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# TECHNOLOGY INSIGHT

Amendment to the Information Technology (Intermediary Guidelines and Digital  
Media Ethics Code) Rules, 2021



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### **Amendment to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021**

The Union Government notified amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Amendment Rules, 2023"). The IT Amendment Rules, 2023 mainly regulate online gaming as well as fact-checking of "false", "fake" or "misleading" information related to the Union Government. Among the various amendments, the most alarming one provides for the establishment of a fact check unit ("FCU"), established at the sole discretion of the Union government, aimed at fact-checking online information related to the Union government.

IT Amendment Rules, 2022, Rule 3(1)(b)(v) now states that an intermediary must "make reasonable efforts to" cause its users to not post information in respect of any business of the Union Government that is identified as "fake", "false", or "misleading" by the FCU established by the Union government. Notably, "business" of the Union government and "fake, false, or misleading" remains undefined throughout the Rules.

The IT Amendments Rules, 2023 require intermediaries to observe due diligence requirements and failure to do so risks the loss of safe harbor protections which are provided under section 79 of the IT Act, 2000.

Further, these amendments have new provisions related to 'fact-checking' which impact free speech on the internet.



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