

Bill No. 47 of 2023

THE PROHIBITION OF FAKE NEWS ON
SOCIAL MEDIA BILL, 2023

By

SHRI MANOJ KOTAK, M.P.

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BILL

*to provide for the establishment of Fake News on Social Media Regulatory
Authority to prohibit fake news on social media and
for matters connected therewith.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India
as follows:—

1. (1) This Act may be called the Prohibition of Fake News on Social Media
Act, 2023.

Short title and
commencement.

5 (2) It shall come into force on such date as the Central Government may,
by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “authority” means the Fake News on Social Media Regulatory Authority
established under section 4;

(b) “fake news” includes the following or combinations thereof:—

- (i) misquotation or the false and/or inaccurate report of one’s statement;
- (ii) editing audio or video which results in the distortion of facts and/or the context; or
- (iii) purely fabricated content. 5

(c) “prescribed” means prescribed by rules made under this Act.

(d) “social media platform” means any user-specific web-based technology intended to create virtual connection through the internet such as social networking sites, blog sites, video-sharing sites and the like; and

(e) “social media user” includes any person or group of persons, natural or juridical, organized or unorganized, that utilizes social media platforms to send messages and/or information across through any social media account, verified or under a pseudonym, fictitious or false account/page name for whatever purposes it may serve. 10

Prohibition on Fake News on Social Media. 3. The Central Government shall ensure a complete prohibition on fake news on social media platform. 15

Constitution of Fake News on Social Media Regulatory Authority. 4. (1) **The Central Government shall, by notification in the official Gazette, constitute an Authority to be known as the Fake News on Social Media Regulatory Authority for carrying out the purpose of this Act.**

(2) The Authority shall consist of,— 20

(a) the Union Minister of Information and Broadcasting – *ex-officio* Chairperson;

(b) one member each from the House of the People and the Council of States to be nominated by the presiding officers of the Houses concerned;

(c) two representatives from social media platform to be appointed by the Central Government in such manner as may be prescribed – as member; and 25

(d) one Indian Administrative Service Officer who shall be the Secretary to the Authority.

(3) The Authority shall meet at least twice in a month:

Provided that the Authority may meet at such time as the Chairperson may deem fit. 30

(4) The Union Ministry of Information and Broadcasting shall provide secretarial assistance to the Authority.

(5) The Salary and allowances payable to and other terms and conditions of services of members appointed under clause (c) of sub-section (2) shall be such as may be prescribed. 35

Functions of Authority. 5. The Authority shall,—

(a) ensure complete ban on promotion and spread of fake news on the social media platform;

(b) ensure prohibition on the posting of contents which are abusive and obscene including anti-feminism and insult to the dignity of the female on the social media platform; 40

(c) prohibit publication of content amounting to disrespect of *Sanatan* symbols and beliefs on the social media platform;

(d) prohibit publication of content promoting superstition on the social media platform; 45

(e) ensure that only those contents are posted on the social media platform which are based on authentic research on the subjects related to science, history, religion, philosophy, literature; and

5 (f) ensure that appropriate punitive action in accordance with the provision of Indian Penal Code, 1860 is taken on the person posting fake news on the social media platform.

6. Any social media users, if found guilty by the Authority for posting fake news on the social media platform shall be punished with imprisonment which may extend upto seven years and fine which may extend upto rupees ten lakhs or with both. Penalties.

10 7. (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Offences by companies.

15 Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

20 (2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly. 25

Explanation.—for the purpose of this section:—

(i) “company” means any body corporate and include a firm or other association of individuals; and

(ii) “director” in relation to a firm, means a partner in the firm.

30 8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Power to remove difficulties.

35 Provided that no such orders shall be made after expiry of the period of three years from the date of commencement of this Act.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

40 (2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without 45 prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Social media is made up of two main words, the word Social means *the information shared* by people and the word Media means *the means of sharing information* like WhatsApp , Facebook, YouTube, Instagram, Pinterest, Twitter , LinkedIn , Snapchat etc.

