

## ERGO

*Analysing developments impacting business*

### MEITY'S ADVISORY TO CURB DEEPFAKES IN INDIA

8 January 2024

The Ministry of Electronics and Information Technology issued an advisory to intermediaries on 26 December 2023 (Advisory) to comply with Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules).

The Advisory particularly seeks to address the growing concerns around the misinformation powered by Artificial Intelligence (AI) deepfakes. Recently, deepfakes have garnered a lot of news and attention in India.

#### **What are deepfakes?**

As the name suggests, deepfakes are manipulated and deceptive facial appearances created using deep generative methods. They are a form of digital media that has been digitally altered using AI and machine learning algorithms to create fake content. In the present day, deepfakes are being seen as one of the dangerous consequences of the rapidly advancing and evolving AI. They may potentially be used to spread large-scale misinformation and misleading content.

#### **Snapshot of the advisory**

The Advisory states that the prohibited content under the IT Rules ought to be communicated to the users in clear and precise language including through its terms of service and user agreements. Further, the same must be expressly informed to the user at the time of first registration and also as regular reminders, in particular, at every instance of login and while uploading/sharing information onto the platform. The Advisory further states that the terms of service and user agreements must clearly highlight that intermediaries/platforms are under an obligation to report legal violations to the law enforcement agencies.

The Advisory also highlights that the digital intermediaries must ensure users are informed about penal provisions, including those in the Indian Penal Code, 1860 and the Information Technology Act, 2000, in case of violation of Rule 3(1)(b) of the IT Rules. Rule 3 (1) of the IT Rules requires intermediaries to maintain certain due diligence while discharging their duties. The due diligence includes the obligation to inform the rules and regulations, privacy policy and user agreement to the user and to make reasonable efforts to cause the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any prohibited information as listed in Rule 3(1)(b) of the IT Rules.

## **Comment**

While the Advisory emphasizes upon strict compliance with Rule 3(1)(b) of the IT Rules to curb prohibited content on the digital platforms, it may require additional and more focused efforts to regulate and counter threats emerging from the use of deepfakes technology. The United States of America has introduced the bipartisan Deepfake Task Force Act to counter deepfake technology. Similarly, China has also issued guidelines to service providers and users to ensure any doctored content based on deepfake technology is explicitly labeled to enhance users' awareness and can be traced back to its source. Hence, a more specific measure for curbing the menace of deepfakes may be required in the longer run. For the time being, the Advisory is a step in the right direction to curb this menace and entities will have to assess what kind of features can be implemented to meet the requirements.

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