
CONFLICT OF LAWS - WHEN INTELLECTUAL PROPERTY, COMPETITION, AND DIGITAL REGULATIONS COLLIDE

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1.1 ABSTRACT

When concerned with the sports broadcasting there might be a ton of laws and rules governing them. Primarily copyright law and the digital regulations, to keep the broadcasting in check. Additionally, this field just like any other is also in the competition that brings in competition law as well. The conflict being that when all these collide which would prevail. While Competition law aims to a fair competition and no dominance in the industry policy, copyright law gives an ultimate right to the owner, giving a slight conflict to the aims of competition law as the complete right might give a slight dominance in the industry. This chapter discusses the said factor as well as on how courts interpret such conflicts and how each of the mentioned law differs from each other.

1.2 Introduction: The Complexity of Legal Overlap

As the rules around sports broadcasting get more and more complicated, there's also a bigger chance that different sets of laws will bump into each other. Laws about who owns content, fair competition, and online stuff were mostly created separately. But now that we have streaming, data, and computer programs deciding what we see, these laws are crossing paths more and more often.

For instance, someone who owns the rights to a sports broadcast (like a channel) might use their copyright to block illegal streams. Another company might argue that this exclusive right is unfair competition and shouldn't be allowed. The website or app showing the stream might say they're just a middleman and shouldn't be held responsible for what users post.

When this happens, we have a big question: which law wins when following one law goes against what another law is trying to do?

This chapter looks at that question by exploring:

- How courts usually deal with clashing laws.
- Important examples from India and around the world.
- Why it's tricky to understand what these laws mean together.
- What this all means for the rules and some ideas for how to fix it.

1.3 Doctrinal Frameworks: How Courts Interpret Legal Conflicts

Courts in different places, including India, usually use three main ways of understanding things when laws seem to disagree:

1.3.1 Doctrine of Harmonious Construction

This idea says that if two laws seem to clash, we should try to read them together and understand them in a way that lets both exist, unless one clearly says it's more important than the other.

When it comes to broadcasting; A broadcaster saying "this is our copyright" and another company saying "that's not fair competition" could both be right in some ways. And the courts try to find a middle ground where both sides have some rights without completely ignoring

either one. Such as when the competition law aims to a fair competition with no market dominance, copyright law gives the ultimate right to the owner giving the scenario a chance of dominance to the copyright owner, where both the people are right on their own grounds.

1.3.2 Doctrine of Pith and Substance

This idea is mostly used when there's a disagreement about who (like the national government or a state government) has the power to make a law. But courts also use it to figure out the main point or purpose of a law. As in when a conflict between the State and the Central government is the concern whose decision would be the one to prevail, would it be the Central government or the State government.

1.3.3 Doctrine of Lex Specialis

This rule says that if there's a specific law about something and a general law about the same thing, the specific law wins.

How it applies here:

- Online platform rules, like the IT Rules from 2021, might be more important than general copyright rules if they specifically talk about what online platforms have to do.
- On the other hand, copyright law might be more important if it's talking about exclusive rights that the online platform law doesn't really cover.

1.4 Conflict Scenarios in Broadcasting: Illustrative Examples

1.4.1 IP Rights¹ vs. Competition Law²: The Case of Exclusive Licensing

Broadcasters often pay a lot of money for the exclusive right to show sports. They say this is protected by copyright and they need it to make their money back. But these deals can cause problems if they stop other companies from being able to show the same sports.

Example: In India, Star India's exclusive rights to show ICC cricket tournaments were questioned by the people who make sure businesses compete fairly (the CCI). They wondered if this was unfair because it stopped others from entering the market. The CCI said that while

¹ The Copyright Act, No. 14 of 1957

² The Competition Act, No. 12 of 2002

copyright is important, it can't be used as an excuse for unfair competition, especially if it hurts the fans.

A similar thing happened in Europe where they made the English Premier League share its broadcasting rights with different channels so one company didn't have a monopoly, even though the broadcasts had copyright protection.

Legal idea: Courts tend to think that copyright isn't absolute and can be limited if using it goes against the rules of fair competition. This is because there's a public interest in making sure things are fair, which can sometimes outweigh private rights.

1.4.2 IP Rights vs. Digital Law³: The Platform Dilemma

When people upload illegal sports streams to sites like YouTube or Telegram, the broadcasters use copyright law to demand they be taken down. But these platforms might say they're protected by a rule in the IT Act from 2000 that says they're not responsible for what users upload – as long as they take it down when asked.

This creates a conflict: should copyright law be more important than the protection for online platforms? Or should platforms be allowed to host content until someone specifically tells them it's illegal?

Case example⁴: In a case involving MySpace and a music company, the court in Delhi said that online platforms aren't responsible for what users upload if they take down illegal stuff when they're told about it and do it carefully. However, the court also said platforms should try to get better at finding copyrighted stuff themselves.

What's happening: Courts are starting to suggest that both the broadcasters and the platforms have a responsibility to stop illegal sharing – balancing the need to protect copyright with the rules for online platforms.

