



Chandrawat
& Partners

ENTERTAINMENT INDUSTRY IN INDIA

A summary guide on
Entertainment Industry in India

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INTRODUCTION

The Indian entertainment business is a rising star in the Indian economy, making considerable gains. The growing availability of fast and affordable internet, rising earnings, and increased sales of consumer durables have all boosted the business substantially. In comparison to other markets, India's entertainment industry is unique.

The industry is well-known for its high volume and rising average revenue per user ("ARPU"). This aided the country's economy significantly, propelling India to the forefront of digital adoption, and provided businesses with continuous, rich data to better understand their customers.

India has also seen increased prospects in the visual effects ("VFX") business as worldwide attention has switched to India as a preferred content developer. The Indian entertainment business is on the verge of a robust period of expansion, fueled by increased consumer demand and improving advertising income. The industry is booming, thanks to a young population and strong internet penetration.

The Indian entertainment business is predicted to reach \$40 billion US\$ by 2025, outpacing the global average rapidly to rise to \$55-70 billion by 2030 at a 10-12% Compound Annual Growth Rate ("CAGR"), led by Over-The-Top ("OTT") media services, gaming, animation, and visual effects ("VFX"). This is an ample motivation for any astute entrepreneur to establish an entertainment business in India.



INDUSTRY SCENARIO

The industry, which had witnessed some setbacks during the pandemic, is back to its pre-Covid times and has been rising ever since. The Indian entertainment industry is expected to be worth Rs. 4,30,401 crores (US\$ 53.99 billion) by 2026. By 2024, advertising revenue in India is expected to reach Rs. 394 billion (US\$ 5.42 billion), and television will command 40% of the Indian entertainment market, followed by print media (13%), digital advertising (12%), cinema (9%), and the OTT and gaming sectors (8%).

Within the entertainment sector, the Animation, Visual Effects, Gaming, and Comic ("AVGC") sector is developing at a pace of 29%, while the audio-visual sector and services are increasing at a rate of 25%. These sectors are recognized by the government of India as one of the champion sectors. Demand for regional content consumption is on the rise. The share of regional content in TV and OTT consumption is expected to reach 60% and 50%, respectively, by 2025.

Video viewers have increased to 497 million, i.e., around 94% of smartphone owners and wired broadband subscribers. At 1.5 billion hours, Indians spent among the most time on online sports in the world, with around a third of global time spent on sports apps. The animation segment saw huge demand from OTT platforms and kids channels.

The overall TV sports market was estimated at INR 7,050 crore in the FY (2021)..The same is expected to reach INR 9,830 crore in FY 2026, growing at a steady compound annual growth rate (CAGR) of 7%.

The Indian government is paving the way by implementing new policies and governance. It has also extended the Foreign Direct Investment (FDI) limit to 100%. Rising consumer demand, increasing digitalization, and investment in technological infrastructure have turned this industry into a rising star.

INDIA - A PROMISING COUNTRY TO INVEST

With the country's current agenda, such as "Make in India," India is expecting a slew of international investors to set up business. There are several reasons to establish a corporation in India. If one has ever set foot on this land, one may observe how promising the country is with reference to investing.

Following are the main reasons why one would find it fruitful to invest in India:

The industry is foreign friendly - The government provides incentives to set up a company in India, and the Indian culture engages local help that does wonders for one's business.

Stable market: India's market has been relatively stable for the past decade. With a growing middle-class consumer market in the country, it is an impressive reason to set up a company in India. Although ease of doing business is not India's top priority, the top management is driving business reforms in order to attract more investors. Tax reduction and eased foreign direct investment restrictions are among the business reforms in India that should be applauded and taken into consideration while setting up a business in India.

Competitive digital technology: India's labour market is massive. It is competitive and continuously growing. Digitalization is an inevitable part of globalization and business progress. Acquiring digital prowess is essential to business survival in this day and age. If one intends to set up a company in India, there is a considerable market for a workforce knowledgeable in information technology, computer programming, computer science, and other relevant fields.

