

## REGULATION OF ONLINE CONTENT PLATFORMS IN INDIA: BALANCING FREEDOM OF SPEECH AND REGULATION

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### ABSTRACT:

The regulation of online content platforms in India has become increasingly urgent amidst the rapid expansion of digital media. The introduction of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, signifies a pivotal step in addressing prevalent concerns such as misinformation, hate speech, and user privacy within the digital realm. These regulations aim to delicately balance the protection of freedom of speech with the imperative for accountability in managing online content. However, their implementation has sparked vigorous debates and raised critical questions about their potential impact on broader freedoms of expression in the digital age.

Central to this regulatory framework is the Information Technology Act, 2000, which underwent amendments to incorporate the comprehensive IT Rules, 2021. These rules impose substantial responsibilities on intermediaries, including social media platforms and digital media publishers. The Supreme Court's rulings have consistently upheld the fundamental right to freedom of speech and expression while acknowledging the state's authority to impose reasonable restrictions in the interest of public order, morality, and national security.

Despite the intended benefits of the IT Rules, 2021, their implementation has encountered multifaceted challenges. Critics argue that stringent content moderation requirements could inadvertently suppress diverse viewpoints and dissenting opinions on online platforms, potentially leading to censorship and stifling innovation. Moreover, smaller intermediaries and start-ups face significant hurdles in complying with the intricate regulatory framework, posing operational complexities and financial burdens. There is a growing consensus among stakeholders for clearer guidelines, transparent decision-making processes, and robust mechanisms for accountability to prevent potential misuse of regulatory powers. In navigating these challenges, India must prioritize transparency, stakeholder engagement, and continuous dialogue to ensure that its regulatory framework promotes responsible online behaviour while upholding fundamental rights in the digital age.

**Keywords:** Online content platforms, regulation, Information Technology Act, freedom of speech, digital media ethics

### INTRODUCTION:

The exponential growth of online content platforms has revolutionized the way information is shared, empowering individuals to express their thoughts and interact with a

vast, worldwide audience. This digital evolution has fostered a vibrant online culture, enabling diverse voices to be heard and facilitating global conversations on a scale never seen before. However, this newfound freedom has also given rise to significant challenges,

particularly concerning the proliferation of misinformation, hate speech, and harmful content.

The unchecked spread of misinformation, often disguised as legitimate news, has the potential to mislead and manipulate audiences, undermining the very foundation of informed decision-making in democratic societies. Similarly, the dissemination of hate speech and harmful content can fuel divisiveness and conflict, posing serious threats to social cohesion and individual well-being. Recognizing these challenges, governments around the world, including India, have increasingly turned their attention to regulating online content platforms. The aim of such regulation is not to stifle free expression but to strike a delicate balance between enabling free speech and protecting individuals and society from the harmful effects of unchecked online content.

In India, the government has taken several steps to regulate online content platforms, including the introduction of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. These rules, while aiming to promote responsible online behavior and protect user rights, have also sparked debates about their potential impact on freedom of expression and innovation. The regulation of online content platforms in India is not just a legal or regulatory issue; it is a societal and ethical one. It raises fundamental questions about the role of technology in shaping our public discourse, the responsibilities of platform owners and users, and the limits of freedom of speech in the digital age.

In navigating these challenges, it is crucial to adopt a nuanced and balanced approach that protects the integrity of online discourse while upholding the principles of free expression and individual rights. By engaging in constructive dialogue and collaboration with stakeholders from across the spectrum, including governments, platform owners, civil society, and users, India can chart a path forward that

promotes a vibrant online ecosystem while safeguarding against the dangers of misinformation, hate speech, and harmful content.

