

# GOVERNMENT NOTIFIES INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE) RULES 2021

Relevant for: Science & Technology | Topic: IT, Internet and Communications

Amidst growing concerns around lack of transparency, accountability and rights of users related to digital media and after elaborate consultation with the public and stakeholders, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 has been framed in exercise of powers under section 87 (2) of the Information Technology Act, 2000 and in supersession of the earlier Information Technology (Intermediary Guidelines) Rules 2011.

While finalizing these Rules, both the Ministries of Electronics and Information Technology and Ministry of Information and Broadcasting undertook elaborate consultations among themselves in order to have a harmonious, soft-touch oversight mechanism in relation to social media platform as well as digital media and OTT platforms etc.

Part- II of these Rules shall be administered by Ministry of Electronics and IT, while Part-III relating to Code of Ethics and procedure and safeguards in relation to digital media shall be administered by the Ministry of Information and Broadcasting.

## Background:

The Digital India programme has now become a movement which is empowering common Indians with the power of technology. The extensive spread of mobile phones, Internet etc. has also enabled many social media platforms to expand their footprints in India. Common people are also using these platforms in a very significant way. Some portals, which publish analysis about social media platforms and which have not been disputed, have reported the following numbers as user base of major social media platforms in India:

These social platforms have enabled common Indians to show their creativity, ask questions, be informed and freely share their views, including criticism of the Government and its functionaries. The Government acknowledges and respects the right of every Indian to criticize and disagree as an essential element of democracy. India is the world's largest open Internet society and the Government welcomes social media companies to operate in India, do business and also earn profits. However, they will have to be accountable to the Constitution and laws of India.

Proliferation of social media, on one hand empowers the citizens then on the other hand gives rise to some serious concerns and consequences which have grown manifold in recent years. These concerns have been raised from time to time in various forums including in the Parliament and its committees, judicial orders and in civil society deliberations in different parts of country. Such concerns are also raised all over the world and it is becoming an international issue.

Of late, some very disturbing developments are observed on the social media platforms. Persistent spread of fake news has compelled many media platforms to create fact-check mechanisms. Rampant abuse of social media to share morphed images of women and contents

related to revenge porn have often threatened the dignity of women. Misuse of social media for settling corporate rivalries in blatantly unethical manner has become a major concern for businesses. Instances of use of abusive language, defamatory and obscene contents and blatant disrespect to religious sentiments through platforms are growing.

Over the years, the increasing instances of misuse of social media by criminals, anti-national elements have brought new challenges for law enforcement agencies. These include inducement for recruitment of terrorists, circulation of obscene content, spread of disharmony, financial frauds, incitement of violence, public order etc.

It was found that currently there is no robust complaint mechanism wherein the ordinary users of social media and OTT platforms can register their complaint and get it redressed within defined timeline. Lack of transparency and absence of robust grievance redressal mechanism have left the users totally dependent on the whims and fancies of social media platforms. Often it has been seen that a user who has spent his time, energy and money in developing a social media profile is left with no remedies in case that profile is restricted or removed by the platform without giving any opportunity to be heard.

### **Evolution of Social Media and Other Intermediaries:**

### **Rationale and Justification for New Guidelines:**

These Rules substantially empower the ordinary users of digital platforms to seek redressal for their grievances and command accountability in case of infringement of their rights. In this direction, the following developments are noteworthy:

### **Consultations:**

### **Salient Features**

### **Guidelines Related to Social Media to Be Administered by Ministry of Electronics and IT:**

### **Digital Media Ethics Code Relating to Digital Media and OTT Platforms to Be Administered by Ministry of Information and Broadcasting:**

There have been widespread concerns about issues relating to digital contents both on digital media and OTT platforms. Civil Society, film makers, political leaders including Chief Minister, trade organizations and associations have all voiced their concerns and highlighted the imperative need for an appropriate institutional mechanism. The Government also received many complaints from civil society and parents requesting interventions. There were many court proceedings in the Supreme Court and High Courts, where courts also urged the Government to take suitable measures.

Since the matter relates to digital platforms, therefore, a conscious decision was taken that issues relating to digital media and OTT and other creative programmes on Internet shall be administered by the Ministry of Information and Broadcasting but the overall architecture shall be under the Information Technology Act, which governs digital platforms.

### **Consultations:**

Ministry of Information and Broadcasting held consultations in Delhi, Mumbai and

Chennai over the last one and half years wherein OTT players have been urged to develop “self-regulatory mechanism”. The Government also studied the models in other countries including **Singapore, Australia, EU and UK** and has gathered that most of them either have an institutional mechanism to regulate digital content or are in the process of setting-up one.

**The Rules establish a soft-touch self-regulatory architecture and a Code of Ethics and three tier grievance redressal mechanism for news publishers and OTT Platforms and digital media.**

Notified under section 87 of Information Technology Act, these Rules empower the Ministry of Information and Broadcasting to implement Part-III of the Rules which prescribe the following:

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**RKJ/M**

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