critical questions about editorial responsibility, transparency and liability for harmful or illegal content. Policymakers have responded by introducing liability regimes for intermediaries that make safe harbor protection conditional on due diligence obligations, including content moderation, complaints mechanisms and cooperation with law enforcement authorities. While such measures aim to increase accountability, they also raise concerns about excessive regulation, private censorship and the chilling effect on freedom of expression. The challenge lies in designing governance frameworks that ensure responsible platform behavior without undermining democratic discourse or imposing disproportionate compliance burdens.<sup>21</sup>

<sup>20</sup> Irini Katsirea, *Press Freedom and Regulation in the Digital Era* (Oxford University Press 2024).

<sup>21</sup> Nicolas Suzor, 'Digital Constitutionalism: Using the Rule of Law to Evaluate the Legitimacy of

Competition law has become an increasingly important tool in regulating digital media markets characterized by high levels of concentration and network effects. Large OTT platforms often enjoy significant market power due to their control over data, algorithms and global distribution networks. This domination allows them to acquire exclusive rights to premium content, impose restrictive contractual conditions and marginalize traditional broadcasters and small content creators. Regulators have therefore turned to competition law to address issues of market dominance, abuse of position and anti-competitive practices in the digital media sector. Merger control, market investigations and data-related remedies are increasingly used to prevent excessive concentration and promote fair competition.<sup>22</sup>

*Shreya Singhal vs Union of India*<sup>23</sup> is the most significant Indian judgment on digital media regulation and platform accountability. The Supreme Court struck down Section 66A of the Information Technology Act, 2000 as unconstitutional for being vague and having a chilling effect on freedom of speech under Article 19(1)(a) of the Indian Constitution. At the same time, the Court upheld Section 79, which grants safe harbour protection to intermediaries, subject to compliance with due diligence requirements. Crucially, the Court clarified that intermediaries are required to remove content only upon receiving actual knowledge through a court order or government notification. This decision laid the constitutional foundation for digital content governance in India by balancing platform accountability with free speech. It continues to influence regulatory approaches to OTT platforms, social media intermediaries, and digital broadcasters. One of the key policy challenges in the digital age is achieving regulatory parity between traditional broadcasters and digital platforms. Conventional broadcasters remain subject to strict licensing requirements, content regulations and ownership restrictions, while digital platforms often operate under lighter regulatory regimes. This asymmetry creates an uneven playing field and can encourage

regulatory arbitrage. Policymakers are therefore exploring approaches that align regulatory obligations based on the nature and impact of services rather than the technology used.

*Anuradha Bhasin vs Union of India*<sup>24</sup> addressed State regulation of digital communication and its impact on media freedom. The Supreme Court held that freedom of speech and expression through the Internet enjoys constitutional protection under Article 19(1)(a). While recognising the state's power to impose restrictions in the interest of national security, the Court emphasised that such restrictions must satisfy the tests of legality, necessity, and proportionality. The judgment is significant for digital broadcasting and OTT services because internet shutdowns directly affect online news portals, streaming platforms, and digital broadcasters. The Court mandated periodic review and publication of suspension orders, strengthening transparency and accountability in digital regulation.

Such functional or activity-based regulation aims to ensure that companies playing similar roles in the media ecosystem are subject to comparable standards of accountability and oversight. The media regulation and policy responses to the digital age reflect an ongoing attempt to balance competing interests: promoting innovation and market growth, protecting the rights of broadcasters, preserving competition, and upholding public interest values. The effectiveness of these responses depends on the introduction of coherent, adaptable and technologically neutral regulatory frameworks capable of taking into account the dynamic and transnational nature of digital media. *Google LLC v Competition Commission of India*<sup>25</sup> case represents a landmark application of competition law to digital platforms. The Competition Commission of India found Google guilty of abusing its dominant position in the Android ecosystem by imposing restrictive conditions on device manufacturers. Though not specific to broadcasting, the ruling is highly relevant to digital media markets, where dominant platforms control content discovery, advertising, and distribution. The decision highlights how competition law is increasingly used to ensure

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Governance by Platforms' (2018) 4 Social Media + Society 1.

<sup>22</sup> UNESCO, World Trends in Freedom of Expression and Media Development: Global Report 2023 (UNESCO 2023).

<sup>23</sup> *Shreya Singhal vs Union of India* (2015) 5 SCC 1.

<sup>24</sup> *Anuradha Bhasin vs Union of India* (2020) 3 SCC 637.

<sup>25</sup> *Google LLC vs Competition Commission of India* 2022 SCC OnLine CCI 38.

regulatory parity and curb market dominance in digital media and OTT ecosystems.

