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# FINDING 494

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A Report on Website  
Blocking in India

Let The Net Work:Internet Shutdowns in India 2022

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## TABLE OF CONTENTS

<b>List of Cases.....</b>	<b>5</b>
<b>List of Abbreviations.....</b>	<b>7</b>
<b>Executive Summary.....</b>	<b>8</b>
<b>Introduction.....</b>	<b>9</b>
<b>Methodology.....</b>	<b>14</b>
<b>Chapter I: Legal Framework for Website Blocking in India.....</b>	<b>16</b>
a. Section 69 of the Information Technology Act, 2000 and the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009.....	18
b. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.....	30
c. Website Blocking under the Copyright Act 1957 and Civil Procedure Code, 1908...36	
d. The World Intellectual Property Organisation Copyright Treaty, 1996, and The Digital Millennium Copyright Act, 1998.....	41
<b>Chapter II: Analysis of Website Blocking in India.....</b>	<b>48</b>
<b>Chapter III: Technical Analysis of Website Blocking.....</b>	<b>58</b>
a. DNS Tampering.....	60
b. HTTP Blocking.....	61
c. TCP/IP Blocking.....	61
d. TLS-SNI Blocking.....	62
e. QUIC Network Blocking.....	63

**Chapter IV: International Jurisprudence on Website Blocking.....64**

- a. Website Blocking and Due Process.....66
  - Europe
  - Central Asia, Asia and South East Asia
- b. Website Blocking and Copyright Infringement.....82
  - Europe
  - Asia
  - North America
  - USA

**Recommendations.....96**

**Conclusion.....111**

**Acknowledgement.....113**

**Annexures.....114**

## LIST OF CASES

1. Anuradha Bhasin v. Union of India [(2020) 3 SCC 637].
2. Awami Workers Party v. Pakistan Telecommunication Authority [writ petition no. 634/2019, September 12, 2019].
3. B K Srinivasan v. State of Karnataka [(1987) 1 SCC 658].
4. Balaji Motion Pictures v. Bharat Sanchar Nigam Ltd. And others [(2016) SCC OnLine Bom 16029].
5. Bolo Bhi v. Federation of Pakistan [writ petition no. 4994/2014, May 25, 2018].
6. Bulgakov v. Russia [application no. 20159/15, June 23, 2020].
7. Cengiz and Ors. v. Turkey [application nos. 48226/10 and 14027/11, December 12, 2015].
8. Department of Electronics and Information Technology v. Star Parivar Pvt. Ltd. [(2016) SCC OnLine Del 4160].
9. Disney Enterprises Inc. and Ors. v M1 Ltd. [(2018) SGHC 206].
10. Engels v. Russia [application no. 61919/16, June 23, 2020].
11. Eros International Media Ltd. & Anr v. Bharat Sanchar Nigal Ltd. [(2016) SCC OnLine Bom 16030].
12. Matthew Green *et al.* v. Department of Justice *et al* [Civil Action No. 16-1492 (EGS)] .
13. Fazal Bhai Dhala v. Custodian-General [AIR 1961 SC 1397].
14. Justice K S Puttaswamy v Union of India [(2017) 10 SCC 641].
15. PUCL v. Union of India [(2003) 2 SCR 1136].
16. OOO Flavus and Ors. v. Russia [application Nos. 12468/15, 23489/15, 19074/16, November 16, 2020].
17. Poland v. Parliament and Council [ECLI: EU: C: 2022: 297].

18. Prosecutor General v. TV Radio Company S-2 (Channel “September”) [case no. 05-2854/17 GD, December 27, 2017].
19. PUCL v. Union of India [(1997) 1 SCC 301].
20. Ram Prasad v. State [AIR 1952 ALL 843].
21. Shreya Singhal v. Union of India [(2015) 5 SCC 1].
22. State of Madras v. V G Row [1952 SCR 597].
23. State of Tamil Nadu v. P. Krishnamurthy [(2006) 4 SCC 517].
24. Tanul Thakur v. Union of India [WP(C) 13037/2019 (Del HC)].
25. Teksavvy Solutions Inc. v Bell Media Inc, [2021 FCA 100].
26. Twentieth Century Fox Film Corporation and Ors. v. British Telecommunications PLC [(2011) EWHC 1981 (Ch)].
27. UTV Software Communication Ltd. And Ors. v. 1337X.to and others [(2019) SCC OnLine Del 8002].
28. Vladimir Kharitonov v. Russia [application no. 10795/14, June 23, 2020].
29. Ashwin S Mehta v Union of India [(2012) 1 SCC 83].
30. Modern Dental College v. State of Madhya Pradesh [AIR 2016 SC 2601].
31. Union of India v Tulsiram Patel [(1985) 3 SCC 398].
32. Natwar Singh v Director of Enforcement and Anr [(2010) 13 SCC 255].
33. Kanachur Islamic Education Trust v Union of India [(2017) 15 SCC 702].
34. Maneka Gandhi v Union of India [(1978) 1 SCC 248].
35. Bidhannagar (Salt Lake) Welfare Association v Central Valuation Board [(2007) 6 SCC 668].

# LIST OF ABBREVIATIONS

1. BSNL- Bharat Sanchar Nigam Limited
2. CSAM- Child Sexual Abuse Material
3. DMCA- Digital Millennium Copyright Act, 1998
4. DNS- Domain Name System
5. DoT- Department of Telecommunications
6. DRM- Digital Rights Management System
7. ECHR- European Convention on Human Rights
8. EFF - Electronic Frontier Foundation
9. HTTP- Hypertext Transfer Protocol
10. HTTPS- Hypertext Transfer Protocol Secure
11. ISP- Internet Service Provider
12. IT Act- Information Technology Act, 2000
13. MEITY- Ministry of Electronics and Information Tech- 7  
nology
14. MIB- Ministry of Information and Broadcasting
15. OONI- Open Observatory of Network Interface
16. QUIC- Quick UDP Internet Connections
17. RTI Act- Right to Information Act, 2005
18. SNI- Server Name Identification
19. TCP- Transmission Control Protocol
20. TLS- Transport Layer Security
21. UDP- User Datagram Protocol
22. URL- Uniform Resource Locator
23. WCT- World Intellectual Property Organisation Copy-  
right Treaty
24. WIPO- World Intellectual Property Organisation

## EXECUTIVE SUMMARY

8 In 1995, an American Magazine called Newsweek published a piece stating that the Internet will never be successful<sup>1</sup>. 27 years later, that magazine now operates exclusively as an online publication. The internet has captured the world at an unthinkable speed. Governments all around the world are scrambling to regulate the online space, including the data, platforms, information and security relating to the cyberspace. Technology changes pace at a rapid speed and governance is often unable to keep up with it. This is coupled with the desire of political regimes to control the flow of information, rather than regulating it. A knee-jerk reaction to regulate the flow of information is by blocking content. Information spreads on the internet within a few clicks and seconds, faster than a wildfire. It becomes essential to control the spread of this information and blocking content has become an easy and popular tool to do just that.

Between January 2015 to September 2022, 55,580 websites, YouTube channels, applications, etc., have been blocked in India. This number by no means is exact. Information sought to understand the blocking is denied citing confidentiality by the government. The amount of information available in the public domain is far too limited to undertake a robust analysis.

Blocking is carried out in response to content that falls under the exceptions laid in Article 19(2) of the Constitution of India and Section 69A of the Information Technology Act, 2000. Content is also taken down when it is in violation of copyright under the Copyright Act, 1957 and The Digital Millennium Copyright Act, 1998.

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1 Zee, *Newsweek in 1995: Why the Internet will Fail*, The Newsweek, (February 27, 2010), <https://thenextweb.com/news/newsweek-1995-buy-books-newspapers-straight-intenet-uh>.



By means of this report, an attempt has been made to decode the blocking regime in India. We have simplified the legal framework, highlighted the lacunas and provided recommendations for a revamped blocking regime more in line with our Fundamental rights. There are various existing and upcoming mechanisms that are used by Internet Service Providers to block content upon receiving orders from the judiciary and executive. The various techniques for breaking access ranging from SNI based blocking to QUIC have been discussed in the report as well. We have also made an effort to bring together the emerging international judicial trend to decode the blocking regime around the world. At the outset, we believe that there needs to be more transparency around the website blocking orders and numbers in India.

The report has made the following observations and recommendations:

1. The existing mechanism of blocking content online as laid down under Section 69A of the Information Technology Act, 2000 is opaque and lacks checks and balances. Non-publication of orders results in the aggrieved person not getting a chance to challenge the same, thereby violating the principles of natural justice. The Review Committee comprises members solely belonging to the executive which results in there being no real check on executive action.
2. Rule 16 of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 mandates confidentiality to be maintained with respect to all the information related to website blocking. A blanket confidentiality clause like this is unconstitutional and ultra vires section 69A of the Information Technology Act, 2000. Rule 16 is in derogation of principles of natural justice as non publication of orders results in a denial of opportunity to challenge the decision of blocking of website. It is also ultra vires section 69A for

being in conflict with the language of the section and the interpretation attached to it by the Supreme Court of India in the case of *Shreya Singhal v. Union of India*<sup>2</sup>.

3. The maximum number of blocks can be attributed to section 69A. This quantum worsens the existing concerns related to the lack of transparency of the mechanism.
4. The second highest number of websites are blocked due to copyright infringement decided by the Indian Courts. However, this number is not a true representation of blocking done due to copyright infringement as rampant blocking of access to content happens under the DMCA regime.

**By means of this report, an attempt is being made to decode the website blocking regime in India.**

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2 *Shreya Singhal v. Union of India* (2015) 5 SCC 1.

# INTRODUCTION

The non-absolute nature of rights enables the State to reserve with itself the power to censor free expression. The exception to such rights, in a system set around the rule of law, would be in the larger public interest, or to protect a certain person, or groups of persons, in the interest of equal protection. The Indian Constitution follows this standard as well, where the State is enabled to carry out censorial exercises. Empowered by Article 19(2) of the Constitution, the State may introduce restrictions on free speech<sup>3</sup>. Drawing its powers from this exception, the Legislature and the Executive in India introduces laws and rules respectively, as active attempts to catch up with technologically advancing methods of expression.

The primary legislation governing the digital space is the Information Technology Act, 2000. The Statement of Objects and Reasons of the statute establishes its domain: the purpose of the Act is to recognise transactions electronically through data and other means of communication, “which involve the use of alternatives to paper-based methods of communication...”, and to amend other statutes concerned with the laws of evidence, and the penal code, to accommodate the evolution of technology. This proportional expansion of avenues of expression, and the regulation of both the new avenue and the novel forms of expressions it enables legitimizes an exploration of the impact they have on rights which were entrenched in the Indian Constitution, drafted in an age where the need for such regulation could not have been conceived. The

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3 INDIA CONST., art. 19, cl. 2 - Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of 4 [the sovereignty and integrity of India], the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

purpose of this report is to accomplish the same. Through a careful study of the law of blocking websites in India, their interpretation by Courts, this Report seeks to establish the impact on the fundamental right of free speech and expression, both doctrinally, and empirically.

