

2. IT Rules, 2021 – S & T

The Ministry of Electronics and Information Technology (MeitY) has proposed amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 under powers granted by the Information Technology Act, 2000.

Overview

The new amendment to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, seeks to update India's digital governance framework in response to rising concerns about AI-generated content, misinformation, and misuse of takedown powers. The reform emphasizes transparency, accountability, and lawful procedure in online content moderation, while balancing the constitutional right to freedom of speech under Article 19(1)(a) with the reasonable restrictions allowed under Article 19(2).

Objectives of the Amendment

Strengthen online content regulation by establishing clear accountability among government officers authorized to issue takedown requests. Ensure lawful and proportionate takedown procedures by mandating statutory justification and record-keeping for each order. Address AI-generated misinformation and deepfake challenges by introducing definitions, labelling norms, and platform accountability measures. Enhance transparency and due process through periodic review and public reporting mechanisms.

Key Proposed Amendments

1. Authorized Officers for Content Regulation

Only Joint Secretary-level officers (in the Central Government) and Director General of Police (DGP)-rank officers (in States) will be empowered to issue takedown orders. This limits arbitrary action by lower-level bureaucrats and ensures that only senior, accountable officials exercise such powers. It strengthens procedural integrity and reduces misuse of content blocking powers under Section 69A of the IT Act, 2000.

2. Legal Justification for Every Order

Every takedown directive must include –

1. Statutory basis – Clear reference to the exact provision under the IT Act or allied laws.
2. Specific identifiers – URLs, post IDs, or digital object references of the content targeted.
3. Written reasoning – Explanation of how the content violates specific legal provisions.

This promotes traceability, facilitates judicial scrutiny, and guards against arbitrary censorship.

3. Review Mechanism

A Secretary-level review committee will conduct monthly evaluations of all takedown orders. Reviews will assess –

1. Legality – Whether the order has statutory support.
2. Necessity – Whether the restriction is essential to achieve the stated objective.
3. Proportionality – Whether the response is balanced and not excessive.

This institutional oversight enhances transparency and procedural fairness in digital content regulation.

Regulation of AI-Generated and Synthetic Media

1. Definition of Synthetically Generated Information

Introduces a new category – “synthetically generated information” – referring to any image, video, or audio that is algorithmically created or altered to appear authentic. This creates legal clarity for addressing deepfakes, manipulated videos, and other AI-generated misinformation.

2. Mandatory Labelling of Deepfakes

All platforms must visibly label or embed metadata in AI-generated visuals and audios. Labelling requirements – Must cover at least 10% of the frame area (for visuals) or 10% of the duration (for audio/video). Labels must remain non-removable and easily visible to viewers.

This step ensures user awareness, helping the public differentiate between authentic and synthetic content.

3. Platform Accountability and Compliance

Significant Social Media Intermediaries (SSMIs) – including Facebook, X (Twitter), Instagram, YouTube, and WhatsApp – must adopt robust compliance systems.

Obligations include –

User declaration – Require users to declare if uploaded content is AI-generated or modified.

Automated detection – Deploy tools and algorithms to detect and tag synthetic or manipulated media.

Non-compliance may lead to loss of safe harbour protection under Section 79 of the IT Act, 2000, making platforms legally liable for harmful or misleading content they host.

Due Diligence Obligations of Platforms

Platforms must establish mechanisms for rapid response, user reporting, and content verification. They must publish transparency reports on the number of takedown requests received and actions taken. Non-adherence to these due diligence requirements results in civil and criminal liability, eliminating intermediary immunity.

Significance of the Amendment

1. Strengthens digital governance by introducing procedural safeguards and oversight.
2. Protects citizens from AI manipulation by legally defining and regulating deepfake content.
3. Promotes accountability among both state authorities and social media platforms.
4. Enhances user trust in the digital ecosystem by making moderation decisions traceable and reviewable.
5. Aligns India with global best practices such as the EU's Digital Services Act (DSA) and the U.S. AI transparency guidelines.

Concerns and Challenges

1. **Risk of Overreach and Censorship** – Empowering government fact-check bodies or officers to determine “fake” or “misleading” content may chill free speech. Lack of independent review mechanisms could allow political misuse of takedown powers.
2. **Definitional Ambiguity** – Terms like “fake,” “misleading,” or “harmful” remain subjective without detailed parameters. May lead to inconsistent enforcement or suppression of dissenting views.
3. **Technological and Compliance Burden** – Smaller or regional platforms may lack the technical capability to implement AI detection tools. High compliance costs could lead to market consolidation favouring larger global firms.
4. **Privacy and Data Security Issues** – Automated detection tools could require data access and content scanning, potentially impacting user privacy and encryption standards.

Way Forward

1. **Independent Oversight** – Establish a multi-stakeholder review board including digital rights experts, civil society, and legal professionals. Ensure judicial oversight over blocking or takedown orders to prevent misuse.
2. **Balancing Regulation and Freedom** – Maintain constitutional proportionality – ensuring user safety without stifling democratic expression. Strengthen Section 69A review procedures through transparency and time-bound reviews.
3. **Promoting Digital Literacy** – Introduce public awareness programs on deepfake identification and responsible content sharing. Encourage media literacy education to counter misinformation effectively.
4. **Encouraging Ethical AI Development** – Incentivize platforms and startups to develop ethical AI tools for content authentication. Collaborate with academia and international organizations to develop AI watermarking standards.

Conclusion

The amendment to the IT Rules, 2021 represents a crucial evolution in India's approach to digital governance and AI-era regulation. While it strengthens accountability and user safety, it must ensure that regulatory mechanisms remain independent, proportionate, and rights-respecting. The future of India's digital ecosystem depends on balancing innovation with ethical safeguards, thereby ensuring a free, fair, and safe internet.

Source – https://m.economictimes.com/tech/artificial-intelligence/centre-moves-to-regulate-deepfakes-ai-media-meity-proposes-amendments-to-it-rules/amp_articleshow/124737121.cms