

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
RAJYA SABHA
UNSTARRED QUESTION NO. 879
TO BE ANSWERED ON: 09.02.2024

ISSUE OF DEEPFAKES IN INDIA

879. SHRI PRAMOD TIWARI:

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

- (a) whether Government is aware of the concerning issue of deepfakes menace in the country and if so, the details thereof;
- (b) action taken by Government in providing strict laws and regulations to resolve the issue;
- (c) whether Government has held any meeting with various stakeholders of Artificial Intelligence (AI) and Social Media platforms to discuss the issue and if so, the details thereof and if not, the reasons therefor; and
- (d) whether Government is planning to make any new policy or amend the existing one to address this issue and 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 that the Internet in India is Open, Safe & Trusted and Accountable to all our Digital Nagriks.

To help achieve this aim multiple industry stakeholder/Social Media Platform consultations through the Digital India Dialogues (“DID”) are conducted, particularly on the emerging issues of misinformation including deepfakes. The Ministry of Electronics and Information Technology (“MeitY”) as part of its zero tolerance policy towards unlawful content including misinformation which are nothing but deepfakes powered by AI and to enforce for 100% compliance of the same has issued an advisory for all intermediaries on 26.12.2023 directing them that the terms of use should be completely aligned to Rule 3(1)(b) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules, 2021”). 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 clearly communicated 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.

MeitY is regularly monitoring the compliances of the intermediaries with the IT Rules, 2021 and the direction given in the advisory dated 26.12.2023.

Further, on the requirement of strict laws and regulations it may be noted that to help achieve the aim at ensuring an Open, Safe and Trusted and Accountable Internet for all Digital Nagriks, 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 information under Rule 3(1)(b), including the 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 intermediary platforms to ensure expeditious action, well within the timeframes stipulated under the IT Rules, 2021 (not later than 36 hours), 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 3(1)(j) the IT Rules 2021 mandates the intermediaries to ensure expeditious action, well within the timeframes stipulated under the IT Rules, 2021 (not later than 72 hours), to provide information under its control or possession, or assistance to the law enforcement agencies for the purposes of verification of identity or for the prevention, detection, investigation, or prosecution, of offences under any law for the time being in force, or for cyber security incidents.
- (vi) Rule 3(2) the IT Rules 2021 mandates the intermediaries to ensure expeditious action, well within the timeframes stipulated under the IT Rules, 2021 (not later than 72 hours), to resolve complaints of violation of the rules in relation to prohibited information under Rule 3(1)(b) 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 which is in

the nature of impersonation or an artificially morphed images (i.e. deepfake) of such individual.

- (vii) 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.

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).
