

Impact of the Information Technology (Intermediary Guidelines and Digital Media Code) Rules, 2021 on OTT Content

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Abstract: The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 mark a pivotal development in India's regulation of digital streaming services. This article critically examines the impact of these rules on OTT (Over-The-Top) content platforms, analyzing the implications for creative freedom, accountability, user protection, and censorship. By establishing a three-tier grievance redressal mechanism and mandating compliance measures, the IT Rules aim to balance innovation and consumer interests with legal and cultural sensitivities. Legal debates persist regarding proportionality, content control, and privacy, making this regulatory shift a focal point in India's evolving digital policy landscape.

Keywords: IT Rules 2021, OTT platforms, content regulation, censorship, creative freedom, digital media, grievance mechanism, India

Introduction - The rapid growth of Over-The-Top (OTT) platforms in India has revolutionized how media content is consumed, offering audiences instant, on-demand access to a vast array of audio-visual entertainment. Major international players such as Netflix, Amazon Prime, and Disney+ Hotstar, along with dynamic Indian startups, have played a pivotal role in reshaping cultural narratives through these platforms. By enabling diverse storytelling and facilitating creative innovations, OTT services have democratized content creation, allowing a wider spectrum of voices and perspectives to emerge in India's media landscape.

However, this explosion in content availability and diversity sparked increasing concern and debate about the nature of material being streamed. Critics have voiced apprehension about the presence of content that some consider offensive, obscene, or in conflict with prevailing social and legal standards. These apprehensions created pressure on regulators to address the challenges posed by a largely unregulated digital media ecosystem, which previously operated with minimal oversight compared to traditional print and broadcast media.

In response, the Indian government introduced the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules in 2021, commonly referred to as the IT Rules. These rules aim to bring digital media platforms, especially OTT services, under a structured regulatory framework to ensure accountability and protect

user interests. The IT Rules set forth specific obligations for intermediaries—including platform operators—and publishers of online curated content. They establish mechanisms meant to promote transparency in content dissemination and provide safeguards for users while attempting to uphold the creative freedoms integral to the industry's growth.

The IT Rules require OTT platforms to self-regulate through content classification, age-based ratings, and parental controls. Furthermore, they mandate the appointment of grievance redressal officers to handle complaints on content, instituting a three-tier complaint redressal process that ranges from platform-level responses to government oversight. This mechanism aims to balance users' rights to access diverse content with protections against material that could violate laws or offend societal norms.

India's regulatory approach under the IT Rules echoes broader global trends, where many democracies grapple with how to govern digital platforms without stifling innovation or infringing on freedom of expression. While inspired by international best practices, India's framework incorporates unique challenges stemming from its socio-cultural diversity, linguistic plurality, and complex political environment. The formulation of these rules hence represents an effort to tailor global regulatory principles to local contexts, walking a fine line between safeguarding societal interests and nurturing the burgeoning digital

creative economy.

Ultimately, the IT Rules mark a significant policy intervention to bring formality and oversight to India's OTT sector. The success of this regulatory experiment will depend on how well it manages to foster an environment that encourages creative experimentation and expression while safeguarding users and upholding the rule of law in the rapidly evolving digital media landscape.

Framework and Provisions: The IT Rules 2021 represent a significant departure from earlier regulatory approaches. For OTT platforms, the most salient features include:

A code of ethics for all digital publishers, modeled on cinematic certification standards and requiring self-classification of content into categories such as U (Universal), U/A 7+, U/A 13+, U/A 16+, and A (Adult). Platforms must display content descriptors (e.g., violence, language, nudity) and implement parental controls. A three-tier grievance redressal mechanism facilitates user complaints regarding content. The first tier is self-regulation by the platform; the second involves a self-regulatory body of industry experts; and the third tier provides for government oversight and ultimate appeal. Appointment of a grievance officer, chief compliance officer, and nodal officer resident in India ensures effective redressal, liaison with law enforcement, and regulatory compliance. Obligations to respond swiftly to content complaints, especially those alleging violation of law, with timelines for acknowledgment and action set out under the rules.

These provisions collectively aim to foster responsible content production, prevent the dissemination of illegal or harmful material, and safeguard users' interests, especially minors and vulnerable groups.

Impact on Creative Freedom and Censorship: The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 dramatically altered the regulatory landscape for OTT content in India, sparking intense debates about censorship and creative freedom. Previously, OTT platforms served as havens for bold, boundary-pushing content free from the strictures of mainstream cinema or television, enabling storytelling across the spectrum of India's cultural, social, and political realities. Producers and viewers experienced what could be termed a 'golden age' of creative diversity—shows explored taboo subjects, critiqued politics, and amplified marginalized voices, benefitting from the lack of a formal censorship regime.

The introduction of the IT Rules 2021, with its three-tier grievance redressal mechanism and expanded government oversight, marked a decisive shift. Now, OTT platforms are required not only to self-classify and rate content by age-appropriateness but also to respond swiftly to user complaints and implement corrective action as directed by regulatory or government bodies. Platforms must appoint a Chief Compliance Officer, a Grievance Officer, and a Nodal Contact Person for effective

stakeholder interaction. The self-regulation mechanism first allows platforms to respond to complaints, then permits escalation to a self-regulatory body and, finally, to a government-appointed authority. This third tier, in particular, is often interpreted as state-sanctioned censorship under the guise of regulatory oversight.

