



TRAILBLAZER
ADVOCATES

DISCLAIMERS & MOVIES: A DEFENSIVE ALLIANCE

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Preface

From 'All characters in this movie are fictitious' to 'This is based on real-life incidents' - every time you sit down to watch something, it usually starts with few Disclaimers. Use of Disclaimers have become very common, it is everywhere, and sometimes we do not even pay heed to it. The question is what legal value does these disclaimers serve? Why does every movie more or less repeat the same disclaimer? What purpose does a disclaimer solve?

Let us find out.



UNDERSTANDING 'DISCLAIMERS' IN THE WORLD OF MOVIES

Disclaimer, according to Cambridge Dictionary, means *a formal statement declaring that the person is not legally responsible for any information on the internet, or in simple terms that you are not directly involved in it.*¹

In legal terms, a disclaimer *is a defensive measure, used generally with the purpose of protection from unwanted claims or liability.*² It is generally used as a defense where a person limits the scope of rights and obligations that might be enforced by anyone, wherein both of them are legally connected.

Thus, disclaimers are a type of tool in the hands of people and their businesses that protect them from any legal action by either displaying it on the screen or in the form of "terms of service". Thus, their work or business remains protected.³

Today, disclaimers have become a part of the creative process of making a film. During the process of making the film, different kinds of issues are identified, and then Disclaimers are innovatively crafted within the film to reduce the possibility of legal action from any person who believes that he or she has been wronged via some portrayal in the work.

¹ <https://dictionary.cambridge.org/dictionary/english/disclaimer>

² <https://legal-dictionary.thefreedictionary.com/disclaimer>

³ <https://www.prashantkanha.com/brief-law-of-disclaimer/>

WHY INCLUDE DISCLAIMERS?

A 1932 lawsuit against MGM Studios for 'Rasputin and the Empress' can be credited for starting the practice of Disclaimers in movies. The movie was about "Grigori Rasputin, the famously hard-to-assassinate Russian mystic and intimate of the last, doomed Romanovs."⁴ One of the reasons for the lawsuit was that the movie in its disclaimer that specified that some characters in the movie were still alive, and also, they gave enough indications to find who these people were. The film began with a claim that "This concerns the destruction of an empire ... A few of the characters are still alive—the rest met death by violence." Reportedly, a justice in the case told MGM that the studio might have stood a better chance had they incorporated a disclaimer stating the exact opposite: that the film was not intended as an accurate portrayal of real people or events.⁵

Rasputin and the Emperor set the ball rolling towards inclusion of Disclaimers. Since then, the movie world started putting disclaimers with intent to:



⁴ <https://www.cbr.com/movie-disclaimer-fiction-mgm-lawsuit-rasputin-empress/>

⁵ <https://slate.com/culture/2016/08/the-bizarre-true-story-behind-the-this-is-a-work-of-fiction-disclaimer.html>

INTERESTING DISCLAIMERS

Below are some instances from the movies how moviemakers are fulfilling the above-mentioned intent:

