The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021[1]

In exercise of the powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (21 of 2000), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—

PART I

PRELIMINARY

1. Short Title and Commencement.—(1) These rules may be called the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—(1) In these rules, unless the context otherwise requires—

(a) 'access control mechanism' means any measure, including a technical measure, through which access to online curated content may be restricted based on verification of the identity or age of a user;

(b) 'access services' means any measure, including technical measure such as closed captioning, subtitles and audio descriptions, through which the accessibility of online curated content may be improved for persons with disabilities;

(c) 'Act' means the Information Technology Act, 2000 (21 of 2000);

(d) 'child' means any person below the age of eighteen years;

(e) 'committee' means the Inter-Departmental Committee constituted under rule 14;

(f) 'communication link' means a connection between a hypertext or graphical element, and one or more items in the same or different electronic document wherein upon clicking on a hyperlinked item, the user is automatically transferred to the other end of the hyperlink which can be another electronic record or another website or application or graphical element;

(g) 'content' means the electronic record defined in clause (t) of section 2 of the Act;

(h) 'content descriptor' means the issues and concerns which are relevant to the classification of any online curated content, including discrimination, depiction of illegal or harmful substances, imitable behaviour, nudity, language, sex, violence, fear, threat, horror and other such concerns as specified in the *Schedule* annexed to the rules;

(i) 'digital media' means digitized content that can be transmitted over the internet or computer networks and includes content received, stored, transmitted, edited or processed by-

(i) an intermediary; or

[1] *Vide* G.S.R. 139(E), dated 25.2.2021, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), dated 25.2.2021.

(ii) a publisher of news and current affairs content or a publisher of online curated content;

(j) 'grievance' includes any complaint, whether regarding any content, any duties of an intermediary or publisher under the Act, or other matters pertaining to the computer resource of an intermediary or publisher, as the case may be;

(k) 'Grievance Officer' means an officer appointed by the intermediary or the publisher, as the case may be, for the purposes of these rules;

[1][(ka) 'Grievance Appellate Committee' means a grievance appellate committee constituted under rule 3A;]

(l) 'Ministry' means, for the purpose of Part II of these rules unless specified otherwise, the Ministry of Electronics and Information Technology, Government of India, and for the purpose of Part III of these rules, the Ministry of Information and Broadcasting, Government of India;

(m) 'news and current affairs content' includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

(n) 'newspaper' means a periodical of loosely folded sheets usually printed on newsprint and brought out daily or at least once in a week, containing information on current events, public news or comments on public news;

(o) 'news aggregator' means an entity who, performing a significant role in determining the news and current affairs content being made available, makes available to users a computer resource that enable such users to access the news and current affairs content which is aggregated, curated and presented by such entity.

(p) 'on demand' means a system where a user, subscriber or viewer is enabled to access, at a time chosen by such user, any content in electronic form, which is transmitted over a computer resource and is selected by the user;

(q) 'online curated content' means any curated catalogue of audio-visual content, other than news and current affairs content, which is owned by, licensed to or contracted to be transmitted by a publisher of online curated content, and made available on demand, including but not limited through subscription, over the internet or computer networks, and includes films, audio visual programmes, documentaries, television programmes, serials, podcasts and other such content;

(r) 'person' means a person as defined in sub-section (31) of section 2 of the Income tax Act, 1961 (43 of 1961);

IndiaCode

[1] Ins. by G.S.R. 794(E), dated 28.10.2022 (w.e.f. 28.10.2022).

(s) ‘publisher’ means a publisher of news and current affairs content or a publisher of online curated content;

(t) ‘publisher of news and current affairs content’ means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;

(u) ‘publisher of online curated content’ means a publisher who, performing a significant role in determining the online curated content being made available, makes available to users a computer resource that enables such users to access online curated content over the internet or computer networks, and such other entity called by whatever name, which is functionally similar to publishers of online curated content but does not include any individual or user who is not transmitting online curated content in the course of systematic business, professional or commercial activity;

(v) ‘significant social media intermediary’ means a social media intermediary having number of registered users in India above such threshold as notified by the Central Government;

(w) ‘social media intermediary’ means an intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services;

(x) ‘user’ means any person who accesses or avails any computer resource of an intermediary or a publisher for the purpose of hosting, publishing, sharing, transacting, viewing, displaying, downloading or uploading information and includes other persons jointly participating in using such computer resource and addressee and originator;

(y) ‘user account’ means the account registration of a user with an intermediary or publisher and includes profiles, accounts, pages, handles and other similar presences by means of which a user is able to access the services offered by the intermediary or publisher.

(2) Words and expressions used and not defined in these rules but defined in the Act and rules made thereunder shall have the same meaning as assigned to them in the Act and the said rules, as the case may be.

IndiaCode

PART II

DUE DILIGENCE BY INTERMEDIARIES AND GRIEVANCE REDRESSAL MECHANISM

3. (1) **Due diligence by an intermediary:** An intermediary, including social media intermediary and significant social media intermediary, shall observe the following due diligence while discharging its duties, namely:—

[1][(a) the intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the rules and regulations, privacy policy and user agreement in English or any language specified in the Eighth Schedule to the Constitution for access or usage of its computer resource by any person in the language of his choice and ensure compliance of the same;

(b) the intermediary shall inform its rules and regulations, privacy policy and user agreement to the user in English or any language specified in the Eighth Schedule to the Constitution in the language of his choice and shall make reasonable efforts to cause the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information that,—

(i) belongs to another person and to which the user does not have any right;

(ii) is obscene, pornographic, paedophilic, invasive of another's privacy including bodily privacy, insulting or harassing on the basis of gender, racially or ethnically objectionable, relating or encouraging money

