

Lockdown effect? Bollywood producers look to go over the top

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As they brace for losses of anywhere in the range of Rs 500-600 crore, Bollywood producers are increasingly exploring releases on OTT (over-the-top) platforms. Multiplexes, however, are negotiating hard to stall digital premieres but legal experts believe producers may be able to stream their films even if contracts don't contain a force majeure clause. Films such as Amitabh Bachchan and Ayushmann Khurrana-starrer *Gulabo Sitabo*, Gunjan Saxena: *The Kargil Girl* featuring Janhvi Kapoor, and Akshay Kumar's *Laxmmi Bomb* backed by Fox Star Studios are likely to be acquired digitally.

Gowree Gokhale, partner, Nishith Desai Associates, told FE even if the force majeure clause is missing, the producer may still end the contract depending on the agreement construct.

"If the contract has a force majeure, the producer can invoke that to terminate a contract if the exhibitor does not honour his commitment, subject to certain terms and conditions. But even if there is no clause, the producer may still be able to terminate the contract if there is an absolute obligation on the part of the exhibitor to ensure a theatrical release," Gokhale said.

Nikhil Narendran, partner at Trilegal explained that multiplexes cannot boycott artists and producers as that would be categorised as anti-competitive behaviour. "That can be legally challenged," Narendran said.

Earlier this month, the Multiplex Association of India (MAI) cited the prevailing practice of "exclusive theatrical window" and urged studios and content creators to hold pending releases until theatres are open. There is, typically, an eight-week window between the theatrical and other screen releases though that can vary from contract to contract.

MAI has reportedly threatened to boycott producers and actors if they opt for digital releases. Exhibitors are miffed because they earn the lion's share of revenues from ticket sales of anywhere between 50%-60% .

However, as Shariq Patel, CEO at Zee Studios told FE, the industry is evaluating digital releases. "Announcements are likely to be made in the coming weeks and months as all of us assess when theatres can realistically open and see footfalls," Patel said. Three of the studio's films—*Gunjan Saxena: The Kargil Girl*, *Khaali Peeli* and Marathi film *Panghrun*— were in post-production stages, ready to hit the theatres between April-June. "Lockdown impacts the cost of a project and thereby profitability of a studio," Patel said.