1. OMG – Oh My God!

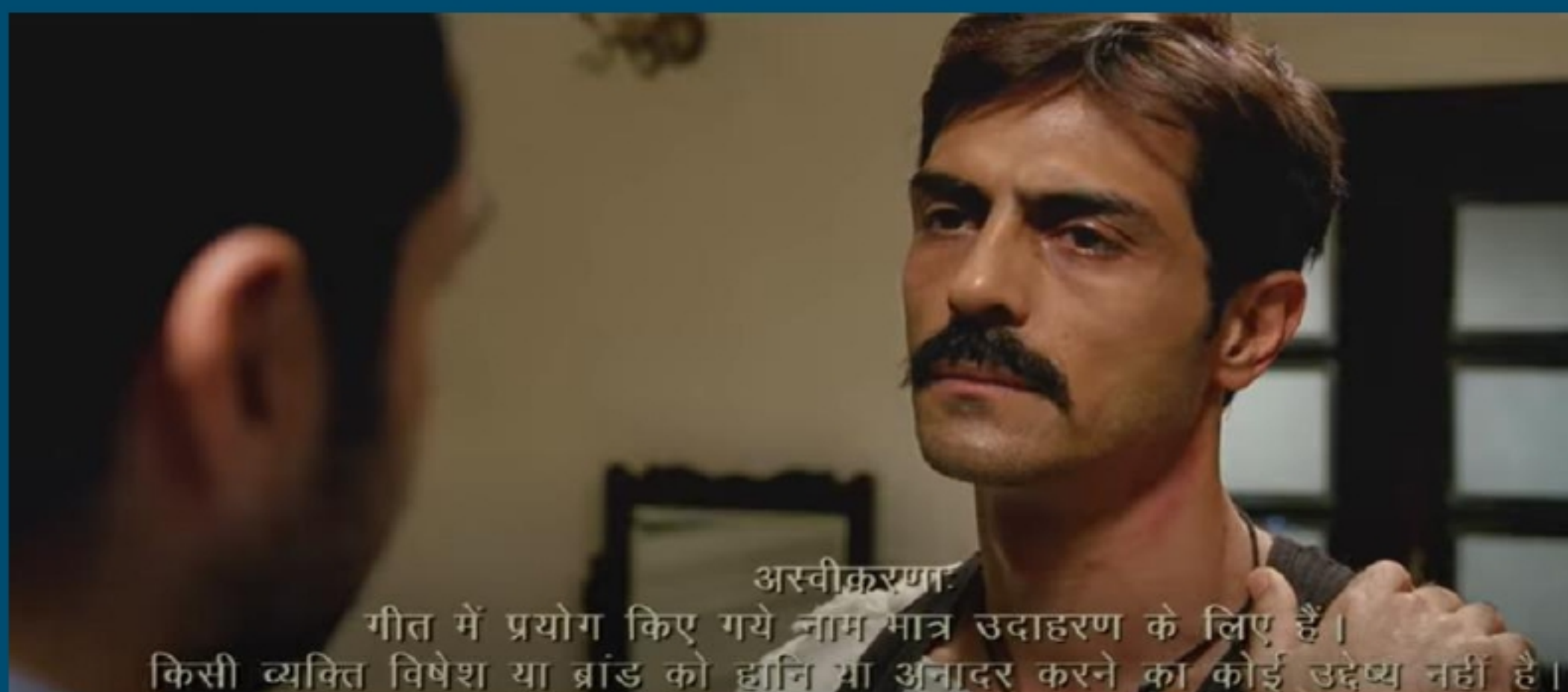
DISCLAIMER

OMG – Oh My God! Is the journey of the protagonist who discovers the faith through the happenings and occurrences in his life and goes from being a non-believer to a believer. The film is meant for entertainment purposes only and we do not intent to hurt the sentiments of any individual, community, sect or religion. This film is a work of fiction and any resemblance to any person living or dead is purely coincidental.

Disclaimer from the film – Netflix

The 2012 Bollywood movie OMG! Oh My God! took a step ahead and included a special disclaimer that explained the theme of the movie. The movie was a satirical comedy wherein the protagonist sues God. To avoid hurting any religious sentiments, the Censor Board advised the makers include such a disclaimer.