IndiaCode

[1] Subs. by G.S.R. 794(E), dated 28.10.2022, for clauses (a) and (b) (w.e.f. 28.10.2022). Clauses (a) and (b), before substitution, stood as under:

"(a) the intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the rules and regulations, privacy policy and user agreement for access or usage of its computer resource by any person;

(b) the rules and regulations, privacy policy or user agreement of the intermediary shall inform the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information that,—

(i) belongs to another person and to which the user does not have any right;

(ii) is defamatory, obscene, pornographic, paedophilic, invasive of another's privacy, including bodily privacy, insulting or harassing on the basis of gender, libellous, racially or ethnically objectionable, relating or encouraging money laundering or gambling, or otherwise inconsistent with or contrary to the laws in force;

(iii) is harmful to child;

(iv) infringes any patent, trademark, copyright or other proprietary rights;

(v) violates any law for the time being in force;

(vi) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any information which is patently false or misleading in nature but may reasonably be perceived as a fact;

(vii) impersonates another person;

(viii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting other nation;

(ix) contains software virus or any other computer code, file or program designed to interrupt, destroy or limit the functionality of any computer resource;

(x) is patently false and untrue, and is written or published in any form, with the intent to mislead or harass a person, entity or agency for financial gain or to cause any injury to any person;".

laundering or gambling, or promoting enmity between different groups on the grounds of religion or caste with the intent to incite violence;

(iii) is harmful to child;

(iv) infringes any patent, trademark, copyright or other proprietary rights;

(v) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any misinformation or information which is patently false and untrue or misleading in nature;

(vi) impersonates another person;

(vii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognisable offence, or prevents investigation of any offence, or is insulting other nation;

(viii) contains software virus or any other computer code, file or program designed to interrupt, destroy or limit the functionality of any computer resource;

(ix) violates any law for the time being in force;]

(c) an intermediary shall periodically inform its users, at least once every year, that in case of non-compliance with rules and regulations, privacy policy or user agreement for access or usage of the computer resource of such intermediary, it has the right to terminate the access or usage rights of the users to the computer resource immediately or remove non-compliant information or both, as the case may be;

(d) an intermediary, on whose computer resource the information is stored, hosted or published, upon receiving actual knowledge in the form of an order by a court of competent jurisdiction or on being notified by the Appropriate Government or its agency under clause *(b)* of sub-section *(3)* of section 79 of the Act, shall not host, store or publish any unlawful information, which is prohibited under any law for the time being in force in relation to the interest of the sovereignty and integrity of India; security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence relating to the above, or any information which is prohibited under any law for the time being in force:

Provided that any notification made by the Appropriate Government or its agency in relation to any information which is prohibited under any law for the time being in force shall be issued by an authorised agency, as may be notified by the Appropriate Government:

Provided further that if any such information is hosted, stored or published, the intermediary shall remove or disable access to that information, as early as possible, but in no case later than thirty-six hours from the receipt of the court order or on being notified by the Appropriate Government or its agency, as the case may be:

IndiaCode

Provided also that the removal or disabling of access to any information, data or communication link within the categories of information specified under this clause, under clause (b) on a voluntary basis, or on the basis of grievances received under sub-rule (2) by such intermediary, shall not amount to a violation of the conditions of clauses (a) or (b) of sub-section (2) of section 79 of the Act;

(e) the temporary or transient or intermediate storage of information automatically by an intermediary in a computer resource within its control as an intrinsic feature of that computer resource, involving no exercise of any human, automated or algorithmic editorial control for onward transmission or communication to another computer resource shall not amount to hosting, storing or publishing any information referred to under clause *(d)*;

[1][(f) the intermediary shall periodically, and at least once in a year, inform its users in English or any language specified in the Eighth Schedule to the Constitution in the language of his choice of its rules and regulations, privacy policy or user agreement or any change in the rules and regulations, privacy policy or user agreement, as the case may be;]

(g) where upon receiving actual knowledge under clause (d), on a voluntary basis on violation of clause (b), or on the basis of grievances received under sub-rule (2), any information has been removed or access to which has been disabled, the intermediary shall, without vitiating the evidence in any manner, preserve such information and associated records for one hundred and eighty days for investigation purposes, or for such longer period as may be required by the court or by Government agencies who are lawfully authorised;

(h) where an intermediary collects information from a user for registration on the computer resource, it shall retain his information for a period of one hundred and eighty days after any cancellation or withdrawal of his registration, as the case may be;

(i) the intermediary shall take all reasonable measures to secure its computer resource and information contained therein following the reasonable security practices and procedures as prescribed in the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules, 2011;

(j) the intermediary shall, as soon as possible, but not later than seventy two hours of the receipt of an order, provide information under its control or possession, or assistance to the Government agency which is lawfully authorised for investigative or protective or cyber security activities, for the purposes of verification of identity, or for the prevention, detection, investigation, or

[1] Subs. by G.S.R. 794(E), dated 28.10.2022 (w.e.f. 28.10.2022), for clause (f). Clause (f), before substitution stood as under:

"(f) the intermediary shall periodically, and at least once in a year, inform its users of its rules and regulations, privacy policy or user agreement or any change in the rules and regulations, privacy policy or user agreement, as the case may be;".

prosecution, of offences under any law for the time being in force, or for cyber security incidents:

Provided that any such order shall be in writing stating clearly the purpose of seeking information or assistance, as the case may be;

(k) the intermediary shall not knowingly deploy or install or modify technical configuration of computer resource or become party to any act that may change or has the potential to change the normal course of operation of the computer resource than what it is supposed to perform thereby circumventing any law for the time being in force:

Provided that the intermediary may develop, produce, distribute or employ technological means for the purpose of performing the acts of securing the computer resource and information contained therein;

(l) the intermediary shall report cyber security incidents and share related information with the Indian Computer Emergency Response Team in accordance with the policies and procedures as mentioned in the Information Technology (The Indian Computer Emergency Response Team and Manner of Performing Functions and Duties) Rules, 2013.