#### A CONSTITUTIONAL PERSPECTIVE:

1. **Freedom of Speech and Expression (Article 19(1)(a))<sup>620</sup>:** The right to freedom of speech and expression is a fundamental right guaranteed by the Indian Constitution. Any regulation of online content platforms must be in consonance with this right. The Supreme Court has consistently upheld this right in various cases, emphasizing its importance in a democratic society. Regulations that unduly restrict this right may be deemed unconstitutional.
2. **Reasonable Restrictions (Article 19(2))<sup>621</sup>:** While Article 19(1)(a) guarantees the right to freedom of speech and expression, it also allows the state to impose reasonable restrictions on this right in the interest of sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation, or incitement to an offence. Any regulation of online content platforms must be tested against these grounds to ensure its constitutionality.
3. **Right to Privacy (Not Explicitly Mentioned but Derived from Article 21)<sup>622</sup>:** The right to privacy has been recognized as a fundamental right under the Indian Constitution, derived from the right to life and personal liberty guaranteed by Article 21. Regulations governing

<sup>620</sup> Article 19 of the Indian Constitution, 1950

<sup>621</sup> Ibid.

<sup>622</sup> Article 21 of the Indian Constitution, 1950

online content platforms must respect and protect the privacy of individuals, in line with this constitutional principle.

#### 4. **Proportionality and Reasonableness:**

Any restriction imposed on the freedom of speech and expression must be proportional to the legitimate aim sought to be achieved and must be reasonable in nature. This principle of proportionality and reasonableness is essential in evaluating the constitutionality of regulations governing online content platforms.

#### 5. **Judicial Review:**

The Indian Constitution provides for judicial review of legislative and executive actions to ensure their conformity with the Constitution. Any regulation of online content platforms can be subjected to judicial review to determine its constitutionality.

#### 6. **International Human Rights Standards**<sup>623</sup>:

While not directly part of the Indian Constitution, India is a signatory to various international human rights treaties that uphold the right to freedom of expression and privacy. Any regulation of online content platforms must also be consistent with these international standards<sup>624</sup>.

### KEY REGULATORY MECHANISMS AND INSTITUTIONAL BODIES:

Regulation of online content platforms in India involves a delicate balance between protecting freedom of speech and ensuring that content adheres to legal and ethical standards. The key regulatory mechanisms and institutional bodies responsible for this balance include:

- **Ministry of Electronics and Information Technology (MeitY)**<sup>625</sup>

The Ministry of Electronics and Information Technology (MeitY) is the primary regulatory body for online content in India. It plays a pivotal role in formulating and implementing policies related to information technology and the internet. MeitY oversees the implementation of the Information Technology (IT) Act, 2000, which provides the legal framework for electronic governance by recognizing electronic records and digital signatures. This ministry is responsible for issuing guidelines for intermediaries, such as social media platforms, under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. These guidelines include measures for content moderation, user privacy, and the establishment of grievance redressal mechanisms, ensuring that online activities comply with the law.

- **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021**

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, are key provisions designed to regulate online content platforms. These rules mandate that intermediaries, including social media platforms, must follow due diligence guidelines, which include processes for content takedown and mechanisms for grievance redressal. Additionally, digital media publishers are required to adhere to a Code of Ethics that covers content standards. The rules also emphasize self-regulation by publishers, who must establish self-regulation mechanisms and appoint

<sup>623</sup> Universal Declaration of Human Rights (UDHR) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed 18 June 2024.

<sup>624</sup> International Covenant on Civil and Political Rights (ICCPR) <<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>> accessed 18 June 2024.

<sup>625</sup> Ministry of Electronics and Information Technology (MeitY), 'MeitY Official Website' <<https://www.meity.gov.in>> accessed 18 June 2024.



grievance officers to ensure compliance with the stipulated ethical guidelines.<sup>626</sup>

- **Ministry of Information and Broadcasting (MIB)<sup>627</sup>**

The Ministry of Information and Broadcasting (MIB) regulates digital media and online news platforms in India. It is responsible for implementing the Code of Ethics for digital media, ensuring that online content adheres to established standards. MIB monitors adherence to content standards by digital news platforms and OTT (Over-the-Top) content providers. This ministry plays a crucial role in maintaining the balance between freedom of speech and the prevention of harmful or illegal content, ensuring that digital media operates within the legal framework.

- **Central Board of Film Certification (CBFC)<sup>628</sup>**

The Central Board of Film Certification (CBFC) is responsible for regulating content in films, including those released on OTT platforms. It certifies films based on content guidelines to ensure that they do not contain material that violates Indian laws or standards. CBFC's certification process involves reviewing films to ensure they adhere to acceptable content standards, thereby safeguarding public morality and decency while balancing artistic expression and creativity.