Incentive and investment - Despite the global economic downturn, India is rolling out financial assistance to help micro, small and medium-sized enterprise. For large corporations, there is a production-linked incentive. The entertainment industry in India is expected to grow at a much faster rate than the global average rate. This can be majorly credited to rising incomes, increasing investments and a growing push of the government by providing incentives.

With the continuous development in several sectors, India is on the track to become the fastest rising economy in the world. When it comes to commerce, various government policies make it effortless for an entrepreneur to set up a new business. Business-friendly laws, minimal procedures for company registration, cheap labour and liberalising the market help industrialists to do business in India.

High-tech companies in sectors such as Information Technology, Telecommunications, and Engineering are prominent to international counterparts. The country has become a powerhouse in terms of advanced technology innovation across the world.

GOVERNMENT INCENTIVES

- In February 2021, the digital entertainment committee of the Internet and Mobile Association of India finalised a code of conduct to form the basis for a self-regulatory code for OTT content. The code has been endorsed by 17 OTT platforms, including Netflix, Amazon Prime Video, Disney+ Hotstar, ZEE5, and Voot.
- On February 25, 2021, the government outlined the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 to establish a progressive institutional mechanism and a three-tier grievance redressal framework for news publishers and OTT platforms in the digital media.
- In June 2021, the Union Ministry of Information and Broadcasting notified the Cable Television Network (Amendment) Rules, 2021, which aims to establish a three-layer statutory mechanism for citizens to raise grievances with respect to broadcasted content.
- In October 2021, Prasar Bharati decided to auction its archives with the hope of monetizing the content through sales to television and OTT platforms.
- As per the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the Indian Broadcasting and Digital Foundation ("IBDF") would also form a self-regulatory body ("SRB") soon.
- In November 2021, the government announced that it is working towards creating a National Centre of Excellence for AVGC (animation, visual effects, gaming, and comics).
- To facilitate filming in railroads, the National Film Development Corporation ("NFDC") established the Film Facilitation Office ("FFO"), which collaborated with the Ministry of Railways to develop an integrated single window filming mechanism to streamline the permission process for filming across railroad premises.
- The Telecom Regulatory Authority of India ("TRAI") is set to approach the Ministry of Information and Broadcasting, Government of India, with a request to fast-track the recommendations on broadcasting in an attempt to boost reforms in the broadcasting sector.
- As part of the expansion to include all digital platforms and digital ("OTT") players under a single roof, in May 2021, the Indian Broadcasting Foundation ("IBF") announced the move to be renamed as the IBDF.
- The Government of India has agreed to set up a National Centre of Excellence for Animation, Gaming, Visual Effects and Comics industry in Mumbai.
- Digital audio-visual content, including films and web shows on streaming platforms, news, etc. on online platforms, IS now under the Ministry of Information and Broadcasting.
- In February 2021, Prasar Bharati (India) and PSM (the official State Media of the Maldives) inked an agreement to facilitate collaboration and capacity building in the field of broadcasting.

SETTING UP THE ENTERTAINMENT BUSINESS

Before setting up an entertainment business in India, one should know exactly what the industry encompasses. India's entertainment industry is mostly consumed by its population across the following segments:

- Broadcasting, film, and music
- Television and radio
- Print and digital media
- Online gaming, visual effects (VFX), animation, etc.
- Live events, extreme games, etc.

To set up an entertainment business in India, it is best to follow these simple steps. Firstly, plan your business—like with proposals, research on the target market and competition, and putting together the financials. This will be useful later when you need to apply for loans or get funding. Secondly, form your legal entity. One needs to submit an application to the Ministry of Corporate Affairs ("MCA") and set up one of the following legal structures:

- Private Limited Company ("PLC")
- Public Limited Company ("PC")
- Limited Liability Partnership ("LLP")
- Partnership firm
- One Person Company ("OPC")

Company incorporation will be considered incomplete without getting a tax registration done. A few of the approvals one will need to get include:

- a Permanent Account Number ("PAN") and Tax Deduction and Collection Account Number ("TAN")—alphanumeric taxpayer identification.
- Value Added Tax ("VAT"), Goods and Services Tax ("GST"), and other applicable tax registrations.

