Regulation of OTT Platforms

For Prelims: Telecom Regulatory Authority of India (TRAI), Tribunals, Telecom Disputes Settlement Appellate Tribunal (TDSAT)**,** Over-The-Top (OTT).

For Mains: Challenges faced by the government in regulating OTT platforms due to their evolving and dynamic nature, Tribunals, Dispute Redressal Mechanisms .

Source: IE

Why in News?

Recently, Telecom Disputes Settlement Appellate Tribunal (TDSAT) has ruled that Over The Top (OTT) platforms **like Hotstar** are not in the jurisdiction of the Telecom Regulatory Authority of India (TRAI) and are governed by the Information Technology Rules, 2021, notified by the **Ministry of Electronics and Information Technology (MeitY).**

- TDSAT said that OTT platforms are outside the purview of the TRAI Act,1997 since they do not require any permission or a license from the central government.
- This order was in response to a petition by the All India Digital Cable Federation (AIDCF) against Star India Pvt Ltd (STAR). AIDCF challenged Star's free streaming of World Cup matches on Hotstar, **claiming it was unfair and against TRAI Regulations.**

What is the Controversy Over OTT Platform Regulation ?

- **Conflict Between MoC and MeitY:**
  - Telecom Regulator TRAI and **Department of Telecommunications (DoT)**, **Ministry of Communications (MoC)** got in conflict with the **MeitY** over who should regulate Over-The-Top (OTT) platforms and there is debate over the nature of the regulatory framework for **Internet-based communications services** in the country.
    - The DoT sought to classify OTT platforms as telecommunications services, and regulate them like telecom operators.
    - The TRAI, separately, has **issued a consultation paper on how to regulate OTT platforms**.
- **Disagreement of IT Ministry with DoT** :
  - The **IT Ministry believes** that under the **Allocation of Business Rules,** Internet-based communications services **are not part of DoT's jurisdiction.**
  - However, in this case, the conversation is centred around OTT communications services like WhatsApp.
- **TRAI's Attempt at Regulating OTT services:**
  - **TRAI first recommended** against creating a specific regulatory framework for OTT communication services **like WhatsApp, Zoom, and Google Meet.**
  - Now, it has revisited its stance, and started consultations on how these services can be regulated which got other ministries and departments into conflict.

What are Over-The-Top (OTT) Platforms ?

- **About:**
    - OTT platforms are **audio and video hosting and streaming services** which started out as content hosting platforms, but soon branched out into the production and release of short movies, feature films, documentaries and web-series themselves.
    - These platforms offer **a range of content and use** artificial intelligence **to suggest to users the content they are likely to view** based on their past viewership on the platform.
- **Services:**
    - Most OTT platforms **generally offer some content for free and charge a monthly subscription fee for premium** content which is generally unavailable elsewhere.
    - **Premium content** is usually produced and marketed by the OTT platform themselves, in association with established production houses which historically have made feature films.
- **Examples**:
    - Netflix, Disney+, Hulu, Amazon Prime Video, Peacock, CuriosityStream, Pluto TV, and so many more.
- **Laws Regulating OTT Platforms:**
    - In 2022, the Central Government notified the **Information Technology (Intermediary** Guidelines **and Digital Media Ethics Code**) **Rules 2021** to regulate OTT platforms.

What are the Information Technology Rules, 2021 ?

- **Mandates Social Media to Exercise Greater Diligence:**
    - Broadly, the IT Rules (2021) mandate social media platforms to exercise greater diligence with respect to the content on their platforms.
    - The rules establish **a soft-touch self-regulatory architecture with a Code of Ethics and three-tier grievance redressal** mechanism for OTT platforms.
    - Also, every publisher needs to become a member of a self-regulating body. Such a body will have to register with **the Ministry of Information and Broadcasting** and address grievances.
- **Grievance Redressal Mechanism:**
    - The grievance officer of the platform's redressal mechanism is responsible for receiving and resolving complaints of the users.
        - She/he is expected to acknowledge receipt of the complaint within 24 hours and dispose of the same in an appropriate manner within 15 days.
        - Its access and spread by any other means on the platform should also be disabled.
- **Privacy Policies**:
    - The privacy policies of the social media platforms must ensure that users are educated about not circulating copyrighted material and anything that can be construed as **defamatory, racially or ethnically objectionable, paedophilic**, threatening the unity, integrity, defense, security or sovereignty of India or friendly relations with foreign states, or violative of any contemporary law.

What is Telecom Disputes Settlement and Appellate Tribunal (TDSAT) ?

- **Establishment:**
    - **Amendment in the TRAI Act, 1997:** The TRAI Act was **amended in 2000** which established **TDSAT** to take over the **adjudicatory and disputes functions** from TRAI.
- **Objectives**: TDSAT was set up to adjudicate any dispute between:
    - A licensor and a licensee
    - Two or more service providers
    - A service provider and a group of consumers
    - It was also established to hear and dispose of appeals against any direction, decision or order of TRAI.
- **Composition**:
    - The TDSAT consists of a **Chairperson and two other members,** all to be **appointed by the Central Government.**

- The selection of members is done by the **Central Government in consultation with the** [Chief Justice of India.](#)
  - **Composition:**
    - The Tribunal consists of a Chairperson and two Members appointed by the Central Government.
  - **Eligibility**:
    - **Chairperson:** A person shall not be qualified for appointment as the Chairperson unless he/she is or has been, a Judge of the Supreme Court or the Chief Justice of a High Court.
    - **Other Members:** He/She must have held the post of Secretary to the Government of India or any equivalent post in the Central/State Government.
    - **Term of office**: The Chairperson and the other members of TDSAT shall hold office for a term of maximum **four years or seventy years** (for Chairperson), whichever is earlier.
    - In the case of members other than the Chairperson, the maximum age is **sixty-five years.**
  - **Powers and Jurisdiction of TDSAT:**
    - The civil courts do not have jurisdiction to entertain any matter which the TDSAT is empowered to determine.
    - An order passed by TDSAT is executable as a decree of civil court, the Tribunal has all the **powers of a civil court.**
    - It is not bound by the procedure laid down by the Code of Civil Procedure but guided by the principles of natural justice.
    - The Tribunal exercises jurisdiction over Telecom, Broadcasting, IT and Airport tariff
    - matters under the TRAI Act, 1997 (as amended), **the Information Technology Act, 2008 and the Airport Economic Regulatory Authority of India Act, 2008.**
    - **In 2004,** the scope of the TRAI Act was expanded to include broadcasting and cable services. Furthermore, following the enactment of the Finance Act in 2017, TDSAT's jurisdiction was **extended to encompass cases that were previously under the jurisdiction of the Cyber Appellate Tribunal.**

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q 1. In India, which of the following review the Independent regulators in sectors like telecommunications, insurance, electricity, etc.? (2019)

1. Ad Hoc Committees set up by the Parliament
2. Parliamentary Department Related Standing Committees
3. Finance Commission
4. Financial Sector Legislative Reforms Commission
5. NITI Aayog

Select the correct answer using the code given below:

(a) 1 and 2
(b) 1, 3 and 4
(c) 3, 4 and 5
(d) 2 and 5

Ans: (a)

Mains

Q1. The aim of Information Technology Agreements (ITAs) is to lower all taxes and tariffs on information technology products by signatories to zero. What impact would such agreements have on India's

interests? **(2014)**

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