

Sections



ENGLISH | தமிழ் | বাংলা | മലയാളം | ગુજરાતી | हिंदी | मराठी | BUSINESS | बिज़नेस

Newsletters



EDITION INDIA



The Indian EXPRESS

JOURNALISM OF COURAGE

Thursday, Aug 08, 2024

EPAPER TODAY'S PAPER

Home ePaper My Express UPSC India Explained Opinion Politics Business Entertainment Sports Citie

TRENDING — UPSC Pack — IN I-Day — Olympics 2024 — Express Shorts — Mini Crossword — Premium — Podcast — Uni Bud

ADVERTISEMENT

News / Explained / Why has the draft Broadcast Services Bill 2024 raised concerns of freedom of speech?

Why has the draft Broadcast Services Bill 2024 raised concerns of freedom of speech?

The Ministry of Information and Broadcasting in its new Draft Broadcasting Bill has proposed wide-ranging regulations on independent news creators on social media platforms like YouTube, Instagram and X, expanding its remit from OTT content and digital news content. We explain

Written by [Soumyarendra Barik](#) , [Apurva Vishwanath](#)

New Delhi | Updated: August 9, 2024 00:49 IST





The Ministry of Information and Broadcasting has proposed introducing onerous regulations on independent news creators on social media platforms like YouTube, Instagram and X. Union Minister Ashwini Vaishnaw in Parliament on August 7 (PTI Photo)

In a draft law, shared with a handful of industry stakeholders in a watermarked format to prevent leaking of the copy to a wider audience, the Ministry of Information and Broadcasting has **proposed introducing onerous regulations on independent creators of news events on platforms** like YouTube, Instagram and X – sparking concerns over freedom of speech and expression and the government’s powers to regulate it.

In the draft Broadcasting Services (Regulation) Bill, 2024, shared with stakeholders a few weeks ago, the ministry is understood to have expanded its remit from OTT content and digital news to include social media accounts and online video creators compared to a **version of the draft law which was released publicly in November 2023**. The new version also defines a “digital news broadcaster” in sweeping terms, and requires prior registration with the government to prescribing standards for content evaluation.

How does the draft bill seek to include YouTube creators under its remit? What are the requirements proposed on social media companies? How have other countries

gone about their broadcasting laws? We explain.

ADVERTISEMENT

How does the government want to regulate independent news creators online?

In the 2023 version of the draft, the Bill defined news and current affairs programmes as: “(i) newly-received or noteworthy audio, visual or audio-visual programmes or live programmes, including analysis, about recent events primarily of socio-political, economic or cultural nature, or (ii) any programmes transmitted or retransmitted on broadcasting network, where the context, purpose, import and meaning of such programmes implies so.”

Also Read | The Broadcast Bill says much about the BJP's opaque lawmaking

However, in the 2024 draft has a new category called “digital news broadcaster” or “publisher of news and current affairs content” has been created, and defined as “any person who broadcasts news and current affairs programme through an online paper, news portal, website, social media intermediary, or other similar medium as part of a systematic business, professional, or commercial activity but excluding replica e-papers.”



FREEDOM MONTH SALE

GET AN **ALL ACCESS** YEARLY SUBSCRIPTION

AT **₹999** ONLY

BUY NOW

The term ‘systematic activity’ has also been defined to mean any structured or organised activity that involves an element of planning, method, continuity or persistence – broadly vague terms which could be made to mean anything and gives the executive a long leash over enforceability.

The broader understanding within the tech industry is that the MIB is keen on regulating individuals who publish news and current affairs content as a systematic business, professional, or commercial activity. It is worth noting that the Bill specifically includes individual creators in the definition of digital news broadcasters, unlike the definition in the Information Technology Rules, 2021 that specifically excludes individual users. Currently, Part III of the 2021 IT Rules

regulates digital news publishers and over-the-top (OTT) platforms like Netflix, Amazon Prime Video etc.

