

PRESS RELEASE

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New Delhi: April 11, 2023: On 6.4.2023, the Ministry of Electronics & Information Technology (Ministry) issued the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023, thereby amending Rule 3(1)(b)(v) to state “*or, in respect of any business of the Central Government, is identified as fake or false or misleading by such fact check unit of the Central Government as the Ministry may, by notification published in the Official Gazette, specify*” (said Amendment).

News Broadcasters & Digital Association (NBDA) is deeply anguished with the said Amendment as it would result in suppression of any legitimate criticism or analysis of the Government, its policies and its actions. This will have a ‘*chilling effect*’ on the freedom of speech and expression granted to the Media under Article 19(1)(a) of the Constitution.

It is of serious concern that by virtue of the said Amendment, the Ministry has given itself the power to designate a fact check unit which would act as an ‘adjudicator of truth’ and will have unbridled and unfettered right to determine what is ‘fake’, ‘false’ or ‘misleading’.

The said Amendment also directly affects the news media as the ‘intermediaries’ may be coerced by the ‘fact check unit’ designated by the Ministry to take down alleged ‘fake’, ‘false’ or ‘misleading’ news content without following the principles of natural justice. This would also result in preventing any comment or criticism of the Government. Such excessive powers to regulate content will be conferred on the fact check unit established by the Ministry without any checks and balances and therefore its conclusions will not be neutral or independent.

The said Amendment appears to be a direct attempt on the part of the Government to regulate free speech. It will result in the intermediaries, a social media intermediary, a significant social media intermediary censoring content/information at the behest of the Government on vague and ambiguous grounds which grounds are not envisaged by the reasonable restrictions as enumerated by Article 19(2) of the Constitution.

It is further relevant to note that despite the concerns expressed by various media organizations including the NBDA, the said Amendment has been issued by the Ministry without proper consultation.

In view of the apprehensions expressed above, NBDA requests the Ministry to withdraw the aforesaid amendment.



Annie Joseph
Secretary General