[1][(m) the intermediary shall take all reasonable measures to ensure accessibility of its services to users along with reasonable expectation of due diligence, privacy and transparency;

(n) the intermediary shall respect all the rights accorded to the citizens under the Constitution, including in the articles 14, 19 and 21.]

(2) **Grievance redressal mechanism of intermediary:** (a) The intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the name of the Grievance Officer and his contact details as well as mechanism by which a user or a victim may make complaint against violation of the provisions of this rule or any other matters pertaining to the computer resources made available by it, and the Grievance Officer shall-

[2][(i) acknowledge the complaint within twenty-four hours and resolve such complaint within a period of fifteen days from the date of its receipt:

Provided that the complaint in the nature of request for removal of information or communication link relating to clause (b) of sub-rule (1) of rule 3, except sub-clauses (i), (iv) and (ix), shall be acted upon as expeditiously as possible and shall be resolved within seventy-two hours of such reporting;

---

[1] Ins. by G.S.R. 794(E), dated 28.10.2022 (w.e.f. 28.10.2022).

[2] Subs. by G.S.R. 794(E), dated 28.10.2022, for sub-clause (i) (w.e.f. 28.10.2022). Sub-clause (i), before substitution, stood as under:

"(i) acknowledge the complaint within twenty four hours and dispose off such complaint within a period of fifteen days from the date of its receipt;".

Provided further that appropriate safeguards may be developed by the intermediary to avoid any misuse by users;]

(ii) receive and acknowledge any order, notice or direction issued by the Appropriate Government, any competent authority or a court of competent jurisdiction.

(b) The intermediary shall, within twenty-four hours from the receipt of a complaint made by an individual or any person on his behalf under this sub-rule, in relation to any content which is *prima facie* in the nature of any material which exposes the private area of such individual, shows such individual in full or partial nudity or shows or depicts such individual in any sexual act or conduct, or is in the nature of impersonation in an electronic form, including artificially morphed images of such individual, take all reasonable and practicable measures to remove or disable access to such content which is hosted, stored, published or transmitted by it:

(c) The intermediary shall implement a mechanism for the receipt of complaints under clause (b) of this sub-rule which may enable the individual or person to provide details, as may be necessary, in relation to such content or communication link.

[1][**3A. Appeal to Grievance Appellate Committee(s).—**(1) The Central Government shall, by notification, establish one or more Grievance Appellate Committees within three months from the date of commencement of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2022.

(2) Each Grievance Appellate Committee shall consist of a chairperson and two whole time members appointed by the Central Government, of which one shall be a member *ex-officio* and two shall be independent members.

(3) Any person aggrieved by a decision of the Grievance Officer may prefer an appeal to the Grievance Appellate Committee within a period of thirty days from the date of receipt of communication from the Grievance Officer.

(4) The Grievance Appellate Committee shall deal with such appeal expeditiously and shall make an endeavour to resolve the appeal finally within thirty calendar days from the date of receipt of the appeal.

(5) While dealing with the appeal if the Grievance Appellate Committee feels necessary, it may seek assistance from any person having requisite qualification, experience and expertise in the subject matter.

(6) The Grievance Appellate Committee shall adopt an online dispute resolution mechanism wherein the entire appeal process, from filing of appeal to the decision thereof, shall be conducted through digital mode.

(7) Every order passed by the Grievance Appellate Committee shall be complied with by the intermediary concerned and a report to that effect shall be uploaded on its website.]

4. Additional due diligence to be observed by significant social media intermediary.—(1) In addition to the due diligence observed under rule 3, a significant social media intermediary

[1] Ins. by G.S.R. 794(E), dated 28.10.2022 (w.e.f. 28.10.2022).

shall, within three months from the date of notification of the threshold under clause (v) of sub-rule (1) of rule 2, observe the following additional due diligence while discharging its duties, namely:—

(a) appoint a Chief Compliance Officer who shall be responsible for ensuring compliance with the Act and rules made thereunder and shall be liable in any proceedings relating to any relevant third-party information, data or communication link made available or hosted by that intermediary where he fails to ensure that such intermediary observes due diligence while discharging its duties under the Act and rules made thereunder:

Provided that no liability under the Act or rules made thereunder may be imposed on such significant social media intermediary without being given an opportunity of being heard.

Explanation.—For the purposes of this clause "*Chief Compliance Officer*" means a key managerial personnel or such other senior employee of a significant social media intermediary who is resident in India;

(b) appoint a nodal contact person for 24x7 coordination with law enforcement agencies and officers to ensure compliance to their orders or requisitions made in accordance with the provisions of law or rules made thereunder.

Explanation.—For the purposes of this clause "*nodal contact person*" means the employee of a significant social media intermediary, other than the Chief Compliance Officer, who is resident in India;

(c) appoint a Resident Grievance Officer, who shall, subject to clause (b), be responsible for the functions referred to in sub-rule (2) of rule 3.

