

Rules and Regulations Summary

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

- The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 were notified on February 25, 2021. The Rules have been notified under the Information Technology Act, 2000. The Act provides for the regulation of electronic transactions and cybercrime. The 2021 Rules replace the Information Technology (Intermediaries Guidelines) Rules, 2011.
- **Due diligence by intermediaries:** Intermediaries are entities that store or transmit data on behalf of other persons. Intermediaries include internet or telecom service providers, online marketplaces, and social media platforms. The due diligence to be observed by intermediaries includes: (i) informing users about rules and regulations, privacy policy, and terms and conditions for usage of its services, (ii) blocking access to unlawful information within 36 hours upon an order from the Court, or the government, and (iii) retaining information collected for the registration of a user for 180 days after cancellation or withdrawal of registration. Intermediaries are required to report cybersecurity incidents and share related information with the Indian Computer Emergency Response Team.
- **Significant social media intermediaries:** A social media intermediary with registered users in India above a threshold (to be notified) will be classified as Significant Social Media Intermediaries. Additional due diligence to be observed by these intermediaries include: (i) appointing a chief compliance officer to ensure compliance with the IT Act and the Rules, (ii) appointing a grievance officer residing in India, and (iii) publishing a monthly compliance report.
- Intermediaries which provide messaging as a primary service must enable the identification of the first originator of the information on its platform. This originator must be disclosed if required by an order from the Court or the government. Such order will be passed for specified purposes including investigation of offences related to sovereignty and security of the state, public order, or sexual violence. No such order will be passed if less intrusive means are effective in identifying the originator of the information. The intermediary will not be required to disclose the contents of any communication. If the first originator is located outside India, the first originator of that information within India will be deemed to be the first originator.
- **Code of Ethics for Digital Media Publishers:** The Rules prescribe the code of ethics to be observed by publishers of digital media including: (i) news and current affairs content providers, and (ii) online curated content providers (also known as OTT platforms). For news and current affairs, the following existing codes will apply: (i) norms of journalistic conduct formulated by the Press Council of India, (ii) programme code under the Cable Television Networks Regulation Act, 1995. For OTT platforms, the requirements include: (i) classifying content in age-appropriate categories as specified, (ii) implementing an age verification mechanism for access to adult content, and access control measures such as parental controls, and (iii) improving accessibility of content for disabled persons.
- **Grievance redressal:** The Rules require the intermediaries and digital media publishers to provide for a grievance redressal mechanism. The intermediaries are required to designate a grievance officer to address complaints against violation of the Rules. Complaints must be acknowledged within 24 hours and disposed of within 15 days.
- In case of digital media publishers (news and OTT), a three-tier grievance redressal mechanism will be in place for dealing with complaints regarding content: (i) self-regulation by the publishers, (ii) self-regulation by the self-regulating bodies of the publishers, and (iii) oversight mechanism by the central government. The publisher will appoint a grievance redressal officer based in India and address complaints within 15 days. As part of the oversight mechanism, the Ministry of Information and Broadcasting (MIB) will establish an Inter-Departmental Committee to hear grievances not addressed by self-regulatory bodies and also oversee adherence to the code of ethics.
- **Blocking of content in case of emergency:** In case of emergencies, the authorised officers may examine digital media content and the Secretary, MIB may pass an interim direction for blocking of such content. The final order for blocking content will be passed only after the approval by the Inter-Departmental Committee. In case of non-approval from the Committee, the content must be unblocked.

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