- **Telecom Regulatory Authority of India (TRAI)<sup>629</sup>**

The Telecom Regulatory Authority of India (TRAI) regulates telecommunication services, including the internet. It formulates policies for net

neutrality and content delivery, ensuring fair access and distribution of online content. TRAI's regulations are crucial for maintaining an open and free internet, where all content is treated equally without discrimination<sup>630</sup>. This ensures that users have unrestricted access to lawful online content and services.

- **Supreme Court of India<sup>631</sup>**

The Supreme Court of India provides judicial oversight on content regulation issues, playing a vital role in interpreting laws related to freedom of speech and expression. It adjudicates matters involving online content, ensuring that regulations do not infringe upon constitutional rights. The Supreme Court's rulings provide judicial interpretations that guide the implementation and enforcement of laws affecting online content, maintaining a balance between regulation and freedom of speech<sup>632</sup>.

- **Cyber Appellate Tribunal<sup>633</sup>**

The Cyber Appellate Tribunal addresses disputes related to cyber laws, providing a platform for grievances related to online content. It hears appeals against orders passed by adjudicating officers under the IT Act. The tribunal ensures that there is a fair and efficient mechanism for resolving disputes and grievances arising from the implementation of cyber laws, contributing to the overall regulatory framework for online content.

- **Data Protection Authority (Proposed)- Personal Data Protection Bill, 2019<sup>634</sup>**

<sup>626</sup> Ministry of Electronics and Information Technology (MeitY), 'IT Rules, 2021' <https://www.meity.gov.in/writereaddata/files/Information-Technology-Intermediary-Guidelines-and-Digital-Media-Ethics-Code-Rules-2021.pdf> > accessed 18 June 2024.

<sup>627</sup> Ministry of Information and Broadcasting (MIB), 'MIB Official Website' <https://mib.gov.in> > accessed 18 June 2024.

<sup>628</sup> Central Board of Film Certification (CBFC), 'CBFC Official Website' <https://www.cbfcindia.gov.in> > accessed 18 June 2024.

<sup>629</sup> Telecom Regulatory Authority of India (TRAI), 'TRAI Official Website' <https://www.trai.gov.in> > accessed 18 June 2024.

<sup>630</sup> Telecom Regulatory Authority of India (TRAI), 'TRAI's Recommendations on Net Neutrality' [https://www.trai.gov.in/sites/default/files/Recommendations\\_NN\\_2017\\_11\\_28.pdf](https://www.trai.gov.in/sites/default/files/Recommendations_NN_2017_11_28.pdf) > accessed 18 June 2024.

<sup>631</sup> Supreme Court of India, 'Supreme Court of India Official Website' <https://www.sci.gov.in> > accessed 19 June 2024.

<sup>632</sup> Supreme Court of India, 'Judicial Decisions on Freedom of Speech and Expression' <https://www.sci.gov.in/judgments> > accessed 19 June 2024.

<sup>633</sup> Ministry of Electronics and Information Technology (MeitY), 'Cyber Appellate Tribunal Information' <https://www.meity.gov.in/content/cyber-regulation-appellate-tribunal> > accessed 18 June 2024.

<sup>634</sup> PRS Legislative Research, *Personal Data Protection Bill, 2019* <https://prsindia.org/billtrack/the-personal-data-protection-bill-2019> > accessed 18 June 2024.

The proposed Data Protection Authority is expected to regulate data privacy and protection in India. It will enforce data protection laws and ensure that online platforms handle user data responsibly. This authority will play a crucial role in safeguarding user privacy and data security, ensuring that online platforms comply with data protection regulations and standards, thereby enhancing user trust and confidence in digital services.

### REGULATORY FRAMEWORK FOR ONLINE CONTENT PLATFORMS IN INDIA:

The regulatory landscape for online content platforms in India is primarily shaped by the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Enacted under the Information Technology Act, 2000, these rules mark a pivotal moment in India's digital governance framework, aiming to instill a structured code of ethics for online content platforms while delineating their responsibilities concerning content moderation, user privacy, and adherence to Indian legal norms.