2. Chakravyuh

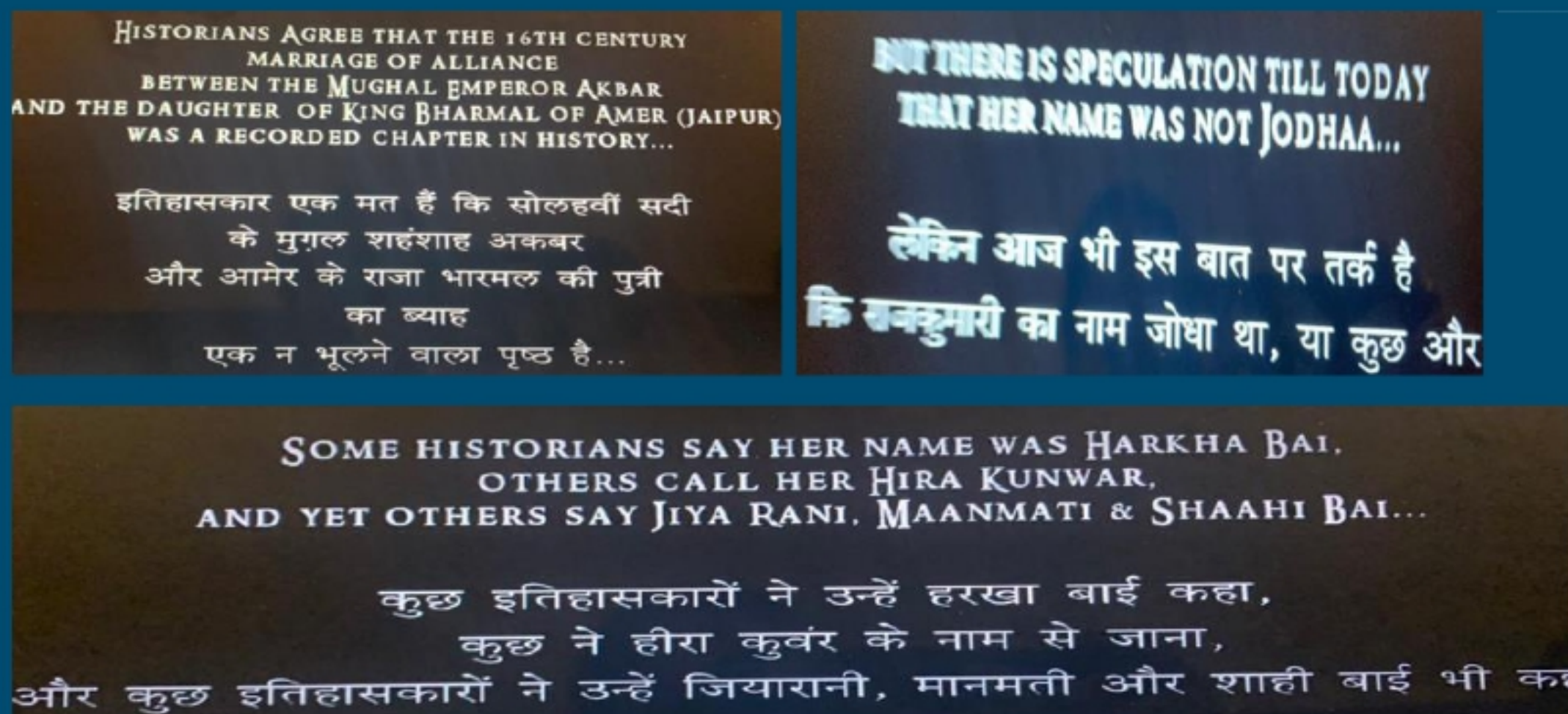


Disclaimer from the song in the film – YouTube

Chakravyuh, a 2012 released movie, had a song Mehangai which included lyrics i.e. 'Birla ho ya Tata, Ambani ho ya Bata, Sabne apne chakkar mein des ko hai kaata'. This led to Bata moving to the Supreme Court alleging the song is defamatory. While SC refused to stop

the song, it advised the makers to add a disclaimer to the song, saying, "Use of the names of the song are merely as example. No injury or disrespect is intended to any particular person or brand."⁶

3. JODHA AKBAR



When Hrithik Roshan and Aishwarya Rai starrer Jodha Akbar was hit with controversy regarding the female protagonist, the disclaimer at the beginning of the movie shielded it. The controversy was related to the name of the female protagonist i.e. Rani Jodha Bai. However, the response to the protest was at the beginning of the movie which clarified that there was historical evidence of character however different historians named her differently, the particular name was chosen in the movie based on its popularity amongst all.

4. ROBOT 2.0



Disclaimer from the song in the film – Amazon Prime

Just before the release of the movie Robot 2.0 in 2018, the makers were slapped with a legal notice by the Cellular Operators Association of India (COAI). It was alleged that the

⁶ <https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/a-disclaimer-for-hurt-sentiments/articleshow/17585206.cms>

movie had 'obscurantist and anti-scientific attitudes towards mobile phone, towers and mobile services'. However, the disclaimer again came to the film's rescue. It elucidated that the movie was based on newspaper and digital media articles.