12 The Report begins with a study of the statutory instruments, both parent and subordinate legislations, which are enablers for the Executive and the Judiciary to block access to content on the internet in Chapter 1. As an important corollary, the limitations on the powers of these organs of government to block websites are also laid out. Importantly, it is able to identify shortcomings of the legislative and judicial regime. Website blocking in India also occurs where copyright is concerned- the circulation of pirated material without permission or owed payments results in a complete takedown of websites. As such, the Chapter also studies the domestic and foreign statutory instruments which legitimizes the takedown of websites.

Followed by this textual survey and analysis, Chapter 2 of the Report compiles data from various primary and secondary sources. It combs through the various blocking orders to identify the broad reasons for the blocking which have been rendered by the concerned authorities. An understanding of the extent of control in the digital space, exercised by an authority when a website is blocked, is contingent on the processes which occur at the 'digital infrastructure' level. Chapter 3, therefore, simplifies the layers of the internet in a blocking order or types of blocking order which may be issued. This information will be key in guiding the analysis relating to the degrees of blocking orders, and their legality.

As the introduction to Chapter 4 lays out, the strength of Constitutional promises does not solely rest on the text of the guarantee, but more significantly on the interpretation of the text, and the institutional framework within which the law is enforced. By way of a comparative analysis, Chapter 4 of this Report studies judgements

from across jurisdictions other than India's, to observe interpretations of similarly worded constitutional guarantees (such as freedom of speech and expression), when they are confronted with the State's power of blocking websites. The Chapter aims to supply learnings, both by way of considering interpretations which have been protective of fundamental rights, and highlighting instances where their erosion was sanctioned by the judiciary. Since Chapter 1 of the Report considers the legal framework which enable copyright-oriented website blockings, the latter half of Chapter 4 also considers landmark judgements from abroad, where the rights of copyright holders are balanced against the overarching right to free expression, when a website is blocked for alleged and actual instances of privacy.

The concluding chapter lays down the conclusions that we have reached to, after conducting the analysis in the preceding chapters. Further, it outlines the recommendations made by the report. 13

## METHODOLOGY

14 This report undertakes a comprehensive study of the process of blocking websites in India, and the legal framework that governs the rules that enable the blocking of websites. It also studies empirically the number of websites which were blocked, and the reasons rendered by the Government for such blocking. For a study of the law and subordinate legislations which bring about the powers of the Government to block websites, the Gazetted copies of the instruments were relied on. To undertake a meaningful understanding and analysis of the impact of website blocking on the concerning fundamental rights (primarily the freedom of speech and expression), data was collated from a combination of primary and secondary sources. Responses by the Central Government to the applications under the Right to Information Act, 2005 filed by the Software Freedom Law Centre, India sourced the primary information. Secondary sources for the data include records of the Ministry of Electronics and Information Technology, the Ministry of Information and Broadcasting, and the Department of Telecommunications, Government of India. Judicial orders blocking websites aided in both the collection of data on the number of websites blocked and in understanding the interpretation undertaken by Courts of the statutes enabling website blocking. Reliance was also placed on debates and exchanges in the Parliament of India. Other secondary sources of data were publications of the Press Information Bureau. Reports of blockings by newspapers were also relied on. Data from the Open Observatory of Network Interface (OONI) provided in great detail the number of websites blocked in India, and the provided reasons for blocking.

All attempts have been made to ensure that the data collected and analysed has been accurate. However, where for example the data was collected based on applications filed under the Right to Information Act, 2005, the ambiguity and delay in response received

from the Government is a cause of concern. These applications were primarily filed between March, 2022 and July 2022, for website blocking orders issued by the Government from 2015 to 2022.

## CHAPTER 1

**LEGAL FRAMEWORK OF WEBSITE BLOCKING IN INDIA**

Censorship of thoughts and expression takes many forms. The measures so adopted majorly depend on the kind of medium being used. Governments all across the world have devised different modalities to censor the internet. In India as well, the legislature and the executive, in attempts to match up to technological developments, have time and again made laws and rules that govern censorship of the internet. A sound understanding of these laws is the starting point to identifying the areas of the law which result in overbroad restriction of speech. The legal framework within which the government is bound to act, ought to be well-defined and transparent, complying with the principles of natural justice. This can be achieved either through judicial determination or policy change.

16

In India, the Information Technology Act, 2000 (hereinafter “IT Act”) is the primary legislation regulating the digital space. Under this law, the blocking of websites, applications, and social media accounts can be ordered in two ways. The first is under section 69A of the IT Act<sup>4</sup> and the second is the content notice and takedown regime under section 79 of the IT Act<sup>5</sup>. Section 69A of the IT Act empowers the Central Government to block access to information hosted on the internet, including websites, applications, and social media accounts. For example, the TikTok Mobile App was *banned*, among many other mobile applications, in India by the Central Government under section 69A<sup>6</sup>. Section 79 of the IT Act, also

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4 The Information Technology Act, 2000, § 69A, No. 21, Acts of Parliament, 2000 (India) [hereinafter The Information Technology Act, 2000].

5 The Information Technology Act, 2000, § 79.

6 Ministry of Electronics and Information Technology, *Government Bans 59 mobile apps which are prejudicial to sovereignty and integrity of India, defence of India, security of the state and public order*, Press



known as the safe harbour provision, requires the intermediaries to take down content in accordance with the rules under the IT Act, government orders and court orders. The current legal framework places the decision-making power with the executive branch and the judiciary.

This Chapter traces the primary and secondary legislations that govern website blocking in India. It analyses Section 69A of the IT Act and the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 (hereinafter “The Blocking Rules, 2009”) <sup>7</sup>. The rules lay down the procedure to be followed by the Ministry of Electronics and Information Technology (hereinafter “MEITY”) to block a website. The chapter also discusses the recently introduced Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 <sup>8</sup> (hereinafter “Intermediary Guidelines, 2021”) and its impact on the blocking regime and power of the Ministry of Information and Broadcasting (hereinafter “MIB”) to block content under these rules on the grounds laid down in section 69A. Lastly, it will discuss website blocking under the Copyright regime. It will also highlight the infirmities in the legal framework and urgent changes which must be addressed.

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Bureau of India, (June 29, 2020), <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1635206>; Ministry of Electronics and Information Technology, *The government further banned “VPN for Tiktok” Government Blocks 118 Mobile Apps which are Prejudicial to Sovereignty and Integrity of India, Defence of India, Security of State and Public Order*, Press Bureau of India, (September 02 2020), <https://pib.gov.in/PressReleasePage.aspx?PRID=1650669>

- 7 The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 [hereinafter The Blocking Rules, 2009].
- 8 The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 [hereinafter Intermediary Guidelines, 2021].

### **SECTION 69A OF THE INFORMATION TECHNOLOGY ACT 2000 AND THE INFORMATION TECHNOLOGY (PROCEDURE AND SAFEGUARDS FOR BLOCKING FOR ACCESS OF INFORMATION BY PUBLIC) RULES, 2009**

Section 69A was added to the IT Act in the year 2009 through the Information Technology (Amendment) Act, 2008<sup>9</sup>. Section 69A enables the Central Government to direct any agency of the government or an intermediary to block public access to any information generated, transmitted, received, stored or hosted in any computer resource. This can be done when the government is satisfied that such action is necessary or expedient on the following grounds:

1. interest of sovereignty and integrity of India
2. defence of India
3. security of the State
4. friendly relations with foreign states
5. public order
6. preventing incitement of commission of any cognizable offence relating to these grounds<sup>10</sup>

18

The Central Government is required to issue an order in writing stating the reasons for blocking of the internet to direct any agency or intermediary to block information. Further, sub-section 3 provides that an intermediary failing to comply with the government order shall be liable to imprisonment for a term which may extend to seven years and a fine. Sub-section 2 provides that the procedure and *safeguards* for blocking of access are to be prescribed by the government.

The Central Government introduced the Blocking Rules in 2009 under section 69A read with section 87 of the IT Act<sup>11</sup>. The rules lay down the precise procedure to be followed by the government

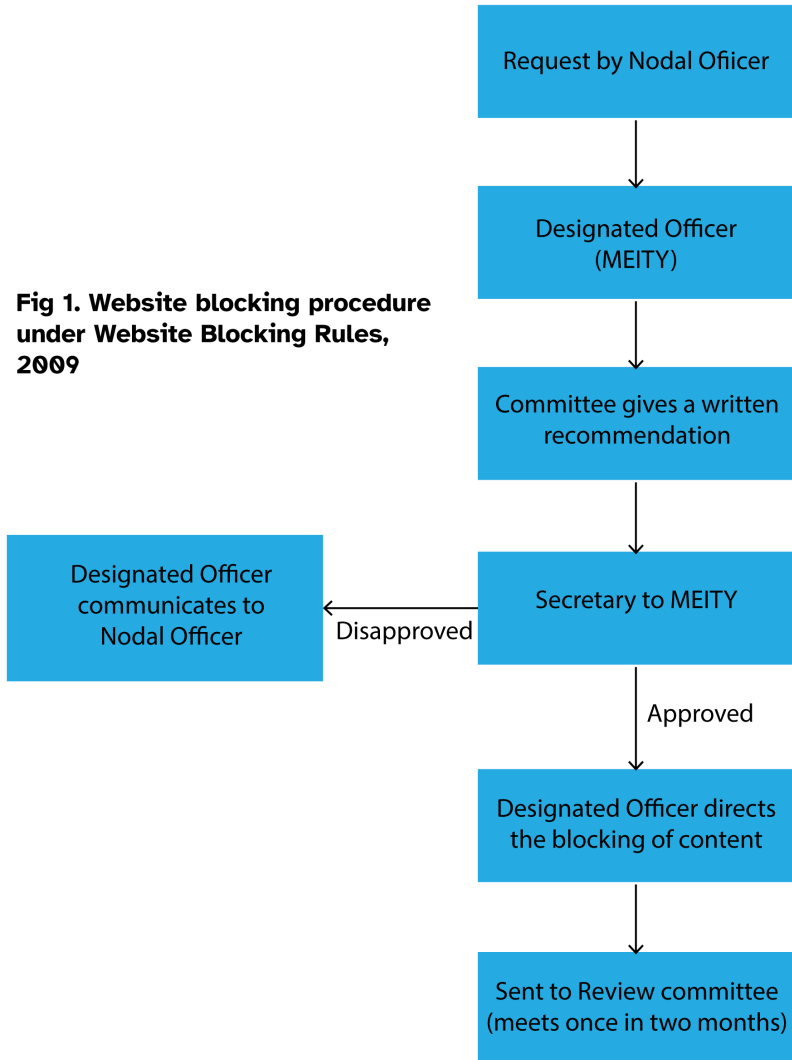
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9 The Information Technology (Amendment) Act, 2008 No. 10, Acts of Parliament, 2009 (India).