In the context of the regulation of online content platforms in India, several legal provisions are relevant, primarily stemming from the Information Technology Act, 2000 (IT Act)<sup>635</sup>, and the recent Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules). These provisions outline the obligations and liabilities of online platforms, the scope of permissible content, and the mechanisms for grievance redressal.

1. **Section 2(w) of the IT Act – Definition of "Intermediary":** The broad definition of an "intermediary" under the IT Act includes a wide range of online platforms, from social media networks to

e-commerce websites. This definition acknowledges the diverse roles played by intermediaries in facilitating online communication and commerce. However, it also raises questions about the scope of liability for different types of intermediaries and the extent to which they can be held responsible for user-generated content.

2. **Section 79 of the IT Act – Exemption from Liability of Intermediaries:** Section 79 provides intermediaries with a conditional immunity from liability for third-party content. This provision is crucial for fostering innovation and free expression online. However, the requirement for intermediaries to observe due diligence raises concerns about potential censorship and the chilling effect on freedom of speech. The balance between liability protection and content moderation is a delicate one, requiring careful consideration and oversight.
3. **Section 69A of the IT Act – Power to Issue Directions for Blocking Public Access to Information:** While Section 69A provides the government with a mechanism to address legitimate concerns about harmful online content, such as hate speech or incitement to violence, it also raises concerns about government overreach and censorship. The lack of clear criteria for blocking content and the absence of judicial oversight raise questions about the legality and proportionality of such measures.
4. **Section 79(3)(b) of the IT Act – Obligations of Intermediaries:** This provision requires intermediaries to observe due diligence while discharging their duties under the IT Act. Intermediaries are required to take down any objectionable content upon receiving actual knowledge or being

PRS Legislative Research, *Joint Parliamentary Committee Report on the Personal Data Protection Bill, 2019* <<https://prsindia.org/reports-summaries/report-joint-committee-personal-data-protection-bill-2019>> accessed 12 June 2024

<sup>635</sup> Ministry of Electronics and Information Technology (MeitY), 'Information Technology Act, 2000' <<https://www.meit.gov.in/content/information-technology-act-2000>> accessed 1 June 2024.

notified by the government. This provision, along with the IT Rules, lays down the framework for content moderation and removal on online platforms.

5. **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021:** The IT Rules, notified in February 2021, elaborate on the obligations of intermediaries and digital media platforms concerning content moderation, user privacy, and grievance redressal. These rules introduce a code of ethics and establish a grievance redressal mechanism for addressing user complaints.
6. **Rule 4 of the IT Rules – Due Diligence to Be Observed by Intermediaries:** This rule specifies the due diligence requirements that intermediaries must adhere to, including the implementation of automated tools for content moderation and the removal of prohibited content within 36 hours of receiving a complaint. While these requirements are intended to improve the efficiency of content moderation, they also raise concerns about the potential for over-censorship and the stifling of legitimate speech.
7. **Rule 9 of the IT Rules – Mechanism for Grievance Redressal:** This rule mandates intermediaries to establish a grievance redressal mechanism for receiving and resolving complaints from users regarding content hosted on their platforms. The rule prescribes timelines for acknowledging and resolving complaints, ensuring a swift and effective redressal process.

#### KEY CONSIDERATIONS OF THE IT RULES

- **Code of Ethics:** The Code of Ethics outlined in the IT Rules is a critical component that sets the tone for responsible conduct on online content platforms. It not only mandates

compliance with Indian legal standards but also emphasizes the importance of self-regulation and responsible content curation. By requiring platforms to prohibit content that is defamatory, obscene, or infringes on intellectual property rights, the rules aim to create a safer and more respectful online environment for users. This proactive approach to content regulation reflects the growing recognition of the need to balance freedom of expression with the protection of individual rights and societal interests in the digital age.

