

CODE OF BEST PRACTICES FOR ONLINE CURATED CONTENT PROVIDERS



PART - A

PREAMBLE

The present Code for Self-Regulation of Online Curated Content Providers [hereinafter, referred to as “Code”] has been jointly developed by companies carrying on business in India. Organizations that sign on to this Code, commit to making reasonable efforts and acting in good faith to ensure that content offered on their respective services in India is in line with the principles laid out herein.

This document establishes guiding principles for Online Curated Content Providers [hereinafter referred to as ‘OCC Providers’] to conduct themselves in a responsible and transparent manner. This shall be achieved by adhering to industry best-practices as laid out in this Code.

APPLICABILITY

These principles are limited in applicability and scope to such OCC Providers who make available to viewers a system that allows viewers to download and/or stream content from OCC Providers selected repertoire. For avoidance of any doubt, this Code does not apply and specifically excludes providers which makes available any user generated content and intermediaries that provide access to repertoire of OCC Providers.

Every signatory commits to adhere to the principles enshrined in this Code.

EFFECTIVE DATE

This document is forward looking from the date of its signing by an OCC Provider i.e., the date mentioned at the end of this document. Nothing in this Code should be seen as contravening any past representation made by any signatory to this Code.

INTRODUCTION-ONLINE CURATED CONTENT INDUSTRY

The Online Curated Content (“OCC”) industry plays a prominent role in the Indian socio-economic landscape and is expected to serve a majority of Indian population in the coming years. It has transformed the way that content is created and consumed through employing advanced technology to provide consumers flexibilities related to viewing of content at time, place and device(s) of their choice.

Additionally, the signatories to this Code invest extensively in several safety features (including those relating to content filtering and access controls) to empower consumers to make informed viewing decisions.

KEY FEATURES OF THE OCC INDUSTRY:

The OCC industry is distinguished from others (such as, intermediaries and UGC providers) inter-alia by the following features:

- A fully curated content catalogue which is licensed or owned by the individual provider;
- A 'pull' model of consumption where consumers choose the content they wish to watch and access it on any device, time or place of their choice; and
- Technology-enabled solutions for content filtering and access controls.

BUSINESS MODELS:

Businesses in this industry use innovative models of monetisation, which enable them to provide diverse and high-quality content in a competitive manner. These models help improve consumer attitudes towards piracy, as consumers are less likely to visit pirate sites with greater availability of legal sources of content. Thus, OCC Providers not only contribute towards white economy and taxation revenues but also assist in combating piracy.

OCC Providers employ different business models variably and in combination with each other in accordance with the dynamism of the content consumption trends. The widespread use of advanced technologies like Artificial Intelligence, Data Analytics and Interactive Services in the industry are aligned with the creation of the skills and infrastructure necessary to achieve the Indian Government's target of hosting a trillion-dollar digital economy. This widespread use of technology also translates into economic benefits such as, increased potential for export of content, especially as the audio-visual industry has been recognised as a 'Champion Service' by the Government. Further, the demand for content provided by the OCC Providers help generate demand for broadband infrastructure, thereby engendering a virtuous cycle for realising the goals of Digital India.

Business models for the industry include:

- Subscription model - where consumers pay a periodic fee in order to stream or download content;
- Ad-supported model - where the content is made available free to consumers with advertising on the service;

- Transaction model - where consumers buy or rent individual pieces of content

In certain cases, OCC Providers make available hybrid models, where, some content may be available to users supported through advertisements, while other content may be available on subscription and/or transaction basis.

PRINCIPLES FOR SELF-REGULATION

The guidelines contained herein are based on principles underlying the statutory and judicial guidance already available on the subject in addition to industry stakeholders addressing specific concerns that may be posed in future.

The Constitutional framework of India has always acted to, first and foremost, preserve the freedom of speech and expression, including commercial speech and the OCC Providers that are signatories to this Code, inter-alia seek to uphold the freedom as envisaged in the Constitution of India (including under Article 19(1)(a) and Article 19(1)(g)). Additionally, there are principles laid out in statutes like The Information Technology Act, 2000, Indian Penal Code, 1860, Emblems and Names (Prevention of Improper Use) Act, 1950, Indecent Representation of Women (Prohibition) Act, 1986, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Protection of Children from Sexual Offences Act, 2012, Copyright Act, 1957 among others which aid the OCC Providers

The following principles apply to all OCC Providers who are signatories to this Code. This effort brings together the key pillars of protecting interests of consumers in viewing content of their choice and defending creative freedom. This shall ensure that all signatories to the Code agree to adhere to uniform principles and guidelines contained in this Code, in letter and spirit.