ADVERTISEMENT

The Bombay and Madras High Courts had stayed rule 9(1) and 9 (3) of the IT Rules 2021 that mandate news and current affairs publishers to adhere to Code of Ethics, citing its adverse impact on press freedom. These court orders may serve as a precedent if digital news broadcasters seek a stay on provisions in the Broadcasting Bill, if it were to be published in its current form.

What legal obligations will independent creators have?

Now, if a creator is categorised as a digital news broadcaster, they must 'intimate' the MIB about their work and existence. They will also have to form one or more content evaluation committees at their own expense – and “strive to make” the committee diverse by including individuals with a knowledge of different social groups, women, child welfare, scheduled castes, scheduled tribes, minorities. The names of people in their CEC will also have to be shared with the government.

All digital news broadcasters must intimate the MIB. The 2023 version said that the government may prescribe a subscriber/viewer threshold that triggers intimation and content code obligations, but the latest version does not have this provision.

Also Read | Editors Guild expresses concern over draft broadcasting Bill

The penalty to not appoint such a committee is hefty under the current draft – news creators who do not intimate the Central Government names, credentials and other details of members of their CEC will be fined Rs 50 lakh in the first contravention, and Rs 2.5 crore for subsequent violations in the next three years. The draft Bill allows the government to “exempt a distinct class of players or a group for avoiding genuine hardship”, which suggests that some stakeholders might be exempted from the purview of the Bill.

ADVERTISEMENT

A senior government official explained that as the rules stand today, online content creators will have to issue an intimation to the government within a month about their operation and if they have appointed a content evaluation committee (CEC) – which they have to set up at their own cost. “As per our thought process right now,

there will be a simple application which such broadcasters have to fill and send to the government,” a second government official said.

Why does the government want to regulate independent news creators?

It is understood that some of the big Indian creators of current affairs and news content on YouTube are on the government’s radar. To be sure, as per the current wording under the Bill, even foreign creators may fall under its ambit, although enforcing Indian content regulations on them could be challenging.

A senior government official said one key reason behind the significant expansion of scope in the current draft Bill compared to the version which was released for public consultation in November 2023 has been the “role a number of independent content creators played in the run-up to the 2024 Lok Sabha polls”.

“There were a number of instances where creators made videos on current affairs which made some sensational claims about the government and its senior leaders in the run up to the elections. That’s when it was decided that there has to be an accountability measure for these creators as well, to create a level-playing field between mainstream press and independent creators,” the official said.

ADVERTISEMENT

Also Read | Regulating OTT: Draft Broadcasting Regulation Bill may be an attempt to control digital infrastructure

This change in attitude is also evident from the swift moves the government has made in reshaping the draft version of the Bill. On June 4, the day the election results were announced, the Ministry sent a notice to stakeholders regarding a meeting on the draft Bill. Since then, industry executives said at least six meetings have taken place with the Ministry.

What will social media companies need to do under the Bill?

The draft says that online intermediaries like [Facebook](#), YouTube, and X are exempted from liability for third-party content, if:

the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted;

the intermediary does not initiate the transmission;
the intermediary does not select or modify the information, except in compliance with government orders;
the intermediary observes due diligence while discharging his duties under this Act and observes other prescribed guidelines.

The Bill also has criminal liability provisions for social media companies if they do not provide information “pertaining to OTT Broadcasters and Digital News Broadcasters” on its platforms for compliance.

How does the proposed law compare to other countries?

In Singapore, both traditional broadcasters, and over the top (OTT) content providers fall under the country’s broadcasting law. Under the country’s copyright law, OTT platforms are regulated and they require a licence from a regulator, although licensees do not have the same level of obligations as other television services.

ADVERTISEMENT

In the United States, the Federal Communications Commission (FCC) and its Media Bureau regulate broadcast radio and television stations. Currently, OTT platforms are not directly regulated by United States federal laws or government authorities.

© The Indian Express Pvt Ltd

Soumyarendra Barik



Soumyarendra Barik is Special Correspondent with The Indian Express and reports on the intersection of technology, policy and society. With over five years of nev [... Read More](#)

First uploaded on: 07-08-2024 at 13:39 IST

TAGS: Express Explained

ADVERTISEMENT