Explanation.—For the purposes of this clause, "*Resident Grievance Officer*" means the employee of a significant social media intermediary, who is resident in India;

(d) publish periodic compliance report every month mentioning the details of complaints received and action taken thereon, and the number of specific communication links or parts of information that the intermediary has removed or disabled access to in pursuance of any proactive monitoring conducted by using automated tools or any other relevant information as may be specified;

(2) A significant social media intermediary providing services primarily in the nature of messaging shall enable the identification of the first originator of the information on its computer resource as may be required by a judicial order passed by a court of competent jurisdiction or an order passed under section 69 by the Competent Authority as per the Information Technology (Procedure and Safeguards for interception, monitoring and decryption of information) Rules, 2009, which shall be supported with a copy of such information in electronic form:

Provided that an order shall only be passed for the purposes of prevention, detection, investigation, prosecution or punishment of an offence related to the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, or public order, or of

indiaCode

incitement to an offence relating to the above or in relation with rape, sexually explicit material or child sexual abuse material, punishable with imprisonment for a term of not less than five years:

Provided further that no order shall be passed in cases where other less intrusive means are effective in identifying the originator of the information:

Provided also that in complying with an order for identification of the first originator, no significant social media intermediary shall be required to disclose the contents of any electronic message, any other information related to the first originator, or any information related to its other users:

Provided also that where the first originator of any information on the computer resource of an intermediary is located outside the territory of India, the first originator of that information within the territory of India shall be deemed to be the first originator of the information for the purpose of this clause.

(3) A significant social media intermediary that provides any service with respect to an information or transmits that information on behalf of another person on its computer resource—

(a) for direct financial benefit in a manner that increases its visibility or prominence, or targets the receiver of that information; or

(b) to which it owns a copyright, or has an exclusive license, or in relation with which it has entered into any contract that directly or indirectly restricts the publication or transmission of that information through any means other than those provided through the computer resource of such social media intermediary,

shall make that information clearly identifiable to its users as being advertised, marketed, sponsored, owned, or exclusively controlled, as the case may be, or shall make it identifiable as such in an appropriate manner.

(4) A significant social media intermediary shall endeavour to deploy technology-based measures, including automated tools or other mechanisms to proactively identify information that depicts any act or simulation in any form depicting rape, child sexual abuse or conduct, whether explicit or implicit, or any information which is exactly identical in content to information that has previously been removed or access to which has been disabled on the computer resource of such intermediary under clause (d) of sub-rule (1) of rule 3, and shall display a notice to any user attempting to access such information stating that such information has been identified by the intermediary under the categories referred to in this sub-rule:

Provided that the measures taken by the intermediary under this sub-rule shall be proportionate having regard to the interests of free speech and expression, privacy of users on the computer resource of such intermediary, including interests protected through the appropriate use of technical measures:

Provided further that such intermediary shall implement mechanisms for appropriate human oversight of measures deployed under this sub-rule, including a periodic review of any automated tools deployed by such intermediary:

IndiaCode

Provided also that the review of automated tools under this sub-rule shall evaluate the automated tools having regard to the accuracy and fairness of such tools, the propensity of bias and discrimination in such tools and the impact on privacy and security of such tools.

(5) The significant social media intermediary shall have a physical contact address in India published on its website, mobile based application or both, as the case may be, for the purposes of receiving the communication addressed to it.

(6) The significant social media intermediary shall implement an appropriate mechanism for the receipt of complaints under sub-rule (2) of rule 3 and grievances in relation to the violation of provisions under this rule, which shall enable the complainant to track the status of such complaint or grievance by providing a unique ticket number for every complaint or grievance received by such intermediary:

Provided that such intermediary shall, to the extent reasonable, provide such complainant with reasons for any action taken or not taken by such intermediary in pursuance of the complaint or grievance received by it.

(7) The significant social media intermediary shall enable users who register for their services from India, or use their services in India, to voluntarily verify their accounts by using any appropriate mechanism, including the active Indian mobile number of such users, and where any user voluntarily verifies their account, such user shall be provided with a demonstrable and visible mark of verification, which shall be visible to all users of the service:

Provided that the information received for the purpose of verification under this sub-rule shall not be used for any other purpose, unless the user expressly consents to such use.

(8) Where a significant social media intermediary removes or disables access to any information, data or communication link, under clause (b) of sub-rule (1) of rule 3 on its own accord, such intermediary shall,—

(a) ensure that prior to the time at which such intermediary removes or disables access, it has provided the user who has created, uploaded, shared, disseminated, or modified information, data or communication link using its services with a notification explaining the action being taken and the grounds or reasons for such action;

(b) ensure that the user who has created, uploaded, shared, disseminated, or modified information using its services is provided with an adequate and reasonable opportunity to dispute the action being taken by such intermediary and request for the reinstatement of access to such information, data or communication link, which may be decided within a reasonable time;

(c) ensure that the Resident Grievance Officer of such intermediary maintains appropriate oversight over the mechanism for resolution of any disputes raised by the user under clause (b).

(9) The Ministry may call for such additional information from any significant social media intermediary as it may consider necessary for the purposes of this part.

5. Additional due diligence to be observed by an intermediary in relation to news and current affairs content.—In addition to adherence to rules 3 and 4, as may be applicable, an

intermediary shall publish, on an appropriate place on its website, mobile based application or both, as the case may be, a clear and concise statement informing publishers of news and current affairs content that in addition to the common terms of service for all users, such publishers shall furnish the details of their user accounts on the services of such intermediary to the Ministry as may be required under rule 18:

Provided that an intermediary may provide such publishers who have provided information under rule 18 with a demonstrable and visible mark of verification as being publishers, which shall be visible to all users of the service.

Explanation.—This rule relates only to news and current affairs content and shall be administered by the Ministry of Information and Broadcasting.

6. Notification of other intermediary.—(1)The Ministry may by order, for reasons to be recorded in writing, require any intermediary, which is not a significant social media intermediary, to comply with all or any of the obligations mentioned under rule 4, if the services of that intermediary permits the publication or transmission of information in a manner that may create a material risk of harm to the sovereignty and integrity of India, security of the State, friendly relations with foreign States or public order.

(2) The assessment of material risk of harm referred to in sub-rule (1) shall be made having regard to the nature of services of such intermediary, and if those services permit,—

(a) interaction between users, notwithstanding, whether it is the primary purpose of that intermediary; and

(b) the publication or transmission of information to a significant number of other users as would be likely to result in widespread dissemination of such information.

