

CASE STUDY

Case study: Content Protection in Cyberspace: An Indian Perspective

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Introduction

The National e-Governance Division (NeGD), under the Ministry of Electronics & Information Technology (MeitY), is at the forefront of realizing the Digital India vision. A cornerstone of this mission is Capacity Building (CB), which empowers government officials, creators, and stakeholders with the expertise needed to implement and sustain transformative digital initiatives.

This case study, "Content Protection in Cyberspace: An Indian Perspective," is part of NeGD's ongoing commitment to document, analyze, and share best practices in digital governance, copyright management, and innovation. Developed by internal experts at the Capacity Building Division, this study offers a comprehensive exploration of how legal frameworks, technical systems, and stakeholder engagement are reshaping India's approach to safeguarding digital content—enhancing fairness, transparency, and inclusivity across the digital ecosystem.

As digital technologies become increasingly integrated into content creation and distribution—through automated copyright detection, real-time moderation, and secure licensing—the imperative to ensure ethical, secure, and reliable use of these platforms grows. The study examines both the opportunities and challenges of digital transformation, including issues of interoperability, data protection, cross-jurisdictional enforcement, and the need for robust governance frameworks.

Our methodology combines in-depth research, analysis of legal and technical frameworks, and interviews with key stakeholders and domain experts who are shaping India's approach to content protection in cyberspace. This ensures that the narratives are accurate and enriched with practical insights and firsthand perspectives.

The objective of this repository is to serve as a valuable knowledge asset for policymakers, program managers, technologists, creators, and implementers at all levels. By facilitating learning and enabling the development of robust, responsive digital solutions, it supports the broader Digital India initiative and the evolution of a citizen-centric, transparent, and sustainable content protection ecosystem procurement ecosystem.



Acknowledgment

The Capacity Building Division, NeGD, extends its sincere gratitude to Ms. Astha for developing this insightful and detailed case study titled Content Protection in Cyberspace: An Indian Perspective

The study's comprehensive examination of copyright enforcement, platform governance, and the interplay between Indian legal frameworks and global digital platforms has significantly enriched the understanding of content protection challenges in India's digital ecosystem.

We also acknowledge the valuable inputs and perspectives drawn from legal practitioners, digital content creators, and policy stakeholders, whose experiences and observations helped illuminate the real-world implications of automated copyright enforcement mechanisms, fair dealing under Indian law, and platform liability regimes. Their contributions were instrumental in contextualizing the practical impacts of technologies such as automated content identification systems and notice-and-takedown workflows on creators and users.

Furthermore, we extend our deepest appreciation to the internal experts at NeGD who meticulously reviewed this document. Their rigorous scrutiny ensured alignment with pedagogical standards, factual accuracy, and consistency with relevant statutory frameworks, including the Copyright Act, 1957, the Information Technology Act, 2000, and evolving global approaches to content moderation and digital governance. Their efforts have strengthened the document's enduring value as a resource for capacity building among policymakers, legal professionals, and digital governance stakeholders.



Disclaimer

This case study has been developed by the National e-Governance Division (NeGD) under its Capacity Building mandate for the purpose of knowledge sharing and academic reference. The information presented herein has been compiled from official government sources, project documents, and interviews with relevant stakeholders involved.

While every effort has been made to ensure the accuracy and reliability of the information, this document is intended for educational and illustrative purposes only. It should not be interpreted as an official policy statement or a guideline for implementation. The views and conclusions expressed are those of the author and contributors based on their analysis and do not necessarily reflect the official position of the Ministry of Electronics & Information Technology (MeitY) or the National e-Governance Division (NeGD).

The commercial use of this material is strictly prohibited. This case study is meant to be used as a learning tool for government officials, trainees, and individuals interested in e-Governance and public policy.

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Content Protection in Cyberspace: An Indian Perspective

Introduction

Content Protection in Cyberspace refers to the legal and technical measures used to safeguard digital material, such as videos, articles, and music, from unauthorized use or piracy. As the digital economy grows, protecting the rights of creators while ensuring freedom of speech has become a critical global challenge. This is particularly important because current copyright enforcement often relies on automated tools that may not recognize local legal protections, leading to friction between platforms and users.