- **Grievance Redressal Mechanism:** The requirement for online content platforms to establish robust grievance redressal mechanisms is a significant step towards enhancing user trust and accountability. These mechanisms provide users with a direct channel to report objectionable content and seek timely resolution. By holding platforms accountable for addressing user complaints, the rules aim to improve transparency and responsiveness in content moderation practices. This not only helps in maintaining a positive user experience but also demonstrates a commitment to addressing user concerns and maintaining a safe online environment.
- **Content Moderation:** The detailed guidelines for content moderation practices outlined in the IT Rules underscore the importance of proactive content moderation. Online platforms are expected to deploy effective mechanisms, including automated tools, to detect and remove prohibited content promptly. This proactive approach is essential for maintaining a safe and lawful online environment. Moreover, by ensuring compliance with Indian laws and community standards, content moderation plays a crucial role in upholding the integrity of online



discourse and fostering a culture of responsible online behavior.

- **User Privacy:** Protection of user privacy and data security is a paramount concern addressed by the IT Rules. Online platforms are required to implement stringent measures to safeguard user data and ensure compliance with the Information Technology Act, 2000. This includes measures such as data encryption, secure storage, and user consent mechanisms. By prioritizing user privacy, the rules aim to enhance user trust and confidence in online platforms. Moreover, by promoting transparency and accountability in data handling practices, the rules contribute to a more secure and user-centric online ecosystem.

#### CASE LAWS AND ANALYSIS:

1. Several landmark cases have significantly influenced the legal framework surrounding online content regulation in India. In **Shreya Singhal v. Union of India**,<sup>636</sup> the Supreme Court struck down Section 66A of the Information Technology Act, 2000, on the grounds that it was vague and overbroad, violating the right to freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India. This decision marked a significant victory for freedom of expression online and set a precedent for future cases involving online content regulation.
2. Another significant case is **Anuradha Bhasin v. Union of India**,<sup>637</sup> where the Supreme Court emphasized the importance of freedom of speech and expression in the context of internet shutdowns. The court held that any restriction on internet access must adhere to the principles of

proportionality and necessity and should be subject to judicial review. These cases highlight the judiciary's role in safeguarding fundamental rights in the digital age and shaping the legal framework for online content regulation in India.

3. **Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal (1995)** In this case, the Supreme Court emphasized the role of the media in informing the public and holding the government accountable. The court held that restrictions on media freedom must be narrowly tailored to serve a legitimate state interest and should not be used to suppress dissenting views.

This case is relevant to online content regulation as it highlights the need for any restrictions on **Internet and Mobile Association of India v. Reserve Bank of India (2020)**<sup>638</sup>. This case centered on the Reserve Bank of India's (RBI) circular prohibiting entities regulated by it from dealing in virtual currencies or providing services for facilitating any person or entity in dealing with or settling virtual currencies. The Supreme Court's decision to strike down the circular underscored the importance of judicial review in matters affecting fundamental rights, including the right to carry on trade or business using the internet. The ruling affirmed the principle that regulations impacting online activities must be proportionate, transparent, and subject to judicial scrutiny to safeguard individual rights and promote a conducive environment for digital commerce.

4. **K.S. Puttaswamy (Retd.) v. Union of India (2017)**<sup>639</sup>. Popularly known as the Aadhaar case, this landmark judgment recognized the right to privacy as a

<sup>636</sup> Shreya Singhal v. Union of India (2015) 5 SCC 1.

<sup>637</sup> Anuradha Bhasin v. Union of India (2020) 3 SCC 1.

<sup>638</sup> Internet and Mobile Association of India v. Reserve Bank of India (2020) 10 SCC 274.

<sup>639</sup> K.S. Puttaswamy (Retd.) v. Union of India (2017) 10 SCC 1.

fundamental right under the Indian Constitution. The case's implications for online data protection and privacy are profound, particularly regarding the collection and use of personal data by online platforms. The ruling emphasized the need for robust data protection laws and mechanisms to safeguard individuals' privacy rights in the digital age, setting a strong precedent for future legal developments in this area.

