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# **REGULATING AI-GENERATED CONTENT UNDER THE IT RULES: A NECESSARY STEP WITH FORESEEABLE CHALLENGES**

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## **ABSTRACT**

Artificial Intelligence (AI) has not only changed how information is produced and disseminated but has also introduced new threats within the digital landscape. Within a couple of years, there has been a rise in deepfakes, fake/doctored news and content, synthetic imagery, and misuse of algorithmic media, which are harmful at the personal level, all the way to macro levels. There is a dire and urgent need to establish regulations and start emphasising accountability and risk mitigation in the AI ecosystem.

However, as much as regulation of the AI content is the need of the hour, the regulation and the law-makers should also be mindful of the freedom of speech and expression that needs to be protected on social media platforms. The Indian Government recognised the need for regulating the AI generated and accordingly introduced amendments to the existing legislation, rather than passing a new law altogether. This Legislative Note examines whether the 2026 amendments to the IT Rules, 2021, provide an adequate and reasonable regulatory mechanism for preventing the misuse of AI-generated content in India.

## INTRODUCTION

The Indian government recognised the need of regulating the Artificial Intelligence (AI) generated content and constituted a drafting committee in July 2025, which was tasked with developing an AI governance framework.<sup>1</sup> This resulted in the AI Governance Guidelines being released in late 2025.<sup>2</sup> As part of the AI governance framework, the Indian government has published the amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“**IT Rules, 2021**”)<sup>3</sup>, which came into effect from 20 February 2026<sup>4</sup>.

One needs to closely examine whether the 2026 amendments to the IT Rules, 2021, provide an adequate and reasonable regulatory mechanism to prevent the misuse of AI-generated content in India. The analysis needs to be done taking into consideration the key implementation challenges that may undermine the effectiveness of these amendments, especially the introduction of the concept of Synthetically Generated Information (“**SGI**”).

## REGULATORY AND LEGISLATIVE CONTEXT

As it was previously established in the AI Governance Guidelines, the Indian government does not intend to codify new AI laws or regulatory provisions but instead plans to rely on existing statutes and established legal mechanisms and bring about amendments to the same, as and when the technology evolves and gets implemented.<sup>5</sup> This was also confirmed by the MeitY Secretary, Mr. S. Krishnan.<sup>6</sup>

The Information Technology Act, 2000 (“**IT Act**”) has been the primary legislation governing electronic records, digital signatures, cybercrime, and intermediary liability in India. The IT Act, along with the various rules enacted therein remain the backbone of India’s digital regulation. The IT Rules, 2021, specifically govern the behaviour of online platforms and social media intermediaries. These are the platforms that primarily enable users to create, upload,

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<sup>1</sup> <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/nov/doc2025115685601.pdf>

<sup>2</sup> <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/nov/doc2025115685601.pdf>

<sup>3</sup> <https://www.meity.gov.in/static/uploads/2026/02/f55fe52418b03f58b0669f6a8bc03b6d.pdf>

<sup>4</sup> Rule 1(2) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026

<sup>5</sup> <https://timesofindia.indiatimes.com/india/delhi-declaration-may-be-adopted-at-ai-summit-in-delhi/articleshow/128397684.cms>

<sup>6</sup> <https://www.mondaq.com/india/new-technology/1707626/ai-regulation-the-indian-way-interpreting-the-new-governance-guidelines>

share, and interact with content online. The IT Rules, 2021 additionally establish the media code of ethics that is widely used by the news publishers, digital content service providers, over-the-top (OTT) media services etc. It is logical that since the AI-generated content would be distributed and facilitated by such online platforms and intermediaries, rules must be directly addressed to such entities. Additionally, such platforms and intermediaries have already been given the responsibility to regulate and moderate the content that they are facilitating through their platforms. Since the groundwork for regulating the AI-generated content pre-exists within the IT Rules, 2021, it appears to be much more feasible to integrate AI-governing regulations therein.

Additionally, certain amendments to the Digital Personal Data Protection Act, 2023 (“**DPDP Act**”) and the rules thereof may also be anticipated, since they primarily govern the consent mechanism and protection of data. Personal data of users is widely used for training AI models. It is therefore crucial to ensure that the AI models do not use the personal data without explicit consent, ensure the security of the personal sensitive data collected and curb the misuse of AI-driven profiling.