India's digital space is seeing growing friction between content creators and rights-holders. A recent dispute between ANI and creator Mohak Mangal (The Hindu Bureau, 2025) spotlighted YouTube's U.S.-centric copyright enforcement, which often clashes with Indian law.

While Indian law allows "fair dealing," YouTube follows the DMCA's stricter takedown rules, including a "three-strike" policy and automated Content ID system that doesn't account for local legal exceptions. This leaves Indian creators vulnerable to unjustified removals.

India's Copyright Act, 1957 grants automatic rights and fair-use exceptions, but YouTube's global model rarely reflects this. Government-funded content like NeGD's *Ask the Expert* series adds further complexity, as such works remain copyrighted despite their public nature.

This case highlights the broader tension between global copyright systems and local legal protections.

Methodology

This case study uses a descriptive approach and qualitative analysis to examine copyright enforcement in India. To ensure a comprehensive analysis, the research is structured across three core dimensions:

1. **Legal Aspects:** Primary laws have been reviewed, including Sections 17 and 52 of the Copyright Act, 1957, and Section 79 of the Information Technology (IT) Act, 2000. This also involved analyzing legal precedents, such as the *ANI vs. Mohak Mangal* dispute.
2. **Technical Aspects:** The mechanisms of platform enforcement, specifically studying YouTube's "Content ID" system and its automated "three-strike" policy have been analysed to understand how technology impacts legal rights

3. **Governance Aspects:** The roles of key stakeholders, including media houses (ANI, PTI), platforms (YouTube), and Government bodies like the National e-Governance Division (NeGD) have been mapped. This included reviewing transparency reports and licensing policies to assess current governance standards.

Comparative Analysis & Gaps

Global vs. Indian Content Protection Standards

The following table outlines the key differences in copyright laws across major jurisdictions:

Feature	India	United States	European Union
Primary Act	Copyright Act, 1957; IT Act, 2000	Digital Millennium Copyright Act (DMCA)	Digital Services Act (DSA)
Fair Use Model	Fair Dealing: Specific exceptions (criticism, review, education).	Fair Use: Broad, flexible 4-factor test (purpose, nature, amount, effect).	Exceptions: Specific nuances per member state; focuses on platform liability.
Platform Liability	Safe Harbor (Section 79): Platforms are protected if they act on knowledge of infringement.	Safe Harbor (DMCA): Platforms protected if they comply with "notice-and-takedown."	Strict Liability: Platforms must proactively manage systemic risks.
Enforcement	Manual court orders; 21-day takedown rule.	Automated "Three-Strike" policies and immediate takedowns.	Strong data protection and user appeal rights.

Findings

Cross-Jurisdiction Enforcement: U.S. Law on Indian Soil

The entire issue boils down to how YouTube's copyright enforcement is governed not by Indian law, but by U.S. law. This creates conflict because India's Copyright Act provides for fair dealing, a more nuanced and flexible doctrine, whereas the U.S.

DMCA focuses on immediate compliance with takedown notices to preserve platform immunity.

In the ANI–YouTuber case, the agency reportedly issued copyright strikes over 9–13 second clips, demanded high licensing fees for withdrawal, and triggered potential channel termination. Creators and legal experts noted that such short, transformative use likely qualified as fair dealing under Indian law, particularly since the clips were used for commentary and analysis of current affairs. However, YouTube’s policies do not consider the Indian context. Instead, once a takedown request is filed, the platform issues a copyright strike after basic formal checks, without evaluating whether the use is legally permissible in India.

Understanding YouTube’s Copyright Workflow

- a. *The Three-Strike Rule*: YouTube’s enforcement regime centers around a high-stakes system:

YouTube Copyright Strike Process



Rights-Holder Submits Notice

A rights-holder initiates the process by submitting a takedown notice or Content ID claim.

YouTube reviews and accepts the notice as valid.

YouTube Accepts Notice



Copyright Strike Issued

A copyright strike is issued against the creator's channel.

If three strikes occur within 90 days, the channel faces termination.

Three Strikes in 90 Days



Channel Termination

The creator's channel is automatically and permanently terminated.

The creator may submit a counter-notice if they believe the use is fair.

Counter-Notice Submission



Counter-Notice Review

YouTube reviews the counter-notice, but the process is slow and lacks human adjudication.

