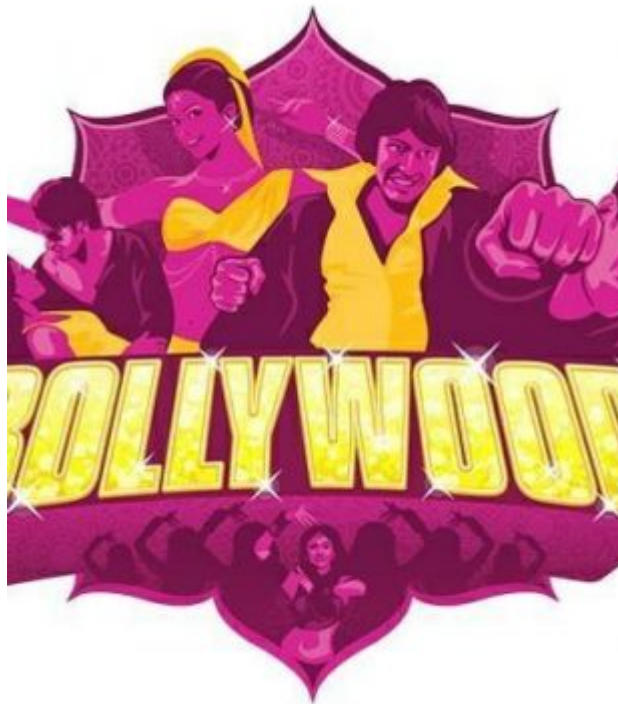


Growing Antitrust Issues in the Entertainment and Glittering Film Industry in Hollywood and Bollywood: A Comparative Analysis

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The growth of alternate ways of film distribution through television and video has an impact on the industry’s competition, which has long been a source of concern. Film distribution competition analysis must look at the following: Firstly the relevant market definition, including substitutability between “first run” and other films and between various distribution media, including cinema, television, and video; ii) the level of concentration in the distribution of substitute products; and iii) the presence of entry barriers, including those caused by regulation or industry practice.



Tripti Bhushan

Vertical integration between distributors and cinema owners, ties between distributors and producers, and horizontal concentration at the distributor level all pose threats to competition. When distributing first-run movies to theatres, the producer must decide which theatres to employ based on factors like location or supplementary services.

Since box office results—on which the value of television and video rights and international sales is based—are frequently based on relatively small markets, cinemas located in key markets will be preferred; similarly, cinemas that offer greater financial guarantees, for example, will be sought after by producers. For movies that aren't first runs anymore, the producer must determine whether the return would be the same if they were broadcast on television, the big screen, or on video, or if one of these distribution methods is better than the others. To this point, the producer might find it beneficial to keep an eye on consumer behavior. Television, followed by video, and then the theatre are probably the three formats that elderly moviegoers favour.



There is proof that after movies can be transmitted on television and on video, once new technologies and frequencies become available, those media become a close substitute for going to the movies. Because of the potential return that these new opportunities offer, the time lag between when a film is shown in a theatre in Hollywood or Bollywood and when it is broadcast on television and on video is continuing to significantly shorten. Films can now be watched at home continuously in the same version as in the cinema shortly after their release as first runs.

When regulating this industry, the competing authorities must additionally consider politically delicate considerations concerning that people travel from all over the world to watch Indian movies because they are so glamorous. The industry is governed by a number of laws due to its size. Decentralization and equitable resource distribution are made possible by competition law, which also aids in reining in government monopolization of some industries. The association of producers or distributors, or the combined association, are some of the key problems that may be taken into account. Although associations are continually working to advance an industry, if the appropriate laws and regulations are not in place, their actions could have a significant negative impact on competition (hereinafter AAEC).

Since the field of competition law is still emerging, nothing has been done in relation to the film industry.. This section will attempt to analyse how the Competition Act, 2002's *Section 3 (Anti-Competitive Agreement)* has been applied to the Indian film and entertainment industries. Cinema is a large industry that supports society's social, cultural, and leisure infrastructure. The most popular art form in the entertainment sector today is film, which is regarded as a cultural activity in most nations. With about 1300 films released each year, India is one of the world's top producers of motion pictures. The

vast, timeless world of Indian cinema has produced countless classic films since its inception, and as a result is regarded as a discipline capable of altering people's viewpoints.



Hollywood was distinct from many other sectors in that it developed at the same time as antitrust legislation, which resulted in numerous interactions between the infant business and the developing corpus of law. Movie makers were keen to use antitrust legislation to their daily life in order to resolve disputes with their rivals because of how unique it was.

