

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
RAJYA SABHA
UNSTARRED QUESTION No. 3446
TO BE ANSWERED ON 31.3.2023

ACCESS TO CONTENT ON WEBSITES MEANT FOR MATURE AUDIENCES

3446. DR. FAUZIA KHAN:

Will the Minister of ELECTRONICS AND INFORMATION TECHNOLOGY be pleased to state:

- (a) whether Government is aware that despite the provisions of the Indian Contract Act 1872, a vast number of minors continue to access content and contract on websites meant for mature audiences;
- (b) whether Government plans a new and improvised mechanism as the present legislative framework does not effectively provide for methods to determine the age demography of users;
- (c) whether Government is in the process of issuing guidelines to address the aforementioned issues, directing websites to undertake stricter methods to protect and limit involvement of minors; and
- (d) if so, the details thereof?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI RAJEEV CHANDRASEKHAR)

(a) to (d): The policies of the Government are aimed at ensuring an Open, Safe and Trusted and Accountable Internet for its users. With the expansion of the Internet and more and more Indians coming online, the potential for Indians, including children, being exposed to information not meant for children, has grown. Government is cognizant of the same and the need to have in place appropriate methods to protect and limit involvement of minors.

The Information Technology Act, 2000 ("IT Act") penalises publishing or transmission of material containing sexually explicit act in electronic form (section 67A and 67B) and publishing or transmitting of obscene material in electronic form (section 67), and makes them punishable with imprisonment for a period that may extend to three and five years respectively, and as per section 77B such cybercrimes are cognizable offences. As per the provisions of the Code of Criminal Procedure, 1973, prevention and investigation of cognizable offences is to be done by the police, and as per the Seventh Schedule to the Constitution, 'Police' is a State subject. As such, States are primarily responsible for the prevention, investigation etc. of such cybercrimes through the State police departments, which take preventive and penal action as per law, including in respect of the said cybercrimes pertaining to publishing or transmitting of material containing sexually explicit act or obscene material in electronic form.

Further, to help achieve the aforesaid aim and to strengthen the mechanism to deal with such cybercrimes in a coordinated manner, the Central Government, in exercise of powers conferred by the IT Act, has made the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. These rules cast specific obligation on intermediaries, including social media intermediaries, to observe due diligence and provide that if they fail to observe such due diligence, they shall no longer be exempt from their liability under law for third-party information or data or communication link hosted by them. Such due diligence includes the following:

- (i) To make reasonable efforts to cause the users not to host, display, upload, modify, publish, transmit, store, update or share, among others, information which is harmful to child or obscene, or invasive of another's bodily privacy, or violates any law;

- (ii) Upon receipt of an order from a lawfully authorised government agency, to provide information or assistance for prevention, detection, investigation or prosecution under law, or for cyber security incidents;
- (iii) To have in place a grievance redressal machinery, and resolve complaints of violation of the rules within 72 hours of being reported and, in case of a complaint by an individual or her/his authorised representative, remove within 24 hours any content which *prima facie* exposes the private area of such individual, shows such individual in full or partial nudity or shows or depicts such individual in any sexual act or conduct, or is in the nature of impersonation in an electronic form, including artificially morphed images of such individual;
- (iv) In case an intermediary is a significant social media intermediary (*i.e.*, an intermediary having more than 50 lakh registered users in India), to additionally observe due diligence in terms of appointing a Chief Compliance Officer, a nodal contact person for 24x7 coordination with law enforcement agencies and a Resident Grievance Officer.

In addition, under the Code of Ethics prescribed in the IT Rules, 2021, publishers of an online content curator are required to classify all content transmitted or published or exhibited by them, based on the nature and type of content, into various rating categories, including content suitable for children, content suitable for persons aged 7 years or 13 years or 16 years and above or persons under the said ages with parental guidance, and to display such classification. They are further required to restrict access to certain curated content by a child through implementation of appropriate access control measures.
