

Webinar:

Discussing the Information Technology (Intermediary Guidelines) Rules, 2021 from the Lens of Consumer Welfare & Ease of Doing Business



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Indian Intermediary Rules

Threatening Consumer Welfare?

Access to Information

Fundamental Right to Privacy

Robust Data Protection

Content Takedown

Identify Originator of Problematic Content

Proactively Identify Problematic Content

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Key Findings from CUTS Study on

Understanding Consumers Perspective on Encryption



₹1
Daily
Willingness
to pay for
encryption

87%
Problematic
Content
exposure on
unencrypted
platforms

Our Recommendation:

Need to Continue with E2E Encryption on Instant Messaging Services, & Intermediaries to see E2E Encryption as a Business Advantage

Without End to End
Encryption

75%
Believe that
their
information
exchange
unsafe

19%
Likely to
reduce
information
exchange

27%
Likely to
stop some
kinds of
information
exchange

Intermediary Rules

Hindering Ease of Doing Business?

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Penal Provisions

R. 4(1)(a),
and
R. 7



Over Compliance



ShareChat



Time limit for
Implementing
the Rules

R. 1(2)



Impact on
Startups

R. 4(1)

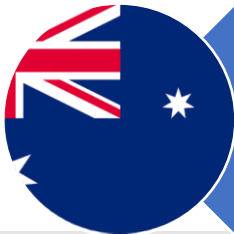
Learnings from other Jurisdictions



1. Service Provider not Speaker.
2. Copyright protections for online infringement.
3. Judicial proceedings for online infringements of copyrights



1. Law requiring internet companies to remove terrorist content.
2. Explicit Exclusions
3. No obligation to preemptively monitor content



1. Content removal by the commissioner in specific cases only.
2. Content accessible to the safety commissioner on notice
3. No penal provisions. Only by relevant court



1. Intermediaries not be required to restrict content without an order by judicial authority.
2. Intermediary to provide a clear and accessible explanation of user rights, including all other relevant due process information

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Issues for Discussion

Traceability of originators of content

Proactive identification of problematic content

Judicial oversight

Risks of over-compliance

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