Greater competition results from the industry's expansion, and competition law was established in 2009 to help businesses deal with it. The law's primary goals were to protect and stabilize market competition, as well as to ensure that copyright and distribution concerns in the sector are handled fairly. Although the laws have been contested in several situations, they remain credible. There are rules for fair play since there is a battle for power in our world. The Indian Film Industry is not only of "Bollywood" as most of us know it, but also incalculable cinemas made in regional languages. However, the Indian film industry is currently dealing with a variety of issues. First, film piracy continues to be a significant problem because it reduces the amount of money that filmmakers, distributors, and exhibitors can reinvest. The fact that policies and laws intended to prevent piracy are frequently ineffectual is only exacerbated by a convoluted system of rules, for which a variety of national and state level government departments are jointly responsible.

Cultural problems with the development of technology, producers now have access to television and video in addition to the classic method of film distribution in theatres. In addition to traditional broadcast channels supported by advertising and/or license fees, encoded channels that are paid for have begun to appear, and their arrival has been made possible by the development of cable and satellites¹. Television now plays an increasingly significant role in film exhibition. Those networks that charge a monthly fee (premium channels) and pay per view channels make up this new type of channels. Similar to how the video market is growing, most homes now have video recorders as a means of film exhibition.



Prerecorded film cassettes are mostly covered by this industry in terms of sales and rentals. Bollywood is a name used to describe vibrantly coloured movies with intricate dance moves, singing, and breathtaking large cast moments. India has a long history of having a renowned film industry. India continued to be the world's top film producer in 2013, putting out 1724 movies as opposed to the 738 movies made in the USA and the 638 movies made in China. Footnote¹ But as in many wealthy nations, including the USA and UK, domestic demand for movies looks to be declining.

In *Motion Pictures Association v. Reliance Big Entertainment Pvt Ltd*, the Competition Commission of India (CCI) had to decide whether or not the association of producers fell under the definition of an enterprise for the purposes of section 2(h) of the Act. They were given the same unfavorable response from CCI, but it was decided that they might fall under the definition of a person or group of people. Every distributor was required to register with the organization under the terms of the association's agreement, which was so irrational and unfair that violators would face sanctions or be completely barred from doing business. According to CCI, the limitations imposed by the organization are anti-competitive because they restrict the creation, supply, and control of the movies. The verdict was contested before the Competition Appellate Tribunal (COMPAT), where it was determined that the association did fall within the category of "Association of Persons" or "Enterprises." In addition, COMPAT upheld the CCI's decision because the association's action was judged restricting. Looking ahead in Hollywood or perspective in U.K Laws we have Sherman Act .

Section 1 of the Sherman Act outlaws all contracts, combinations and conspiracies that unreasonably restrain interstate trade. This includes agreements among competitors to fix prices, rig bids and allocate customers—the kind of conduct that every corporate executive knows is illegal. Those types of Sherman Act violations usually are punished as criminal felonies. Individual violators can be fined up to \$350,000 and sentenced to up to three years in federal prison for each offense. Corporations can be fined up to \$10 million for each offense. Under some circumstances, the fines can go even higher.

Section 2 of the Sherman Act makes it illegal to monopolize any part of interstate commerce. Unlawful monopolization occurs when one firm controls the market for a product or service, and it has obtained that market power, not because its product or service is superior to others, but by suppressing competition with anticompetitive conduct. As I will explain in more detail in a few moments, Section 2 of the Sherman Act is not violated simply when one firm's vigorous competition and lower prices take sales from its less efficient competitors—that is competition working properly.

Section 7 of the Clayton Act prohibits mergers or acquisitions that are likely to substantially lessen competition. Under the Act, the government challenges those mergers that a careful economic analysis shows are likely to increase prices to consumers. All persons considering a merger or acquisition above a certain size must notify both the Antitrust Division and the Federal Trade Commission. The Act also prohibits other business practices that under certain circumstances may harm competition. As many of you are no doubt aware, the Antitrust Division has reviewed numerous mergers and

acquisitions in the entertainment and media industries to assess whether the proposed transaction has the potential to substantially lessen competition and should therefore be blocked. Well, those are the basic provisions of the antitrust laws. Now, here's a little more detail.



The MathWorks, Inc. v. United States . In this instance, a deal between rival design software companies MathWorks and Wind River was contested by the Antitrust Division. The rivalry between these two businesses has led to major technical

advancements and consumer price decreases. Then they signed a contract for collaboration on the purchase and creation of software. The contract forced Wind River to stop developing and promoting its own software and gave MathWorks control over pricing, marketing, support, and future development of the Wind River product. MathWorks announced shortly after the agreement that it would stop working on new Wind River product development. A trustee was chosen to sell the Wind River assets as part of the settlement we agreed with MathWorks. The resources were successfully sold to National Instruments.

(Tripti Bhushan is a Lecturer at Jindal Global Law School, Sonipat, Haryana, India)

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