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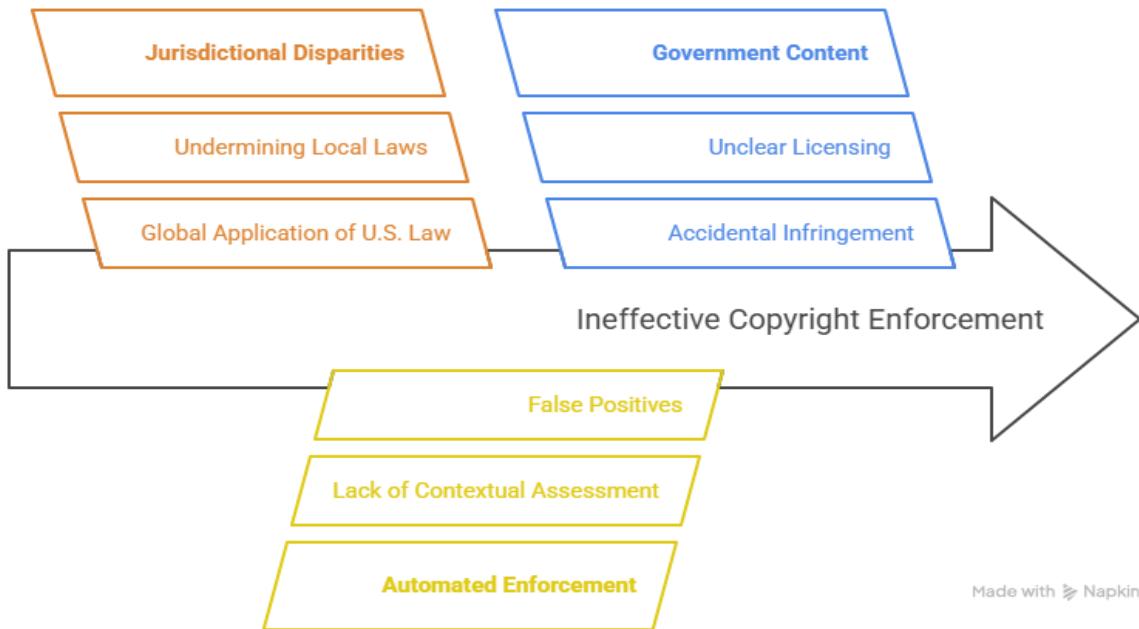
b. *Content ID and Its Implications*: YouTube's Content ID system automatically detects matches with rights-holders' content, allowing them to block, monetize, or track videos (Techglobal Institute, 2024).

However, Content ID is "blind" to context. It doesn't analyze how the matched clip is being used. Whether a few seconds are incorporated into a larger critical video or a meme, the system treats all uses equally unless manually reviewed. As such it ignores context, treating all uses identically regardless of fair dealing exceptions like critique, satire, or education, leading to frequent false positives for Indian creators.

c. *Data Protection and Policy Gaps*: Content ID's scanning of uploads against a global database raises data protection concerns. Unlike the EU's Digital Services Act, UK's Online Safety Act, or Australia's Online Safety Act, India lacks comprehensive regulation for automated content moderation, leaving users without

recourse when platforms like YouTube remove or demonetize content based on US laws.

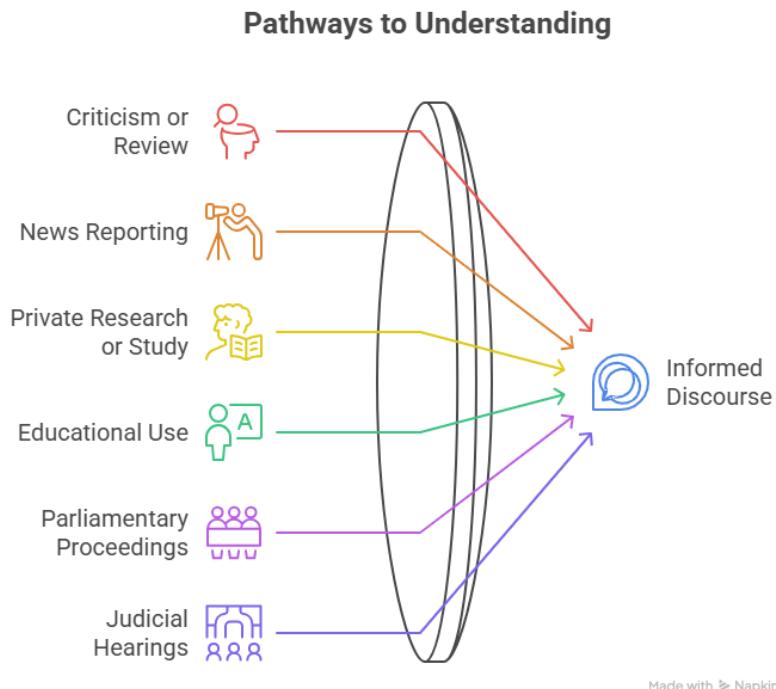
Challenges in YouTube's Copyright Enforcement