10 The Information Technology Act, 2000, § 69A(1).

11 The Information Technology Act, 2000, § 87.

to block access to information. The following stages are provided for the blocking of access:



**1. Sending of Request:** Request for blocking is to be sent by the Nodal Officer of a government organisation to the Designated

Officer<sup>12</sup> <sup>13</sup>. The format of the request is provided in the Form annexed to the Rules<sup>7</sup>. The form contains 4 sections which are discussed as follows:

1. Section A of the Form deals with the details of the complainant such as name, address, telephone number, e-mail ID etc.
2. In section B details related to the website/intermediary/computer resource or offending information are to be provided. The complainant has to fill in information such as URL/web address, IP Address, server address, name of the intermediary and URL of the intermediary. It also has a residual column where the address or location of the intermediary can be provided in case the intermediary is a telecom/network/internet service provider (such as Airtel, BSNL), web-hosting service provider (example: Amazon AWS or Digital Ocean), cyber cafe or *other* forms of intermediary for which no other information is available.
3. Section C is related to the consideration of a request by the government department forwarding the request. The form seeks information on whether the ministry forwarding the request has any recommendations or comments, the designation of the officer who approved the comments on the request, under which ground does the complaint fall- defence of India, security of State, friendly relations with a foreign state, public order or for preventing incitement of a cognisable offence related to these grounds.
4. Lastly, section D requires details of the Nodal Officer such as name, designation, address, telephone etc.

The request may contain the printed sample content from the website. A request can be sent by any other person to the Nodal Officer or directly to the Designated Officer after receiving approval from the Chief Secretary of the State<sup>14</sup>. However, no direct requests from any person shall be entertained by the Designated

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12 Blocking Rules, 2009, Rule 2(c) defines “Designated Officer” as an officer not below the rank of Joint Secretary in the Central Government.

13 Blocking Rules, 2009, Rule 6(1).

14 Blocking Rules, 2009, Rule 6(1).

Officer<sup>15</sup>. The organisation upon receiving such a request from any person, shall examine it on the grounds given in section 69A and then forward it to the Designated Officer<sup>16</sup>. The Designated Officer shall acknowledge the receipt of the request to the Nodal Officer within a period of twenty-four hours of its receipt<sup>17</sup>.

**2. Examination of Request:** Rule 7 provides for the constitution of an examination committee before which every request received by the Designated Officer is laid down. The committee consists of the Designated Officer as its chairperson and has a representative each from the Ministries of Law and Justice, Home Affairs, Information and Broadcasting, and the Indian Computer Emergency Response Team (CERT-IN). The representative cannot be below the rank of a Joint Secretary<sup>18</sup>.

The request is examined by the committee to determine whether the sample content falls under the grounds of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States, public order or for preventing incitement to the commission of any cognizable offence relating to these grounds, and if it is justifiable to block public access to this information. A specific written recommendation arising out of the committee meetings is to be submitted to the Secretary in the Department of Information Technology under MEITY, Government of India. The secretary has the power to accept or reject the recommendation. Upon approval of the committee's recommendation by the Secretary, the Designated officer shall direct for blocking of access to the information. The order is issued to the ISPs, which block access to the content through various methods which have been discussed in the following chapter. In case the secretary does not approve of the recommendation, the Designated Officer shall

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15 Blocking Rules, 2009, Rule 6(3).

16 Blocking Rules, 2009, Rule 6(2).

17 Blocking Rules, 2009, Rule 6(5).

18 Blocking Rules, 2009, Rule 7.

communicate the same to the Nodal Officer<sup>19</sup>.

**3. Opportunity of hearing:** The Designated Officer is responsible for identifying the person or intermediary who has hosted the information as well as the computer resource on which information under contention is being hosted.<sup>20</sup> If he can identify the person/ intermediary/ computer resource he must issue a notice to such person/ intermediary to submit their reply and clarification to the committee on a specified date and time. The time given to file a reply must not be less than 48 hours.<sup>21</sup> In case the person/ intermediary so notified does not appear before the committee, the committee may make its recommendation without providing another chance of hearing<sup>22</sup>.

**4. Review Committee:** The Review Committee to review the final orders of website blocking is formed according to rule 419A of the Indian Telegraph Rules, 1951 and shall review the orders made by the Designated Officer<sup>23</sup>. The rule was added through the Indian Telegraph (Amendment) Rules, 2007<sup>24</sup>. The amendment was based on the guidelines laid down by the Supreme Court in the landmark decision of *PUCL v. Union of India*<sup>25</sup> (1997). The court provided for the constitution of the Review Committee as an oversight mechanism on telephone tapping orders and also laid down the composition of the Review Committee which was

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19 Blocking Rules, 2009, Rule 8(4), Rule 8(5), Rule 8(6).

20 An application under the Right to Information Act, 2005 was filed with the Ministry of Electronics and Information Technology asking if any internal standard procedure has been established that is to be followed by the Designated Officer to identify the person hosting information. No sufficient response was received, consequently a First Appeal was filed. Refer to Annexure-1.

21 Blocking Rules, 2009, Rule 8(1).

22 Blocking Rules, 2009, Rule 8(2).

23 Blocking Rules, 2009, Rule 2(i).

24 Indian Telegraph (Amendment) Rule, 2007.

25 *PUCL v. Union of India* (1997) 1 SCC 301.

adopted by the Amendment.<sup>26</sup>

According to the Rule, there are two review committees, one, at the central level to review orders issued by the Central Government and two, at the state level to review orders issued by the respective state governments. As only the Central Government issues orders related to blocking of content online, only the central committee is relevant for the discussion. Accordingly, the Review Committee for the Central Government consists of members solely of the executive branch of the government:

1. Cabinet Secretary Chairman;
2. Secretary to the Government of India Incharge, Legal Affairs
3. Secretary to the Government of India, Department of Telecommunications.<sup>27</sup>

The committee must meet at least once in two months and record its findings on the decision of the secretary- whether the directions issued under these rules are in accordance with the provisions section 69A of the Act. If the review committee is of the opinion that the directions are not in accordance with the provisions of section 69A and the rules thereunder, it may set aside the directions and issue an order for unblocking of said information<sup>28</sup>. SFLC.in had filed an application under the Right to Information Act, 2005 (hereinafter “RTI Act”) seeking information related to Review Committee meetings under section 69A and it was informed by the MEITY that the review committee met 39 times in the year of 2021<sup>29</sup>.

The rules provide for different procedures to be followed in case there is an emergency and when the court requires access to information to be blocked. These are discussed below:

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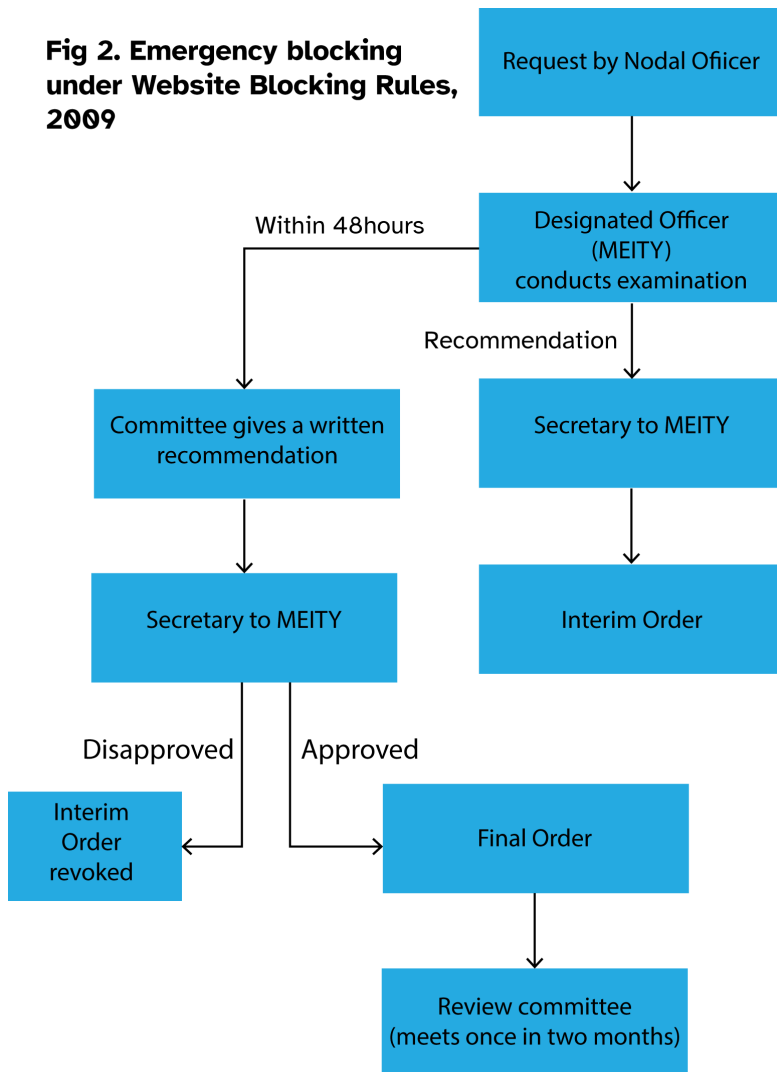
<sup>26</sup> *Id.* at ¶ 35.

<sup>27</sup> Indian Telegraph Rules, 1951, Rule 419A (16).

<sup>28</sup> Blocking Rules, 2009, Rule 14.

<sup>29</sup> Refer to annexure-2.

**Fig 2. Emergency blocking under Website Blocking Rules, 2009**

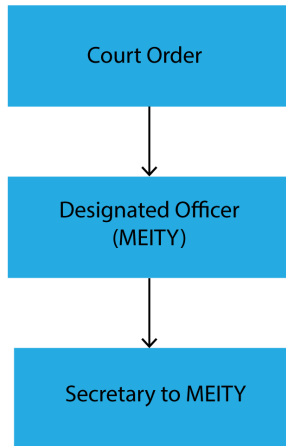


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**1. Emergency Blocking:** “Emergency” has not been defined in the Act or the Rules, 2009. Rule 9 of the Blocking Rules, 2009 states the procedure which has to be followed in case of an emergency. The emergency procedure essentially bypasses the examination



made by the committee. The Designated Officer himself examines the request and makes the recommendation on whether a website has to be blocked or not.<sup>30</sup> At this stage, the recommendation made by the Designated Officer is not laid before the committee. It is laid before the Secretary for approval or disapproval and accordingly a direction is issued.<sup>31</sup> The request is then laid before the examining committee, within 48 hours of issuing the blocking direction, to give specific recommendation<sup>32</sup>. On receipt of the recommendation by the committee, the Secretary shall pass the final order for approval or disapproval. It must be noted that the Designated Officer determines whether there exists an emergency or not<sup>33</sup>.