(3) An order under this rule may be issued in relation to a specific part of the computer resources of any website, mobile based application or both, as the case may be, if such specific part is in the nature of an intermediary:

Provided that where such order is issued, an entity may be required to comply with all or any of the obligations mentions under rule 4, in relation to the specific part of its computer resource which is in the nature of an intermediary.

7. Non-observance of Rules.—Where an intermediary fails to observe these rules, the provisions of sub-section (1) of section 79 of the Act shall not be applicable to such intermediary and the intermediary shall be liable for punishment under any law for the time being in force including the provisions of the Act and the Indian Penal Code.

PART III

CODE OF ETHICS AND PROCEDURE AND SAFEGUARDS IN RELATION TO DIGITALMEDIA

8. Application of this Part.—(1) The rules made under this Part shall apply to the following persons or entities, namely:—

(a) publishers of news and current affairs content;

(b) publishers of online curated content; and

shall be administered by the Ministry of Information and Broadcasting, Government of India, which shall be referred to in this Part as the "Ministry":

Provided that the rules made under this Part shall apply to intermediaries for the purposes of rules 15 and 16;

(2) the rules made under this Part shall apply to the publishers, where,—

(a) such publisher operates in the territory of India; or

(b) such publisher conducts systematic business activity of making its content available in India.

Explanation.—For the purposes of this rule,—

(a) a publisher shall be deemed to operate in the territory of India where such publisher has a physical presence in the territory of India;

(b) "*systematic activity*" shall mean any structured or organised activity that involves an element of planning, method, continuity or persistence.

(3) The rules made under this Part shall be in addition to and not in derogation of the provisions of any other law for the time being in force and any remedies available under such laws including the Information Technology (Procedure and Safeguards for Blocking of Access of Information by the Public) Rules, 2009.

9. Observance and adherence to the Code.—(1) A publisher referred to in rule 8 shall observe and adhere to the Code of Ethics laid down in the *Appendix* annexed to these rules.

(2) Notwithstanding anything contained in these rules, a publisher referred to in rule 8 who contravenes any law for the time being in force, shall also be liable for consequential action as provided in such law which has so been contravened.

(3) For ensuring observance and adherence to the Code of Ethics by publishers operating in the territory of India, and for addressing the grievances made in relation to publishers under this Part, there shall be a three-tier structure as under—

(a) Level I - Self-regulation by the publishers;

(b) Level II – Self-regulation by the self-regulating bodies of the publishers;

(c) Level III - Oversight mechanism by the Central Government.

CHAPTER I

GRIEVANCE REDRESSAL MECHANISM

10. Furnishing and processing of grievance.—(1)Any person having a grievance regarding content published by a publisher in relation to the Code of Ethics may furnish his grievance on the grievance mechanism established by the publisher under rule 11.

(2) The publisher shall generate and issue an acknowledgement of the grievance for the benefit of the complainant within twenty-four hours of it being furnished for information and record.

(3) The manner of grievance redressal shall have the following arrangement–

(a) the publisher shall address the grievance and inform the complainant of its decision within fifteen days of the registration of the grievance;

(b) if the decision of the publisher is not communicated to the complainant within the stipulated fifteen days, the grievance shall be escalated to the level of the self–regulating body of which such publisher is a member.

(c) where the complainant is not satisfied with the decision of the publisher, it may prefer to appeal to the self-regulating body of which such publisher is a member within fifteen days of receiving such a decision.

(d) the self-regulating body shall address the grievance referred to in clauses (b) and (c), and convey its decision in the form of a guidance or advisory to the publisher, and inform the complainant of such decision within a period of fifteen days.

(e) where the complainant is not satisfied with the decision of the self-regulating body, it may, within fifteen days of such decision, prefer an appeal to the Oversight Mechanism referred to in rule 13 for resolution.

CHAPTER II

SELF REGULATING MECHANISM - LEVEL I

11. Self-Regulating mechanism at Level I.—(1) The publisher shall be the Level I of the self-regulating mechanism.

(2) A publisher shall—

(a) establish a grievance redressal mechanism and shall appoint a Grievance Officer based in India, who shall be responsible for the redressal of grievances received by him;

(b) display the contact details related to its grievance redressal mechanism and the name and contact details of its Grievance Officer at an appropriate place on its website or interface, as the case may be;

(c) ensure that the Grievance Officer takes a decision on every grievance received by it within fifteen days, and communicate the same to the complainant within the specified time:

(d) be a member of a self-regulating body as referred to in rule 12 and abide by its terms and conditions.

(3) The Grievance Officer shall,—

(a) be the contact point for receiving any grievance relating to Code of Ethics;

(b) act as the nodal point for interaction with the complainant, the self-regulating body and the Ministry.

(4) Online curated content shall be classified by the publisher of such content into the categories referred to in the *Schedule*, having regard to the context, theme, tone, impact and target audience of such content, with the relevant rating for such categories based on an assessment of the relevant content descriptors in the manner specified in the said *Schedule*.

(5) Every publisher of online curated content shall display the rating of any online curated content and an explanation of the relevant content descriptors, prominently to its users at an appropriate place, as the case may be, in a manner that ensures that such users are aware of this information before accessing such content.

CHAPTER III

SELF REGULATING MECHANISM – LEVEL II

12. Self-regulating body.—(1) There may be one or more self-regulatory bodies of publishers, being an independent body constituted by publishers or their associations.

(2) The self-regulatory body referred to in sub-rule (1) shall be headed by a retired judge of the Supreme Court, a High Court, or an independent eminent person from the field of media, broadcasting, entertainment, child rights, human rights or such other relevant field, and have other members, not exceeding six, being experts from the field of media, broadcasting, entertainment, child rights, human rights and such other relevant fields.

