



Tobacco rules for OTT counterproductive, infringes freedom of speech, says IFF

The requirement for OTT platforms to display frequent in-screen warnings against tobacco use was enacted without consultation, the Internet Freedom Foundation said

June 12, 2023



Image used for representative purpose only. | Photo Credit: Reuters

The Ministry of Health and Family Welfare’s notification on May 31 requiring OTT streaming platforms to display anti-tobacco warnings before films and TV show episodes that feature them — as well as static warning messages in shots of content featuring tobacco use — infringes on the freedom of speech of creators, the New Delhi-based Internet Freedom Foundation (IFF) said in a letter to Health Secretary Rajesh Bhushan, a copy of which was provided to The Hindu.

The “introduction of these Amendment Rules, 2023 may have a ‘chilling effect’ on critical depiction of societal ills in [the] context of lifestyle choices, thus infringing on the right to freedom of speech and expression of the individuals involved in the making of the content in question,” Prateek Waghre, Policy Director at the advocacy group wrote. “This may lead to far poorer portrayals of the same societal issues of health and welfare that the Rules, in spirit, seek to address, and may then also reach a smaller audience than those OTT platforms currently cater to due to the regulations.”

The requirement was introduced by notifying an amendment to the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Rules, 2004. Since 2004, these Rules have been amended to introduce (and subsequently enlarge) warning messages on cigarette boxes; to restrict advertising of tobacco products; limit tobacco retail around educational institutions; and to mandate the display of anti-tobacco warnings in cinemas and on TV, mediums which have largely obeyed the requirements.

Streaming services are resisting, as The Hindu reported last week, due to the disruption in users' viewing experience that such frequent messages would cause. They are also alarmed, according to one document, by the cost of introducing these warnings across "millions" of hours of content.

"Although any adverse effects of tobacco use may fall under the ambit of the Union Ministry, this cannot extend to the governance of online platforms and the moderation of online content, a jurisdiction which is the remit of another Ministry," Mr. Waghre wrote. "As such, the depiction of tobacco use on OTT platforms specifically must be regulated through means outside of the 2004 Rules." Officials of the Ministry of Information & Broadcasting, which administer the regulations that are applicable to the OTT streaming industry, were seemingly unaware that the tobacco warning amendment from the Health Ministry was being notified, one industry executive said last week.

"Initial research on the effectiveness of pictorial and threatening warnings associated with tobacco on OTT platforms suggest that such warnings may have limited, if any, effect on people's intention to quit or reduce cigarette consumption," Mr. Waghre said, "and that the effect fades over time."

IFF called for "minimal, necessary, and rights-respecting regulation of OTT platforms so as to encourage their growth and to protect their cultural and economic significance amongst the citizens of India."

"While discouraging the use of tobacco products is a legitimate state aim, it may be worth considering if online streaming services are the right avenue for implementing this aim," the IFF said.

Source: <https://www.thehindu.com/news/national/tobacco-rules-for-ott-counterproductive-infringes-freedom-of-speech-says-iff/article66959670.ece>