

संख्या

No. 1(4)/2020-CLES -1

No.....

दिनांक

October 31, 2023

Date.....

Office Memorandum

**Subject: Designate and notify nodal officer to handle Unlawful content / information / activities in Cyber Space, as per the provisions of the act / law administered by the Appropriate government**

The content which is considered unlawful in the physical world is also unlawful in the online world. However, the way the Internet technologies work, disabling/ taking down of content can happen only at the country level/ global level. The contents cannot be blocked/removed at regional level. It is, therefore, necessary that a suitable and effective mechanism is developed for receiving and / or co-ordinating such requests for taking down in a way based on the subject matter dealt by each Ministry/ Department. The aim is to ensure effective and timely removal of such unlawful content over the internet through appropriate government framework, as these are presently dealing with that domain and its related unlawful activities in the physical/ online world.

2. The "intermediary" has been defined under section 2(1) (w) of the IT Act and also includes Social media platforms, Websites, Mobile Apps, e-commerce websites, various online aggregators, Internet Service providers, webhosting platforms etc. The Information Technology Act, 2000 also provides for the definition of Appropriate government based on the VII schedule of the Constitution.

3. Section 79(3)(b) of the Information Technology Act, 2000 ("IT Act") and the Information Technology (Intermediary guidelines and Digital Media Ethics Code) Rules, 2021" (hereinafter referred to as the "IT Rules, 2021) empowers "Appropriate Government or its authorized agency" to issue notice to an intermediary to disable access / takedown of any unlawful material residing in or connected to a computer resource, controlled by that intermediary. The provisions of Rule 3(1)(d) of the IT Rules, 2021 is reproduced below for your ready reference:

*"...an intermediary, on whose computer resource the information is stored, hosted or published, upon receiving actual knowledge in the form of an order by a court of competent jurisdiction or on being notified by the Appropriate Government or its agency under clause (b) of sub-section (3) of section 79 of the Act, shall not host, store or publish any unlawful information, which is prohibited under any law for the time being in force in relation to the interest of the sovereignty and integrity of India; security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence relating to the above, or any information which is prohibited under any law for the time being in force:*

*Provided that any notification made by the Appropriate Government or its agency in relation to any information which is prohibited under any law for the time being in force shall be issued by an authorised agency, as may be notified by the Appropriate Government:*

contd/.....



*Provided further that if any such information is hosted, stored or published, the intermediary shall remove or disable access to that information, as early as possible, but in no case later than thirty-six hours from the receipt of the court order or on being notified by the Appropriate Government or its agency, as the case may be:*

*Provided also that the removal or disabling of access to any information, data or communication link within the categories of information specified under this clause, under clause (b) on a voluntary basis, or on the basis of grievances received under sub-rule (2) by such intermediary, shall not amount to a violation of the conditions of clauses (a) or (b) of sub-section (2) of section 79 of the Act;"*

4. Therefore, it is imperative that the corresponding Nodal Ministries/ Departments, as an Appropriate Government for the law / act administered by them, may address the issue of online unlawful contents in an effective manner.

5. In this regard, each appropriate government may consider the following:

- i. Designate and notify a Nodal Officer in the nodal Ministry/ Department and also in each state (if the subject matter is of the State Govts.) and such other designated official(s) for issuing takedown notice to the appropriate intermediary if any online content violates their act / law administered by them.
- ii. Confirm the same to MeitY for overall co-ordination.

The existing record with reference to the above is attached herewith for further updation, if any, from your side.

6. For issuing notices to the appropriate Intermediary platform, hosting or controlling the said unlawful information (brought to your knowledge either through grievances, complaints or as suo-moto), a sample templates for content removal requests / takedown notice is placed in Annexure I. Since this is an evolving process, MeitY will facilitate resolving any technological/ feasibility issue or any other technical support as may be required to identify the right intermediary.

Encl: As above



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To

1. All Central Ministries / Departments
2. The Chief Secretaries and DGPs of all States / Union Territories

**[MODEL FORMAT FOR TAKEDOWN NOTICE TO INTERMEDIARIES]  
[On the Letter Head of the Appropriate Government or its Agency]**

No: Date: <Insert Date>

**NOTICE**

To,  
     <The Nodal Contact Person of SSML>/ Other contact as available in case of other Intermediaries  
     <Name of Intermediary>  
     <address>

Subject: Notice issued under the rule 3(1)(d) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 for Removal / disabling of prohibited/unlawful online information

Dear Sir/Madam,

This notice is being issued as per the provisions of clause (d) of sub-rule (1) of rule 3 of Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules, 2021").

We have identified that certain information available on your platform violates the provisions of

<Name of Legislation / Provision and specific clause including its text >.

The unlawful information can be found at:

<Insert URLs/ Content Identifier/ HASH>.

Please refer to the enclosed document for complete detail on the unlawful material as supporting evidence.

I, being the Nodal Officer representing <the name of the Law Enforcement Agency>, an authorized agency of the <Appropriate Govt. name>, issue this notice to disable access, and/ or remove the information identified in the enclosed document as soon as possible and in no case later than 36 hours, without vitiating the evidence in any manner.

Please note that failing to do so may amount to aiding/abetting the transmission of such unlawful information or conduct of such unlawful activity, as the case may be, and you may be prosecuted for hosting such information, data, or communication links. Further, failure to take necessary action may render your platform to lose intermediary exemptions as provided under the IT Act and attract legal proceedings under the IT Act and/or the <insert name of legislation>.

In case of any dispute/issue you may contact \_\_\_\_\_ at the earliest and in no case later than 36 hours.