

TRANSFORMING BOLLYWOOD – A LEGAL PERSPECTIVE

Nilesh Zacharias & Ashni Parekh

The Indian film industry (popularly known as Bollywood) has come a long way and become a sophisticated state-of-the-art industry attracting tremendous international interest. Although, the Indian film industry is currently no comparison to Hollywood in terms of revenues, it is gradually beginning to evolve from a largely domestic market into a truly global industry. Bollywood has historically been perceived to be an inward looking film industry, plagued with the lack of discipline and devoid of corporate and legal practices. However, the dawn of a global Bollywood is being marked by an increasing emphasis on the corporatisation, a growing culture of professionalism along with the Indian Government playing a significant role in facilitating policy measures thereby contributing to the growth of this sector. The goal is to exploit the abundance of talent and diversity of Indian cinema and transform the industry into one that is globally competitive. As a result of such assiduous efforts, Bollywood is beginning to witness a steady expansion in the international market and the export revenues for Indian films have also begun to catch up considerably with domestic revenues.

Industry status

The granting of "Industry" status to the Indian film industry in 2001 was one of the significant steps taken by the Indian Government, as a result of which the Indian film industry is now entitled to bank finance. With more formal sources of finance being available, movies are now beginning to be produced within an assured time frame, thereby reducing the costs and the indirect burden on the producers. There has been growing interest amongst the Indian institutions (such as IDBI, ICICI), banks (Bank of India, Punjab National Bank, etc) and corporates (Idream Production, Pantaloon, Tatas, Birlas, etc) and they have committed significant amount of funds to this sector. Further, a new breed of producers have emerged, who have shown their clear preference for institutional funding as against funding from private financiers, who charged exorbitant interest rates.

Foreign investment

Until recently, the foreign investment regime in India was not very favorable for the film industry and therefore overseas media players had no incentive to invest in Indian films. However, recently, the Indian Government has permitted 100% foreign direct investment in the film industry¹. While IT related services such as post-production services, animation, etc. have been attracting interest from venture capitalists (VCs), the case for venture financing in films is also becoming more and more compelling. Internationally, apart from a strong community of successful expatriates expressing their keenness in participating in this sector, the growth of

¹ Up to 100 % of the paid-up capital in an Indian company involved in film financing, production, distribution, exhibition, marketing and associated activities relating to the film industry

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foreign investment and VC funding could potentially open the floodgates for foreign studios/production houses to set up Indian operations or participate by way of a strategic interest or as investors in a film fund.

Legally binding contracts

In addition to the adoption of structured methods of film finance, Bollywood is gradually embracing transparency and accountability. Traditionally, most contractual agreements in Bollywood were verbal, and those on paper were rarely enforceable in a court of law. This practice of not entering into well-defined and structured agreements often resulted in a great deal of complications and disputes. However, there is now a growing professionalism amongst all the players in the industry, thereby moving away from handshake arrangements to more formal legal agreements. This is just an indication of the emerging trend amongst filmmakers in India, who are realizing the importance of adopting international practices.

Tax benefits

The transformation of Bollywood is also being further propelled by various tax benefits provided by the Indian Government. The Income Tax Act, 1961 provides that certain percentage of profits generated by an Indian company from export of film software, music software, television software, television news software, including their telecast rights, subject to fulfillment of some conditions, are allowed as a deduction while computing the taxable income of such Indian company. Some of the additional benefits include, a tax exemption for films, which are produced in backward states or districts, benefits to authors, playwrights, artists, musicians, or actors etc, as well as certain tax benefits to multiplex theatres.

Combating piracy

Although Indian copyright laws have kept up with the times, the enforcement of the laws has always been slack. Piracy of movies and music is still one of the biggest intellectual property issues facing the Indian film industry today. Recognizing this menace of piracy, the Indian Government has initiated some measures to strengthen the enforcement of copyright law. Production houses have actively started taking steps to curb film piracy and the Indian judiciary has also come to the fore in the area of copyright protection. Backed by strict regulations and strong enforcement of law, the Indian film industry is thus leaning towards legally enforceable structures and processes.

Towards globalization

Although the paradigm shift amongst the industry players, as well as the encouraging policy measures are slowly paving the way for corporatisation and globalization of the Indian film industry, there are still sizeable changes that are required. The euphoria and optimism needs to be tempered with some amount of practicality as well. Apart from the glitz and glamour, filmmaking requires a lot of creativity, dedication and diligence. Along with the cross-

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fertilization of ideas, talent, and culture and the creation of areas of synergy, there is a need for the Indian film industry to collectively adopt the business and legal practices followed internationally.

Further, stringent measures need to be adopted to curb piracy at the state and national levels by creating special courts under the provisions of the Constitution of India and also under the Criminal Procedure Code. The Government also needs relax the foreign exchange laws to permit foreign investment in individual film projects, as opposed to investment in film companies and provide greater incentives to and remove procedural hurdles faced by foreign filmmakers to make and shoot films in India. Reduction of entertainment tax is also an extremely pressing issue facing the film industry today. Lastly, the censorship guidelines need to be relaxed and the unnecessary delays in film certification should be prevented.

These are some of the crucial steps that can be taken at to further assist the Indian film industry in its efforts to grow out of its parochial mould and reach out to a more global audience. If the industry players remain committed to achieving excellence and are provided suitable backing from the Government, there is absolutely no doubt that the Indian film industry has the potential to transform itself into a force to reckon with in the international arena.