

IMPLEMENTATION TOOL KIT TO SELF-REGULATION CODE

ONLINE CURATED CONTENT PROVIDERS





JioCinema





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Implementation Tool Kit to Self-Regulation Code of Online Curated Content Providers

1. Introduction

This document is the implementation tool kit (“**Tool Kit**”), issued by the Internet and Mobile Association of India (“**IAMAI**”) to implement the Code for Self-Regulation of Online Curated Content Providers dated September 4, 2020 (“**Code**”) and has been framed with due consultations with signatories to the Code (“**Signatories**”).

2. Purpose of the Tool Kit

2.1. This Tool Kit is *inter-alia* intended to:

- (i) Set out the guiding principles and code of ethics for the reference of the Signatories;
- (ii) provide for procedures to effectuate the various provisions of the Code;
- (iii) assist the Signatories in fulfilling their commitments and responsibilities as set out in the Code;
- (iv) achieve effective self-regulation goals as envisioned by the Signatories in the Code.

3. IAMAI Secretariat for the Code (“IAMAI Secretariat”): Powers and Responsibilities

3.1. Composition

For the purpose of this Tool Kit, IAMAI shall in consultation with the Signatories, constitute an IAMAI Secretariat comprising of representatives / officials of the Signatories and IAMAI. In addition, IAMAI shall, in consultation with the Signatories to the Code, appoint such additional staff to assist in the administrative functioning of the IAMAI Secretariat, as may be deemed necessary.

3.2. Powers and Responsibilities of the IAMAI Secretariat

The IAMAI Secretariat shall be tasked *inter-alia* with the following:

- (i) To provide necessary assistance and advice to the Signatories in effectively complying with the Code;

- (ii) To develop a process to seek periodic updates from the Signatories regarding their progress with respect to compliance with the provisions of the Code;
- (iii) To provide a list of online content specific applicable laws to the Signatories, and keep the Signatories informed about any legislative or judicial developments with respect to online content;
- (iv) To assist in arranging periodic training on applicable laws with respect to online content for the designated representatives of the Signatories;
- (v) To carry out campaigns, to plan and implement consumer awareness programmes, to educate consumers about the various content safety features (such as, those relating to content descriptors, age classification / maturity rating and access controls) and grievance redressal measures adopted by the Signatories;
- (vi) To ensure details of the Grievance Redressal System of each Signatory is available on each Signatory's India website/mobile applications and publish such details with respect to all Signatories on the IAMAI's website;
- (vii) To guide consumers and regulators / government bodies on the Grievance Redressal System and in case of complaints received from them, to re-direct such complainants to the Grievance Redressal System of the relevant Signatory/non-signatory;
- (viii) To encourage non-member online curated content providers to sign and implement the Code;
- (ix) To review and update the Tool Kit periodically/as needed, to ensure it is relevant and continues to serve its intended purpose.

4. Grievance Redressal

The Signatories to the Code have agreed to put together a robust Grievance Redressal System as set out in paragraph 9 of the Code, prescribing *inter-alia*, (i) the timelines for grievance redressal; and (ii) the composition of the grievance redressal bodies.

The Signatories have further detailed the manner in which the Grievance Redressal System shall be implemented by them in this Tool Kit.

4.1. Complaints received by IAMAI from users or from regulators / government bodies

- (i) In the event any complainant (i.e., a user or regulator / government body) files a complaint with IAMAI relating to a breach by a Signatory of any provision of the Code/this Tool Kit, IAMAI Secretariat will redirect the complainant to the Grievance Redressal System of the relevant Signatory.

- (ii) In case the complaint relates to the content of a non-signatory, IAMAI Secretariat will respond to the complainant with a request to take up the issue with the relevant non-signatory directly.

4.2. Internal Committee / CCD

The Code contemplates that the Signatories constitute a CCD and/or Internal Committee within their Grievance Redressal System. The Signatories undertake to carry out the following steps to effectively constitute the CCD and/or Internal Committee:

- (i) The Signatories may consider including members from their content / programming, S&P and legal teams as members of the CCD/Internal Committee. Signatories may also appoint independent members (who are not engaged for gain with the relevant Signatory) to advise the CCD/Internal Committee, as required.
- (ii) Details of all sittings of CCD / Internal Committee and complaints dealt with during such sittings should be maintained by the CCD / Internal Committee (or on their behalf) for purposes of reporting in the Code Compliance Audit (defined below), in the format set out in **Annexure C**.