## **CHANGES INTRODUCED BY THE 2026 AMENDMENTS**

### **A. Introduction of Synthetically Generated Information (“SGI”)**

The amendments have introduced SGI, which encompasses the definition of AI-generated information.<sup>7</sup> It is, however, pertinent to note that SGI only covers audio, visual or audio-visual information (also introduced via the same amendment) and does not include text or code, which are more broadly covered under the IT Act. Hence, it appears that the current amendments only address the AI-generated audios, videos, images/graphics/pictures, audio-video, etc. information and not AI-generated text/codes.

The intent of the definition appears to be that the audio, visual or audio-visual content that is meant to mislead or defraud should only be covered under SGI and not any content edited with *bona fide* intent. Hence, edits that do not distort the original substance, context, or meaning of the underlying content are not covered under SGI. Research papers, educational and training

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<sup>7</sup> Rule 2(1)(wa) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

materials, PDFs, presentations, etc. that do not result in the creation or generation of any false document or false electronic record are also not covered under SGI.<sup>8</sup>

## **B. Safeguarding intermediaries under Section 79 of the IT Act.**

Section 79 of the IT Act provides a safe harbour to intermediaries, exempting them from liability for third-party content, provided they exercise due diligence and comply with prescribed guidelines. The Supreme Court of India, in *Shreya Singhal v. Union of India*<sup>9</sup>, had already interpreted Section 79 and upheld its constitutional validity, including the take-down obligations thereunder. The subsequent IT Rules, 2021, contain rules that are in consonance with the interpretation made in the *Shreya Singhal* judgment.

The new 2026 amendments explicitly clarify and protect the intermediaries under Section 79 of the IT Act, even if the intermediaries remove/disable information, including SGI, from their platform or even if they become aware of information violating the IT Rules, 2021. This should come as a relief for the intermediaries since their liability being absolved, as long as they are in compliance with the provisions of Section 79, has now been codified.<sup>10</sup>

## **C. Obligations of Intermediaries.**

The amendments also add obligations to periodically (every three months) inform the users that any violations of the IT Rules, 2021, would lead to termination/suspension of the usage rights of the users, or remove/disable the non-compliant information, or both. Additionally, users also need to be informed that they would be liable to penalties and/or punishments and that the intermediary would be reporting the offences to the appropriate authority(ies) under the appropriate law.<sup>11</sup>

Additional obligations have been levied on the intermediaries offering services related to creation, modification, publication, sharing etc. of SGI, to deploy measures to prevent users from generating, modifying, publishing, sharing SGI that is in violation of any law, including

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<sup>8</sup> Rule 2(1)(wa) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>9</sup> 2015 (5) SCC 1

<sup>10</sup> Rule 2(1B) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>11</sup> Rule 3(1)(c) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

*inter alia*, the IT Act, Bharatiya Nyaya Sanhita, 2023, Protection of Children from Sexual Offences Act, 2012, Explosive Substances Act, 1908 etc.<sup>12</sup> Such intermediaries also have to inform the users of the penalties and/or punishments attracted in case of generating, modifying, sharing etc. SGI that violates the law, along with the fact that the user's access may be disabled, such information may be removed, the user's account may be suspended/terminated, identity of the user may be released to the complainant (being the victim or representative of the victim) and/or the instance may be reported to the appropriate authority under appropriate law.<sup>13</sup> Intermediaries in these instances are directed to take expeditious and appropriate action.<sup>14</sup>

#### D. Identification Mechanisms

Intermediaries offering services related to creation, modification, publication, sharing etc. of SGI have to ensure that the SGI is prominently labelled as such and the identification is embedded in the permanent metadata or in any other manner technically feasible to identify the computer resource of the intermediary used to generate/modify etc., such SGI.<sup>15</sup>

Even the significant social media intermediaries (“SSMI”), i.e., social media intermediaries with more than fifty lakh registered users in India<sup>16</sup>, have been directed to require users to declare whether the information uploaded or published by them is SGI, verify the accuracy of the declaration, and in case of confirmed SGI, prominently label/notify the information as SGI.<sup>17</sup> This direction appears to have been codified in a way to ensure all the SGI is labelled as such, insofar as to specify that the SSIMs shall be deemed to have failed at due diligence in case they fail to act upon any SGI on their platform.<sup>18</sup>

The revised mechanisms appear to be much more feasible than the original mechanisms introduced in the draft amendments of October 2025<sup>19</sup>, which received pushback from the

