



# The Big Picture: Social Media- New Rules & Implications

## Why in News

Recently, the Government of India announced the [New IT Rules](#) for social media platforms in the '**Significant Social Media Intermediaries (SSMIs)**' category.

## Key Points

- **New IT Rules, 2021:**
  - The Union government notified the '[The Information Technology \(Guidelines for Intermediaries and Digital Media Ethics Code\) Rules, 2021](#)' in February 2021 and provided a **three-month compliance window**.
    - The rules came in after a huge demand by people with regard to the harassment and other unlawful activities that take place on the social media platforms.
  - **Aim:** The rules are aimed at substantially **empowering the ordinary users of digital platforms** by seeking redressal for their grievances and commanding accountability in case of infringement of their rights.
    - The guidelines are framed to ensure social media remains a source of healthy information.
  - **Coverage:** The New IT Rules pertain to [OTT platforms](#), [social media](#) as well as **digital news media organisations**.
    - However, digital news media organisations are already bound by the [Press Council of India's code of ethics](#).
- **Associated Supreme Court Cases:**
  - The genesis of these rules lies in the [Prajwala case v/s union of India](#), the [Supreme Court \(SC\)](#) ordered the government to **frame the necessary guidelines/Standard Operating Procedure (SOP)** and implement them to “eliminate child pornography, rape and gang rape imagery, videos, and sites in content hosting platforms and other applications”.
  - In [Tehseen S. Poonawalla](#), 2018 case, the SC gave the government full freedom to stop/curb dissemination of “irresponsible and explosive messages on various social media platforms, which have a tendency to incite mob violence and lynching of any kind”.

## An Overview of the Guidelines

- **Classification of Social Media Intermediaries:** The guidelines call upon the categories of social media intermediaries:
  - **Regular Social Media Intermediaries (RSMIs)**
  - **Significant Social Media Intermediaries (SSMIs)**
    - The SSMIs are the intermediaries having more than 5 million (or 50 lakh users).
- **Appointment of Officers:** The SSMIs are required to appoint following officers, all of whom shall be the residents of India:
  - A **Chief Compliance Officer**
  - A **Nodal Contact Officer** who should be available 24\*7
  - A **Resident Grievance Officer**.
- **Grievance Redressal Mechanism:** The guidelines ask the social media platforms to have a

grievance redressal mechanism so that any content shared violates the public order or is not regulatory, a complaint regarding the same can be lodged to the Grievance Redressal Officer.

- The officer will be required to acknowledge the complaint within 24 hours and resolve it within 15 days.
- In the cases specifically related to crime against women, the obligation is to resolve the complaint within 24 hours.
- **Monthly Reports:** The SSMLs are also required to publish a monthly report mentioning the number of complaints received and the actions taken in response.
- **Verification:** Social media platforms are also required to have a voluntary verification mechanism like Twitter offers a blue-tick mechanism for verified users.
- **Identifying Originators of Messages:** The new rules make it mandatory for platforms such as WhatsApp, Signal and Telegram to aid in identifying “originators” of “unlawful” messages, while also requiring social media networks to take down such messages within a specific time frame.
- **Non-compliance of these laws** can result for the SSMLs in losing the ‘safe harbour’ protection offered under the [Section 79 of the IT Act](#).
  - It grants protection against liability (civil as well as criminal) for content posted on the social media platform by third party users.

## Issues Associated

- **Violation of Fundamental Rights:** Traceability of content is the very opposite of end-to-end encryption.
  - Traceability of content originator and content infringes upon the users’ fundamental [Rights to privacy](#).
  - The rules place fetters upon the [freedom of speech](#) by fixing the Government as the ultimate adjudicator of objectionable speech online.
  - These guidelines also undermine the **principles of an open and accessible Internet**.
- **Rules Introduced Without Proper Legislation:** There has been criticism about bringing in a plethora of new rules that ought to be normally triggered only via legislative action.
  - These new rules are not based on any parliamentary approval and have been “arbitrarily made” using **Section 79 of the IT Act**.
  - Also, there was not much public consultation.
- **Concerns for the Intermediaries:** These rules lead to an erosion of the ‘safe harbour’ protection given to intermediaries under Section 79 of the IT Act.
  - Moreover, the rules at all levels, require more expenses and labour on the part of the platforms.
- **Depriving of Fair Recourse:** An intermediary is now supposed to take down content within 36 hours upon receiving orders from the Government.
  - This deprives the intermediary of a fair recourse in the event that it disagrees with the Government’s order due to a strict timeline.
- **Absence of Data Protection Law:** In a country where the citizens still do not have a [Data Protection Law](#) to guard themselves against excesses committed by any party, such rules can do more harm than good.

## Way Forward

- **Putting Accountability in Place:** The social media platforms do not consider themselves liable if any objectionable content is shared. However, they often edit, promote and block content on their platforms.
  - Considering the fact that some platforms even have about 50 crore Indian users and have their reach even in hinterlands.
  - The guidelines, seeing from a positive aspect, will help in holding these platforms accountable for ensuring the prevention of any crime.
- **Data Protection Law:** In order to secure the right of privacy of the citizens and for making the IT rules serve their ultimate purpose, there is a need to expedite the passing of the [Personal Data Protection Bill, 2019](#).
- **Deliberating with Stakeholders:** There are indeed many problems with the new rules, but the major issue was that these were introduced without much public consultation.
  - The solution to ongoing criticism about these rules is to start afresh with the publication of

a white paper.

## Conclusion

- The guidelines, ultimately, are about the end users of social media platforms, the growth of the latter depends upon the former.
  - Ensuring the interests of the end users must be the priority and rules and regulations must not be formed in any way that violates their basic rights.
- Moreover, there is a strong need to have a law & order in place to curb the falsehoods of the information but also ensure that the privacy of the citizens is not compromised.

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