

## **Intermediary Guidelines and Digital Media Ethics Code**

### **Why in news?**

The new rules in India for social media platforms and digital news outlets, called the Intermediary Guidelines and Digital Media Ethics Code, came into effect.

### **What are the key provisions in the Guidelines?**

- The guidelines had asked all social media platforms to set up a grievances redressal and compliance mechanism.
- This includes appointing a resident grievance officer, chief compliance officer (CCO) and a nodal contact person.
- The Ministry of Electronics & Information Technology had also asked these platforms to submit monthly reports.
- It should have details on complaints received from users and action taken.
- A third requirement is for instant messaging apps to make provisions for tracking the first originator of a message.
- Failure to comply with any one of these requirements would take away the indemnity provided to social media intermediaries under Section 79 of the Information Technology Act.

### **What protection does Section 79 of the IT Act offer?**

- Section 79 says any intermediary shall not be held legally or otherwise liable for any third party information, data, or communication link made available or hosted on its platform.
- This protection shall be applicable if the said intermediary does not in any way, -
  - i. initiate the transmission of the message in question
  - ii. select the receiver of the transmitted message
  - iii. modify any information contained in the transmission
- So the platform should act just as the messenger carrying a message from point A to point B, without interfering in any manner.
- If this is ensured, it will be safe from any legal prosecution brought upon due to the message being transmitted.
- The protection, however, is not granted if the intermediary, despite being

notified by the government, does not immediately disable access to the material under question.

- The intermediary must also not tamper with any evidence of these messages or content present on its platform.
- Failing this, it will lose its protection under the Act.
- [In the U.S., Section 230 of the 1996 Communications Decency Act provides Internet companies a similar safe harbour from any content users post of internet platforms.
- It was this provision that enabled companies such as Facebook, Twitter, and Google to become global conglomerates.]

### **What is the concern now?**

- Social media intermediaries such as Twitter, Facebook, and Instagram have so far not appointed personnel as required under the new rules in India.
- They have also failed to submit monthly reports on action taken on grievances and complaints submitted to them by users.
- Thus, protection under Section 79 of the IT Act will not hold for them.

### **What happens if the protection is withdrawn?**

- Nothing changes overnight, and social media intermediaries will continue to function as they were.
- People will also be able to post and share content on their pages without any disturbance.
- But, if a tweet, a Facebook post or a post on Instagram violates the local laws, the law enforcement agency can book not only the person sharing the content, but the executives of these companies as well.
- Reading the provisions of the IT Rules in consonance with Section 69(a) of the IT Act suggests that this liability can even be criminal in nature.
- In other words, the CCO (chief compliance officer) can be made to serve a prison term of up to 7 years.
- The absence of the umbrella protection of Section 79 could also lead to situations where employees of the platform may be held liable for no fault on their part.

**Source: The Indian Express**



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