

Impact of Social Media Laws in India 2021

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I. INTRODUCTION

In this Research Paper I Will be Reviewing the law declared On February twenty five, 2021, the Ministry of physical science and data Technology and also the Ministry of data and Broadcasting (MIB) notified the knowledge Technology (Intermediary tips and Digital Media Ethics Code) Rules, 2021 (Intermediary Rules 2021) below Section eighty seven of the knowledge Technology Act, 2000 (IT Act). the target of the negotiant Rules 2021, that succeed the knowledge Technology (Intermediaries Guidelines) Rules 2011, is to determine a harmonious, soft-touch oversight mechanism in respect to social media platforms yet as digital media and OTT platforms etc.

The negotiant Rules 2021 area unit divided into 3 components - half I deals with shaping all the terms used therein; half II deals with the due diligence necessities that should be followed by a social media negotiant (SMI) and a big social media negotiant (SSMI) and half III deals with the code of ethics and procedure and safeguard in respect to digital media. Section 2(w) of the IT Act defines negotiant as "intermediary", with relevance any explicit electronic records, means that someone UN agency on behalf of another person receives, stores or transmits that record or provides any service with relevance that record and includes medium service suppliers, network service suppliers, net service suppliers, web-hosting service suppliers, search engines, on-line payment sites, online-auction sites, online-market places and cyber cafes.

The negotiant Rules 2021 introduce the idea of a "SMI" and outline it to mean "an negotiant that primarily or entirely permits on-line interaction between 2 or additional users and permits them to form, upload, share, circularize, modify or access data exploitation its services. supported the quantity of users on the social media platform, intermediaries are divided into "SMI" and "SSMI" (number of registered users in Republic of India ought to be on top of fifty lakhs as notified by the Central Government).

SMI

Under the negotiant Rules 2021, there area unit sure due diligence needs that need to be discovered by SMI whereas discharging their duties, which has the following:

A. Publish:

(i) To publish a Privacy Policy, User Agreement, and Rules and Regulation for usage of its web site or app or each informing the user to not host, display, upload, modify, publish, transmit, store, update or share any info that belongs to alternative person, or infringes on any property Law, or is obscene, harmful to a toddler, is sexy, encourages "gambling"

(ii) the access to the website/app will be terminated if they're not in compliance with these policies;

(iii) any changes in these policies.

B. Remove:

It shall take away any objectionable content, inside thirty six hours that it's keep, hosted, or revealed on its servers, once it gains actual data, within the variety of a writ or such notification by the suitable government. the data of any user World Health Organization has withdrawn or off his registration or the objectionable content ought to be keep in servers for a hundred and eighty days or additional (if court or government permits)

C. Protect:

It shall defend the information following affordable security procedures and practices as set down in info Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules, 2011.

D. Access:

It shall offer info underneath its management or possession to the govt agency inside seventy two hours, when being in receipt of order and not install any quite technical configuration to its pc resource, sterilization the conventional course of its operation, so as to by-pass the law. Report: It shall report any cyber security incident and share a similar with Indian pc Emergency Response Team, in accordance with (The Indian pc Emergency Response Team and Manner of playacting Functions and Duties) Rules, 2013.

E. Grievances:

“It shall conspicuously publish on its website/app the contact details of the Grievance Redressal Officer (GRO) and mechanism to lodge the criticism against any content on the website/app. The GRO shall acknowledge the receipt of such criticism inside twenty four hours and dispose-off a similar inside fifteen days from receipt. However, if the criticism is concerning content that shows any quite nakedness clear, then the GRO should take down such content inside twenty four hours of being in receipt of such criticism. Further, the GRO should acknowledge and receive any order, notice or direction by the suitable government, any competent authority, or a court of competent jurisdiction.”

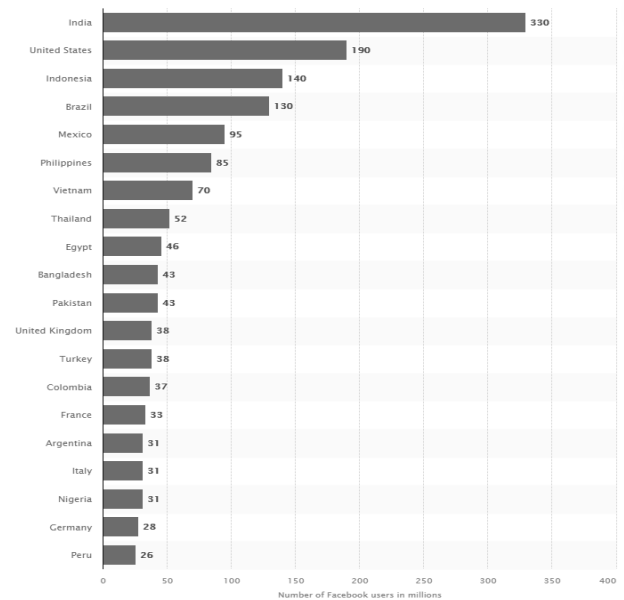
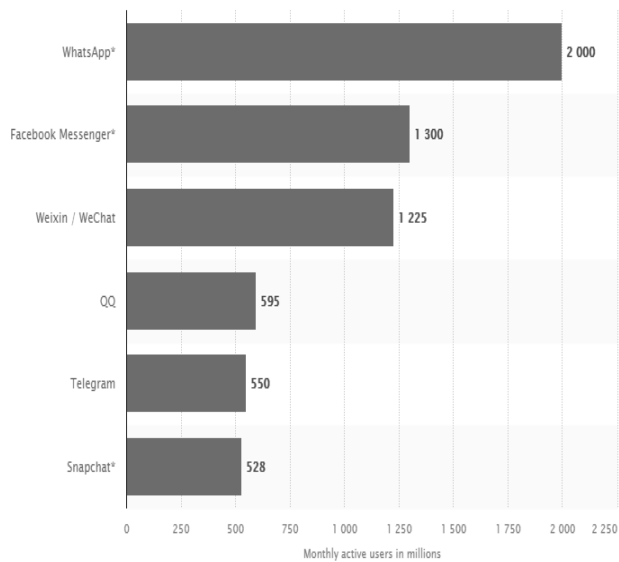
SSMI