(3) The self-regulating body shall, after its constitution in accordance with sub-rule (2), register itself with the Ministry within a period of thirty days from the date of notification of these rules, and where a self-regulating body is constituted after such period, within thirty days from the date of its constitution:

Provided that before grant of registration to the self-regulating body, the Ministry shall satisfy itself that the self-regulating body has been constituted in accordance with sub-rule (2) and has agreed to perform the functions laid down in sub-rules (4) and (5).

(4) The self-regulating body shall perform the following functions, namely:—

(a) oversee and ensure the alignment and adherence by the publisher to the Code of Ethics;

(b) provide guidance to publishers on various aspects of the Code of Ethics;

(c) address grievances which have not been resolved by publishers within the specified period of fifteen days;

(d) hear appeals filed by the complainant against the decision of publishers;

(e) issue such guidance or advisories to such publishers as specified in sub-rule (5) for ensuring compliance to the Code of Ethics.

(5) The self-regulating body while disposing a grievance or an appeal referred to it in sub-rule (4) may issue following guidance or advisories to the publishers as under, namely:—

(a) warning, censuring, admonishing or reprimanding the publisher; or

(b) requiring an apology by the publisher; or

(c) requiring the publisher to include a warning card or a disclaimer; or

(d) in case of online curated content, direct the publisher to,—

(i) reclassify ratings of relevant content;

(ii) make appropriate modification in the content descriptor, age classification and access control measures;

(iii) edit synopsis of relevant content; or

(e) in case of any content where it is satisfied that there is a need for taking action to delete or modify the content for preventing incitement to the commission of a cognizable offence relating to public order, or in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, refer such content to the Ministry for consideration by the Oversight Mechanism referred to in rule 13 for appropriate action.

(6) Where the self-regulating body is of the opinion that there is no violation of the Code of Ethics, it shall convey such decision to the complainant and such entity.

(7) Where a publisher fails to comply with the guidance or advisories of the self-regulating body within the time specified in such guidance or advisory, the self-regulating body shall refer the matter to the Oversight Mechanism referred to in rule 13 within fifteen days of expiry of the specified date.

IndiaCode

CHAPTER IV

OVERSIGHT MECHANISM — LEVEL III

13. Oversight mechanism.—(1) The Ministry shall co-ordinate and facilitate the adherence to the Code of Ethics by publishers and self regulating bodies, develop an Oversight Mechanism, and perform the following functions, namely:—

(a) publish a charter for self regulating bodies, including Codes of Practices for such bodies;

(b) establish an Inter-Departmental Committee for hearing grievances;

(c) refer to the Inter-Departmental Committee grievances arising out of the decision of the self-regulating body under rule 12, or where no decision has been taken by the self-regulating body within the specified time period, or such other complaints or references relating to violation of Code of Ethics as it may consider necessary;

(d) issue appropriate guidance and advisories to publishers;

(e) issue orders and directions to the publishers for maintenance and adherence to the Code of Ethics.

(2) The Ministry shall appoint an officer of the Ministry not below the rank of a Joint Secretary to the Government of India, as the "*Authorised Officer*", for the purposes of issuing directions under rules 15 or 16, as the case may be.

14. Inter-Departmental Committee.—(1) The Ministry shall constitute an Inter-Departmental Committee, called the Committee, consisting of representatives from the Ministry of Information and Broadcasting, Ministry of Women and Child Development, Ministry of Law and Justice, Ministry of Home Affairs, Ministry of Electronics and Information Technology, Ministry of External Affairs, Ministry of Defence, and such other Ministries and Organisations, including domain experts, that it may decide to include in the Committee:

Provided that the Authorised Officer designated under sub-rule (2) of rule 13 shall be the Chairperson of such Committee.

(2) The Committee shall meet periodically and hear the following complaints regarding violation or contravention of the Code of Ethics by the entities referred to in Rule 8—

(a) arising out of the grievances in respect of the decisions taken at the Level I or II, including the cases where no such decision is taken within the time specified in the grievance redressal mechanism; or

(b) referred to it by the Ministry.

(3) Any complaint referred to the Committee, whether arising out of the grievances or referred to it by the Ministry, shall be in writing and may be sent either by mail or fax or by e-mail signed with electronic signature of the authorised representative of the entity referring the grievance, and the Committee shall ensure that such reference is assigned a number which is recorded along with the date and time of its receipt.

(4) The Ministry shall make all reasonable efforts to identify the entity referred to in Rule 8 which has created, published or hosted the content or part thereof, and where it is able to identify such entity, it shall issue a duly signed notice to such entity to appear and submit their reply and clarifications, if any, before the Committee.

(5) In the hearing, the Committee shall examine complaints or grievances, and may either accept or allow such complaint or grievance, and make the following recommendations to the Ministry, namely:—

(a) warning, censuring, admonishing or reprimanding such entity; or

(b) requiring an apology by such entity; or

(c) requiring such entity to include a warning card or a disclaimer; or

(d) in case of online curated content, direct a publisher to—

(i) reclassify ratings of relevant content; or

(ii) edit synopsis of relevant content; or

(iii) make appropriate modification in the content descriptor, age classification and parental or access control;

(e) delete or modify content for preventing incitement to the commission of a cognisable offence relating to public order;

(f) in case of content where the Committee is satisfied that there is a need for taking action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, it may recommend such action.

(6) The Ministry may, after taking into consideration the recommendations of the Committee, issue appropriate orders and directions for compliance by the publisher:

Provided that no such order shall be issued without the approval of the Secretary, Ministry of Information and Broadcasting, Government of India (hereinafter referred to as the "Secretary, Ministry of Information and Broadcasting").