5. ***S. Rangarajan v. P. Jagjivan Ram (1989)***<sup>640</sup>. This case is pivotal in establishing the broad principles of freedom of speech and expression that extend to all forms of media, including online platforms. The Supreme Court's ruling affirmed the right to propagate one's views through print media, highlighting the fundamental nature of freedom of speech in a democratic society. While not directly related to online content regulation, this case underscores the importance of protecting freedom of expression in all its forms, including in the digital realm.
6. ***Siddharth Vashisht @ Manu Sharma v. State (NCT of Delhi) (2010)***<sup>641</sup>. This case highlighted the role of social media in shaping public opinion and its potential impact on fair trial rights. The Supreme Court emphasized the need to balance freedom of speech with the right to a fair trial, particularly in cases where social media coverage could influence public perception and prejudice the trial process. The case underscores the complexities of regulating online content that can impact legal proceedings and the importance of maintaining a fair and impartial judicial process.
7. ***Shyam Narayan Chouksey v. Union of India (2018)***<sup>642</sup>. In this case, the Supreme

Court emphasized the need to balance freedom of expression with other constitutional values, such as public order and morality. The case involved the national anthem and its mandatory playing in cinemas, highlighting the need to regulate online content in a manner that respects fundamental rights while also promoting social harmony and public interest. The ruling underscores the delicate balance required in regulating online content to ensure it aligns with broader societal values and interests.

8. ***Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal (1995)***<sup>643</sup>. This case emphasized the crucial role of the media in informing the public and holding the government accountable. The Supreme Court stressed that any restrictions on media freedom must be narrowly tailored to serve a legitimate state interest and should not be used to suppress dissenting views. While not directly related to online content regulation, this case sets a precedent for the careful scrutiny of any restrictions on online content to ensure they are justified, proportionate, and in the public interest.

These cases highlight the judiciary's role in safeguarding freedom of speech and expression in the digital age. They underscore the need for a balanced regulatory approach that protects users' rights while addressing legitimate concerns regarding online content.

#### CHALLENGES AND CONTROVERSIES:

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, have sparked significant debate and criticism. One of the primary concerns raised by civil society organizations, digital rights activists, and online content platforms is the perceived vagueness and broad scope of the rules. Critics

<sup>640</sup> S. Rangarajan v. P. Jagjivan Ram (1989) 2 SCC 574.

<sup>641</sup> Siddharth Vashisht @ Manu Sharma v. State (NCT of Delhi) (2010) 6 SCC 1.

<sup>642</sup> Shyam Narayan Chouksey v. Union of India (2018) 2 SCC 574.

<sup>643</sup> Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal (1995) 2 SCC 161.



argue that the rules lack specificity in defining prohibited content, leading to potential misuse and over-censorship. The requirement for platforms to implement automated tools for content moderation is also contentious, with concerns about the accuracy and fairness of such systems.

Another key criticism is the potential impact of the rules on freedom of speech and expression. Critics argue that the rules could stifle dissenting voices and limit the ability of individuals to express their opinions freely online. There are also concerns about the compliance burdens imposed by the rules, particularly for smaller platforms and startups, which may struggle to meet the requirements laid down in the rules.

### THE IMPACT OF REGULATIONS ON DIFFERENT STAKEHOLDERS:

The impact of regulations on different stakeholders in the realm of online content platforms in India varies significantly across social media platforms, digital media publishers, OTT content providers, users, journalists, content creators, and influencers.

#### 1. Effects on Social Media Platforms and Intermediaries<sup>644</sup>

Social media platforms and intermediaries are heavily impacted by regulations, primarily under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021<sup>645</sup>. These regulations mandate platforms to:

- Implement due diligence practices for content moderation, including the removal of unlawful content within specified timelines upon receiving notices or orders.

- Establish robust grievance redressal mechanisms to address user complaints regarding objectionable content.
- Ensure compliance with data protection and privacy standards, including the protection of users' personal information.
- Face legal liabilities if they fail to comply with these rules, which can include penalties and even criminal charges for non-compliance.

For large platforms like Facebook, Twitter, and YouTube, these regulations necessitate significant investments in infrastructure, technology, and personnel to monitor and regulate content effectively. They also face challenges in balancing global content standards with local regulatory requirements, often leading to criticism regarding censorship and freedom of speech.

#### 2. Implications for Digital Media Publishers and OTT Content Providers<sup>646</sup>

Digital media publishers and Over-the-Top (OTT) content providers, such as Netflix, Amazon Prime Video, and Hotstar, are also impacted by regulatory frameworks. Key implications include:

- Compliance with content codes and ethics laid down by the Ministry of Information and Broadcasting (MIB)<sup>647</sup>, which require adherence to guidelines on content standards, ethics, and user advisories.
- Certification requirements under the Cinematograph Act, 1952<sup>648</sup>, for films and audiovisual content, ensuring compliance with cultural and societal norms.