Under the treater Rules 2021, there square measure bound due diligence necessities that have to be compelled to be ascertained by SSMI whereas discharging their duties, that embrace the following:

- a) **Appoint:** It shall appoint a Chief Compliance Officer for compliance with IT Act and corresponding rules, a 24/7 Nodal Contact Person for helping the enforcement agencies & for yielding with their orders and requisitions, and a Resident Grievance Officer (RGO) for coping with complaints lodged by anyone with relevancy any content on the website/app.
- b) **First Originator:** It shall alter identification of 1st conceiver of the data, just in case of electronic messaging platforms, which might need chats to be insured to encrypted cloud server, instead of providing end-to-end cryptography to its users.
- c) **Ownership of content:** It shall clearly mark any data as being publicized , marketed, sponsored, owned or completely controlled, if such treater is derivation direct monetary profit by advertising data on somebody else's behalf, to that it owns a copyright, or has Associate in Nursing exclusive license, or in relation with that it's entered into any contract that directly or indirectly restricts the publication or transmission of that data through any suggests that aside from those provided through the pc resource of such SSMI.
- d) **Physical Address:** It shall have a physical contact address in India revealed on its web site, mobile application, or each for the needs of receiving the communication self-addressed thereto.
- e) **Removal of Information:** just in case, a user's access to the web site or app has been revoked, or the other content that has been uploaded by the user has been removed, it shall inform the user before such removal regarding why the action is being taken, and on what grounds is that the action being taken. However, it shall additionally give the user a chance to contest this claim of removal and also the user's request to re-upload the content. However, this could be done inside cheap time. The RGO shall administrate this method. It is asked to furnish any extra data as deemed match by the MIB.
- f) **Objectionable contents:** It shall use technology-based measures to spot and take away data that depicts any sexually specific content or any identical data that has already been removed by it. It shall show a notice to the user United Nations agency is making an attempt to access such data that it's known such data as objectionable. The SSMI should more review sporadically the technology-based measures to confirm there's no propensity of bias and discrimination in such measures.
- g) **Complaints:** It shall implement Associate in Nursing applicable mechanism for the receipt and process of grievances that shall alter the litigator to trace the standing of such complaint by providing a singular price ticket range. It ought to endeavor to supply the litigator with reasons for any action taken or not taken consistent to the grievance.
- h) **Voluntary verification:** It shall alter users to voluntarily verify their accounts by mistreatment any applicable mechanism and supply such users with a demonstrable and visual mark of verification, that shall be visible to all or any users of the service. Safe harbor: If it fails to stick or follow the treater Rules 2021, they'd not be ready to claim protection below Section 79(1) of IT Act, that is safe harbor provision for intermediaries.
- i) **Compliance Reports:** It should publish compliance reports each month containing the small print in respect of the complaints that were received and also the action taken on those complaints, and also the range of links or data removed whereas mistreatment proactive observation through machine-controlled tools.

“According to the Most popular global mobile messenger apps as of April 2021, based on number of monthly active users, Survey carried out by the website ““ <https://www.statista.com/>”

As of Apr 2021, 2 billion users were accessing the WhatsApp traveler on a monthly basis. The app's reach is usage penetration is especially robust in markets outside of the us and it's one among the foremost common mobile social apps worldwide. In Gregorian calendar month 2014, social network Facebook noninheritable the mobile app for nineteen billion U.S. dollars. Instant electronic messaging may be a kind of on-line chat that offers period of time text transmission via net. (“Since the looks of smartphone and therefore the succeeding explosion of mobile apps, inexpensive or free chat and social {messaging electronic messaging electronic communication} apps have proved themselves as an inexpensive various to operator-based text messaging via SMS”). several traveler apps provide options like cluster chats, the exchange of graphics, video and even audio messages yet as stickers or emoticons.



Most popular global mobile messaging apps 2021

II. CONCLUSION:

Data Servers , Data Centers must be located in the Country itself to avoid leakage of data, Managing Data Traffic, Monitoring Content (Not in favorable of rules set by The Social Media Act 2021).

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