15. Procedure for issuing of direction.—(1) In respect of recommendations referred to in clauses (e) and (f) of sub-rule (5) of rule 14, the Authorised Officer shall place the matter for consideration before the Secretary, Ministry of Information and Broadcasting for taking appropriate decision.

(2) The Authorised Officer shall, on approval of the decision by the Secretary, Ministry of Information and Broadcasting, direct the publisher, any agency of the Government or any intermediary, as the case may be to delete or modify or block the relevant content and information generated, transmitted, received, stored or hosted in their computer resource for public access within the time limit specified in the direction:

Provided that in case the recommendation of the Authorised Officer is not approved by the Secretary, Ministry of Information and Broadcasting, the Authorised Officer shall convey the same to the Committee.

(3) A direction under this rule may be issued only in respect of a specific piece of content or an enumerated list of content, as the case may be, and shall not require any entity to cease its operations.

16. Blocking of information in case of emergency.—(1) Notwithstanding anything contained in rules 14 and 15, the Authorised Officer, in any case of emergency nature, for which no delay is acceptable, shall examine the relevant content and consider whether it is within the grounds referred to in sub-section (1) of section 69A of the Act and it is necessary or expedient and justifiable to block such information or part thereof and submit a specific recommendation in writing to the Secretary, Ministry of Information and Broadcasting.

(2) In case of emergency nature, the Secretary, Ministry of Information and Broadcasting may, if he is satisfied that it is necessary or expedient and justifiable for blocking for public access of any information or part thereof through any computer resource and after recording reasons in writing, as an interim measure issue such directions as he may consider necessary to such identified or identifiable persons, publishers or intermediary in control of such computer resource hosting such information or part thereof without giving him an opportunity of hearing.

(3) The Authorised Officer, at the earliest but not later than forty-eight hours of issue of direction under sub-rule (2), shall bring the request before the Committee for its consideration and recommendation.

(4) On receipt of recommendations of the Committee under sub-rule (3), the Secretary, Ministry of Information and Broadcasting, shall pass the final order as regard to approval of such request and in case the request for blocking is not approved by the Secretary, Ministry of Information and Broadcasting in his final order, the interim direction issued under sub-rule (2) shall be revoked and the person, publisher or intermediary in control of such information shall be accordingly, directed to unblock the information for public access.

17. Review of directions issued.—(1) The Authorised Officer shall maintain complete records of the proceedings of the Committee, including any complaints referred to the Committee, and shall also maintain records of recommendations made by the Committee and any directions issued by the Authorised Officer.

(2) The Review Committee shall meet at least once in every two months and record its findings whether the directions of blocking of content or information issued under these rules are in

accordance with the provisions of sub-section (1) of section 69A of the Act and if it is of the opinion that the directions are not in accordance with the said provisions, it may set aside the directions and issue order for unblocking of such content or information generated, transmitted, received, stored or hosted in a computer resource.

Explanation.—For the purpose of this rule, "*Review Committee*" shall mean the Review Committee constituted under rule 419A of the Indian Telegraph Rules, 1951.

CHAPTER V

FURNISHING OF INFORMATION

18. Furnishing of information.—(1) A publisher of news and current affairs content and a publisher of online curated content operating in the territory of India, shall inform the Ministry about the details of its entity by furnishing information along with such documents as may be specified, for the purpose of enabling communication and coordination.

(2) The information referred to in sub-rule (1) shall be furnished within a period of thirty days of the publication of these rules, and where such publisher begins operation in the territory of India or comes into existence after commencement of these rules, within thirty days from the date of start of its operations in the territory of India or its coming into existence, as the case may be.

IndiaCode

(3) The publisher of news and current affairs content and the publisher of online curated content shall publish periodic compliance report every month mentioning the details of grievances received and action taken thereon.

(4) The Ministry may call for such additional information from the publisher as it may consider necessary for the implementation of this Rule.

CHAPTER VI

MISCELLANEOUS

19. Disclosure of Information.—(1) A publisher and a self-regulating body, shall make true and full disclosure of all grievances received by it, the manner in which the grievances are disposed of, the action taken on the grievance, the reply sent to the complainant, the orders or directions received by it under these rules and action taken on such orders or directions.

(2) The information referred to in sub-rule (1) shall be displayed publicly and updated monthly.

(3) Subject to any law for the time being in force, the publisher shall preserve records of content transmitted by it for a minimum period of sixty days and make it available to the self-regulating body or the Central Government, or any other Government agency, as may be requisitioned by them for implementation of these rules.

APPENDIX

CODE OF ETHICS

I News and current affairs:

(i) Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978;

(ii) Programme Code under section 5 of the Cable Television Networks Regulation) Act, 1995;

(iii) Content which is prohibited under any law for the time being in force shall not be published or transmitted.

II Online curated content:

(A) General Principles:

(a) A publisher shall not transmit or publish or exhibit any content which is prohibited under any law for the time being in force or has been prohibited by any court of competent jurisdiction.

(b) A publisher shall take into consideration the following factors, when deciding to feature or transmit or publish or exhibit any content, after duly considering the implications of any content as falling under the following categories, and shall exercise due caution and discretion in relation to the same, namely:—

(i) content which affects the sovereignty and integrity of India;

(ii) content which threatens, endangers or jeopardises the security of the State;

(iii) content which is detrimental to India's friendly relations with foreign countries;

(iv) content which is likely to incite violence or disturb the maintenance of public order.

(c) A publisher shall take into consideration India's multi-racial and multi-religious context and exercise due caution and discretion when featuring the activities, beliefs, practices, or views of any racial or religious group.