India also has further requirements to ensure the legality of your business. The other necessary approvals are:

- a Digital Signature Certificate (DSC)—for proposed directors and shareholders.
- a Director Identification Number (DIN)—for proposed directors.
- an Importer-Exporter Code (IEC) is issued by the Directorate General of Foreign Trade (DGFT) and is needed if your business has an international trade agenda.

Once the company has a proper legal structure, one will need to apply for a corporate bank account and business insurance. It is also necessary to get licences and permits from the central government and state where your business operates. Entertainment licenses, performance licenses, and public performance and entertainment licences (PPEL) are examples of licenses.

TAXATIONS AND EXEMPTIONS

In India, the entertainment tax was first introduced in 1948. The current rate of entertainment tax in India is 30% for most of the states. The entertainment tax is levied on movie tickets, gaming, and gambling. The rate of GST on movie tickets is 18%. The rate of GST on gaming and gambling activities is 18%.

The state government imposes the entertainment tax, and the central government levies the GST. The revenue collected from the entertainment tax was used for the development of the film industry. The entertainment tax was a major source of income for the government, and it helps in the development of the film industry. With the introduction of the GST in July 2017, the entertainment tax has been subsumed into the GST. Consequently, there is no separate levy on entertainment tax in India now. However, a few states have levied additional taxes on top of the GST, which is popularly known as the "entertainment tax." These states are Assam, Bihar, Kerala, Madhya Pradesh, Maharashtra, Odisha, Tamil Nadu, Telangana, and West Bengal.

The GST rate on entertainment activities is 18%, which is higher than the earlier effective tax rate of 15-20%. As a result of this, the overall tax burden on the entertainment sector has gone up. This has led to an increase in ticket prices for movies and other entertainment activities.

The additional tax levied by the states on top of GST is in the range of 20–30%. The total tax incidence (GST plus additional tax) on entertainment activities in these states now ranges between 38 and 48%. This is one of the highest tax rates in any sector in India.

The table below provides a state-wise break-up of the total tax incidence on entertainment activities:

State	Tax Incidence (%)
Assam	15
Bihar	50
Kerela	30
Madhya Pradesh	40
Maharashtra	45
Odisha	25
Tamil Nadu	15
Delhi	20



LEGAL COMPLIANCES

The entertainment industry in India has evolved and acquired prominence in recent years. Internet usage by suppliers and consumers has also increased in the entertainment industry. Various laws with very disparate goals have been established to ensure effective regulation.

Legislation such as the Cinematograph Act of 1952, the Cable Television Network Regulation Act of 1995, and the Information Technology Act of 2000 are relevant for controlling material on mediums of exhibition such as cinemas, television, and the internet. The first area of concern in the entertainment sector is the right to free speech and censorship (the freedom of communication and expression through mediums like electronic media). Article 19 ensures freedom of speech as an inherent part of each individual's right to self-development.

Copyright infringement and trademark protection are the second areas of concern in the entertainment sector. The Copyright Legislation of 1957 guarantees copyright protection and registration of literary, dramatic, musical, recorded sound, and creative works. The primary goal of the Act is to prevent abuse of copyright monopolies and to strike a balance between individual rights and public interest.

Piracy is the third source of worry. Online piracy is defined as taking an owner's already-licensed property from the internet, resulting in harm and loss. The entertainment sector is constantly developing and supervised by several rules to avoid piracy. The Copyright Act of 1957 precisely spells out the limitations on violation of a movie's copyright, and it is regarded as one of the most important laws in the entertainment business.

The Ministry of Information and Broadcasting ("MIB") is the body in charge of enforcing regulations and legislation governing information and broadcasting in the entertainment business. The industry has several contractual aspects that form the foundation of its existence.