4.3. Advisory Panel

- (i) Each Signatory has undertaken to constitute an Advisory Panel to decide on the complaints when the complainant is (a) dissatisfied with the decision of the CCD/Internal Committee and (b) requests an escalation in respect of the complaint filed with the CCD/Internal Committee.
- (ii) Each Signatory shall have an option to constitute and maintain Advisory Panel(s) on a case-by-case basis. Each Signatory may choose Independent Members (defined below) from a list of independent members as may have been maintained by the IAMAI Secretariat or selecting / empanelling Independent Members on their own.
- (iii) Depending upon the option which a Signatory may exercise pursuant to paragraph 4.3(ii) above, each signatory agrees to the following powers and processes of the Advisory Panel:

- (a) Empanelment of Independent Members: Signatories may empanel independent members who should have expertise in various fields (such as, reputed / eminent counsels / jurists / judges, experts in child / general psychology, gender issues, civil rights or animal rights) on their Advisory Panels. Signatories may choose to constitute and maintain Advisory Panel(s) at their respective company level and/or seek experts from the list of experts maintained by IAMAI Secretariat (“**Independent Members**”).
- (b) Composition of Advisory Panel: Paragraph 9.2(c) of the Code prescribes that the Advisory Panel shall comprise of no less than three (3) members. It is suggested that the Advisory Panel shall consist of at least an equal number of Independent Members (vis-à-vis the Signatory’s internal members). The Independent Members may be permanent and/or may be selected on a case-to-case basis depending on the nature of issue raised in the complaint. It is, however, advisable that the Signatories appoint Independent Members having expertise in the subject matter of complaint(s), to handle such complaints. In case a Signatory provides for constitution of more than one Advisory Panel depending on the nature of the complaint (for instance, one Advisory Panel dealing with complaints pertaining to child rights issues, one Advisory Panel dealing with complaints pertaining to gender equality, etc.), then such Signatory may also provide for a mechanism pursuant to which complaints relating to specific issues are forwarded to the relevant Advisory Panel.
- (c) Meetings / discussions of Advisory Panel: All members of the Advisory Panel shall participate in its decision making process and in determining the merits of a complaint.
- (d) Decisions of the Advisory Panel: The Advisory Panel shall evaluate and decide the merits of a complaint by way of a simple majority of votes. In case the Advisory Panel consists of equal number of internal members and Independent Members, and there is equality of votes, the Chairperson of the Advisory Panel shall have a casting vote.
- (e) The decision of the Advisory Panel shall be implemented by the relevant Signatory within seven (7) working days of signing of such decision by the

Advisory Panel. Where the OCCP is unable to implement the decision of the Advisory Panel within the abovementioned timeline, it shall inform the Advisory Panel within the timeline, and its reasons shall be recorded in writing.

(f) Chairperson: The members of Advisory Panel shall, by simple majority, elect one (1) Independent Member as the chairperson of such Advisory Panel. The Chairperson shall have the following duties and responsibilities:

(i) To ensure smooth conduct of the meetings / discussions of the Advisory Panel.

(ii) To preside over and convene and adjourn meetings of the Advisory Panel.

(g) Conduct of Meetings: The meetings of the Advisory Panel may take place in person or by audio-visual means.

4.4. **General provisions applicable to CCD / Internal Committee / Advisory Panel**

(i) The Internal Committee/CCD or Advisory Panel, as the case may be, will be obligated to act on the complaint only when the complainant submits the complaint with information specified / contemplated in the format of the form appended as **Annexure A**. Such format should be made available on the website/mobile application of the Signatories as available in India. For clarity, the Signatory's CCD / Internal Committee or Advisory Panel, as the case may be, may seek missing information / clarifications from the complainant before addressing the grievance.

(ii) The CCD / Internal Committee or Advisory Panel may seek internal or external legal advice and/or seek opinions / views of experts with respect to any complaint received by them, and shall take such decisions in relation to such complaints as the CCD / Internal Committee or Advisory Panel (as the case may be) may deem fit or proper after considering the advice received (if any). The CCD / Internal Committee or Advisory Panel (as the case may be) shall be entitled to maintain confidentiality under client attorney privilege in relation to the legal advice sought by the CCD / Internal Committee or Advisory Panel (as the case may be).

5. Compliance with Laws

5.1. The Signatories have agreed to adhere to all applicable laws of the land, a list of which is annexed as **Annexure B** to this Tool Kit. IAMAI Secretariat shall keep the Signatories informed of any legislative or judicial developments with respect to online content.

5.2. If any complaint is received by a Signatory with respect to violation of applicable laws, the Signatory may seek internal or external legal advice with respect to the same.

6. Training

6.1. The Signatories will take the following steps to create awareness amongst the members of Signatory's organization about the applicable laws and various requirements of the Code:

- (i) **Creation of training materials:** The Signatories will (either themselves or with assistance from their advisors) create training material to educate their various teams and departments (in particular, their content creation, content acquisition and legal teams) about the (a) laws applicable to online content in simple terms, and (b) technological tools implemented by the Signatories to meet their obligations under the Code (such as, age gating, age rating, access control mechanisms, etc.). This training material will be periodically updated, as required, by the Signatories for relevancy.
- (ii) **Conduct of training sessions:** The Signatories will organize training programmes for their teams (in particular, their content creation, content acquisition and legal teams) periodically.