(B) Content Classification:

(i) All content transmitted or published or exhibited by a publisher of online curated content shall be classified, based on the nature and type of content, into the following rating categories, namely:—

(a) Online curated content which is suitable for children as well as people of all ages shall be classified as "U" rating;

(b) Online curated content which is suitable for persons aged 7 years and above, and can be viewed by a person under the age of 7 years with parental guidance, shall be classified as "U/A 7+" rating;

(c) Online curated content which is suitable for persons aged 13 years and above, and can be viewed by a person under the age of 13 years with parental guidance, shall be classified as "U/A 13+" rating;

(d) Online curated content which is suitable for persons aged 16 years and above, and can be viewed by a person under the age of 16 years with parental guidance, shall be classified as "U/A 16+" rating; and

(e) Online curated content which is restricted to adults shall be classified as "A" rating.

(ii) The Content may be classified on the basis of**.**—i) Themes and messages; ii) Violence; iii) Nudity; iv) Sex; v) Language; vi) Drug and substance abuse; and (vii) Horror as described in the *Schedule*, as may be modified from time to time by the Ministry of Information & Broadcasting.

(C) *Display of Classification*:

(a) The publisher of online curated content shall prominently display the classification rating specific to each content or programme together with a content descriptor informing the user about the nature of the content, and advising on viewer discretion (if applicable) at the beginning of every programme enabling the user to make an informed decision, prior to watching the programme.

(b) The publisher of online curated content making available content that is classified as U/A 13+ or higher shall ensure that access control mechanisms, including parental locks, are made available for such content.

(c) A publisher of online curated content which makes available content or programme that is classified as "A" shall implement a reliable age verification mechanism for viewership of such content.

(d) A publisher of online curated content must strive to include classification rating and consumer advice for their programmes in any print, televised or online promotional or publicity material and prominently display the classification rating specific to each such content.

(D) Restriction of access to certain curated content by a child:

Every publisher of online curated content providing access to online curated content which has an "A" rating shall take all efforts to restrict access to such content by a child through the implementation of appropriate access control measures.

(E) Measures to improve accessibility of online curated content by persons with disabilities:

Every publisher of online curated content shall, to the extent feasible, take reasonable efforts to improve the accessibility of online curated content transmitted by it to persons with disabilities through the implementation of appropriate access services.

SCHEDULE

Classification of any curated content shall be guided by the following sets of guidelines, namely:—

PART I

GENERAL GUIDELINES FOR CLASSIFICATION OF FILMS AND OTHER ENTERTAINMENT PROGRAMMES, INCLUDING WEB BASED SERIALS

There are general factors that may influence a classification decision at any level and in connection with any issue and the following factors are elucidated which may be read along with Part II of the Guidelines -

(a) Context:

Curated content may be considered in the light of the period depicted in such content and the contemporary standards of the country and the people to which such content relates. Therefore, the context in which an issue is presented within a film or video may be given consideration. Factors such as the setting of a work (historical, fantasy, realistic, contemporary etc.), the manner of presentation of the content, the apparent intention of the content, the original production date of the content, and any special merits of the work may influence the classification decision.

(b) Theme:

Classification decisions may take into the theme of any content but will depend significantly on the treatment of that theme, especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, violence, pedophilia, sex, racial or communal hatred or violence etc.) are unlikely to be appropriate at the junior levels of classification.

(c) Tone and impact:

Curated content may be judged in its entirety from the point of view of its overall impact. The tone of content can be an important factor in deciding the influence it may have on various groups of people. Thus, films/serials that have a stronger depiction of violence may receive a higher classification.

(d) Target audience:

The classification of any content may also depend upon the target audience of the work and the impact of the work on such audience.

PART II

ISSUE RELATED GUIDELINES

This part of the guidelines comprises the issues and concerns that apply in varying degrees to all categories of classification and elaborates the general approach that may be taken in this regard to the same. These concerns are listed in alphabetical order, and are to be read with the four General Guidelines listed in Part I —

(a) Discrimination:

The categorical classification of content shall take into account the impact of a film on matters such as caste, race, gender, religion, disability or sexuality that may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion.

(b) Psychotropic substances, liquor, smoking and tobacco:

Films or serials, etc. that as a whole portray misuse of psychotropic substances, liquor, smoking and tobacco would qualify for a higher category of classification.

(c) Imitable behaviour:

(1) Classification decisions may take into account any portrayal of criminal and violent behaviour with weapons.

(2) Portrayal of potentially dangerous behaviour that are likely to incite the commission of any offence (including suicide, and infliction of self-harm) and that children and young people may potentially copy, shall receive a higher classification.

(3) Films or serials with song and dance scenes comprising lyrics and gestures that have sexual innuendos would receive a higher classification.

IndiaCode

(d) Language:

(1) Language is of particular importance, given the vast linguistic diversity of our country. The use of language, dialect, idioms and euphemisms vary from region to region and are culture-specific. This factor has to be taken into account during the process of classification of a work in a particular category.

(2) Language that people may find offensive includes the use of expletives. The extent of offence may vary according to age, gender, race, background, beliefs and expectations of the target audience from the work as well as the context, region and language in which the word, expression or gesture is used.

(3) It is not possible to set out a comprehensive list of words, expressions or gestures that are acceptable at each category in every Indian language. The advice at different classification levels, therefore, provides general guidance to consider while judging the level of classification for content, based on this guideline.

(e) Nudity:

(1) No content that is prohibited by law at the time being in force can be published or transmitted.

(2) Nudity with a sexual context will receive a higher classification of "A".

(f) Sex:

No content that is prohibited by law at the time being in force can be published or transmitted. The classification of content in various ratings from U/A 16+ to "A" shall depend upon the portrayal of non-explicit (implicit) to explicit depiction of sexual behaviour.

(g) Violence:

Classification decisions shall take account of the degree and nature of violence in a work.

***

IndiaCode