The Prasar Bharti Act of 1990 and the Cable Networks Act of 1995, as well as the guidelines developed thereunder, control the entertainment sector's regulatory system. The MIB and Prasar Bharti are among the institutional structures and government agencies that regulate the sector.



DISPUTE RESOLUTION

From choosing the right business structure and filing for intellectual property protection to handling contract issues and resolving disputes, there are many legal issues that affect the entertainment industry and any new or growing company in the industry. The entertainment industry is a creative sector, and its paramount success is centered on the recognition of the awards given to the artists. Disputes are rampant in the industry, which constantly resorts to litigation.

The entertainment industry is a creative sector whose success is measured by the number of fans and the number of awards, which serve as the units for measuring the recognition of their work. The entertainment industry is very large, and various forms of disputes come up regularly. These disputes are not well settled when subjected to litigation because the court of law provides for a winner and a loser, therefore leaving one of the parties at risk of being cheated.

Alternative Dispute Resolution ("ADR") is a creative solution to the problems faced by the entertainment industry. This possibility brings solutions to the problems by making use of settlement methods that will encourage negotiation and mediation as template therapy, allowing both artists to come up with mutually agreeable solutions that will be for the overall benefit of the artists involved. The most used alternative dispute resolution mechanism in the entertainment industry is arbitration.

Exploring the various forms of alternative dispute resolution encourages parties to work together from an early stage in identifying their respective issues, with a view to finding a mutually agreeable solution. This includes:

Negotiation-

This is an informal and relatively low-cost method by which parties to a dispute communicate directly with each other and try to reach an agreement. As an example, this may be suitable for minor contractual disputes where a happy medium can be found without the costs and time involved in a court hearing.

Mediation-

There are different aspects of mediation that are involved in resolving disputes in the entertainment world. The people in the music industry have to maintain a cordial relationship amongst themselves in order to have a successful project. Mediation facilitates the parties' ability to work together.

Arbitration-

Arbitration is a form of dispute resolution that is also applicable in the entertainment industry. In arbitration, an arbitrator will provide a definitive ruling after hearing each party's case, which is much less formal and can remain confidential if the parties choose so. Importantly, one of the benefits of arbitration is that the parties can choose the arbitrator based on their experience and knowledge of both the relevant law and industry practice.



HOW WE CAN HELP?

Our entertainment practice team holds pride in being part of a multidisciplinary firm with first-rate practices in dispute resolution, intellectual property, data security, digital forensics, corporate, and other disciplines.

Our comprehensive approach to the commercialization and protection of creative ideas and works has ensured that our clients' interests are prioritized and protected.

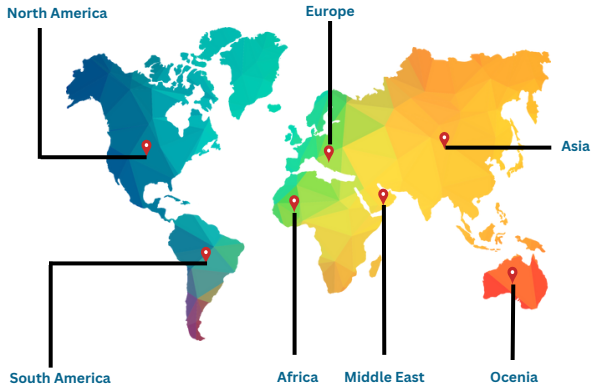
Our multifaceted proficiency, coupled with in-depth knowledge and years of experience in handling a diverse clientele has given Chandrawat & Partners an edge over our peers in this fraternity.

Our team has vital access to major industry participants, allowing us to provide our clients with solution-oriented, business-friendly, and focused legal counsel.

We collaborate with our clients to create unique and cutting-edge solutions within the legal and regulatory environment throughout the incubation, development, manufacturing, and distribution cycle of a creative product or via due diligence, negotiations, and acquisition closure.



SERVING CLIENTS WORLDWIDE



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