Concerns have rapidly escalated regarding the chilling effect of these rules on creative expression. The controversy surrounding series like "Tandav" is emblematic: after its release in January 2021, the show triggered a public furor over alleged religious and political sensitivities. Multiple FIRs were filed, and law enforcement intervened. In response, both Amazon Prime and the show's creators issued public apologies and edited their content to mollify complainants, but even these actions did not fully stem the backlash. The Supreme Court, while refusing interim relief to the platform, affirmed that OTT services must comply with local legal and regulatory frameworks, signaling judicial support for heightened scrutiny and compliance.

Such incidents have fostered a climate of apprehension among OTT creators and platforms, leading to what critics term 'pre-emptive self-censorship.' Producers are increasingly wary of tackling controversial themes for fear of criminal prosecution or platform bans, and are more likely to dilute or sanitize artistic work to avoid regulatory or political heat. Rather than pushing creative boundaries, they lean towards 'safe' material, which inevitably saps the diversity and critical edge of India's digital content ecosystem. This phenomenon also undermines the role of OTT platforms as alternative spaces for social critique, democratic dialogue, and artistic innovation.

Moreover, the subjective nature of complaints and the ease of triggering content takedowns exacerbate risks of arbitrary censorship. Political or religious groups can use the grievance process to file strategic complaints, effectively pressuring platforms to remove or alter material deemed offensive to their interests. Since the government-appointed body in the third tier of redressal wields significant power over content classification, censorship, and compliance recommendations, creators worry about indirect state control over narrative, dissent, and cultural plurality. The self-regulation model, initially intended to empower viewers, may thus morph into a weapon for stifling controversial views and minority perspectives.

These developments raise foundational constitutional concerns, particularly regarding the right to freedom of speech and expression under Article 19(1)(a). Critics contend that the IT Rules, by creating new pathways for censorship outside the well-established grounds for restriction under Article 19(2), contradict the Supreme Court's consistent stance that limits on speech must be absolutely circumscribed and justified in public interest. Judicial precedents emphasize that 'reasonable restrictions' must not become a blanket for suppression of dissent, artistic experimentation, or political critique—the hallmarks

of a healthy democratic society.

Additionally, creators and civil society highlight the lack of procedural safeguards for defending contentious content before it is taken down. With short timelines for compliance, high-stakes liability, and ambiguous standards for what constitutes 'offensive' material, platforms often err on the side of caution, censoring first and asking questions later. The fear of legal action and reputational damage breeds risk aversion and conformity, which dilutes the power of digital media to hold institutions accountable, represent uncomfortable truths, and spark necessary debates.

In sum, while the IT Rules 2021 seek to balance accountability and user protection, they have inadvertently fostered conditions of over-censorship and creative retreat. The regulatory apparatus, particularly its government-controlled elements, risks suppressing India's vibrant OTT ecosystem and curtailing the free expression of ideas that digital media makes possible. Unless checks are introduced to prevent abuse, and unless procedure is made fair and transparent, the promise of India's digital content revolution may remain unfulfilled, overshadowed by censorship and self-censorship in the name of regulatory compliance.

Legal Accountability and User Protection: Supporters of the IT Rules argue that greater accountability is essential for curbing hate speech, misinformation, cyberbullying, and exploitation. The formal grievance redressal process empowers viewers to challenge offensive content, while mechanisms for age-rating and parental controls help shield minors from inappropriate material. The appointment of compliance officers in India facilitates law enforcement access to records and enables more responsive resolution of security or criminal matters.

Yet, questions remain on proportionality and procedural fairness. Some provisions require quick content takedown without sufficient opportunity for defense or judicial review, potentially violating due process. Legal challenges have been mounted by civil rights groups, OTT platforms, and individual creators, arguing the rules exceed the government's powers under the IT Act and impinge on constitutional rights.

Conclusion and Suggestions: The IT Rules 2021 have redefined the compliance terrain for OTT platforms in India. While attempts to address legitimate concerns regarding harmful or illegal content, user safety, and national security are commendable, the regulatory architecture presents challenges for creative autonomy and procedural justice. The tension between censorship and expression, user

protection and freedom, corporate responsibility and individual rights is at the heart of contemporary digital media governance.

The ongoing legal debates and litigation over the rules will determine how these competing interests are reconciled and whether India's regulatory regime evolves toward a balanced approach—enabling creative diversity while upholding accountability.

To optimize the impact of the IT Rules and foster a healthy digital media environment, several recommendations can be made:

Regulatory provisions should be narrowly tailored, with clear definitions and precise application, to avoid misuse or overreach. Platforms and government should ensure procedural fairness by providing adequate notice, opportunity for appeal, and time for defense before content removal. Independent oversight bodies comprised of civil society and domain experts can help arbitrate disputes and safeguard creative freedoms while ensuring compliance. Public education campaigns to build awareness of digital rights, responsibilities, and grievance processes can empower viewers and creators alike. Transparency in reporting complaints and takedowns, and periodic review of the rules in consultation with stakeholders, will foster trust and adaptability.

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