7. Consumer Awareness

7.1. IAMAI will upload a copy of the Code on its website. Each Signatory shall publish details of / manner to reach out to such Signatory's CCD (if any) and/or Internal Committee and/or Advisory Panel on its website / App.

7.2. Each Signatory will develop video clips or other collaterals on their own accord, or in conjunction with IAMAI Secretariat / other Signatories, *inter-alia* to educate the consumers about the safety measures available pursuant to implementation of the provisions of the Code

that promote consumer choice/discretion, i.e., age classification, age gating, maturity ratings, content descriptors, among others and the grievance redressal mechanism. Signatories are also encouraged to publish such material in regional languages for mass reach.

7.3. IAMAI Secretariat and Signatories may also consider engaging with parent associations and schools to educate parents and teachers on the availability of such safety measures and the manner of implementing them for protecting child interest and creating awareness amongst parents and teachers.

7.4. IAMAI Secretariat shall also carry out awareness campaigns through television, print media, and digital mediums to create consumer awareness about the Signatories' grievance redressal mechanisms and the various safety measures implemented by Signatories under the Code.

8. Timeline for Compliance

8.1. The Signatories to the Code will implement its provisions in accordance with the procedure set out in this Tool Kit within the timelines prescribed under the Code.

8.2. Where timelines for compliance with specific provisions of the Code are not prescribed, Signatories will make best efforts to implement the provisions of the Code as soon as practically possible.

8.3. Signatories shall inform the IAMAI Secretariat of the progress they have made in respect of implementation of the Code on a periodic basis. Further, the IAMAI Secretariat will seek updates with respect to the progress made by Signatories as to the implementation of the Code at three (3) month intervals. Such information will be collated and maintained by IAMAI Secretariat. Upon completion of one year from the date of becoming a Signatory, each Signatory shall submit to IAMAI Secretariat a self-declaration confirming it is compliant with the Code.

9. Audit and Compliance

9.1. Each Signatory acknowledges that IAMAI Secretariat, either on its own or through an independent third party, may independently procure subscription to access platforms of the Signatories, to verify / ascertain whether or not a Signatory has implemented the Code's mechanisms (i.e., set up age / maturity ratings, provided content descriptors or not, and/or

put in place access control mechanisms), and not advise upon the merit/accuracy of each mechanism (“**IAMAI Audit**”). IAMAI Secretariat shall submit the report of the IAMAI Audit to the respective Signatories and if there are any infractions reported in it, then the respective Signatories shall take corrective action at the earliest and confirm in writing to the IAMAI Secretariat that corrective actions have been taken on the infractions reported in the IAMAI Audit.

9.2. Further, each Signatory shall furnish annually to the IAMAI Secretariat such details which the IAMAI Secretariat may require in a pre-defined format to ensure that each Signatory is compliant with the Code in terms of responding to complaints within the timelines, keeping details of the complaints and responses of the CCD / Internal Committee to the complainants, escalations to the Advisory Panel, details of such escalations, adjudications by and details thereof the Advisory Panel, etc., the format of which is as set out in **Annexure C** (“**Code Compliance Audit**”). The report of the Code Compliance Audit must be signed only by an authorized signatory of each Signatory.

9.3. The IAMAI Audit and the Code Compliance Audit shall be undertaken as per paragraph 9.1 and paragraph 9.2 above respectively, for each financial year (April 1 – March 31). Each Signatory acceding to the Code shall have one year from the date of such accession to comply with its provisions and shall undertake the **first** IAMAI Audit and the Code Compliance Audit for the period commencing from the deadline for compliance till the commencement of the successive financial year. To illustrate:

9.3.1. The Signatories who have acceded to this Code at the time of its introduction on September, 4, 2020, shall be required to comply with its provisions by September 4, 2021, and shall carry out **the first** IAMAI Audit and the Code Compliance Audit for the period effective September 4, 2021 to March 31, 2022. Following this, the Signatories shall carry out the IAMAI Audit and Code Compliance Audit for each financial year.

9.3.2. Similarly, if any new Signatory accedes to the Code on October 21, 2021, it shall have until October 20, 2022 to comply with the provisions of the Code and **the first** IAMAI Audit and the Code Compliance Audit for such signatory shall be for the period effective October 21, 2022 to March 31, 2023.