OBJECTIVES:

The Objectives of this Code are:

- Empower consumers to make informed choices on age-appropriate content;
- Protect the interests of consumers in choosing and accessing the content they want to watch, at their own time and convenience;
- Safeguard and respect creative freedom of content creators and artists;
- Nurture creativity, create an ecosystem fostering innovation and abide by an individual's freedom of speech and expression; and
- Provide a mechanism for complaints redressal in relation to content made available by respective OCC Providers.

PART-B: THE CODE

PROHIBITED CONTENT:

The signatories to this Code will ensure that they do not deliberately and maliciously make available the following categories of content through their services to users:

- Content which deliberately and maliciously disrespects the national emblem or national flag;
- Content which represents a child engaged in real or simulated sexual activities or any representation of the sexual parts of a child for primarily sexual purposes¹;
- Content which deliberately and maliciously intends to outrage religious sentiments of any class, section or community;
- Content which deliberately and maliciously promotes or encourages terrorism and other forms of violence against the State (of India) or its institutions; and
- Content that has been banned for exhibition or distribution by online video service under applicable laws or by any court with competent jurisdiction.

AGE-INAPPROPRIATE OR SENSITIVE CONTENT

The signatories to this Code seek to protect the consumers' ability to choose content that they may deem to be appropriate for their viewing. The objective is to use information to equip consumers with requisite knowledge and awareness, to enable consumers to make informed decisions on the consumption of content. A key component of empowering consumers to make such informed decisions lies in providing them with information about the types of content available and themes contained within.

The signatory OCC Providers shall adopt the following best practices to ensure a clear and transparent disclosure system which informs the viewer about the nature of content and advise viewer discretion so that consumers are informed about the content that they are accessing:

- Categorise content and classify the same into separate and distinct categories such as General / Universal Viewing; Content which requires Parental Guidance and/or; Content

¹ As defined by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

which is solely meant for age-appropriate audiences (such age-appropriate audience may be further sub-categorised into different age groups).

- Display a content descriptor or guidance message that indicates and informs the viewer about nature of the content, particularly around age-inappropriate content for minors.

Each OCC Provider signatory may institute relevant technological tools and measures to ensure access content and/or enable parental control. The signatories agree to lead the implementation of internal standards and practices / norms based on the present Code.

COMPLAINTS REDRESSAL

All signatories OCC Providers agree to internally appoint/institute, as part of their operational systems, a dedicated person / team / department (“Department”) to receive and address any consumer related concerns and complaints in relation to content of the respective providers. The functions of this Department shall include overseeing alignment and adherence to this Code, providing guidance on classification and addressing complaints and concerns raised through established channels. Consumer interests remain at the core of all OCC Providers and is the key driver behind the principles in this Code.

Functions of the Department

- Act as the Single Point of Contact for receiving all complaints from users; and examine the complaints in accordance with the principles in this Code and accordingly advise other departments / internal stakeholders within the relevant OCC Provider.

The contact details of the Department with name, designation and email address shall be made available by each signatory on its respective service(s)/application(s), as well as over its corporate website (if any).

Reporting and Redressal Process

- i. An aggrieved user may file a complaint with the Department of the relevant OCC Provider if such user finds any content available on relevant OCC Provider’s services to be in specific violation of the Code.
- ii. The aggrieved user should furnish all relevant details including the user’s login-id, title of the content, date of viewing and details about the alleged violation in the complaint.
- iii. The Department should acknowledge the complaint within three (3) working days from date of receipt of complaint. Department need not consider any anonymous and/or pseudo anonymous complaints.

- iv. The Department should evaluate the complaint against the guidelines and norms as agreed upon in the Code.
- v. If the Department is of the view that the content in concern is consistent with the Code, then the Department shall appropriately reply to the aggrieved person within ten (10) working days from the date of receipt of the complaint. In case, more time is required to ascertain if content in concern is consistent with the Code, then the Department shall appropriately reply to the aggrieved person indicating timelines within which the Department anticipates to be able to respond to the complaint. For clarity, timelines contemplated in the preceding sentence may not be later than thirty (30) days from the date of receipt of the complaint.
- vi. In case of a violation of this Code, the Department after discussions with other relevant departments/ internal stakeholders within the OCC Provider must communicate to the aggrieved person within thirty (30) days of receipt of the complaint, specifying the precautionary action(s) taken to appropriately address the complaint.
- vii. Ministry of Information & Broadcasting, Ministry of Electronics & Information Technology, Government of India may forward any complaint to the Department of respective OCC providers. Signatory OCC providers agree that the reporting and redressal process, as specified from point (i) to (vi) above, will be followed while responding to consumers.