5. WALT DISNEY COMPANY

This program includes negative depictions and/or mistreatment of people or cultures. These stereotypes were wrong then and are wrong now. Rather than remove this content, we want to acknowledge its harmful impact, learn from it and spark conversation to create a more inclusive future together. Disney is committed to creating stories with inspirational and aspirational themes that reflect the rich diversity of the human experience around the globe. To learn more about how stories have impacted society visit: www.Disney.com/StoriesMatter

Last year, The Walt Disney Company in some of its already released movies added disclaimers about negative depictions and/or mistreatment of people or cultures. The Company on its website said that *'as part of their ongoing commitment to diversity and inclusion, they are in the process of reviewing their library and adding advisories to content that includes negative depictions or mistreatment of people or cultures..... These stereotypes were wrong then and are wrong now. Rather than remove the content, they want to acknowledge its harmful impact, learn from it and spark conversation to create a more inclusive future together.'*⁸

Interesting disclaimers that are included in movies today:

Intellectual Property Related Disclaimers

FITOOR – Giving Copyright Credits

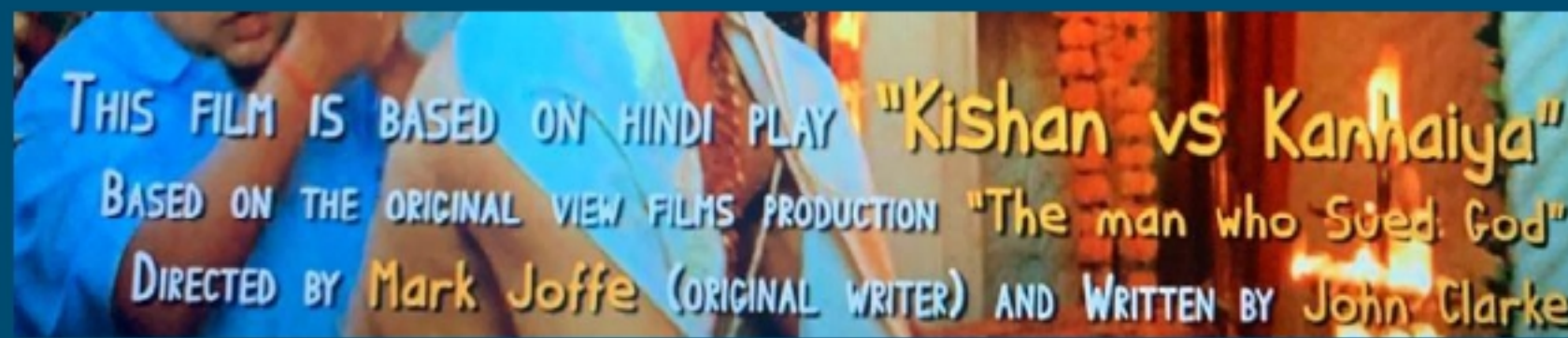


Disclaimer from the song in the film – Netflix

OH MY GOD – Giving Copyright Credits

⁷ <https://www.cnet.com/news/disney-plus-disclaimer-now-acknowledges-harmful-impact-of-racist-stereotypes/>

⁸ <https://storiesmatter.thewaltdisneycompany.com/>



Disclaimer from the song in the film – Netflix

PARI – Giving Copyright Credits

COPYRIGHT

THE USE OF A CAMERA OR ANY KIND OF AUDIO-VISUAL DEVICE IN THIS CINEMA HALL TO CAPTURE, RECORD OR MAKE A COPY OF THE CINEMATOGRAPH FILM OR OF IF ANY PART OF THE CINEMATOGRAPH FILM IS AN ILLEGAL ACTIVITY AND A PENAL OFFENCE PUNISHABLE UNDER SECTION 51 READ WITH SECTIONS 63 & 63A OF THE INDIA COPYRIGHT ACT 1958 WITH IMPRISONMENT EXTENDING TO 3 YEARS & FINE EXTENDING TO RS. 2,00,000/-

Disclaimer from the song in the film – Amazon Prime

Real Life inspired stories

SANJU

INSPIRED BY TRUE EVENTS

THIS FILM IS A CINEMATIC ADAPTATION OF EVENTS AND INCIDENTS THAT HAPPENED IN THE LIFE OF SANJAY DUTT. HOWEVER, SOME OF THE CHARACTERS, NAMES, INSTITUTIONS, INCIDENTS, LOCATIONS AND EVENTS HAVE BEEN FICTIONALIZED AND CINEMATIC LIBERTIES HAVE BEEN TAKEN FOR THE PURPOSE OF DRAMATIZATION. ANY SIMILARITY TO THE NAME, CHARACTER OR HISTORY OF ANY PERSON IS ENTIRELY COINCIDENTAL AND UNINTENTIONAL.

