

**COMMENTS ON THE PROPOSED DRAFT AMENDMENTS TO THE INFORMATION
TECHNOLOGY (INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE) RULES,
2021**

SUBMITTED TO:

Ministry of Electronics and IT,
Government of India.

SUBMITTED BY:

Dr. Kalyan C. Kankanala
kalyanckankanala@gmail.com

A. BACKGROUND

On 6th June, 2022, the Ministry of Electronics and IT, Government of India, published a press note sharing the Proposed Draft Amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (hereinafter referred to as “IT Rules, 2021”), and sought comments and suggestions from the stakeholders with respect to the proposed rules. As stated in the press note, two important principles that underlie the proposed amendments are:

- “The Internet should be Open, Safe & Trusted and Accountable for ALL Indians using the Internet — our Digital Nagriks.

- That ALL online intermediaries providing services in India shall never contravene the Indian constitution, Laws and Rules, and follow them in letter and spirit."

The principles require an open internet and internet platforms, which are accessible to one and all. The principles also require compliance with the constitution, and other laws in force in India.

As it stands today, many intermediaries, including Significant Social Media Intermediaries (SSMIs), are not accessible to persons with disabilities. Because of this, persons with disabilities are unable to access the internet and use the platforms fully/equally with others, resulting in violation of their constitutional and disability rights. This submission seeks to propose minor changes to the proposed IT Rules to address the problem.

B. ACCESSIBILITY POLICY AND LAW

The Government of India's Accessible India Campaign seeks to make public websites, online services, and platforms accessible to persons with disabilities within a given timeline.¹ The recently published Draft National Policy for Persons with Disabilities also emphasizes on accessibility of the internet, online platforms, and websites to persons with disabilities.² The Rights of Persons with Disability Act, 2016 ("the RPwD Act") mandates accessibility of Information and Communication Technology ecosystem including digital content and digital services to persons with disabilities.³ Even private service and product providers such as intermediaries are required under the RPwD Act to make their platforms, websites, content, and services accessible to persons with disabilities.⁴ The right to accessibility has also been recognized as a fundamental right, and not providing accessibility is considered as discrimination, which amounts to violation of constitutional and disability rights. In the said

¹ Accessible India Campaign, available at: [Home : Accessible India Campaign](#), visited on 28th June, 2022.

² Chapter 9, Draft National Policy for Persons with Disabilities, available at: [MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT \(disabilityaffairs.gov.in\)](#), visited on 28th June, 2022.

³ Sections 40 and 42, The Rights of Persons with Disabilities Act, 2016.

⁴ Section 46, The Rights of Persons with Disabilities Act, 2016.

context, specific and clear provisions in the IT Rules for intermediaries can go a long way in enabling and facilitating accessibility to persons with disabilities.

C. EXISTING PROVISIONS IN THE PROPOSED IT RULES

The proposed IT Rules have a definition and a provision dealing with accessibility. They read as follows:

"2(1)(b) 'access services' means any measure, including technical measures such as closed captioning, subtitles and audio descriptions, through which the accessibility of online curated content may be improved for persons with disabilities;

3(1)(m) the intermediary shall take all reasonable measures to ensure accessibility of its services to users along with reasonable expectation of due diligence, privacy and transparency;"

Though these provisions broadly address accessibility of services of intermediaries to persons with disabilities, they do not mandate intermediaries to make their services accessible.

D. COMMENT/SUGGESTION

In line with Government of India's policy, the RPwD Act, and disability law, making universal design and accessibility mandatory will go a long way in enabling and facilitating persons with disabilities participate in digital, internet, and the information/communication technology ecosystem fully, equally, and independently. As of date, services of several SSIMs and intermediaries are not accessible to persons with blindness using screen readers, persons with print disabilities, and other persons with disabilities. Though many SSIMs can enable accessibility through simple and easy steps, they do not give it the importance it deserves. Mandating accessibility in the IT Rules for intermediaries will resolve this problem, and will make digital/internet content and platforms accessible to one and all. This will also further the accessibility goals of Government of India, and further the objectives of the proposed amendments.

E. PROPOSED LANGUAGE FOR AMENDMENTS TO IT RULES

To achieve the objective of accessibility to persons with disabilities, the definition of "Access Services" may be modified as follows:

"2(1)(b) 'access services' means making services, Content, Digital Media, and information and communication technology accessible to persons with disabilities in accordance with the accessibility guidelines issued by Government of India under the provisions of the Rights of Persons with Disabilities Act, 2016, and rules framed thereunder.

3(1)(m) the intermediary shall take all reasonable measures to ensure accessibility of its services to users along with reasonable expectation of due diligence, privacy and transparency. The Intermediary shall take all possible steps to provide Access Services to persons with disabilities;"