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<sup>12</sup> Rule 3(3)(a)(i) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>13</sup> Rule 3(1)(ca) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>14</sup> Rule 3(1)(cb) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>15</sup> Rule 3(3)(a)(ii) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>16</sup> <https://www.meity.gov.in/static/uploads/2024/05/Gazette-Significant-social-media-threshold.pdf>

<sup>17</sup> Rule 4(1A) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>18</sup> Proviso to Rule 4(1A) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>19</sup> <https://www.meity.gov.in/static/uploads/2025/10/9de47fb06522b9e40a61e4731bc7de51.pdf>

Internet and Mobile Association of India (“IAMAI”) and its members for being too rigid and hard to implement.<sup>20</sup> However, the obligations of due diligence of SSMLs still appear to be very stringent and almost punitive in nature. Moreover, embedding the metadata of the SGI may have implications for accessing personal or sensitive personal data, which would require extensive consent mechanisms to be put in place.

### **E. Shortened Timelines**

1. Timeline for removal/disabling access to information contrary to the interest of the sovereignty and integrity of India, prejudicial to the security of the state, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation, incitement etc.- Three Hours;<sup>21</sup>
2. Timeline for the intermediary’s grievance officer to resolve a complaint- Seven Days;<sup>22</sup>
3. Timeline for the intermediary’s grievance officer to resolve an information takedown complaint- Thirty-Six Hours;<sup>23</sup>
4. Timeline for removal/disabling access to content in the nature of nudity, sexual act/conduct, impersonation in electronic form, artificially morphed images etc.- Two Hours;<sup>24</sup>

## **OBSERVATIONS AND OPINION**

It is clear that the government is thinking in the right direction and the intent behind enacting the amendments is a big step towards curbing the misuse of AI. By directing the intermediaries to identify and label the SGI and reporting the malicious SGI to the authorities and the complainant can certainly discourage the illegal use of SGI. However, the double-edged sword here is that the same mechanisms can also be used to restrict the freedom of speech and

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<sup>20</sup> <https://timesofindia.indiatimes.com/technology/tech-news/governments-new-it-rules-make-ai-content-labelling-mandatory-give-google-youtube-instagram-and-other-platforms-3-hours-for-takedowns/articleshow/128157496.cms>

<sup>21</sup> Rule 3(1)(d) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>22</sup> Rule 3(2)(a)(i) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>23</sup> Proviso to Rule 3(2)(a)(i) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

<sup>24</sup> Rule 3(2)(b) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

expression of the people and the critique of public figures through SGI, in a similar manner as non-SGI information is generally taken down and restricted.

At its core, the SGI labelling requirement remains content-neutral and does not restrict expression but instead ensures transparency. These requirements are similar to disclosure obligations upheld in other jurisdictions. For instance, the European Union's AI Act<sup>25</sup> mandates disclosure of AI-generated content without prohibiting its creation or dissemination.

Additional toll also remains on the intermediaries, who may have to revamp their platforms to ensure compliance and put in place mechanisms that effectively fulfil their obligations of identifying SGI, along with curbing and reporting malicious SGI. There is also not much clarity on what comprises actual knowledge of the SGI in order to enable the SSIMs to ensure proper due diligence as directed under the new amendments.

Even the reduced timelines may prove to lead to more harm than good. Considering that the data and information on the internet moves extremely fast and virality may take hours to mere minutes, shortening the timelines for enforcement seems like a logical solution. However, with shortened timelines, there is also the risk of legitimate information or SGI being flagged as malicious, and the user may not have enough time to rebut, appeal, seek a stay or even provide evidence of the information's legitimacy before such information is removed from the platform or the user is banned from the platform. In India's regulatory and judicial environment, challenging take-down orders within the enacted compressed timelines and broad definitions of impermissible SGI may prove to be ineffective. The timelines are thus liable to have adverse effects on constitutionally protected speech, which warrants careful judicial scrutiny.

Effectively, there is a high chance that the takedown timelines may bypass judicial intervention or oversight. Moreover, considering that the pressure of due diligence on SSIMs is very strict, SSIMs in order to play it safe, might just choose to comply with the takedown notices without much review or application of mind to ensure effective action within such narrow timelines.

It remains to be seen what impact and consequences the amendments will have and how the courts will address them. Even though the risk of government misuse lurks in the corner, there

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<sup>25</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024R1689>

is no doubt that regulations to curb the misuse of AI are much needed, and the current amendments certainly appear to be in the right direction.