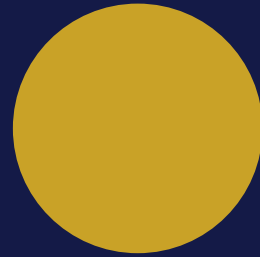


SEMINAR :
ORGANISED BY TELECOM DISPUTE SETTLEMENT AND APPELLATE
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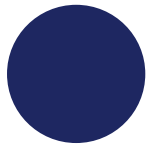
*“Mechanism for Resolution of Disputes in
Airport Tariff, Telecom, Broadcasting and Cyber Sector”*



BROADCASTING IN THE DIGITAL AGE:

Legal Challenges and the Future of Regulation

BY:
MR. DIGGAJ PATHAK,
ADVOCATE - ON - RECORD,
SUPREME COURT OF INDIA

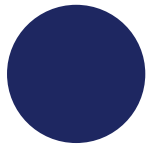


Broadcasting: Statutory Definitions

02

How 'broadcasting', 'broadcast' & 'broadcaster' are defined across India's laws

- **Copyright Act, 1957** — S.2(dd): “broadcast” means communication to the public by wireless diffusion (as signs, sounds or visual images) or by wire; S.37 grants broadcasting organisations a distinct “broadcast reproduction right”, separate from copyright in the underlying content
- **Telecom Regulatory Authority of India Act, 1997** — The Act itself did not contain any definition of “Broadcasting”. Proviso to S.2(k) introduced in 2004 said that the Central Government may notify other services to be telecommunication service including Broadcasting Services
- Reg. 2(f) of the Telecommunication(Broadcasting & Cable Services) (Interconnection Regulations, 2004 defined “broadcasting service” means dissemination of signs, signals, writing, pictures, sounds or other intelligence, transmitted through space or cable, intended for reception by the general public, directly or through relay stations
- **Prasar Bharati (Broadcasting Corporation of India) Act, 1990**: casts Prasar Bharati as India's statutory public “broadcaster” for radio & television, mandated to organise broadcasting services to inform, educate & entertain the public.
- **Cable Television Networks (Regulation) Act, 1995** — S.2(a): “cable service” means the transmission by cables of programmes, including re-transmission by cables of any broadcast television signals, to subscribers
- **Cable Television Networks (Regulation) Act, 1995** — S.2(k): “programme” means any television broadcast, and includes exhibition of films, features, dramas, advertisements & serials
- **IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021**: has no definition of “broadcaster” — instead defines a “publisher of online curated content” (OTT) & a “publisher of news and current affairs content”, regulated functionally like broadcasters under a Code of Ethics

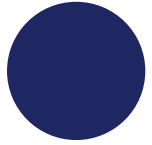


History & Revolution of Broadcasting

03

Four defined phases — from state radio to the smartphone screen

- **Public broadcasting** — All India Radio (est. 1936) & Doordarshan (est. 1959), now under the statutory autonomous body Prasar Bharati: state-run broadcasting for national integration, education & cultural preservation, insulated from market pressures
- **Commercial/cable broadcasting** — private, advertising- and ratings-driven television carried over cable networks & satellite channels, Analogue Mode, regulated under the Cable Television Networks (Regulation) Act, 1995 & TRAI Act, 1997
- **Digital & DTH broadcasting** — Direct-to-Home satellite and Digital Addressable System cable delivery, bringing more channels at better quality straight to a subscriber's set-top box, under TRAI's Interconnection & DAS Regulations
- **OTT & social video** — on-demand, internet-delivered streaming plus user-generated social video, with no fixed schedule, no spectrum licence, and until very recently no dedicated statute of its own
- India's own OTT boom: JioHotstar, Sony LIV, Zee5, Hoichoi & Sun NXT now lead a rapidly growing domestic streaming market



How Broadcasting Works Today

04

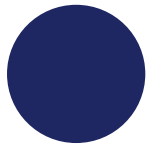
From a single accountable broadcaster to a distributed, cross-sector chain

TRADITIONAL CHAIN

Producer →
Broadcaster →
Transmission (Via MSOs, LCOs, DTH) →
Viewer

DIGITAL CHAIN

Creator → Individual(Mobile Phone)
Platform → Social Media, OTT
Algorithm →
Advertiser →
Audience → TV, Laptop, Ipad, Mobile Phones

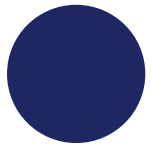


Statutes Governing Broadcasting

05

India's layered framework — including TDSAT's own jurisdictional statutes

- Cable Television Networks Act, 1995; Copyright Act, 1957 (S.37 broadcast reproduction right); IT Act, 2000 & IT Rules, 2021; Cinematograph Act, 1952; DPDP Act, 2023
- TRAI Act, 1997 - amended 2000 to establish TDSAT; amended January 2004 to bring broadcasting & cable within TDSAT's jurisdiction
- TRAI Regulation, 2012 - Telecommunication (Broadcasting & Cable) Services Interconnection (Digital Addressable Systems) Regulations, 2012: mandated set-top-box-based digital addressability under the TRAI Act's rule-making power which is the backbone of today's DTH & digital cable interconnection regime, since updated by the 2017 Interconnection Regulations
- Also in the mix: Press Council Act, 1978; Prasar Bharati Act, 1990; Competition Act, 2002; Consumer Protection Act, 2019 — each touching some part of the modern broadcasting chain



Key Legal Challenges

06

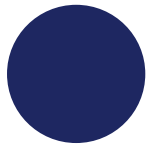
Piracy, jurisdiction, content bifurcation & the AI frontier — one convergent map