#### V. COMPARATIVE ANALYSIS OF BROADCASTING REGULATION IN THE DIGITAL ERA

The Regulation of broadcasting in the digital age has evolved differently across jurisdictions, reflecting variations in constitutional traditions, market structures and political priorities. A comparative analysis of regulatory models in the United Kingdom, European Union, United States and India shows both divergences and gradual convergences in addressing the challenges posed by digital broadcasting, OTT platforms and cross-border content distribution. While each jurisdiction has different regulatory philosophies, common concerns about platform liability, competition and protecting the public interest are increasingly influencing regulatory responses. In the UK, regulation of the broadcasting sector has traditionally relied on strong public service obligations and independent regulatory oversight. The acts as a convergent regulator overseeing broadcasting, telecommunications and online content, enabling a coordinated response to digital transformation.<sup>26</sup>

The UK regulatory model emphasizes content standards, child protection, impartiality and cultural diversity, and gradually extends oversight to on-demand and online services. Post-Brexit reforms continue to align with European standards while allowing greater flexibility in the regulation of digital platforms through codes of conduct and co-regulation mechanisms. This approach reflects a balance between statutory regulation and industry self-regulation and aims to maintain public trust without stifling innovation. The European Union has adopted a harmonized and technology-neutral regulatory framework to regulate digital broadcasting in all member states. The Audiovisual Media Services Directive (AVMSD) represents the cornerstone of European media regulation, extending traditional

broadcasting rules to on-demand audiovisual services and video sharing platforms.<sup>27</sup>

The European model emphasizes minimal harmonization, allowing member states to introduce stricter standards while ensuring a common basis for content regulation, advertising and the protection of minors. More recently, the Digital Services Act (DSA) and the Digital Markets Act (DMA) have strengthened platform accountability and competition oversight by imposing due diligence requirements, transparency requirements and restrictions on dominant digital gatekeepers. This integrated regulatory strategy reflects the EU's commitment to protecting fundamental rights while promoting fair competition in the digital media market. In contrast, the United States follows a market-oriented regulatory model, with limited content regulation and strong constitutional protections for free speech. Broadcasting regulation is primarily overseen by the Federal Communications Commission (FCC), which focuses on technical standards, licensing, and competition rather than content control. OTT platforms and streaming services operate largely outside the traditional broadcast regulatory framework, benefiting from intermediary protection and minimal upfront oversight.<sup>28</sup>

The Content management is governed primarily by private ordering and platform policies, with liability protections under laws such as Section 230 of the Communications Decency Act. While this approach promotes innovation and market growth, it has raised concerns about market concentration, misinformation, and the lack of accountability of dominant digital platforms. Recent political debates and antitrust actions indicate a gradual shift towards greater regulatory intervention, especially in the areas of competition law and consumer protection.

India represents an evolving, hybrid regulatory model that combines traditional broadcast regulation with incremental digital oversight. Broadcasting is regulated by a combination of copyright laws, sector-specific regulations and implementing guidelines, under the supervision of the Ministry of Information

<sup>26</sup> Directive (EU) 2018/1808 amending Directive 2010/13/EU on Audiovisual Media Services (AVMSD).

<sup>27</sup> Regulation (EU) 2022/2065 on a Single Market for Digital Services (Digital Services Act).

<sup>28</sup> Council of Europe, Freedom of Expression and the Regulation of Audiovisual Media Services (CoE 2022).

and Broadcasting and the Telecommunications Regulatory Authority of India. OTT platforms initially operated in a largely unregulated environment, relying on self-regulation and general information technology laws. However, recent developments reflect a move towards formal regulation via intermediary guidelines, content codes and licensing proposals. India's approach aims to balance innovation, cultural sensitivities and constitutional freedoms, but faces challenges related to regulatory fragmentation, enforcement capacity and jurisdictional clarity.<sup>29</sup>

In these areas of law, best practices and policy convergence are becoming increasingly evident. Technology-neutral regulation, co-regulatory frameworks and risk-based supervision have emerged as common strategies to address the dynamic nature of digital broadcasting. There is a growing emphasis on platform accountability, transparency in content moderation and protection of users' rights, especially children and vulnerable groups. Furthermore, competition law is increasingly used as an additional tool to counter market dominance and ensure regulatory equality between traditional broadcasters and digital platforms. The effectiveness of enforcement mechanisms varies greatly between jurisdictions. The EU's centralized regulatory framework and strong executive powers allow for more consistent enforcement of rules, while the UK's convergent regulatory structure allows for coordinated oversight.<sup>30</sup>

#### VI. CHALLENGES, FINDINGS, AND RECOMMENDATIONS FOR A FUTURE-READY REGULATORY FRAMEWORK

1. Digital Transformation and Technological Complexity - Rapid proliferation of OTT platforms, social networks and live streaming services. Difficulty applying traditional territorial, spectrum-based and licensing laws to cross-border digital transmissions.
2. Jurisdictional Ambiguities - National laws are often based on territorial principles, while digital broadcasts are accessible globally. Measures applied against foreign platforms or pirated content remain limited and fragmented.