<sup>644</sup> Business Standard, 'Explained: What the New IT Rules Mean for Social Media Platforms', available at: <https://www.business-standard.com> > accessed 15 June 2024.

<sup>645</sup> Ministry of Electronics and Information Technology (MeitY), *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*, available at: <https://www.meity.gov.in> > accessed 15 June 2024.

<sup>646</sup> The Hindu, 'OTT Platforms Will Need to Self-Regulate Content: I&B Ministry', available at: <https://www.thehindu.com> > accessed 15 June 2024.

<sup>647</sup> Ministry of Information and Broadcasting (MIB), *Code of Ethics for Digital Media*, available at: <https://www.mib.gov.in> > accessed 15 June 2024.

<sup>648</sup> Central Board of Film Certification (CBFC), 'Cinematograph Act, 1952', <https://www.cbfcindia.gov.in/main/features.aspx> > accessed 15 June 2024.

- Provision of parental controls and content classification systems to protect minors from inappropriate content.
- Financial implications due to compliance costs and potential fines for non-compliance, affecting business operations and profitability.

OTT platforms, in particular, are required to self-regulate their content and implement mechanisms for age-appropriate content classification and user advisories, thereby ensuring responsible content consumption.

### 3. User Rights and Responsibilities<sup>649</sup>

Users' rights and responsibilities are crucial aspects influenced by regulatory measures:

- Rights include the right to access diverse and unbiased information, privacy protection, and the ability to express opinions freely within legal boundaries.
- Responsibilities entail adherence to platform-specific community guidelines, refraining from sharing harmful or illegal content, and reporting objectionable content through designated channels.
- Enhanced transparency and user education initiatives by platforms to inform users about their rights and responsibilities concerning online content consumption.

### 4. Impact on Journalists, Content Creators, and Influencers<sup>650</sup>

Journalists, content creators, and influencers also experience the effects of content regulations:

- Journalists face challenges related to press freedom and investigative

reporting, navigating legal boundaries and potential censorship issues.

- Content creators and influencers must ensure that their content complies with platform guidelines and regulations to avoid demonetization or account suspension.
- Opportunities for collaboration with platforms on content creation and policy advocacy, influencing regulatory discourse through industry alliances and stakeholder engagement.

Overall, while regulations aim to maintain order and protect user interests in the digital ecosystem, they also pose challenges regarding censorship, freedom of expression, and the operational dynamics of stakeholders. Effective implementation and continuous dialogue between regulators, stakeholders, and civil society are essential for achieving a balanced regulatory framework that promotes both innovation and user protection in online content platforms.

### BALANCING FREEDOM OF SPEECH AND REGULATION:

To strike a balance between regulating online content platforms and protecting freedom of speech and expression, regulators should consider the following:

1. **Ensure Transparency:** Regulators should be transparent in their decision-making processes and provide clear guidelines for compliance. This transparency can help ensure that regulations are applied fairly and consistently across different platforms.
2. **Promote Self-Regulation:** Encouraging platforms to develop and implement their own content moderation policies can be an effective way to foster responsible online behavior. Platforms are often in the best position to understand their user base and can tailor their moderation practices accordingly.

<sup>649</sup> Economic Times, 'User Rights and Responsibilities on Social Media Platforms', available at: <https://www.economicstimes.indiatimes.com> > accessed 15 June 2024.

Ministry of Electronics and Information Technology (MeitY), *Public Awareness Campaigns on Digital Literacy and Online Safety*, available at: <https://www.meit.gov.in> > accessed 15 June 2024.

<sup>650</sup> The Wire, 'Impact of IT Rules on Digital Media and Journalists', available at: <https://www.thewire.in> > accessed 16 June 2024.

Scroll.in, 'How IT Rules are Affecting Content Creators and Influencers', available at: <https://www.scroll.in> > accessed 16 June 2024.