25

**Fig 3. Court order blocking under Website Blocking Rules, 2009**

## **2. Court Order Blocking:** Rule 10 lays down the procedure

30 Blocking Rules, 2009, Rule 9(1).

31 Blocking Rules, 2009, Rule 9(2).

32 Blocking Rules, 2009, Rule 9(3).

33 Blocking Rules, 2009, Rule 9(4).

for blocking in case any competent court in India issues an order for blocking of information. In such a case the Designated Officer upon receiving the certified copy of the court order must immediately submit it to the Secretary and initiate action as directed<sup>34</sup>.

One of the more problematic clauses is the Rule 16 which provides for blanket confidentiality related to any information regarding the requests for website blocking and action taken upon those requests. Rule 16 states the following:

*“Requests and complaints to be confidential.-- Strict confidentiality shall be maintained regarding all the requests and complaints received and actions taken thereof.”*<sup>35</sup>

26

A host of information regarding the blocking of content is sought by civil society organisations and aggrieved parties, often under the RTI Act. The information sought pertains to blocking orders, the number of URLs, websites, applications and social media accounts blocked, and the names of the blocked websites. The response is often limited to statistical information and the rest of the information sought is denied based on Rule 16.

An example of this can be an application filed by SFLC.in on 17 May 2022 under the RTI Act seeking information related to blocking of websites from 2015 to 2022. The questions asked under the application were:

1. Number of Websites/ URLs currently blocked.
2. Number of Websites/URLs blocked in 2021 and 2022
3. Names or URLs of the websites that are blocked.
4. Copy of blocking orders issued in 2021 and 2022.
5. The number of hearings conducted by the committee as provided under Rule 7 of the Information Technology (Procedure and Safeguards for blocking for access of Information by Public) Rules, 2009.

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34 Blocking Rules, 2009, Rule 10.

35 Blocking Rules, 2009, Rule 16.

The response that was received on 2 June 2022 provided the number of websites, URLs and social media accounts blocked. However, no orders were provided<sup>36</sup>. Upon running the OONI application<sup>37</sup> it was observed that some websites were blocked. Consequently, another application under the RTI Act was filed asking whether these websites are blocked or not. However, no information was provided on the ground of Rule 16 of the Blocking Rules, 2009 and section 8 of the RTI Act <sup>38</sup>.

The Supreme Court in the landmark judgment ***Shreya Singhal v Union of India***<sup>22</sup> decided the constitutionality of section 66A, section 69A and section 79 of the IT Act. While strengthening the fundamental right of freedom of speech and expression the court observed that section 66A is unconstitutional as the grounds mentioned in the section to restrict speech such as annoyance, inconvenience or grossly offend, do not have an *imminent causal connection* with the grounds laid down in Article 19(2). Further, the court observed that there is a difference between advocacy and incitement and it is important to respect this distinction to maintain the *free trade of ideas*<sup>39</sup>. 27

With respect to section 79, the court read down sub-section 79(3) (b) to uphold its constitutional validity. It was observed that “actual knowledge” must be interpreted in a limited manner to only include:

1. A court order that has been passed asking the intermediary to expeditiously remove or disable access to certain material
2. A notification by the appropriate government or its agency that unlawful acts related to Article 19(2) of the constitution will be

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36 Refer to Annexure-2.

37 Refer to Annexure-3.

38 Right to Information Act, 2005, § 8, No. 22, Acts of Parliament, 2005 (India); Refer to Annexure-3.

39 *Shreya Singhal v. Union of India* (2015) 5 SCC 1, ¶ 47.

committed<sup>40</sup>.

The constitutionality of section 69A was upheld by the court on the ground that enough safeguards have been adopted within the section and the Rules. The court further held that section 69A intends that a written order providing the reasons for blocking shall be made available, thereby giving reasonable opportunity to challenge such blocking under Article 226 (power of High Courts to issue writs) of the Indian Constitution<sup>41</sup>.

The following observation was made by the court while upholding the constitutionality of the Section and the Rules made thereunder:

28 *“It will be noticed that Section 69-A unlike Section 66-A is a narrowly drawn provision with several safeguards. First and foremost, blocking can only be resorted to where the Central Government is satisfied that it is necessary so to do. Secondly, such necessity is relatable only to some of the subjects set out in Article 19(2). Thirdly, reasons have to be recorded in writing in such blocking order so that they may be assailed in a writ petition under Article 226 of the Constitution.”*<sup>42</sup>

*The Rules further provide for a hearing before the Committee set up—which Committee then looks into whether or not it is necessary to block such information. It is only when the Committee finds that there is such a necessity that a blocking order is made. It is also clear from an examination of Rule 8 that it is not merely the intermediary who may be heard. If the “person” i.e. the originator is identified he is also to be heard before a blocking order is passed. Above all, it is only after these procedural safeguards are met that blocking orders are made and in case there is a certified copy of a court order, only then can such blocking order also be made. It is only an intermediary who finally fails to comply with the directions issued who is punish-*

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40 *Id.*, ¶ 122.

41 INDIA CONST., art. 226.

42 *Id.* at ¶ 114.

*able under sub-section (3) of Section 69-A<sup>43</sup>.*”

The safeguards identified by the court, which also formed the basis for declaring section 69A as constitutional are:

- i. blocking can only be resorted to where the Central Government is satisfied that it is necessary so to do, and
- ii. such necessity is related only to some of the subjects set out in Article 19(2)

However, Rule 16 makes these safeguards otiose, it prevents the affected party from knowing the grounds for blocking which further leaves them with no resort to challenge the blocking order. Moreover, there is a certain degree of opaqueness around the entire procedure which makes it difficult to ascertain if safeguards are being followed.

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This concern has come to the forefront with the petition filed by Twitter Inc. in the Karnataka High Court<sup>44</sup>. It challenges the blocking of 39 accounts blocked vide 10 blocking orders issued by the government over the span of one year from February 2021 to February 2022. The petition challenges the orders on the ground that the URLs are being blocked for reasons other than laid down in section 69A. Further, the orders are overbroad and disproportionate. The petition has also challenged these orders for being procedurally non-compliant as the government has failed to provide any prior notice to the originator of the information. As of the date of publication of this report, a notice has been issued by the court. It is yet to be seen how Rule 16 is interpreted by the High Court.

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43 *Id.* at ¶ 115.

44 Aditya K, *Account- level blocking violated rights of users; blocking of 39 URLs challenged: Why Twitter has moved the Karnataka High Court*, Bar and Bench, (July 6, 2022), <https://www.barandbench.com/news/litigation/exclusive-account-level-blocking-violates-rights-of-users-blocking-of-39-urls-challenged-why-twitter-has-moved-the-karnataka-high-court>.

Another recent example highlighting this issue is the case of blocking *Dowry Calculator* (*dowrycalculator.com*), a satirical website which allows a person to calculate their dowry. According to journalist Tanul Thakur, the purpose of this website is to ridicule the practice of dowry. The website was created in the year 2011 and received a positive response. In 2018, however, the website was blocked after a Union Minister found it to be in a bad taste and to be promoting the practice of dowry<sup>45</sup>.

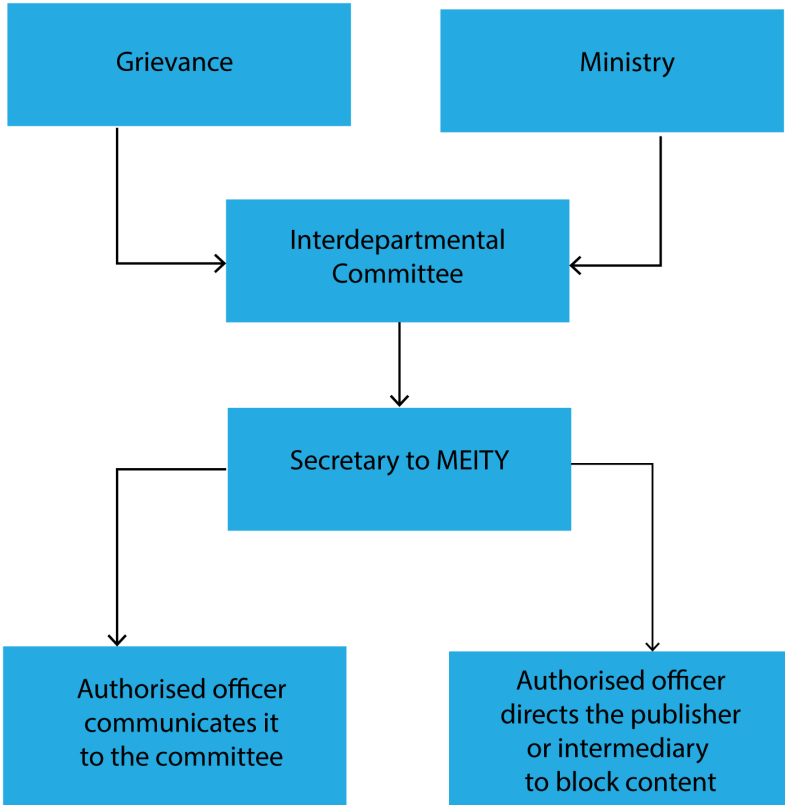
30 Tanul Thakur the owner of the website was never provided with the order directing the blocking of his website nor was he given any opportunity of hearing. Following this, he filed multiple applications under the Right to Information Act, 2005. After receiving no satisfactory response from the government, a petition was filed in the Delhi High Court in 2019. On 11 May 2022, an interim order was passed by the court directing the government to provide the order directing blocking of his website as well as a post decisional hearing. This order is a step towards bringing transparency to the process of website blocking<sup>46</sup>.

### **THE INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE) RULES, 2021**

The Intermediary Guidelines, 2021 which replaces the previous Information Technology (Intermediaries Guidelines) Rules, 2011, provides the framework for content regulation of online publishers such as news publishers, audio-video content curators and social media intermediaries. The Intermediary Guidelines, 2021 envisages providing a comprehensive mechanism to regulate content hosted on the internet and to enhance the transparency between the users

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- 45 Staff Reporter, *High Court seeks centre's response on blocking 'dowry calculator'*, The Hindu, (December 11, 2019), <https://www.thehindu.com/news/cities/Delhi/hc-seeks-centres-response-on-blocking-dowry-calculator/article30271322.ece>.
- 46 Tanul Thakur v. Union of India, WP(C) 13037/2019 (Del HC), [https://www.livewlaw.in/pdf\\_upload/11052022-417894.pdf](https://www.livewlaw.in/pdf_upload/11052022-417894.pdf).

and platforms, thereby, increasing accountability. The Rules lay down the graded due diligence standards for social media intermediaries; an internal grievance redressal mechanism; a Code of Ethics for publishers of news and online curated content; self-regulation for publishers and an over-arching executive oversight mechanism.



