

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
RAJYA SABHA
UNSTARRED QUESTION NO.81
TO BE ANSWERED ON: 02.02.2024

REGULATING AI AND DEEPFAKES

81. SHRI HARBHAJAN SINGH:

Will the Minister of Electronics and Information Technology be pleased to state:-

- (a) whether Government is aware of the potential dangers of disruptive technology like AI and deep fakes;
- (b) if so, whether there is any proposal to introduce regulations in these fields; and
- (c) if so, the details thereof and if not, the reasons therefor?

ANSWER

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

(a) to (c): The policies of the Government are aimed at ensuring that the Internet in India is Open, Safe & Trusted and Accountable to all our Digital Nagriks.

Artificial Intelligence (AI) is the most significant invention and innovation in our times. AI has in recent times accelerated its growth and capabilities and we are experiencing an inflection point in the growth of AI. AI represents a Kinetic Enabler of our Digital Economy and will further catalyze our Digital and innovation economy.

The Government is committed to ensuring harnessing the power of AI for the good of our people and the rapid proliferation of the use of AI in sectors like healthcare, agriculture, education, manufacturing, finance and others. However, the Government is very cognizant of the harms and criminalities that AI can create. Misinformation and deepfakes being one of the harms are the direct consequence of AI.

To help achieve the aim at ensuring an Open, Safe and Trusted and Accountable Internet for all Digital Nagriks, the Ministry of Electronics and Information Technology (“MeitY”) engages with and receives inputs from the public and stakeholders, including in respect of changes required to existing legislation and the need to introduce fresh legislation. Accordingly, to ensure that Internet in India is Open, Safe and Trusted and Accountable, the Central Government after extensive public consultations with relevant stakeholders has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules, 2021”) on 25.02.2021 which was subsequently amended 28.10.2022 and 6.4.2023. The IT Rules, 2021 cast specific legal obligations on intermediaries, including social media intermediaries and platforms, to ensure their accountability towards safe & trusted Internet including their expeditious action towards removal of the prohibited misinformation, patently false information and deepfakes. In case of failure of the intermediaries to observe the legal obligations as provided in the IT Rules, 2021, they lose their safe harbour protection under section 79 of the IT Act and shall be liable

for consequential action or prosecution as provided under any law for the time being in force including the IT Act and the Indian Penal Code (“IPC”) including section 469 of the IPC.

The IT Rules, 2021 cast the following legal obligations, among others:

- (i) Rule 3(1)(b) of the IT Rules, 2021 prohibits eleven types of content on the Indian Internet available on the intermediary platform.
- (ii) Platforms are required to ensure that their users do not use their platforms for sharing or transmitting content that violates Rule 3(1)(b) and other laws and that their terms of use expressly restrict use of eleven types of content under the law.
- (iii) Rule 3(1)(b)(v) and (vi) of the IT Rules 2021 prohibits misinformation and patently false information on the Indian Internet or that impersonates another person. Deepfakes are another form of misinformation powered by AI.
- (iv) Rule 3(1)(d) of the IT Rules 2021 mandates the platforms to ensure expeditious action, well within the timeframes stipulated under the IT Rules, 2021, to remove or disable access to information/content that violates the aforesaid provisions of the IT Rules, 2021, upon receipt of court orders or notice from the Appropriate Government or its authorised agency or upon receipt of complaint made by the impersonated individual or person authorised by him in this behalf.
- (v) Rule 4(2) of the IT Rules 2021 prescribes that the significant social media intermediaries shall cooperate with Law Enforcement Agencies (LEA) for prevention, detection, investigation, prosecution or punishment by enabling identification of the first originator of information related to the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, or public order, or of incitement to an offence relating to the above or in relation with rape, sexually explicit material or child sexual abuse material (CSAM).

Government has also established Grievance Appellate Committees under the IT Rules, 2021 to allow users and victims to appeal online on www.gac.gov.in against decisions taken by the Grievance Officers of intermediaries in case they are dissatisfied with the decision of the Grievance Officer in case of legal violations including deepfakes or fails to redress the grievances from users or victims or an individual or any person on his behalf within the timelines prescribed under the IT Rules, 2021.

To prevent the harms caused by misinformation through deepfakes, MeitY conducted multiple Digital India Dialogues (“DID”) with leading social media platforms to caution them about their legal obligations and consequences of prosecution under relevant law if any of the prohibited contents is found on their platform including but not limited to deepfakes.

The Government has informed platforms, as part of its zero tolerance policy towards enforcement for 100% compliance, that the terms of use should be completely aligned to Rule 3(1)(b) of the IT Rules, 2021 and their users should be cautioned at log in and at regular intervals about the prohibited content that are not permitted on their platforms to ensure complete awareness amongst their users about what is permissible or not on their platforms under the IT Rules, 2021.

Also, they have been reminded about their obligations of expeditious action under the IT Rules, 2021, to remove or disable access to information/content that violates the aforesaid provisions of the IT Rules, 2021.

While MeitY has been issuing time-to-time advisories to the intermediaries, through its latest such an advisory dated 26th December 2023, MeitY has directed intermediaries for ensuring compliances with the prescribed due diligence and Grievance Reporting Mechanism under the IT Rules, 2021, the failure to observance of which on the part of intermediaries will amount to non-compliance with the IT Rules, 2021 and result in the concerned intermediary

automatically losing exemption from liability under section 79 of the IT Act. This advisory includes *inter-alia* the following directions that—

- i. Ensure that users on social media platforms do not violate prohibited content in Rule 3(1)(b) of IT Rules 2021.
- ii. Prohibited content to be expressly informed to the user at the time of first-registration and also as regular reminders, in particular, at every instance of login.
- iii. Users to be made aware of penal provisions under IPC, IT Act and other laws that may be attracted in case of violation of Rule 3(1)(b).
- iv. Terms of service and user agreements must clearly highlight obligation of intermediaries to report legal violations to the law enforcement agencies under the applicable laws;
- v. Intermediaries should identify and remove misinformation or information that impersonates another person, including those created using deepfakes.
- vi. Intermediaries must enable users, victims or any person on their behalf, to also report violations relating to Rule 3(1)(b) or Rule 3(2)(b) in a simple and easily accessible manner, including through in-app user reporting.
- vii. Intermediaries must comply with the orders of the Grievance Appellate Committee within the timeline mentioned in the order and publish a report.
- viii. Intermediaries should take additional measures to not permit any advertisements of illegal loan and betting apps.
- ix. Intermediaries have been warned that non-compliance will lead to losing exemption from liability provided under section 79(1) of IT Act.

In addition, the Ministry of Home Affairs operates a National Cyber Crime Reporting Portal (www.cybercrime.gov.in) to enable citizens to report complaints pertaining to all types of cybercrimes, and also operates a toll-free helpline (1930).