9.4. The IAMAI Secretariat may submit a consolidated/combined report of the IAMAI Audit and the Code Compliance Audit to the MIB on a yearly basis, in compliance with the provisions of the



Code. Such submission will be done only after giving an opportunity to each Signatory to provide comments (if any) relating to data concerning such Signatory in the report.

10. Administration

10.1. The Signatories to the Code agree to separately set out incentives for compliance with, and deterrent / consequences for violation of, their obligations under the Code / Tool Kit.

11. Affirmation

11.1 We _____, members of the Online Curated Content industry, as undersigned, hereby agree and affirm to abide by this Tool Kit, in our capacity as responsible OCC Provider.

As a Signatory to this Tool Kit, we affirm the responsibilities outlined in this Tool Kit, which we have voluntarily assumed and which will guide our approach to providing curated content online.

We, the undersigned OCC provider will discharge our duties under this Tool Kit with complete honesty and fairness, in order to uphold the provisions of this Tool Kit.

Signatory:

For and on behalf of:

Date:

Annexure A: Format for Complaints

1. Format for CCD / Internal Committee

- (a) Name of complainant:
- (b) E-mail address of complainant:
- (c) User login ID of the complainant (please **DO NOT** share password):
- (d) Title of the content:
- (e) Nature of Complaint (please select / provide, as applicable)
 - (i) Age Classification
 - (ii) Content Descriptor
- (f) If applicable, please specify the timestamps for the content in respect of which this complaint is being filed:
[00 minute] – [00 minute]

2. Format for Advisory Panel

- (a) Date of making complaint:
- (b) Date of decision by Internal Committee/CCD:
- (c) Reason for appeal to Advisory Panel:

Annexure B: Index of Provisions

- A. The Information Technology Act, 2000
1. Section 67: Punishment for publishing or transmitting obscene material in electronic form
 2. Section 67A: Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form
 3. Section 67B: Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form
- B. The Indian Penal Code, 1860
1. Section 124A: Sedition
 2. Section 153A: Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc. and doing acts prejudicial to maintenance of harmony
 3. Section 153B: Imputations, assertions prejudicial to national-integration
 4. Section 295A: Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs
 5. Section 505: Statements conducing to public mischief
 6. Section 292: Sale, etc., of obscene books, etc.
 7. Section 293: Sale, etc., of obscene objects to young person
 8. Section 228 A: Disclosure of identity of the victim of certain offences etc.
 9. Section 499: Defamation
 10. Section 502: Sale of printed or engraved substance containing defamatory matter
 11. Section 171 G: False statement in connection with an election
- C. The Indecent Representation of Women (Prohibition) Act, 1986
1. Section 3: Prohibition of advertisements containing indecent representation of women
 2. Section 4: Prohibition of publication or sending by post of books, pamphlets, etc., containing indecent representation of women
- D. The Contempt of Courts Act, 1971
1. Section 2(c): Definition of criminal contempt
 2. Section 12: Punishment for contempt of court

- E. The Representation of the People Act, 1951
 - 1. Section 126 A: Restriction on publication and dissemination of result of exit polls, etc
- F. Prevention of Insults to National Honour Act, 1971
 - 1. Section 2: Insults to Indian National Flag and Constitution of India
- G. Unlawful Activities (Prevention) Act, 1967
 - 1. Section 13: Punishment for unlawful activities
- H. The Official Secrets Act, 1923
 - 1. Section 5: Wrongful communication, etc., of information
- I. The Criminal Law Amendment Act, 1961
 - 1. Section 2: Questioning the territorial integrity or frontiers of India in a manner prejudicial to the interests of safety and security of India
- J. The Police (Incitement to Disaffection) Act, 1922
 - 1. Section 3: Penalty for causing disaffection etc.
- K. The Emblems and Names (Prevention of Improper Use) Act, 1950
 - 1. Section 3: Prohibition of improper use of certain emblems and names
- L. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
 - 1. Section 3(1): Punishments for offences of atrocities
- M. The Protection of Civil Rights Act, 1955

1. Section 7(1)(c): Punishment for other offences arising out of "untouchability"

N. Protection of Children from Sexual Offences Act, 2012

1. Section 13: Use of child for pornographic purposes
2. Section 14: Punishment for using child for pornographic purposes
3. Section 15: Punishment for storage of pornographic material involving child
4. Section 23: Procedure for Media

O. The Juvenile Justice Care and Protection Act, 2015

1. Section 74: Prohibition on disclosure of identity of children



Annexure C: Reporting Form

1. Total number of complaints received in last financial year:
 - (i) Number of complaints received by CCD/Internal Committee
 - (ii) Number of escalations received by Advisory Panel
2. Total number of complaints disposed of in last financial year:
3. Total number of complaints still pending with the Signatory:
4. Total number of complaints which have not been resolved within the timelines prescribed under the Code.