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The Legal Landscape in India

a. *Fair Dealing Under Indian Law*: India's Copyright Act, 1957 grants automatic protection on creation. Section 17 establishes the creator as the first owner, with exceptions for employment or contract work. Government content, like NeGD's, falls under Section 17(dd). Section 52 defines "fair dealing," allowing limited use for purposes like education, critique, or reporting. These allow the use of copyrighted content without prior permission for purposes like:



Indian copyright law lacks clear-cut “bright-line rules” (e.g., fixed seconds or percentage use). Instead, courts assess each case individually, considering factors like purpose, amount used, market impact, and transformative nature. While the U.S. Copyright Act, 1976 outlines a structured four-factor fair-use test, Indian law relies on a more flexible, case-by-case approach. This allows nuanced judgments but also creates uncertainty for creators navigating fair use in digital spaces.

b. *The 21-Day Rule and Platform Safe Harbor*: Section 52(1)(c) requires platforms to block content for 21 days pending a court order; otherwise, the content must be restored. Yet platforms like YouTube often take down content immediately and rarely reinstate it, leaving creators without guidance. Section 79 of the IT Act offers platforms safe harbor as long as they act on takedown notices without “actual knowledge” of infringement.

Copyright Practices by News Agencies

a. *Aggressive Enforcement and Monetization Tactics*: Some media organizations in India aggressively police their digital content. Instances wherein creators receiving copyright strikes for using clips as short as 9 to 13 seconds, with accompanying demands for license fees ranging in several Lakhs per year. In several cases, refusal to comply has resulted in permanent loss of channels, an existential threat for creators whose livelihood depends on their digital presence.

These agencies typically decline to assess or acknowledge fair dealing; Issue takedowns through formal notices or Content ID; Offer expensive annual licenses or

subscription models for video use and bundle commercial use with public-interest content, limiting non-commercial speech.

b. *PTI's Flexible Licensing Approach*: The Press Trust of India (PTI) (*PTI Launches Affordable Video Licensing for Creators amidst ANI's Copyright Crackdown, 2025; PTI Offers Content Creators 'Highly Affordable' Access to Its Videos, 2025*) has pursued a collaborative approach. It offers licensing options for digital creators, such as:

- Access to video footage at lower rates.
- Custom tiers for small, independent channels.
- Encouragement of responsible, attributed reuse.

c. *Creative Commons- Why Some Agencies Decline*: Most Indian news agencies avoid Creative Commons licenses, preferring full control and monetization due to declining ad revenues and legal misconceptions. Adoption remains rare without clear policy support. Furthermore, some agencies believe CC licensing may weaken their claims in court, despite CC's own clarification that it coexists with copyright. In India, NCERT's e-Pathshala and National Digital Library of India (NDLI) are examples of Government platforms that apply Creative Commons licenses to their educational content to enable responsible sharing and adaptation.

Government Content and Public Licensing: The Case of NeGD

Ownership Under Section 17(dd): Despite being publicly funded, NeGD's content is not in the public domain and requires permission for use, unless covered under fair dealing. Lack of clear licensing terms leads to confusion. Government portals should adopt clear copyright policies, possibly aligned with Creative Commons.

