

# THE INFORMATION TECHNOLOGY (GUIDELINES FOR INTERMEDIARIES AND DIGITAL MEDIA ETHICS CODE) RULES, 2021: A NEW PANOPTIOCON

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**Abstract:** - This guidelines is unique and it includes in its domain social media sites, messaging apps, over-the-top streaming services (Popularly Known as OTT Services), and digital news publishers.

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## INTRODUCTION

While analyzing the details of the Rules, it is found that it is given effect towards the end of February by notification. It has been presented as a “Soft touch oversight mechanism.” It states that big social media companies will have to take down unlawful content within a specific time frame of being served either a court order or notice by an appropriate government agency. There has been no satisfactory answer from the government on what basis it issues a takedown instruction which is called a takedown request to major social media platforms. It is rule to regulate all types of digital platforms, with the idea of recessing user grievances and ensuring compliance with the law are deeply unsettling as they will end up giving the government a food deal of leverage over online news publishers and intermediaries. This holds touching implications for freedom of expression and right to information. The Rules force digital news publishers and video streaming services to adhere to a cumbersome three-tier structure of regulation, with a government committee of its apex. Further, the purview of the IT Act, 2020 has been expanded through new rules thus bringing digital news media under its regulatory ambit without legislative action.

The three-fire regulatory mechanism is found under rules. Any person having a grievance regarding content published by a publishers in relation to the code of Ethics may furnish his grievance on the grievance mechanism established by the publisher i.e. digital platforms grievance office. If there is no resolution or if the complainant is dissatisfied, this can be escalated to a “Self-regulating” body of publishers. This can then be escalated to the highest level, the government’s oversight mechanism namely inter-departmental committee.

The new rules have enhanced the compliance burden for social media platforms. The bigger of these platform will have to appoint chief compliance officer, to ensure the rules and the laws are adhered to and a nodal officer also with whom the law enforcement agencies will be coordinating a part from

grievance office. Such platforms in the messaging space will have to “enable the identification of the first originator of the information on its computer resource”, based on the Judicial order. Thus the rules require messaging apps such as what app and signal to trace problematic messages to the originator.

It is clear that there is executive over reach and this is not on attempt to empower citizens right to free speech and free expression. The new rules has paved the way for more opacity and secrecy rather than transparency and accountability.

Although the freedom of the press perse is not an explicitly prescribed fundamental rights in the Indian Constitution, and in rather a derivative right from Articles 19(1) (a) and 19 (1) (g) which give every citizen the right to free speech and expression, and to practice any profession respectively. The fourth pillar of democracy must be in a dynamic relationship of checks and balances vis-à-vis the other three pillars: the executive, the legislature and the Judiciary. It is healthy tension among the four pillars that keeps the democratic edifice strong and vibrant.

The fourth estate in India, though, has increasingly been at the receiving end of draconian executive acts, irrorations of legislative privilege and judicial intolerance. It is to be treated by the executive as an inconvenience to be side lined, surely the other pillars the Judiciary and the legislature, lay themselves open to the same fate.

This notification also begs the question as to why the government should go to such devious length to trammel press freedom when these are deadlines weapons in its armory, including the archaic Sedition law and the unlawful activities (Prevention) Act or, UAPA.

## CONCLUSION:

Given the new challenges in digital field, the digital policy is to be lightered. What is required in their uniform application Infact the government wants to see itself as a



watchdog of digital content in the larger public interest, but it comes across as predator, however, under the new rule, social media intermediaries must enable tracing of the originator of information on their platform if required by a competent authority. This is indeed a new panopticon.

**REFERENCE:**

- (1) 'The Hindu' March, 13, 2021
- (2) A.S. Pan.neerselvan, Article "Big Brother in watching you".