

The Union Govt rethinking 'safe harbour' in Digital India Bill

March 13, 2023

In news— As the government has formally outlined the Digital India Act, 2023, the government is reviewing the “safe harbour” clause in the Information and Technology Act 2000 which provides legal immunity to platforms against content shared by their users

The safe harbor clause in IT law-

- According to the safe harbour principle, an online platform such as Facebook or Twitter cannot be held accountable for the content posted on them by users.
- In other words, 'intermediaries' on the internet are not responsible for what third parties post on their website.
- The government is debating whether such platforms should continue to have zero liability for what users post on their platform.
- This is the principle that **allows social media platforms to avoid liability for posts made by users.**
- Safe harbour has been reined in in recent years by regulations like the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which require platforms to take down posts when ordered to do so by the government, or when required by law.
- **The safe harbour provision has been given under Section 79 of the IT Act 2000.**
- **Section 79 states that safe harbour wouldn't be given if the intermediary "fails to expeditiously" take down a post** or remove a particular content even after the

government flags that the information is being used to commit something unlawful.

- The government believes there should be no free pass to social media companies and 'safe harbour' cannot be an excuse to let harmful posts remain.
- Experts say safe harbour has often led to a lack of content moderation, inadequate fact-checking, and content violations on platforms.
- In 2022, the government had mandated, through the IT Rules of 2021, that social media platforms must appoint a Chief Compliance Officer (CCO), Resident Grievance Officer (RGO), and Nodal Contact Person.
- Under the new Digital India law, each intermediary category will be subject to new regulations with a heavy focus on fact-checking to prevent misinformation or misuse of data.
- These platforms will now be held accountable for any content violations or cybercrimes that occur on their websites.
- The Government formally outlined the Digital India Act, 2023 which is a broad overhaul of the decades-old Information Technology Act, 2000.