

Highlights of the New Information Technology Rules 2021(for Digital Media)

Ministry of Electronics and Information Technology (MEITY) recently released a new set of rules for Intermediaries and Digital Content Providers by exercising their powers under sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (21 of 2000). These new rules are named as Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 and are said to supersede The Information Technology (Intermediaries Guidelines) Rules, 2011. However, this supersession will not act retrospectively against the actions already taken on the basis of these rules. These rules can broadly be divided into two parts, the first talks about the intermediaries which include the rules with regard to social media intermediaries, messaging apps etc and the second part talks about the rules with digital media which includes the online content providers and news and current affair providers. This is the second blog of this series which covers these rules and will highlight the changes brought, in the second part i.e. new rules for the Digital Media which would include Online Curated Content publishers and News and Current affairs providers on the Internet.

Categories of digital media

‘Digital media’ has been categorised into 2 categories.

Publishers of news and current affairs content: These publishers can be defined as the online papers, news portals, news aggregators, news agencies and any such other entity which is functionally similar to publishers of news and current affairs content. However, this does not include individuals or people who do not create content for commercial purposes or business.

Publishers of online curated content: These publishers can be defined as the people who play a significant role in providing with the users online curated content (which is the Audio visual content, other than news and current affairs content, and made available on-demand, including but not limited through subscription, and is available over the internet). However, this does not include individuals or people who do not create content for commercial purposes or business.

Grievance redressal mechanism

The rules and safeguards are slightly different for both of these categories however an oversight and grievance redressal mechanism to check the application of existing laws and statutes have been applied on both of these categories. This mechanism includes setting up a 3 level system where the first level would include the self-regulation by the publisher, the second level would include an oversight through a body formed by the self-regulation bodies of each publisher and the third level would be an oversight by the government.

LEVEL 1 :

The platform or the publisher has to primarily do these 3 things for complying with level one of self-regulation. The first thing to do is employ a grievance officer who will be responsible for dealing with all the grievances and making sure the code of ethics is followed (the code of ethics is mentioned in the appendix of the rules). The details of this grievance officer would have to be mentioned in the online portal and this grievance officer will also be a part of the second level body. The next step or the next thing which these platforms need to do is 2 classify the content which is available on their platform, that is what kind of tones it has, what kind of content it is and for which age such content is suitable. The criteria for these classifications are also mentioned in the appendix of the code of ethics.

LEVEL 2 :

This second level of self-regulation consists of one or multiple bodies which will constitute the grievance officers or the self-regulatory bodies of a publisher and will also be headed by retired Supreme Court or High Court judge or other eminent personalities with certain necessary backgrounds as mentioned in the rules. This body will have the same powers as the grievance officer in terms of solving the grievances and will also act as an appellate body of the decisions taken by the grievance officer or against the decisions taken by a platform under the provisions of self-regulation of level one. This body can reclassify the contents or edit its synopsis but cannot take down the content if the same is found in violation of the code of ethics. However, it can direct the same to Level 3 of the regulation mechanism for further redressal.

LEVEL 3 :

The 3rd level of regulation over publishers is by a body named as the Interdepartmental Committee where This committee of bureaucrats and other members as prescribed. This committee would have all the powers prescribed to levels one and level two but it would also be able to hear the matters which have been recommended by the body in level 2 and can also modify or take down content in the interest of the law or as a precautionary measure against the Commission of a cognizable offence.

Code of ethics

These new rules have also defined a certain criteria which needs to be met, to receive protection under section 79 of the information technology act. For the online news and current affair publishers, 3 principles/statutes have been mentioned which now needs to specifically comply with. These include Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978; Programme Code under section 5 of the Cable Television Networks Regulation) Act, 1995; Content that is prohibited under any law for the time being in force shall not be published or transmitted.

These statutes will put everyone who presents news on the Internet on the same pedestal as the regular news media. Furthermore, it has also been argued that the wide definition of online news and current affairs providers would also include individuals who are presenting content related to news and analysis on platforms like Youtube or Facebook and it would be interesting to see how these creators would comply with such provisions and guidelines in the future.

Furthermore, certain other criteria have been defined for curated content publishers which included criteria related to Content Classification, parental controls & Measures to improve the accessibility of online curated content by persons with disabilities.