Instances where YouTube was asked to comply with local laws

As per YouTube's Terms of Service it provides that "*You may access and use the Service as made available to you, as long as you comply with this Agreement and the law.*"

This clause implies that users are responsible for adhering to the laws applicable in their jurisdiction when using YouTube. For example:

When a Government asks YouTube to remove or restrict content based on local laws, YouTube usually:

- Geo-blocks the content (makes it inaccessible only in that country)
- Does not issue a strike (under the US Copyright's 3-strike copyright policy) unless it also violates YouTube's community guidelines or copyright rules

Comparison of Content Removal by Country

	Law Invoked	Strike Applied?	Content Removed Globally?
Germany	Hate speech	No (usually)	No, blocked in Germany
India	Religious sensitivity	No	Blocked in India
U.S.	DMCA Copyright	Yes (strike)	Often removed globally
Russia	Extremism	No	Often blocked in Russia only

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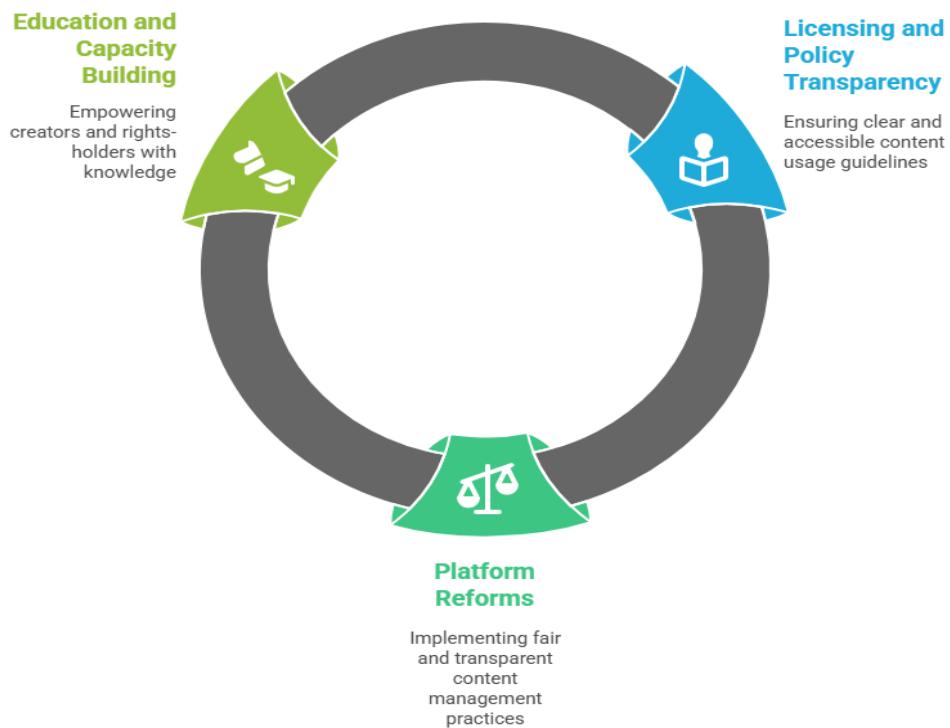
*In December 2022, the Ministry of Information & Broadcasting ordered YouTube to remove three channels for spreading fake news using misleading visuals. The takedowns, based on Indian IT Rules, 2021, did not trigger YouTube strikes, as they followed legal directives rather than platform policy violations.(PTI, 2022).

As per YouTube's Help Page, *“If a video is found to violate local laws, we may restrict access to it in that country, while keeping it available elsewhere.”*

Additionally, YouTube is mandated to publish its **transparency reports** (YouTube, n.d.) detailing Government requests for content removal and how the platform responds, demonstrating its efforts to comply with local laws. As per the Transparency reports YouTube states that *“We review Government removal requests to determine whether the content violates local law and whether we will restrict or remove it.”*

Outcome and Impact

Enhancing Digital Content Management



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Public Awareness and Precautions

To reduce conflicts in cyberspace, both creators and rights-holders must take proactive steps.

- Understand Fair Dealing:* Use only what is necessary for your criticism or review. Do not use long, unedited clips.
- Check Licenses:* Before using "public" content (like Government videos), check if it requires a license. Not all Government content is free to use.
- Attribute Sources:* Always clearly credit the original source to show good faith.

Conclusion

The ANI– Mohak Mangal case has highlighted that while Indian law recognizes fair dealing and seeks to protect critique, education, and public discourse; platforms like YouTube rely on US legal standards and automation, leaving creators exposed to arbitrary enforcement.

For India to support creative expression while still respecting rightful ownership, it needs to recalibrate its existing laws considering the digital landscape. That means

building a system that is clear, fair, and designed for collaboration and not for conflict.

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