India is a vast market for social media companies. India has sixty crore WhatsApp users. At the same time, 240 million Indians are using Facebook while 45 million Indians are using Twitter accounts. In India, WhatsApp has become the major platform for the exchange of true as well as false news. But compared to Twitter, WhatsApp is a private messaging service. The researchers say that private messaging networks such as WhatsApp also influence the flow of news. In India, news spreads mostly by word of mouth.

There is no doubt that internet media has emerged as a powerful medium of learning and reading along with freedom of expression. However, it is also very important to understand whether the news shown on social media or any other platform is true or false.

Earlier, when a person was dependent on newspapers for news, he used to be exposed to news filtered through many mediums, but today is the era of “real time news” where any fake news is shared by millions of people. It is tweeted and retweeted, sometimes even someone’s idea is shared and someone’s personal propaganda is accepted as truth.

Internet media has blurred the distinction between public and personal. What you talk and think about with your family in dinner, immediately becomes public through a post. Freedom of Expression also has its own importance. But to what extent is it justified to tamper with the facts in the name of this freedom? One of the major threats to internet media is divisive elements releasing fake news on their websites and then sharing it through social media. Significantly, terrorist organizations like ISIS have made social media the main medium of their recruitment and internet media is helping them in this work.

As of now, there is no clear law that prohibits fake news, although there are some measures other than this, which can solve the problem to some extent. Complaint in respect of fake news can be lodged to Indian Broadcast Foundation and Broadcasting Content Complaints Council. On the other hand, if fake news means hate mongering, FIR may be lodged under sections 153 and 295 of Indian Penal Code. If an attempt is made to tarnish the dignity of an individual or organization through fake news, then Civil or criminal cases can be filed for defamation. There is no doubt that all these measures cannot solve the problem of fake news.

On social media, heart-wrenching fake videos continue to circulate and rumours are spread. The problem of fake news is becoming more complex because the number of people using the internet in India is continuously increasing. At present, twenty seven per cent of India’s population use the Internet. India has the second largest number of Internet users in the world after China.

A report by the Media Lab of the Massachusetts Institute of Technology has revealed that Social media has become the prime destination of fake news. The research included 1,20,000 news stories that were shared and retweeted on Twitter by 3 million people between 2006 and 2017. This figure is 70 per cent more as compared to real news. According to the study regarding fake news. 80 per cent of fake news is spread through 0.1 per cent of Twitter accounts. One per cent of Twitter users spread 100 per cent fake news. Due to fake news, it is very difficult to identify the true information. For false news and information, the term ‘fake news’ is very limited. The Government or Non-Government people are also using fake news a lot. It is being used as a weapon with a specific goal in mind. In order to achieve their goal, many fake accounts are trying to change the public opinion through fake news etc.

Fake news is being spread in the form of satire or parody, misleading content, impostor content, fabricated content, contextless news and manipulated content.

Today social media is the biggest force in the world, but caution is also necessary in its use. A small piece of fake news can create a ruckus in the whole country. It should also be informed that on receiving any kind of material, firstly its veracity is required to be checked, only then it should be accepted as a correct one. Without knowing truth, no message should be forwarded so as to avoid the menace of fake news. There is a system of verification of news items on all platforms. Although, in order to check the facts, one has to visit some social media etc., but fact check is necessary to stop the spread of fake news. Technology has a big role to play in this regard. People should be made aware of mechanisms to verify messages before they are forwarded.

The Information Technology (Intermediary Guidelines and Digital Media Code of Conduct) Amendment Rules, 2022 have been issued. However, in this law there is no provision to ban fake news. Hence, it is very important for India to legalize the Prohibition of Fake News on Social Media Bill, 2022 in the country. It should be implemented at the earliest to ensure that the topics on the social media platforms are in line with the Indian social decency and culture.

Hence this Bill.

NEW DELHI;
20 January, 2023.

MANOJ KOTAK

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of Fake News on Social Media Regulatory Authority for carrying out the purposes of this Act. It further provides for salary and allowances payable to the members of the Authority. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten crore per annum will be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

LOK SABHA

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