

Guidelines for Digital Media Regulation

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In News

- The Centre has announced new guidelines for digital news platforms.

New Guidelines

- The government has put emphasis on compliance to the 26% Foreign Direct Investment (FDI) cap under the government approval route in digital media. 26% FDI through the government approval route in the digital media sector was brought in 2019. FDI in print media is capped at 26%, and that in TV news is 49%.
- The majority of the directors on the company's board, and the Chief Executive Officer (CEO) of the company would have to be an Indian citizen.
- All foreign employees working for more than 60 days would need security clearance.
 - If the government denies or withdraw security clearance, the digital media company will ensure that the concerned person resigns or his/her services are terminated.
- The government has given a year to digital media news entities to align their shareholding with these requirements.

Application

The guidelines will be applicable to the following categories of entities registered or located in India:

- **Digital media entities** which streams/uploads news and current affairs on websites, apps or other platforms.

- **News agency** which gathers, writes and distributes/transmits news, directly or indirectly, to digital media entities and/or news aggregators.
- **News aggregator**, an entity which uses software of web applications to aggregate news content from various sources, such as news websites, blogs, podcasts, video blogs, user submitted links, etc in one location.

What are the issues involved in this case of regulating digital media?

- **Constitutional Rights involved:** The content of the episodes in question goes against and demeans the constitutional right of access to equality of employment
- **Balancing contending interests:** The court has to balance the right to freedom of speech versus right of dignity of a community and hate speech
- **Public interest issue:** Since the case deals on issues of “foreign funding” and “reservation”, there has to be consultation with government before any order
- **Role of Courts:** Constitutional values, human dignity are needed to be protected but the court cannot “become the enforcers of programme code” (which falls under the domain of Executive)
- **Extent of Courts Power:** There is debate on whether the court could order a blanket injunction of a programme or should restrict itself to only those portions which hurt a community.
- **Complex Nature of Hate Speech:** Hate speech comes dressed as small nuggets of facts, and a lot depends on the tenor, tone and manner of their presentation. Thus any regulation of speech has to be on a case-to-case basis.
- **Sophisticated Nature of Media Space:** The lines between the different platforms for media and journalism today are increasingly blurring. For example, Sudarshan TV also has a dedicated YouTube channel, where all of its programs are uploaded.

- **Ineffective implementation of existing rules:** The laws to tackle incendiary content and hate speech that fuels violence is already in place. What is seen lacking is a will to uniformly apply these rules, irrespective of political affiliations.
- **Ability to survive legal scrutiny:** Earlier attempts at imposing a high degree of liability on intermediaries (like Google & Facebook) for content posted on their platforms have not survived legal scrutiny, with Section 79(1) of the IT Act, 2000, giving them some immunity in this regard.

Foreign Direct Investment

- FDI is an investment made by a firm or individual in one country into business interests located in another country.
 - Generally, FDI takes place when an investor establishes foreign business operations or acquires foreign business assets, including establishing ownership or controlling interest in a foreign company.
 - It is different from Foreign Portfolio Investment where the foreign entity merely buys equity shares of a company. FPI does not provide the investor with control over the business.
- **Routes through which India gets FDI**
 - Automatic Route: In this, the foreign entity does not require the prior approval of the government or the RBI.
 - Government route: In this, the foreign entity has to take the approval of the government.
 - The Foreign Investment Facilitation Portal (FIFP) facilitates the single window clearance of applications which are through approval route.
 - This portal is administered by the Department for

Promotion of Industry and Internal Trade (DPIIT),
Ministry of Commerce and Industry.