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**Fig 4. Content blocking procedure under Intermediary Guidelines, 2021**

Chapter IV of the Intermediary Guidelines, 2021 provides for the

Oversight Mechanism. Rule 14<sup>47</sup> provides for the constitution of an Inter-Departmental Committee which shall examine complaints or grievances. The Committee, upon the examination of a complaint regarding the violation of the Code of Ethics, may make the following recommendations amongst many others:

- i. delete or modify content for preventing incitement to the commission of a cognisable offence relating to public order;
- ii. in case of content where the Committee is satisfied that there is a need for taking action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, it may recommend such action.<sup>48</sup>

Following the recommendation, the Secretary to the MIB shall issue an order with respect to the recommendation. The procedure for issuing the direction is along similar lines as the Blocking Rules, 2009. The recommendation will be sent by the Authorised Officer (an officer from the MIB not below the rank of Joint Secretary) to the Secretary for approval or disapproval. Upon approval by the Secretary, the Authorised Officer can direct any publisher, government agency or intermediary to delete, modify or block the content within the specified time frame.<sup>49</sup>

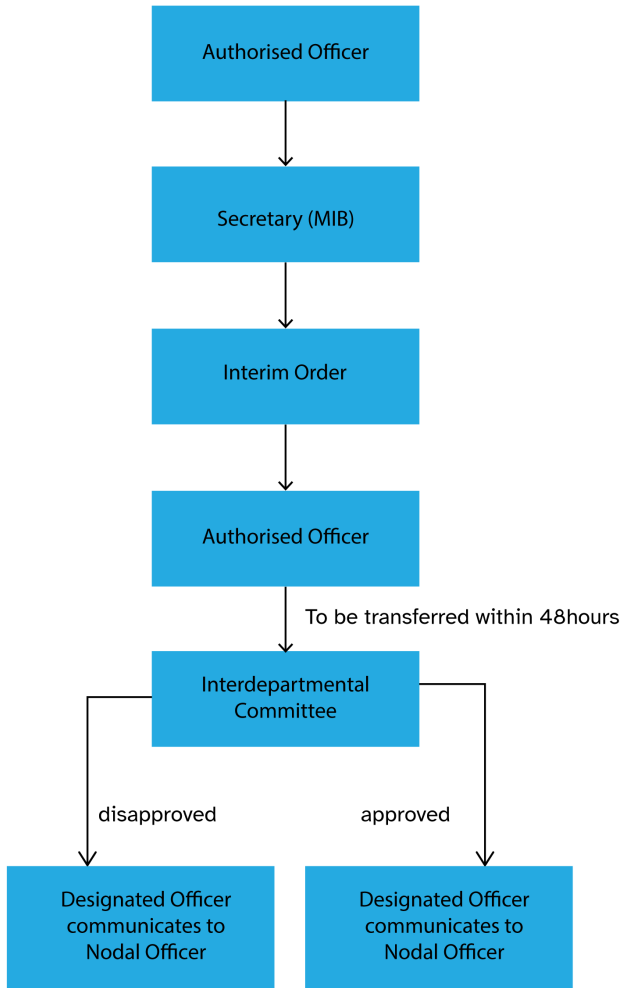
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47 Intermediary Guidelines, 2021, Rule 14.

48 Intermediary Guidelines, 2021, Rule 14(5).

49 Intermediary Guidelines, 2021, Rule 15.





**Fig 5. Emergency blocking of content under Intermediary Guidelines, 2021**

Rule 16<sup>50</sup> provides for blocking access to information in case of an emergency (“Emergency Blocking”). It is stated that in case of an emergency, the Authorised Officer will examine the content and

<sup>50</sup> Intermediary Guidelines, 2021, Rule 16.

decide whether blocking is necessary or expedient and justifiable to block such information, as per the grounds mentioned in Section 69A. This recommendation will be sent to the Secretary of Ministry for interim approval or disapproval. Pertinently, such measures can be taken without providing any opportunity of hearing to the creator of the content. Subsequently, the order is then laid before the Inter-Departmental Committee within 48 hours for consideration and the final recommendation. The Secretary has the power to finally approve or disapprove the final recommendation.

Rule 17<sup>51</sup> provides for Review Mechanism which is the same as under the Blocking Rules, 2009. The Review Committee formed under Rule 419A of the Indian Telegraph Rules, 1951 reviews these decisions as well.

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The introduction of these rules essentially gives concurrent power to the MIB to censor websites under section 69A of the Information Technology Act. Since 2021, the Ministry has so far blocked at least 95 websites, URLs or social media accounts<sup>52</sup>. All these blocking orders were issued under Rule 16 (Emergency Blocking) only. The Ministry has not blocked any website under Rule 15.<sup>53</sup>

The Ministry for Broadcasting and Information in December 2021 blocked 20 channels on YouTube and 2 websites for spreading anti-India propaganda and fake news. In the press release, it was stated that these channels and websites were associated with a Pakistani network called The Naya Pakistan Group (NPG). These channels cumulatively had a base of over 35 lakh viewers. The notice further states that these channels were posting content related to Kashmir, the Indian Army, minority communities, Ram Mandir,

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51 Intermediary Guidelines, 2021, Rule 17.

52 Lok Sabha Unstarred Question No. 1602, (July 26, 2022), IXth Session of Seventeenth Lok Sabha; <http://loksabhaph.nic.in/Questions/QResult15.aspx?qref=40509&lsno=17>; Ministry of Information and Broadcasting, Digital Press Release, <https://mib.gov.in/digital-press-release>.

53 Refer to Annexure-4.

and General Bipin Rawat. These channels attempted to *incite the minorities against the Government of India. It was also feared that these YouTube channels would be used to post content to undermine the democratic process of the upcoming elections in five states.*<sup>54</sup>

In April 2022, the MIB blocked another set of YouTube Channels and social media accounts. These channels were also blocked for spreading fake news and coordinated disinformation over social media on subjects prejudicial to national security, foreign relations and public order.<sup>55</sup> This blocking was also issued under the Emergency Blocking rule.

It is apposite to mention that these rules do not contain any rule corresponding to Rule 16 in the Blocking Rules, 2009. This implies that the MIB has to make information related to the blocking of websites under the Intermediary Guidelines, 2021 publicly available. Further, when any information-related to blocking is sought through an application under the RTI Act, the Ministry cannot deny providing this information unless it falls under the ambit of Section 8 of the RTI Act, therefore, resulting in increased transparency when compared to the blocking procedure under the Blocking Rules, 2009.

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- 54 Ministry of Information and Broadcasting, India dismantles Pakistani coordinated disinformation operation, Press Information Bureau, (December 21, 2021), <https://pib.gov.in/PressReleasePage.aspx?PRID=1783804>.
- 55 Ministry of Information and Broadcasting, *Ministry of I&B blocks 22 YouTube channels for spreading disinformation related to India's national security, foreign relations and public order*, Press Information Bureau, (April 5, 2022), <https://pib.gov.in/PressReleasePage.aspx?PRID=1813603>.

## WEBSITE BLOCKING UNDER THE COPYRIGHT ACT 1957 AND CIVIL PROCEDURE CODE, 1908

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Copyright is a statutory right<sup>56</sup> which allows the owner to use their work in a manner which they find appropriate and to protect their economic and moral interests arising from that work from the rest of the world. There are multiple recourse and remedies available to the copyright owner in case of an infringement. The advent of the internet poses new and unique challenges to the protection of this right. However, the courts also remain cognizant of the fact that aggressive protection of this proprietary right may result in unreasonably restricting free speech. Against this backdrop, the Indian judiciary has developed the jurisprudence for blocking infringing content online. The courts have attempted to balance these two competing interests to find an efficient remedy to protect interests under the copyright regime in India. The section will trace this line of precedent.

Section 51<sup>57</sup> of the Copyright Act prescribes the acts which constitute a copyright infringement. When an owner/creator of the website does not have the ownership rights or license for the content hosted on his website, it amounts to an infringement of the copyright of the owner of the content, as per section 51(a)(i) and (b)(ii).

Section 52<sup>58</sup> deals with instances which do not constitute an infringement of copyright. According to Section 52(1)(c) transient or incidental **storage** of a work does not amount to an infringement of copyright. Such incidental or transient storage can be done for electronic links, access or integration and where doing so is not

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56 Statutory Right is a right which arises from a legislation as opposed to the constitution, common law etc.

57 The Copyright Act, 1957, § 51, No. 14, Acts of Parliament, 1957 (India) [hereinafter The Copyright Act, 1957].

58 The Copyright Act, 1957, § 52.

expressly prohibited by the owner of the copyright. An exception to this is that the person storing it is aware that such storage is of an infringing copy. Further, the proviso of section 52 states that upon receiving a written complaint, the person responsible must stop access to such a copy for 21 days or till a court order is obtained. However, if no court order is obtained within 21 days then the content can be unblocked.

Rule 75<sup>59</sup> of the Copyright Rules, 2013 prescribes the format for the written complaint to be sent to the person who has stored the work. The complaint must contain the description of the work to identify it, and information which establishes that the complainant is the owner or exclusive licensee of the copyright in the work.

Sub-rule 3 provides that, upon receiving the written complaint, the person responsible for storage, if satisfied with the complaint, has to take “*measures to refrain from facilitating such access*” for a period of twenty-one days from the date of receipt of the complaint or till the court order is received. This must be done within 36 hours of receiving the complaint. The person responsible for storage also has to display a notice containing reasons for restraining such access. Once the 21-day period is over and the complainant fails to provide a court order, the person responsible for storage can restore the content. Further, in case of a failure to produce a court order, the person responsible for storage is not obliged to respond to another notice sent by the same complainant, on the same work, stored in the same location.

In addition, chapter XII of the Act provides for the remedies available to the owner or the license holder in case of an infringement. Section 55(1) states that “*Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be*

*conferred by law for the infringement of a right.*<sup>60</sup>

The ISPs are bound to block access to content declared infringing by the courts under section 79(3)(b) of the IT Act, in addition to the provisions under the Copyright regime<sup>61</sup>. Section 79 of the IT Act, states that an intermediary, in order to avail the safe harbour, must ensure that it disables access to any content hosted by it which is being used to commit an unlawful act. The notice for disabling access to content can be given to the intermediary by the government or the court<sup>62</sup>.

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Normally, the remedy of injunction is sought by the owner or licensee of the copyright. Courts pass injunctions against the *Rogue Website*. The courts have adopted two different approaches to determine if a website is a Rogue Website or not. The broader approach is when an injunction is passed for blocking of an entire website as against specific URLs when it is found that the website *substantially* contains infringing content. The test used in this approach is a qualitative one. The narrow approach is when an injunction is passed to block the entire website when it is found that the website hosts infringing content *only*. The difference between the two approaches is that of the threshold for the infringing content- in the broad approach a substantial amount of infringing content is enough to pass an injunction whereas in the narrow approach no injunction is passed unless all the content on a website is infringing the copyright.