PIRACY, JURISDICTION & ENFORCEMENT

- **Piracy** has moved beyond rogue websites to illegal IPTV, credential/password sharing & screen-recording — much of it hosted on foreign websites beyond direct Indian reach
- **Enforcement gap:** courts & regulators can order blocking or takedown, but enforcing that order against an offshore host with no Indian presence remains the practical bottleneck
- **Jurisdiction:** global accessibility $\neq$ legal availability — a platform being viewable in India doesn't mean it holds Indian rights, nor does it place the platform in Indian law's reach
- **Convergence:** delivery, hosting, content standards, liability & monetisation rarely sit with one regulator — a single dispute can raise telecom, broadcasting, copyright, cyber & infrastructure-access questions at once, making these four sectors one continuous dispute, not separate silos

CONTENT, AI & THE UNREGULATED FRONTIER

- **Content bifurcation:** licensed, curated OTT versus unlicensed social/user-generated video — with a mobile phone in nearly every hand, anyone can now be a “broadcaster,” and the law still doesn't draw that line clearly
- **AI in creation:** AI-generated scripts & films, synthetic actors, virtual influencers, AI news anchors, automated dubbing
- **AI in curation:** recommendation engines now wield real editorial power over what is promoted or buried — without an editor's accountability
- **Unresolved questions:** who owns an AI-generated work; who is liable for AI-generated misinformation; algorithmic bias & employment displacement remain largely unregulated

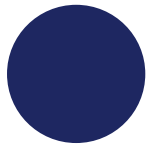


Case Laws — How Courts Have Shaped Jurisdiction

07

From broadcast-signal disputes to platform liability to AI training & deepfakes

- *Star India Pvt. Ltd. v. Piyush Agarwal* (Delhi HC, 2013): pioneered dynamic (“John Doe” style) injunctions against unauthorised live-streaming, extending to future mirror/redirect sites without a fresh suit.
- *UTV Software Communications v. 1337x.to* (Delhi HC, 2019): authorised pre-emptive, whole-website blocking of “rogue” piracy sites.
- *Shreya Singhal v. Union of India* (Supreme Court, 2015): content restrictions must carry a clear, narrow definition anchored to Article 19(2), not left to executive discretion — the constitutional baseline for every later platform-regulation case.
- *ANI Media Pvt. Ltd. v. OpenAI* (Delhi HC, 24 July 2026): Court affirmed territorial jurisdiction over a global AI platform based on effects felt in India; AI training on ANI's content held, at the interim stage, to fall within fair dealing under S.52(1)(a)(i) — main suit still pending.
- *Harshita Grover v. Union of India* (Supreme Court, 24 July 2026): restrained circulation of AI-manipulated audio-video court-proceeding clips — a cyber-AI problem met with a broadcasting-style remedy

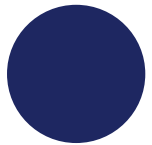


Future Regulatory Frameworks

08

Expected policy shifts over the next five years, 2026–2031

- Artificial Intelligence (Ethics and Accountability) Bill, 2025 — a private member's Bill before the Lok Sabha proposing a statutory AI Ethics Committee, mandatory bias audits & penalties up to ₹5 crore; signals growing parliamentary appetite for binding AI law
- Competition law enters the frame: platform dominance, exclusive sports/content licensing & app-store policies increasingly draw CCI scrutiny (cf. Google v. CCI, 2022)
- AI-training licensing infrastructure likely to emerge domestically, drawing on the ANI v. OpenAI precedent as courts and industry work out compensation models



Remedies — What Protection Do We Need?

09

Dispute resolution, platform accountability & consumer protection together

- Dynamic injunctions & real-time blocking as the standard toolkit for digital piracy —
- Content restrictions must carry a clear, narrow definition anchored to Article 19(2) — not left to executive discretion.
- Child sexual abuse material: a zero-tolerance framework already exists — IT Act S.67B, the POCSO Act, 2012, and the IT Rules' mandatory reporting & takedown obligations — the real gap is consistent, well-resourced enforcement across OTT, social & cloud-hosted platforms, not the statute itself
- Consumer-facing protection is equally overdue: transparent subscription/cancellation terms, safeguards against dark patterns — already a defined offence under CCPA's Dark Patterns Guidelines, 2023 (13 categories, ₹20L+ in penalties levied so far) — accessibility & children's safety defaults
- Independent regulatory bodies with genuine judicial/tribunal oversight for content-takedown, algorithmic-design & consumer-grievance disputes — self-regulation alone has proven insufficient
- TDSAT's composite jurisdiction — telecom, broadcasting, cyber & airport tariff — is structurally positioned as the forum of first resort for these convergent disputes, with formal coordination protocols needed alongside MIB, MeitY, TRAI & CCI



Conclusion — Way Forward for TDSAT & Stakeholders

From four sectors regulated separately to one convergent dispute space

- **Traditional broadcasting and OTT are converging into one hybrid ecosystem — disputes now routinely touch telecom, cyber & AI at once**
- Streaming platforms and MSOs are increasingly interdependent, not rivals — bundled OTT-cable packages and app-enabled set-top boxes make MSOs regional distribution partners for OTT- Interconnection between them to be made a subject matter of jurisdiction of this Tribunal
- TDSAT's own history — 2000, 2004, 2012, 2017 — already tracked this convergence once; the OTT & AI era may call for tracking it again, amendments would be required to be made in the definitions under the Regulations to include OTT
- Some legislative text now exists; Law needs to keep pace with the technology and constant changes, a settled interpretation across sectors, and a shared governance roadmap among regulators, industry & TDSAT
- *TDSAT could have been made the Appellate Forum under IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 instead of forming a separate Grievance Redressal Committee. (It is a specialised tribunal already exercising jurisdiction under the IT Act, 2000)*



Thank You