

IT rules, 2021

May 28, 2021

In news- The new Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 are made applicable for social media firms operating in India.

About the rules-

- All significant social media platforms with more than 50 lakh (5 million) users like Facebook, Twitter, Instagram and Koo are very much categorized as large social media platforms.
- The new IT Rules 2021 say that digital media platforms now require a **larger grievance redressal mechanism** which will include a **Chief Compliance Officer, a Nodal Contact Person and a Resident Grievance Officer (who would be based out of India)**.
- All social media platforms are required to publish these details on their apps and websites and explain to users the mechanism in place to make a complaint against any content on the platform.
- These complaints need to be acknowledged within 24 hours of receipt and these complaints need to be actioned upon within a period of 15 days from the date of receipt.
- The expedited processes have to take down certain content including revenge porn, **there should be self-regulation mechanisms** and an **oversight mechanism** created by the MeitY.
- When an intermediary fails to observe these rules, the provisions of **section 79 (1)** of the Act shall not be applicable for such intermediary and the intermediary shall be liable for punishment under any law for the time being in force and the Indian Penal Code”.
- The section 79 specifically gives digital media platforms such as Facebook, Twitter, YouTube and WhatsApp **legal immunity in a way against liability for**

posts made on their networks, third party information or data.

- The rules include a **traceability clause** that requires social media platforms to locate **“the first originator of the information”** if required by authorities.

More about traceability cause-

- This rule will impact most messaging apps such as Signal, Telegram, Snapchat, Wire, WhatsApp etc..
- WhatsApp has filed a lawsuit in the Delhi High Court.
- The company has invoked the **2017 Justice K S Puttaswamy vs Union Of India case** to argue that the traceability provision is unconstitutional and against people’s **fundamental right to privacy** as underlined by the Supreme Court decision.
- The company has said that the **requirement to ‘trace’ chats would mean** that the platform will have to **break end-to-end encryption**, which is turned on by default for all messages.
- Traceability requires re-engineering the app just for the Indian market, which is unlikely to happen.
- WhatsApp’s argument is that **traceability, even if enforced, is not foolproof and could lead to human rights violations.**
- Hence the plea has stated that the court should declare the traceability clause as “unconstitutional” and should not allow it to come into force.