3. **Protect User Rights:** Any regulatory framework should prioritize the protection of user rights, including the right to privacy and freedom of expression. Regulations should be carefully crafted to avoid unduly infringing on these rights.
4. **Engage Stakeholders:** Regulators should engage with a wide range of stakeholders, including online content platforms, civil society organizations, and the public, to solicit feedback and address concerns. This engagement can help ensure that regulations are informed by diverse perspectives and take into account the complexities of online content moderation.
5. **Use of Technology:** While technology can play a valuable role in content moderation, regulators should be mindful of its limitations. The use of automated tools should be balanced with human oversight to ensure that nuanced content issues are addressed appropriately.

#### EMERGING CHALLENGES AND FUTURE DIRECTIONS :

1. Emerging Challenges and Future Directions in the regulation of online content platforms in India encompass several critical areas amidst rapid technological advancements and evolving societal expectations. The integration of new technologies such as Artificial Intelligence (AI) and machine learning presents both opportunities and challenges for content regulation.
2. AI-powered algorithms are increasingly utilized by platforms to moderate content automatically, aiming to enhance efficiency in content filtering and moderation. However, concerns arise regarding algorithmic biases, accuracy in content classification, and the potential for automated decisions to

inadvertently suppress legitimate speech or amplify harmful content. Addressing these challenges requires continual refinement of regulatory frameworks to ensure AI applications align with legal standards while upholding principles of transparency and accountability.

3. Cross-border content and jurisdictional issues pose significant complexities in the digital era. With online platforms transcending geographical boundaries, determining jurisdiction over content regulation becomes intricate. Conflicts arise when content that is legal in one jurisdiction violates laws in another, leading to jurisdictional disputes and challenges in enforcement. Harmonizing international standards and enhancing cooperation between countries are crucial steps towards effective cross-border content regulation. International treaties and agreements can facilitate mutual recognition of regulatory decisions and promote consistent standards for online content governance across borders.
4. Looking ahead, future trends in digital media and online content regulation are shaped by evolving consumer behaviors, technological innovations, and regulatory responses. The shift towards mobile-first consumption, increased reliance on streaming services, and the rise of user-generated content platforms necessitate adaptive regulatory approaches. Emphasizing user empowerment, data protection, and digital literacy initiatives are pivotal in safeguarding user rights while fostering a responsible digital environment. Moreover, the convergence of media formats and the integration of virtual and augmented reality technologies necessitate updates to existing regulatory frameworks to address



emerging content formats and user experiences.

5. Policy reforms and recommendations are essential to address current gaps and anticipate future challenges in online content regulation. Enhancing transparency in content moderation practices, strengthening grievance redressal mechanisms, and promoting self-regulation among platforms are key policy imperatives.
6. Additionally, fostering multi-stakeholder dialogues involving government bodies, industry stakeholders, civil society, and academia can facilitate consensus-building on regulatory priorities and enhance the effectiveness of regulatory interventions. Furthermore, continuous monitoring of technological advancements and proactive policy adaptations are crucial to maintain regulatory agility and ensure that regulatory frameworks remain robust and responsive to evolving digital landscapes.

## CONCLUSION:

In conclusion, navigating emerging challenges and charting future directions in online content regulation requires a balanced approach that safeguards fundamental rights, fosters innovation, and promotes a vibrant digital ecosystem. By addressing technological, jurisdictional, and policy complexities with foresight and adaptability, India can effectively shape a regulatory framework that promotes responsible online behavior while nurturing a dynamic digital economy.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, represent a significant stride towards regulating online content platforms in India. While they aim to promote responsible online conduct and safeguard user rights, their implementation has sparked debates regarding the balance between regulation and freedom of

expression. Going forward, it will be imperative to address these concerns through constructive dialogue and collaboration with all stakeholders, ensuring a regulatory framework that is not only effective but also fosters innovation and upholds democratic principles in the digital realm.

The regulation of online content platforms in India is a complex and evolving issue that requires a balanced approach. While it is important to protect users and prevent the spread of harmful content, it is equally important to safeguard freedom of speech and expression. By adopting a transparent and inclusive regulatory framework, India can ensure that online content platforms operate responsibly while respecting the rights of users.