The narrow approach was laid down by the Bombay High Court in the case of ***Eros International Media Ltd. & Anr v Bharat Sanchar Nigal Ltd.***<sup>63</sup> The petition was filed by Eros International Media to block URLs which were hosting a file named “Di-

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60 The Copyright Act, 1957, § 55.

61 The Information Technology Act, 2000, § 79.

62 Shreya Singhal v. Union of India, ¶ 122, 124.

63 Eros International Media Ltd. & Anr v. Bharat Sanchar Nigal Ltd., (2016) SCC OnLine Bom 16030.

shoom”, a copyrighted work of Eros. The court blocked a curated list of URLs which was put together by the plaintiffs after an extensive verification conducted by experts. The court observed that, while providing a remedy to the plaintiff to protect their interests, the court must be mindful of the rights of the owners of the websites as well. Courts often give primacy to those who hold statutory and common law rights under the intellectual property regime. However, as a consequence of this, all other rights are considered subordinate<sup>64</sup>. Therefore, the court concluded that the entire website will be blocked when *only* infringing content is hosted on it.

The same reasoning was followed in ***Balaji Motion Pictures v Bharat Sanchar Nigam Ltd and others***<sup>65</sup>. The court refused to block the entire website and observed that large-scale blocking means denial of access to all the content including legitimate content<sup>66</sup>.

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On the other hand, the broader approach was adopted by the Delhi High Court and has been followed consistently by the High Court. The primary reason for adopting the broader approach was given in ***Department of Electronics and Information Technology v Star Parivar Pvt Ltd***<sup>67</sup>- where the court observed that a remedy banning URLs only is not successful in achieving the objective of granting the remedy. As it is very easy to change the URL and host the same infringing content on a different URL. However, the same is not possible with a website. Once a website is blocked, getting another domain name is difficult. Therefore, a remedy of blocking the website is more effective in preventing copyright infringement<sup>68</sup>.

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64 *Id.* at ¶ 5.

65 *Balaji Motion Pictures v. Bharat Sanchar Nigam Ltd. And others* (2016) SCC OnLine Bom 16029.

66 *Id.* at ¶ 6.

67 *Department of Electronics and Information Technology v. Star Parivar Pvt. Ltd.* (2016) SCC OnLine Del 4160.

68 *Id.* at ¶ 11.

The landmark judgment which lays down the broader approach is *UTV Software Communication Ltd and Ors v 1337X.to and ors*.<sup>69</sup> The suit was brought by UTV Software against various websites which hosted and communicated content in which UTV had copyright. UTV sought a permanent injunction against these websites and to direct the ISPs to block access to the websites. They observed that an entire website can be blocked if it is necessary and proportionate. The court explains *necessary* as the measure which is essential to achieve the stated aim. Elaborating on the meaning of a *proportionate remedy*, the court said that such a remedy should be done which is the least restrictive measure, or one which does not adversely affect the defendant's interests excessively<sup>70</sup>. It was observed by the Court that an order blocking the infringing URL is indeed less restrictive than an order blocking the entire website. However, the repeated resurgence of new URLs of a website which continue spreading the pirated material, makes it an onerous task for the right-holder. An order which blocks only the infringing URLs of a website which posts pirated content would require the right holders to approach the Internet Service Provider repeatedly to request the blocking of each such URL. This would make the process onerous for the right holder, and fails to achieve the objective of the blocking order- which is to prevent the circulation of protected content<sup>71</sup>.

Further the court held that the threshold for determining if a website is rogue or not is a qualitative one, according to the court<sup>72</sup>. This qualitative test is the broad approach. According to the court, the websites which *predominantly share* infringing/pirated content are to be considered rogue websites.

The judgments recounted above reflect the cautious approach

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69 UTV Software Communication Ltd. And Ors. v. 1337X.to and ors, (2019) SCC OnLine Del 8002.

70 *Id.* at ¶ 76.

71 *Id.* at ¶ 82.

72 *Id.* at ¶ 68.



of High Courts towards blocking of websites based on copyright infringement and balancing it with the freedom of speech and expression. The courts, in the above cases, perform critical scrutiny of infringement claims and craft remedies to strike a balance between two competing interests. An example of this is in the case of ***Eros International*** where the court granted dynamic injunction for Hydra Headed websites. It was observed by the court that often mirror websites come up after an injunction is obtained for a website. This makes the remedy of injunction redundant and the owners will have to file a suit for every new mirror website. In such a situation a dynamic injunction allows the ISPs to block the mirror websites on their own accord without obtaining court orders. However, this injunction was granted only after placing a caveat- the ISPs should not perform the judicial function of deciding which website must be blocked. Their role is limited to blocking of mirror websites<sup>73</sup>.

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### **THE WORLD INTELLECTUAL PROPERTY ORGANISATION COPYRIGHT TREATY, 1996, AND THE DIGITAL MILLENNIUM COPYRIGHT ACT, 1998**

An examination of the laws enabling the blocking of websites warrants a study of two international instruments which significantly impact the statutory framework of copyright in India: The World Intellectual Property Organisation Copyright Treaty, 1996, and the Digital Millennium Copyright Act, 1998, enacted by the United States Congress.

The World Intellectual Property Organisation Copyright Treaty (hereinafter ‘WCT’), which sought to extend the protection of copyrightable material transferred through the internet. The Treaty is an arrangement under the Berne Convention (first adopted in 1886 and amended several times since), which sought to ensure that works which are protected in one contracting country are afforded the same protection in other countries which are

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73 *Id.* at ¶ 99-100.

contracting parties to the convention. Therefore, the purpose of the WCT is to enable the enforcement of one's copyright in other jurisdictions, particularly when such violation occurs through the internet. Although India had made amendments to its copyright regime under the Copyright (Amendment) Act, 2012, to accommodate some of the measures from the WCT, it had not acceded to the treaty. This presented the introduction of provisions such as the ones present in the Digital Millennium Copyright Act, 1998 (hereinafter 'DMCA', elaborated below), which have been criticized for their excessively strict measures.<sup>74</sup> In 2018, however, India acceded to the WCT, which would consequently require it to bring further amendments to the copyright framework in India, which may considerably wane its powers to retain measures and provisions which it deems acceptable on grounds of public policy. The punishments without reserving with itself the ability to prevent the implementation of those provisions which it may have been reluctant to accept on grounds of public policy. An example often cited is how India amended its copyright regime in 2012 to adopt some of the Treaty's requirements but did not enforce DMCA-like punishments against anti-circumvention, or the prohibition on and punishment upon the manufacture of a device or software which enables a user to circumvent the Digital Rights Management System (DRM) which protects the material.

While considering the impact of India's accession to the WCT, DMCA must also be considered for a comprehensive analysis of the impact of international instruments on the website-blocking phenomena in India on grounds of copyright violation.

The Digital Millennium Copyright Act, 1998 is an anti-piracy statute of the United States which amends the liability regime against copyright infringers prevailing until then in the United States under

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74 Devika Agarwal, Radhika Agarwal, *Needless pressure to change copyright laws*, The Hindu BusinessLine, (January 20, 2018), <https://www.thehindubusinessline.com/opinion/needless-pressure-to-change-copyright-laws/article8557036.ece>.

the Copyright Act, 1976. Primarily, the statute was introduced to give the implementation of two international treaties adopted at the World Intellectual Property Organisation (WIPO), 1996: the WCT, and the WIPO Performances and Phonograms Treaty. Like all copyright statutes, the enactment protects owners of intellectual property, while also laying down exceptions to instances when *works* may be used without permission without attracting liability. The statute also provides for “prohibition against circumvention of technological protection measures employed by copyright owners to protect their works, and against the removal or alteration of copyright management information, (which) were required in order to implement U.S. treaty obligations”<sup>75</sup>. Other provisions of the statute include a restriction on the production or manufacturing of devices, or software, which may be used to circumvent the technological protection measures which are introduced to protect a work<sup>76</sup>.

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### *Impact of the DMCA on Blocking in India:*

Although the operation and impact of DMCA should ideally not be felt in India, the concentration of intermediaries in the United States causes the exception. As such, Indian content users and uploaders, relying on American intermediaries, rely on the DMCA to raise copyright claims against the infringer using the same intermediary. This is done by virtue of Article 5(1) of the Berne Convention, which extends the protection granted to a copyright owner in one jurisdiction across Contracting Parties. The intermediaries’ liability for hosting infringing content of foreign authors is limited by virtue of Article 10 of the WCT<sup>77</sup> and Title II of DMCA. This limitation of liability or safe harbour is conditioned upon the removal

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75 Executive Summary Digital Millennium Copyright Act Section 104 Report, [https://www.copyright.gov/reports/studies/dmca/dmca\\_executive.html](https://www.copyright.gov/reports/studies/dmca/dmca_executive.html)

76 *Id.*

77 WIPO Copyright Treaty (WCT)(1996), accessed at [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_226.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_226.pdf)

of infringing content as and when such claims are raised. Further, it provides the mechanism to raise claims regarding copyright infringement with the intermediaries<sup>78</sup>. The intermediary, usually an American entity, would be approached under the DMCA for the removal of the digital page which hosts the protected content. It follows from this, that in most cases, the DMCA becomes the prevailing statute under which a copyright owner may proceed against an infringer.

44 However, the DMCA has been subjected to severe criticism in its parent statute: most critics believe that the statute does not accommodate fair use exceptions comprehensively, and by extension, hampers free speech protected under the First Amendment to the Constitution of the United States. Apart from the criticism that the provision faces for the threat which it poses to free expression, a report by researchers from the University of California, Berkeley, and Columbia University found that nearly a third of the automated notices sent by “large copyright holders targeting large-scale infringement- in theory, the easiest cases for takedown- and found nearly a third (28.4%) raised at least one question about their validity”. An expected assumption which would follow from this is that notices sent from “less sophisticated users...more than seven out of ten (72%) presented questions about their validity”<sup>79</sup>.

The results of this study create room for speculation as to likely scenarios in which the takedown of content was questionable. Some incidents in India have shed light on the perils which emanate from this arrangement: a recent case is the DMCA notice found on the Lumen Database. Saregama, a large Indian music

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78 The Digital Millenium Copyright Act, 1998, Title II; Copyright Law of the United States and Related Laws contained in Title 17 of the United States Code, Circular 92, May 2021, <https://www.copyright.gov/title17/title17.pdf>.

