

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

February 27, 2021

About Information Technology Rules 2021

- 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 platforms as well as digital media and OTT platforms etc.
- Part- II of these Rules shall be administered by the 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.

Salient features

- Due diligence must be followed by intermediaries, including social media intermediaries. In case, due diligence is not followed by the intermediary, safe

harbour provisions will not apply to them.

- The Rules make a distinction between social media intermediaries and significant social media intermediaries to encourage innovations and enable growth of new social media intermediaries without subjecting smaller platforms to significant compliance requirement

Significant Social Media Intermediary should appoint a Chief Compliance Officer, Nodal Contact Person and Resident Grievance Officer who shall be a resident in India.

- Code of Ethics for online news, OTT platforms and digital media: This Code of Ethics prescribes the guidelines to be followed by OTT platforms and online news and digital media entities.
- Self-Classification of Content:
 - The OTT platforms, called as the publishers of online curated content in the rules, would self-classify the content into five age based categories- U (Universal), U/A 7+, U/A 13+, U/A 16+, and A (Adult).
 - Platforms would be required to implement parental locks for content classified as U/A 13+ or higher, and reliable age verification mechanisms for content classified as "A".

Rationale and Justification for New Guidelines

The following developments are noteworthy:

- The Supreme Court in suo-moto writ petition (Prajjawala case) observed that the Government of India may frame necessary guidelines to eliminate child pornography, rape and gangrape imageries, videos and sites in content hosting platforms and other applications.
- The Supreme Court vide order directed the Ministry of Electronics and Information Technology to apprise the timeline in respect of completing the process of

notifying the new rules.

- There was a Calling Attention Motion on the misuse of social media and spread of fake news in the Rajya Sabha and the Minister had conveyed to the house, the resolve of the Government to strengthen the legal framework and make the social media platforms accountable under the law.
- The Ad-hoc committee of the Rajya Sabha laid its report after studying the alarming issue of pornography on social media and its effect on children and society as a whole and recommended for enabling identification of the first originator of such contents.