1.4.3 Digital Law vs. Competition Law: Algorithmic Discrimination

Platforms like FanCode or YouTube might show their own content or content that people pay

³ The Information Technology Act, No. 21 of 2000

⁴ Super Cassettes Industries Ltd. V. Myspace Inc. & Another (2017) 236 DLT 478 (DB)

them to promote more often through their recommendation systems. This might not break copyright or any direct content rules, but it could make it harder for other broadcasters to get noticed.

Antitrust worry: If a big platform (like Amazon with Twitch) promotes its own eSports streams over streams from other people, it might be seen as unfairly using its power under competition law, even if it's following copyright and online rules.

Legal question: Should we have rules about unfairness in these computer programs under competition law, online fairness rules, or both?

So far, India hasn't really figured this out, but laws in Europe and advice from the US suggest that holding companies accountable across different areas is becoming the norm.

1.5 Case Law Trends: Indian and International Perspectives

1.5.1 Indian Courts

- In a case involving ESPN⁵ and a company illegally showing their content, the Delhi High Court protected the broadcaster's rights but also said that the rules for dealing with online piracy need to be better.
- In a case where Star India⁶ was fighting online pirates, courts issued special orders to block illegal websites quickly but also said that online platforms still need to be careful about what gets posted.

Indian courts tend to take copyright seriously, but they're also starting to think about balancing it with online and competition concerns.

1.5.2 European Jurisprudence⁷

- The top court in Europe has repeatedly said that copyright rules have to give way when they clash with the EU's competition laws, especially the rules about preventing unfair agreements and abuse of power.

⁵ *ESPN Software India Pvt. Ltd. v. Tudu Enterprises*, 2016 SCC OnLine Cal 6806

⁶ *Star India Pvt. Ltd. v. Jack Martin*, 2020 SCC OnLine Del 1636

⁷ European Commission – Digital Markets Act, <https://digital-markets-act.ec.europa.eu>

- In a case about the English Premier League, the court said that rules that only allow people in certain areas to watch could break competition law and the EU's rules about the freedom to provide services.

1.5.3 United States

- US courts strongly protect copyright, but online platforms can use a "safe harbor" rule to avoid being responsible for what users upload.
- However, in a case against YouTube, the court said that if a platform knows about illegal uploads and doesn't do anything, they might not be able to use the "safe harbor" protection – creating a tension between protecting copyright and keeping platforms neutral.

1.6 Prioritization in Indian Legal Practice: Who Wins?

In India, there's no single law that always beats the others. However, courts usually try to follow what the lawmakers intended and what's best for the public.

- Copyright law is usually more important when exclusive rights are needed to encourage investment and new ideas.
- Competition law is usually more important when using copyright unfairly hurts consumers or stops other businesses from entering the market.
- Online law is usually more important when it comes to managing content and protecting platforms, unless they're clearly allowing or ignoring illegal activity.

So, what happens depends on the specific situation, the details of the case, and what the purpose of each law is.

1.7 The Need for a Unified Conflict-Resolution Framework

Because these laws clash so often, India would benefit from having a clear way to decide which one takes priority, either written into the laws themselves or as guidelines from the courts. This could look like:

1.7.1 Statutory Interpretation Guidelines

The laws about copyright, online stuff, and competition should be changed to include rules

about how to deal with conflicts, making it clear when and how exceptions apply. Copyright might only be overridden if there are real worries about monopolies and there aren't any other less restrictive ways to fix the problem. Online platforms might only lose their protection if they repeatedly or knowingly host illegal content.

1.7.2 Multi-Agency Regulatory Panels

Create a group with members from different government agencies that deal with online stuff, competition, copyright, and telecom. This group could give advice or even make rules about which laws are more important in broadcasting disputes.

1.7.3 Judicial Protocols

The highest courts could create a system similar to the "doctrine of proportionality," where they weigh:

- The goal and public benefit of each law that's in conflict.
- How much one law limits or destroys the other.
- Whether there's a way for both laws to be applied, maybe with some conditions.

This would make decisions more consistent and predictable.

1.8 Conclusion

The world of online sports broadcasting is where powerful sets of laws – intellectual property, competition, and online rules – all meet. Each has its own goals, who it's trying to help, and ways to enforce things. When these laws clash, which happens a lot in modern broadcasting, the legal system needs to find ways to balance things out, minimize harm, and encourage new ideas.

Right now, Indian law deals with these clashes through courts trying to understand the laws and looking at each case individually, often without clear rules about which law is more important. As broadcasting becomes more and more online and global, we need a clear way to resolve these conflicts.

This system needs to make sure that:

- Broadcasters still have a reason to invest (through strong but not absolute copyright).
- The market is fair and competitive (by preventing monopolies).
- Online platforms can still innovate and people can still access content (through updated online laws).

With careful changes, India can move from these legal clashes to a more unified system – making sure we have a fair and future-ready way to regulate sports broadcasting in this digital age.

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