79 *New Study of Online Copyright Disputes Finds Problematic Practices*, Berkeley Law, (March 29, 2013), <https://www.law.berkeley.edu/article/new-study-online-copyright-disputes-finds-problematic-practices/>.

label, had alleged the infringement of the copyright of its song by about 99 URLs. SpicyIP, a blog about intellectual property law, also received a notice regarding the takedown of one of its URLs from Google LLC in this relation. SpicyIP reports how the notice, alleging the “making available” of the protected song, was towards a report. The report was about the complicated history of the protected song and mentioned the song only by way of “describing the facts in dispute”.<sup>80</sup> The webpage having been deindexed from Google first under the American law, after which the notice was served, SpicyIP was informed of the counter-notice remedy available to it. They availed the remedy, and the URL was restored. By way of an example, however, this and instances like this expose the vulnerability pierced into the freedom of speech through a rigid notice and takedown regime.

Another incident which attracted significant attention was the blocking of the Twitter account of India’s Minister of Information and Technology under the DMCA. Based on an alleged violation, the Minister’s account was blocked. Although the Minister’s account was restored soon after, the incident was seen as one which shed light upon the degree of powers which intermediaries exercise, and the imperfections of copyright regimes. Shashi Tharoor, a Member of Parliament of India also is reported to have deleted his tweet following a DMCA notice. 45

Although the DMCA provides for a counter-notice procedure, through which wrongfully affected content uploaders may seek recourse before the intermediary which has blocked access to their digital content in whatever form, the effectiveness of the counter-notice process against wrongful takedowns has been questioned. In response to the US Copyright Office’s invitation

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80 Divij Joshi, *SaReGaMa Pa-rdon Me, You Have the Wrong Address: On the Perils and Pitfalls of Notice and Takedown*, SpicyIP, (February 12, 2019), <https://spicyip.com/2019/02/saregama-pa-rdon-me-you-have-the-wrong-address-on-the-perils-and-pitfalls-of-notice-and-takedown.html>.

requesting public comments on the takedown process under the DMCA, the Centre for Internet Society at Stanford Law School filed a response highlighting the inadequacies of the counter-notice process. It was noted therein, that apart from filing counter-notices against wrongful takedown being rare, the number of mistaken or malicious takedowns “vastly exceeds the number of counter-notices”. Another reason cited was the nature of the counter-notice process. The requirement of consent to jurisdiction mandated under Section 512(g)(3)(D) of the DMCA, is problematic for users not residing in the United States. Additionally, there is a provision penalising perjury as well, which reportedly has an intimidating effect. Interestingly, in their response, the Centre for Internet Society also stated that “the cost of error for a user if she is mistaken about her copyright defenses is much higher than the cost of error for a copyright owner who is mistaken about her claims”.<sup>81</sup>

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Issues around implementation and remedy notwithstanding, the creation of a parallel copyright regime also proves problematic. The contrast between the Indian regime and DMCA lies in the stage of judicial intervention. Under Indian law, judicial intervention is mandated once the notice is sent to an intermediary. In case no court order is obtained within 21 days after seeking blocking of content, the intermediary has to unblock the content. On the other hand, unblocking under DMCA is conditioned upon a counter notice filed by the infringing party. The judicial intervention is required to get the content blocked again after the counter-notice is received by the intermediary<sup>82</sup>. Therefore, it is observed that in the Indian regime the content will get unblocked on default. Additionally, the onus of approaching the court to keep the content blocked is on the copyright owner. However, there is no such onus on the copyright owner under DMCA. The content continues to be

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81 Daphne Keller, Annemarie Bridy, *DMCA Counter-Notice: Does It Work to Correct Erroneous Takedowns?*, (January 17, 2017), <http://cyberlaw.stanford.edu/blog/2017/01/dmca-counter-notice-does-it-work-correct-erroneous-takedowns>.

82 The Digital Millennium Copyright Act, 1998.

blocked unless a counter notice is filed. It is only when a counter notice is filed that the onus is shifted on the copyright owner again. This puts the copyright owner in a position where making frivolous or mistaken claims is not onerous and does not necessarily have to undergo judicial scrutiny. Further, the *ex post* notification of takedown also inspires an inquiry of the exact toll on legal speech, in addition to the factors mentioned above.

## ANALYSIS OF WEBSITE BLOCKING IN INDIA

The legal framework for blocking access to information on the Internet has been highlighted in the section above. We have covered website blocking due to copyright infringement, blocking in line with section 69A and the Blocking Rules, 2009 as well as Intermediary Guidelines, 2021. It is to be noted that there is a severe dearth of information when it comes to obtaining orders of website blocking in India. This leads to lack of transparency. A true survey of the impact of the use (or misuse) of blocking orders, and the fallacies in the Rules empowering the Government to do so, is crucial in order to measure the extent of violation of the rights, which are under challenge due to State action. This chapter carries out this survey by numerically studying the number of websites which were blocked in India and it is pertinent to note that:

1. The data is collected within the time period from 2015 to March 2022.
2. Meaning of websites in this report include- URLs, complete website, YouTube Channels and Social Media Accounts. This definition is based on the definition adopted by the government for counting websites blocked under various laws (footnote + annex the RTI).
3. Additionally, information was collected from the following sources:
4. Replies to the applications filed under the Right to Information Act, 2005.
5. Court orders.
6. Website of Ministry of Information and Broadcasting and Department of Telecommunications.
7. Newspaper Reports.

List of applications under Right to Information Act, 2005 that have been filed by SFLC.in:



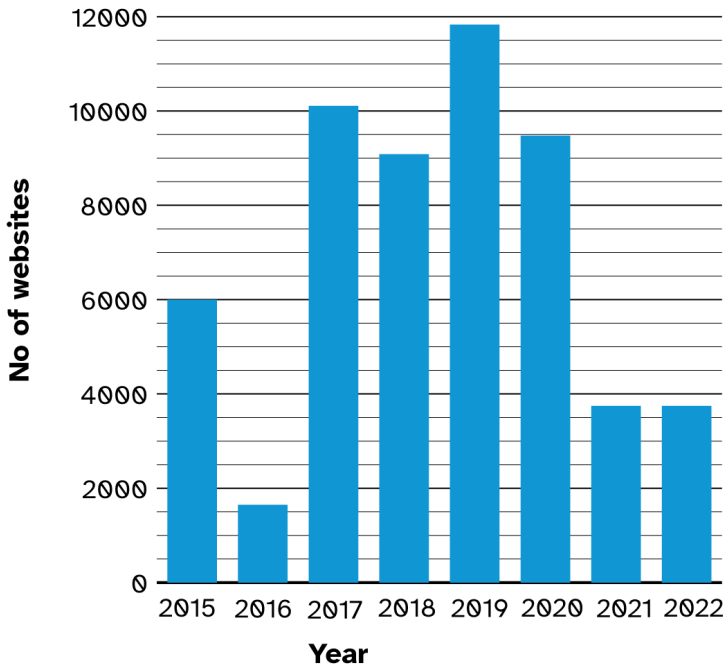
Details of Information Sought	Department	Response	First Appeal	Second Appeal
Total number of websites blocked under section 69A since the year 2012.	MEITY	Response only contained the number of websites that have been blocked and the number of Review Committee meetings held in the year 2021. Remaining information denied on the ground of section 8 of the RTI Act and Rule 16 of the Blocking Rules, 2009.	Not filed	Not filed
Copies of the blocking orders.				
Review Committee meetings held.				
Asked for blocking of particular websites.	MEITY	Information denied on the basis of section 8 of the RTI Act and Rule 16 of the Blocking Rules, 2009.	Filed-information denied	Filed-pending
The list of websites was curated using OONI.				
Copies of blocking orders				
Sought information related to blocking of videolan.org	MEITY	No information available with the department.	Filed- no information available	Filed-pending

Details of Information Sought	Department	Response	First Appeal	Second Appeal
Total number of websites blocked under section 69A since the year 2021.	MIB	Provided the link to the website maintained by MIB where all blocking information is put up.	Not filed	Not filed
Copies of the blocking orders.				
Review Committee meetings held.				
Total number of websites blocked by the department Copies of the blocking orders	DoT	Provided the list of websites that were blocked through court orders.	Not filed	Not filed
Method adopted by MEITY to identify the person hosting content or the intermediary under Rule 8(1).	MEITY	The response stated that the IT Act and the Rules thereunder.	Filed	

### Observations Based On Data Collected From Sources Stated Above

The total number of websites which have been blocked in India

from 2015 to 2022 (till September 2022) is 55,580.



**Total number of websites blocked**

1. The biggest share of website blocking is done under section 69A of the IT Act. The number of websites blocked stands at 26,447<sup>83</sup> which is 47.5 percent of the total blocked websites. As discussed above, MEITY and MIB both have the power to block websites under section 69A, thus, out of the total blocks under this head, MEITY has blocked 26,352 websites and 94<sup>84</sup> websites have been blocked by MIB.

83 Refer to Annexure-2. (RTI reply)

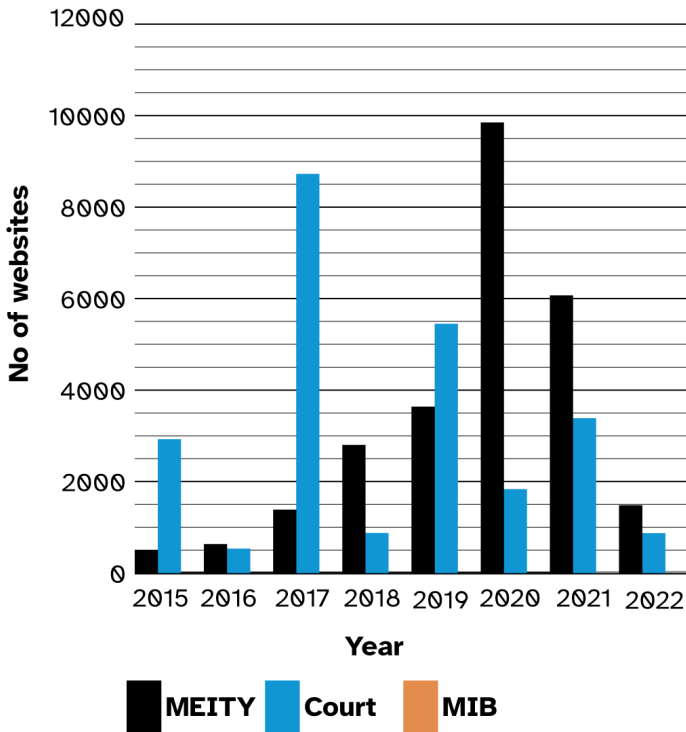
84 Lok Sabha Unstarred Question No. 1602, (July 26, 2022), IXth Session of Seventeenth Lok Sabha; <http://loksabhaph.nic.in/Questions/QResult15.aspx?qref=40509&lsno=17>

Broadly speaking, the reason for blocking of these websites is attributable to the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign states, public order and preventing incitement of commission of any cognizable offence relating to these grounds. However, no specific reasons can be pointed out. This is due to the non-publication of orders by the government by virtue of Rule 16 of the Blocking Rules, 2009.