Disclaimer from the song in the film – Hotstar

SAINA

DISCLAIMER

This Film is a fictionalized and dramatized version of the experiences and life events of [Ms. Saina Nehwal] and the Film should not be construed to represent true, accurate or complete recreation of the actual events that transpired. It is not a commentary or a documentary on the characters or situations depicted in the Film. The Film, the producers, the director, the writer, the artists or any other person associated with the Film do not intend to malign, defame or slander or hurt or be disrespectful to any person(s), place, region, country, religion, community or individual(s) or religious sentiments, beliefs or feelings of any person(s). The filmmakers fully acknowledge and respect other perspectives and viewpoints with regard to the subject matter of this Film or events depicted therein. The use of certain expressions in this Film which do not represent real life incidents are merely a fictional account purely for dramatizing the performances and incidents portrayed in this Film, and the makers of this Film and any other persons associated with this Film do not support or encourage the use of such expressions, dialogues and scenes. The Film does not make any claim, of authenticity or historical accuracy of any incidents or events depicted in this Film. Some character names, places, history of any person (living or dead), stadiums, buildings or locations used in the Film may be fictitious and any resemblance to reality is purely co-incidental and unintentional.

No animals and humans were harmed during the making of this Film.

Consumption of alcohol and cigarette smoking is injurious to health.

Disclaimer from the song in the film – Amazon Prime

THE BIG BULL

DISCLAIMER

This Film is somewhat inspired by true events and more is a fictional piece of work and but not based on and/ or nor intended to be based on any True event, the life of any person dead or alive, Companies, Timelines etc. Any similarity/ resemblance to the life or events in the life of any person living or dead is merely coincidental and unintentional.

All characters, backdrops, incidents, references and Court Drama portrayed and the names used in this Film are fictitious and any resemblance to reality, names, character and history is a pure coincidence. This Film is for entertainment purpose only and has no intention of disrespecting/ defaming any community, City or state, Judiciary, Constitution, Legislation and Law of the Country.

Disclaimer from the song in the film – Amazon Prime

DISCLAIMING PROMOTION OF ANY SUPERSTITIOUS/ABOLISHED/ANTI-SOCIAL PRACTICES:

PARI

DISCLAIMER

THIS FILM DOES NOT PROMOTE, PROPAGATE, ENCOURAGE SUPERSTITION OR BLACKMAGIC. THIS FILM IS PURELY A WORK OF FICTION AND IMAGINATION. ANY RESEMBLANCE TO ANY INCIDENT OR PERSONS, LIVING OR DEAD IS A MERE CO-INCIDENCE. THIS IS LIGHT HEARTED FILM AND NOT INTENDED TO DEFAME DISCREDIT OR HURT THE SENTIMENTS OF ANY PERSON, PLACE, ORGANIZATION RELIGION, PROFESSION OR COMMUNITY.

Disclaimer from the song in the film – Amazon Prime

PADMAAVAT

Disclaimer

This Film does not intend to encourage or support "Sati" or such other practices

Disclaimer from the song in the film – Amazon Prime

KAALANK

DISCLAIMER

ALL CHARACTERS AND INCIDENTS PORTRAYED AND THE NAMES USED IN THIS FILM ARE FICTITIOUS AND ANY RESEMBLANCE TO REALITY IS PURELY CO-INCIDENTAL. ANY SIMILARITY OR RESEMBLANCE TO THE NAME, CHARACTER OR HISTORY OF ANY PERSON (LIVING OR DEAD), IS ENTIRELY AND PURELY CO-INCIDENTAL AND UNINTENTIONAL.

NEITHER THE CONTENT OF THIS FILM, NOR THE PRODUCER, THE DIRECTOR, THE ARTISTS OR ANY OTHER PERSON ASSOCIATED WITH THIS FILM INTEND TO OUTRAGE, INSULT, WOUND, OFFEND OR HURT ANY RELIGION OR RELIGIOUS SENTIMENTS, BELIEFS OR FEELINGS OF ANY PERSON(S), COMMUNITY OR CLASS OF PERSON(S) NOR DO THEY INTEND TO MALIGN, DEFAME OR SLANDER ANY PLACE, REGION, COUNTRY, COMMUNITY, PERSON(S) OR CLASS OF PERSON(S) IN ANYWAY.

