

Round Table Discussion on
Evolving Role of Online Intermediaries: Retaining Trust, Re-imagining Safety

Tuesday, 12th February, 2019 | Hall Regal, Hotel Royal Plaza, 19 Ashoka Road, New Delhi-110001

BACKGROUND

Internet use for online services like communication, social media and entertainment is definitely now on the cusp of widespread uptake, according to the user perception survey undertaken by CUTS recently that identified a second wave of consumers, more representative of the general population, who are ready to explore the new ways of engaging with the socio-economic aspects due to ease of access and convenience. CUTS interviewed 2400 users spread across six states – Punjab, Uttar Pradesh, Rajasthan, Maharashtra, Andhra Pradesh, Assam – understanding and perception of users on data sharing, privacy and protection while using digital technologies

The survey suggests that users trust service providers as the reputation of the service provider is the most important determinant for data sharing. And in this regard, the users expected the service providers to practice purpose limitation, and ensure data privacy, and anonymisation. Therefore, retaining the trust of the users should be of paramount importance. And any new regulations should weigh the potential costs and benefits thereto, before causing unnecessary disruption to the already existing level of user trust in service providers.

Having stated the above, the same survey also revealed a yawning gap between the appetite for taking measures to safeguard their privacy, and those who are aware of the right to privacy and associated risks of data sharing, suggesting the lack of understanding of the matrix, and the harms therein. Moreover, it was reported that the users do not take measures to protect their data. They neither read privacy policies, nor do they use data protection tools. This is worrisome as the users are not comfortable in sharing their location, email IDs, financial details, personal photos, communication as well as browsing history, but are still sharing the same. So clearly, the users are averse to traceability.

But the recently proposed amendments to rule 3(5) and 3(9) of the draft Intermediaries Guidelines, 2018, barely seem to factor any of the above. These rules hold the potential to shake up the trust of the users. At present, the users think that the data collected will be used to provide them with better products and services, and not to infiltrate their right to privacy or restrict their freedom of speech and expression. The proposed rules might result into a reversal of this trend, which would be highly unproductive in retaining the trust of the users.

As the ecosystem matures, technology does offer unprecedented potential to support informed debate and decision-making, but the threats to reliable information and a healthy public debate are growing. Therefore, use of technology must ensure retaining user trust and confidence, and with respect to redesigning security measures- transparency.

The discussion seeks to rise above the fray, and invites all key stakeholders to the debate, to identify the best practices, regulatory approaches (co-regulation/self-regulation) internationally which help retain the trust, while redesigning the safety within this ecosystem.

AGENDA

14:30 – 15:00	Registration & Networking Tea
15:00 – 15:05	Introduction
15:05 – 15:50	Issue 1: Rule 3(5) [Tracking of originators] & Rule 3(9) [Deploying automated tools] of the draft Intermediary Guidelines, 2018

Brief Presentation on Privacy Survey findings (5 mins)

Discussion on Key Questions:

1. Do the proposed amendments ensure appropriate checks and balances are put in place to safeguard users against any misuse? And will the new measures reduce trust and confidence of users?
2. Is the government justified in delegating moral/ethical policing onto the intermediaries? Do they have the requisite capacity to carry out such responsibilities?
3. Who will be liable for injustice or infringing the fundamental rights of the citizens under the new regime? Is government shifting the burden on the intermediaries?
4. Liability and accountability are important facets to safeguard the ecosystem. What kind of tools, measures should be engaged by the actors, without suffocating either innovation or growth, as one energises the other.

15:50 – 16:20

Issue 2: Rule 3(2) [Inform users through Privacy Policy] of the draft Intermediary Guidelines, 2018

Brief Presentation on Privacy Survey findings (5 mins)

Discussion on Key Questions:

1. Will the objectives of the government be met when users don't read privacy policies? How can we bridge information asymmetry? What are the alternatives? How can we synchronize commercial practices, user beliefs, and regulatory assumptions?
2. With regard to new obligations and implementability, do the potential benefits out-weight the potential costs?

16:20 – 16:50

Issue 3: Way forward

Discussion on Key Questions:

1. Are the current regulatory obligations justified or over-burdening in nature? Shouldn't the government take the responsibility of building capacity to optimally regulate the space?
2. Should India explore customising its structural approach, factoring in the diverse nature of intermediaries and consider graded classification for unlawful content as per variable degree of threat?
3. Can we borrow some of the best practices/global standards followed internationally, and look at different models of regulation- self regulation, or co-regulation?

16:50 – 17:00

Closing Remarks

17:00 – 17:30

High Tea