3. Regulatory Fragmentation - Overlapping powers between IT Ministries, telecommunications regulators, copyright offices and competition commissions. Lack of a uniform regulatory framework for OTT platforms, online news and streaming services.
4. Piracy and Unauthorized Transfer - Illegal streaming of premium content (sports, films, music) causing economic losses. Difficulty in effectively monitoring, blocking and sanctioning infringing digital platforms.
5. Platform Dominance and Competition Concerns - Major OTT platforms and global digital intermediaries exert market power over content distribution. Small, traditional broadcasters face barriers to entry and unequal regulatory treatment. Content moderation and responsibility
6. Content Moderation and Intermediary Responsibility - Uncertainties about the responsibility of intermediaries and the application of content codes. Balance algorithmic governance with transparency, fairness and protection against harmful content.
7. Balance between Broadcasters' Rights and Public Interest - Exclusive rights against access to information Protect the economic and moral rights of broadcasters without limiting citizens' access to news, educational and cultural content.

#### VII. SUGGESTIONS

1. Territorial Licensing versus Global Access - Geo-blocking and territorial restrictions on consumer demand for cross-border content availability.
2. Free Speech against Harmful Content - Ensure that online platforms remove illegal or objectionable content and avoid overloading or censorship.
3. Innovation and Market Growth with respect to Regulatory Control - Ensure that regulations do not impede technological innovation and the emergence of new digital media services.
4. Cultural and Public Service Objectives - Preservation of local content, linguistic diversity and public interest obligations on digital platforms comparable to traditional broadcasters.

<sup>29</sup> Department for Digital, Culture, Media and Sport, *Online Safety Act* (UK Government 2023).

<sup>30</sup> Irini Katsirea, *Press Freedom and Regulation in the Digital Era* (Oxford University Press 2024).

5. Adoption of a Technology Neutral Regulatory Framework - Technology-neutral regulatory framework Shift from medium-specific regulation to activity-based or functional regulation covering both traditional and digital platforms.
6. Uniform Authority and Institutional Coordination - Create a single convergent regulatory body or coordinated framework for all ministries, telecom regulators and copyright agencies.
7. Strengthened Enforcement Mechanisms - Dynamic injunctions, ISP-level blocking, cross-border cooperation and specialized cyber courts for digital piracy.
8. Responsibility of Intermediaries and Responsibility of the Platform - Clear due diligence standards, content moderation guidelines, complaints mechanisms and transparency requirements for OTT platforms.
9. Interventions in the field of Competition Law - Address market dominance, anti-competitive contracts and monopolies on exclusive rights to ensure a level playing field.
10. Protection of the Public Interest - Support standards for children's content, news accuracy and cultural diversity, while respecting freedom of expression.
11. International Cooperation and Harmonisation - Cross-border enforcement, alignment with international IP treaties, and cooperation in tackling global piracy networks.
12. Periodic Policy Review and Stakeholder Consultation - Establish mechanisms for continuous review, involving broadcasters, OTT platforms, civil society, and regulators.

### VIII. CONCLUSION

The originally designed for a linear, territorially bounded broadcasting environment. Digital convergence, the rise of over-the-top platforms, and the increasing dominance of global digital intermediaries have collectively blurred the distinctions between broadcasters, platforms, and content creators, thereby challenging the foundational assumptions of spectrum scarcity, national licensing, and medium-specific regulation. The evolution of intellectual property regimes, licensing models, and monetization strategies further illustrates how market-driven digital practices have outpaced existing legal

controls, often privileging commercial interests over public access and media plurality. Regulatory challenges in governing cross-border and online broadcasting reveal the limitations of state-centric approaches in a globally networked media ecosystem, where jurisdictional fragmentation and regulatory arbitrage undermine effective enforcement. At the same time, the growing role of platforms in content moderation has raised critical concerns about accountability, transparency, and the protection of freedom of expression, as private actors increasingly exercise quasi-regulatory power without corresponding constitutional safeguards.

These developments collectively point to the urgent need for comprehensive reform of media policy frameworks grounded in technology-neutral principles. Such reform must move beyond reactive regulation and embrace function-based governance that applies consistent standards across comparable services, regardless of the technology used. A reimagined regulatory approach should balance innovation with democratic accountability by reinforcing core public interest values, including free expression, cultural diversity, fair competition, and universal access to information. Ultimately, the future of broadcasting rights depends on the ability of policymakers to design adaptive, cooperative, and rights-oriented regulatory frameworks capable of responding to technological change while preserving the democratic role of media in an increasingly digital and interconnected society.

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