

भारत सरकार
Government of India
इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी मंत्रालय
Ministry of Electronics & Information Technology
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संख्या No. 2(4)/2023-CyberLaws – 2
No.....

दिनांक
Date.....
December 26, 2023

ADVISORY

Sir/Madam

Subject: Due diligence by Intermediaries and Grievance Reporting Mechanism, under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 - regarding.

It has come to the notice of the Ministry of Electronics & Information Technology ("Ministry") that many intermediaries / platforms are not adequately complying with the due-diligence obligations and provisions pertaining to grievance redressal mechanism of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules").

2. Accordingly, you are hereby advised to ensure compliance to the following, if not already, at the earliest:

- (i) The content not permitted under the IT Rules, in particular those listed under Rule 3(1)(b) must be clearly communicated to the users in clear and precise language including through its terms of service and user agreements [May please refer to **Annexure A** for not permitted list under Rule 3(1)(b)] and the same must be expressly informed to the user at the time of first-registration and also as regular reminders, in particular, at every instance of login and while uploading/sharing information onto the platform.
- (ii) The users must be made aware of the various penal provisions of the Indian Penal Code (IPC) 1860, the IT Act, 2000 and such other laws that may be attracted in case of violation of Rule 3(1)(b) [May please refer to the table in **Annexure B** for an indicative list of the penal sections under various laws that may be attracted]. In addition, the terms of service and user agreements must clearly highlight that intermediaries / platforms are under obligation to report



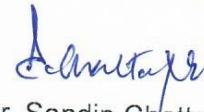
legal violations to the law enforcement agencies under the relevant Indian laws applicable to the context.

- (iii) It is reiterated that intermediaries / platforms should identify and remove misinformation or information which is patently false, untrue or misleading in nature and impersonates another person, including those created using deepfakes. Please also refer to the advisory issued on 7 November 2023 relating to curbing of misinformation represented by deepfakes for compliance [enclosed as **Annexure C**].
- (iv) Rule 2(1)(j) defines "grievance" to include "*any complaint, whether regarding any content, any duties of an intermediary or publisher under the Act, or other matters pertaining to the computer resource of an intermediary or publisher, as the case may be*". Any complaint made to the intermediary / platform, whether through the in-app reporting feature or to the email address/contact details of the Grievance Officer, is included within the definition of grievance and must be treated as such by the intermediaries / platforms.
- (v) Accordingly, intermediaries / platforms must enable users, victims or any person on their behalf, as the case may be, to also report violations relating to Rule 3(1)(b) or Rule 3(2)(b) in a simple and easily accessible manner, including through in-app user reporting on its platform.
- (vi) Upon receipt of complaint relating to Rule 3(1)(b) or Rule 3(2)(b), whether through in-app reporting or via email/contact to the Grievance Officer, intermediaries must acknowledge and redress the same by the Grievance Officer within stipulated timelines in accordance with Rule 3(2) [May please refer to the table at **Annexure D**].
- (vii) Intermediaries / Platforms should ensure that for each grievance, whether received through in-app reporting or via email/contact to the Grievance Officer, a ticket number may be adequately generated, to provide details of the grievance, including the time at which the grievance was made, the information to which the grievance relates, the details of the user/victim who filed the grievance, and the details of the user who uploaded or transmitted such information. In the case of significant social media intermediaries and online gaming intermediaries, the details of actions taken or not taken in relation to the grievances should also be provided to the extent reasonable.
- (viii) Intermediaries / Platforms must comply with the orders of the Grievance Appellate Committee (GAC) within the timeline mentioned in the order and publish a report in relation to the same on its website.
- (ix) Intermediaries / Platforms /should take additional measures to not permit any advertisements of illegal loan and betting apps having potential to scam and mislead the users, the consequences of which will be the sole responsibility of the intermediaries / platforms.

3. It is reiterated that failure on the part of an intermediary to observe due diligence and/or to comply with the provisions pertaining to grievance redressal mechanism of the IT Rules will amount to non-compliance with the IT Rules and result in the concerned intermediary automatically losing exemption from liability provided under section 79(1) of the Information Technology Act, 2000 ("IT Act") in accordance with Section 79(2)(c) of the IT Act.

4. It is, therefore, requested to ensure compliance with the above and submit an Action Taken-cum-Status Report to the Ministry **within one week** of this advisory.

Yours faithfully,



(Dr. Sandip Chatterjee)

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Encls: As above

Copy to:-

1. Grievance Appellate Committee(s)