THE USE OF CERTAIN EXPRESSIONS IN THIS FILM ARE PURELY FOR DRAMATIZING THE PERFORMANCES AND INCIDENTS PORTRAYED IN THIS FILM, AND THE MAKERS OF THIS FILM AND ANY OTHER PERSONS ASSOCIATED WITH THIS FILM DO NOT SUPPORT THE USE OF SUCH EXPRESSIONS BY ANY PERSON.

UNDER THE HINDU MARRIAGE ACT (1955), POLYGAMY IS ILLEGAL IN INDIA.

Disclaimer from the song in the film – Amazon Prime

AGAINST ANIMAL CRUELTY:


Animal Disclaimer


All the animals & birds in this film have been treated with extreme love, care & concern in the presence of veterinarian doctors. Computer graphics were used for deer, horses, camels, elephants, bullocks, love birds, ostrich, white macaw & parrots. Animatronics horses were used for better quality purpose.

Prevent Cruelty to animals - Animal Welfare Board of India.

HEALTH ADVISORIES

HEALTH ADVISORY

 **SMOKING CAUSES CANCER - SMOKING KILLS!**
புகை சிடிப்பது புற்றுநோயை உண்டாக்கும் - உயிரைக் கொல்லும்

LIQUOR DRINKING IS INJURIOUS TO HEALTH! 
மது சாப்பிடுதல் உடல் நலத்திற்கு தீங்க விளைவிக்கும்

REGULATION OF DISCLAIMERS IN INDIA

Central Board of Film Certification (CBFC), under the guidance of the Government of India and the Ministry of Information and Broadcasting, is mainly a statutory body that is entrusted with the task to provide a certificate to films and movies. The body is entrusted with the function to standardize the films and movies and decide whether they are fit to go public or not as per the provisions of the Cinematograph Act, 1952. The officers of the CBFC are of the view that they do not mandatorily ask for the film producers to have disclaimers without them watching that particular film. They believe that disclaimers are required only when a film has something related to historical, research-based, non-fiction. The disclaimers such as merely stating, that “inspired by true events” are not acceptable by them and it depends upon case to case. Central Board of Film Certification (CBFC), under the guidance of the Government of India and the Ministry of Information and Broadcasting, is mainly a statutory body that is entrusted with the task to provide a certificate to films and movies. The body is entrusted with the function to standardize the films and movies and decide whether they are fit to go public or not as per the provisions of the Cinematograph Act, 1952.⁹ The officers of the CBFC are of the view that they do not mandatorily ask for the film producers to have disclaimers without them watching that particular film. They believe that disclaimers are required only when a film has something related to historical, research-based, non-fiction. The disclaimers such as merely stating, that “inspired by true events” are not acceptable by them and it depends upon case to case.¹⁰

Further, the Ministry of Information and Broadcasting believes that a movie can have two three disclaimers also, depending upon the theme or the subject matter of the movie. Further, in the year 2016, I&B released a notice to the filmmakers that in cases where rash driving scenes are there, they are required to mandatorily show disclaimers so that the general public does not violate any traffic rules.

Now, the health disclaimers such as that of anti-tobacco are controlled by The Cigarettes and Other Tobacco Products (Prohibition of Advertisements and Regulation of trade and

⁹ <https://www.mib.gov.in/acts/cinematograph-act-1952-and-rules>.

¹⁰ <https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/wary-movies-play-safe-with-ever-expanding-disclaimers/articleshow/70713908.cms?from=mdr>.

commerce, production, supply and distribution) Act, 2003.¹¹ The rules framed under the act in the year 2004, which later amended in the year 2005 and 2012¹², lays down that every movie, show, or any television program showcasing any kind of tobacco products are to mandatorily display “anti-tobacco health spots of a minimum of 30 seconds duration either in the beginning or in the middle of the show.”

Additionally, the Advertising Standards Council of India (ASCI) is the self-regulatory authority that legalizes disclaimers to be added in ads displayed on the television. To help customers better understand their rights and not get misled, recently in the year 2018, it released a comprehensive set of guidelines for getting a better understanding of disclaimers that are used during advertisements in India. (It includes within it “hoardings” also).

¹¹ <https://legislative.gov.in/sites/default/files/A2003-34.pdf>.

¹² https://upload.indiacode.nic.in/showfile?actid=AC_CEN_12_13_00020_200334_1517807327289&type=rule&filename=14.Amendment%20Rules%202012.pdf.



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