Whereas, specific reasons for the website blocking done by MIB have come forth. This, however, is only a small piece of the puzzle as the number of blocks ordered by MIB forms a minuscule portion of the total blocks. The reasons are given below:

- i. Spread of disinformation and propaganda affecting foreign relations of India
- ii. Websites linked with organisations banned under the Unlawful Activities (Prevention) Act, 1967 had the potential to incite communal disharmony and separatism.
- iii. Spread of fake news related to the Indian army, Jammu and Kashmir, death of Bipin Rawat.
- iv. Propaganda undermining the democratic process in the upcoming elections.

As argued before, there is enough evidence to show that Rule 16 is unconstitutional for establishing a procedure which is unreasonable for violating principles of natural justice. These numbers further supplement this argument, as it is reflected that the majority of censorship of the internet is happening in a non-transparent manner. It is thus recommended that there is a need to establish greater accountability standards such as increased transparency and a robust review mechanism which is not limited to the executive branch.



2. Further, 274<sup>85</sup> mobile applications have also been blocked by

85 Ministry of Electronics and Information Technology, *Government bans 59 mobile apps which are prejudicial to sovereignty and integrity of India, defence of India, security of state and public order*, Press Information Bureau, (June 29, 2020), <https://pib.gov.in/Press-ReleaseDetailm.aspx?PRID=1635206>; Ministry of Electronics and Information Technology, *Government Blocks 118 Mobile Apps Which are Prejudicial to Sovereignty and Integrity of India, Defence of India, Security of State and Public Order*, Press Information Bureau, (September 2, 2020), <https://pib.gov.in/PressReleasePage.aspx?PRID=1650669>; Ministry of Electronics and Information Technology, *Government of India blocks 43 mobile apps from accessing by users in India MEITY issues order for blocking apps under Section 69A of the Information Technology Act*, Press Information Bureau, (November 24, 2020), <https://www.pib.gov.in/PressReleasePage.aspx>

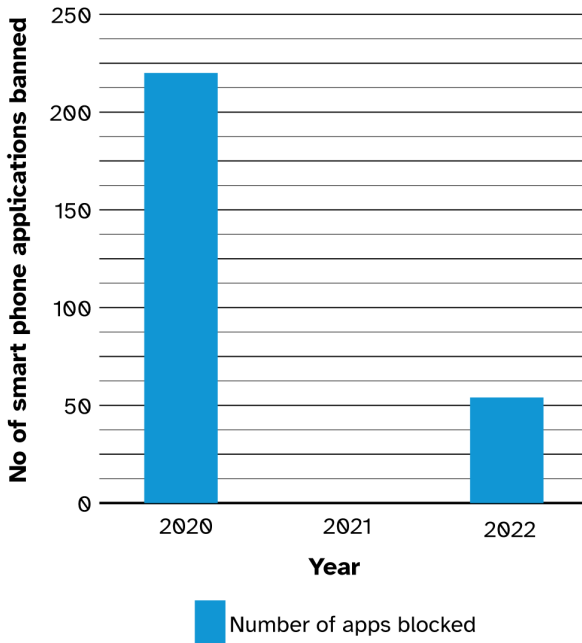
MEITY for over 2 years under section 69A. The reason for blocking these apps as provided by the Ministry spokesperson, in the press release is that these applications indulged in stealing the data of its users and transmitting it to servers outside India in an unauthorised manner. The Ministry spokesperson added that the data was then used for profiling by “elements hostile to national security and defence of India”. The Ministry also stated that CERT-IN has received representations from citizens raising concerns regarding the security of data and breach of privacy.

54 In June 2020, MEITY blocked 59 applications which were considered to be prejudicial to the national security of India. Apps that were blocked included social media applications like TikTok; e-commerce applications like Shein and Romwe; several photo editing applications like YouCam makeup, Beauty Plus, Sweet Selfie, Photo Wonder and Wonder Camera; browsers like DU Browser and CM Browser among many others.<sup>86</sup>

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?PRID=1675335; Team Inc42, *India To Ban 54 More Apps Linked To Tencent, Other Chinese Tech Cos*, Inc42 (February 14, 2022), <https://inc42.com/buzz/india-to-ban-54-more-apps-linked-to-tencent-other-chinese-tech-cos/>; Ministry of Information and Broadcasting, *Ministry of Information and Broadcasting orders blocking of Apps, website and social media accounts linked to banned organization Sikhs For Justice*, Press Information Bureau, (February 22, 2022), <https://pib.gov.in/PressReleasePage.aspx?PRID=1800212>.

- 86 Ministry of Electronics and Information Technology, *Government bans 59 mobile apps which are prejudicial to sovereignty and integrity or India, defence of India, security of state and public order*, Press Information Bureau, (June 29, 2020), <https://pib.gov.in/PressRelease-Detailm.aspx?PRID=1635206>



In September 2020, MEITY again blocked 118 applications on similar grounds as before, these applications included popular gaming platforms like PUBG, Ludo World, Dawn of Isles, Warpath, Game of Sultans; Music playing apps like Music Player- MP3 Player & 10 Bands Equalizer, Music Player- Bass Booster- Free Download, Music- Mp3 Player; photo editing apps like HD Camera - Beauty Cam with Filters & Panorama, HD Camera Pro & Selfie Camera among other apps<sup>87</sup>.

Again in November 2020, MEITY blocked 43 applications, which included dating applications and e-commerce applications<sup>88</sup>.

87 Ministry of Electronics and Information Technology, *Government Blocks 118 Mobile Apps Which are Prejudicial to Sovereignty and Integrity of India, Defence of India, Security of State and Public Order*, Press Information Bureau, (September 2, 2020), <https://pib.gov.in/PressReleasePage.aspx?PRID=1650669>.

88 Ministry of Electronics and Information Technology, *Government of*

3. The second highest number of website blocks are ordered by courts for infringement of copyright. The number stands at 26,024 which is 46.8 per cent of the total websites that have been blocked.<sup>89</sup> However, a relatively declining trend can be observed for court-ordered blocking of websites for copyright infringement. It must also be noted that there are multiple instances where a large number of websites were blocked by a single court order, as these websites mirror each other and are blocked for large-scale infringement of copyright.

56 4. Third major ground for blocking is obscenity, CSAM (Child Sexual Abuse Material) and pornography. A total of 1,065 websites have been blocked in the time period from 2015 to 2022. In 2018, 857 websites were blocked by MEITY after an order made by the Uttarakhand High Court [WP (PIL) No. 158/2018] This order directed the government to block websites or any content online depicting pornography, especially child pornography. Further, 238 websites were blocked by the Addl. Chief Metropolitan Magistrate Mumbai in 2016 for obscenity/porn/child sexual abuse.

5. From a perusal of court orders and the information provided by the Department of Telecommunications, other reasons that have emerged for banning of websites include- defamation, public disorder, law and order and contempt of court.

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*India blocks 43 mobile apps from accessing by users in India MEITY issues order for blocking apps under Section 69A of the Information Technology Act, Press Information Bureau, (November 24, 2020), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1675335>*

89 Refer to Annexure-5. RTI reply from DoT.



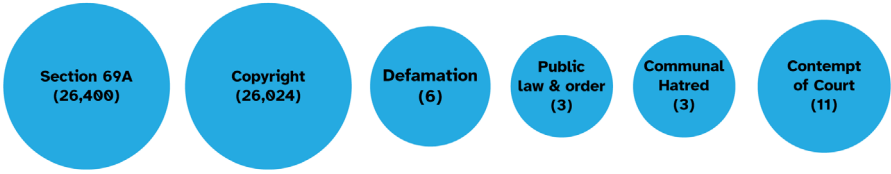
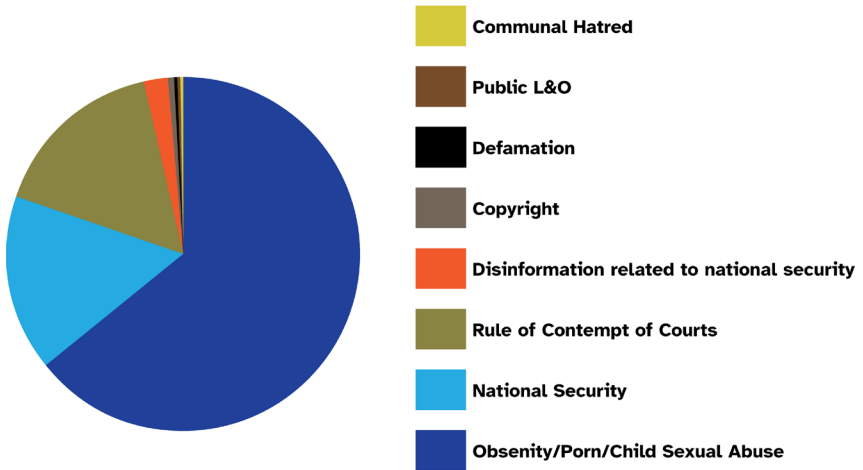


Fig 8. Category wise website blocking

## Data



## CHAPTER 1

**TECHNICAL ANALYSIS OF WEBSITE BLOCKING**

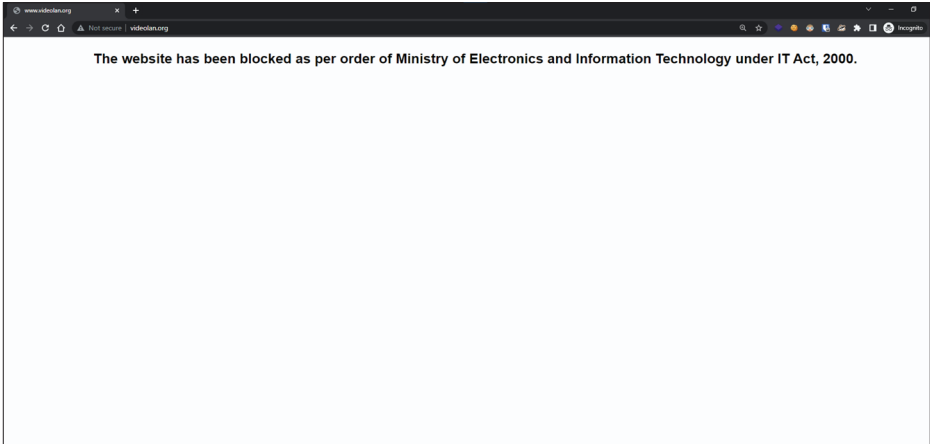
58 The execution of website blocking orders issued by the government and the courts, is done by Internet Service Providers (ISPs). When an order is issued for blocking, it is sent to the ISPs to carry out the blocking. It has been observed over time that the techniques used vary across ISPs, which in turn results in a widely different experience of website censorship among users<sup>90</sup>. It has also been seen that a particular website is blocked using different technical methods and in some cases is not blocked at all. The kind of blocking also varies across the mode of internet connectivity i.e. by using mobile internet or fixed broadband.

An example of this is the Videolan website. It was reported that many users in late 2022 tried unsuccessfully accessing the website<sup>91</sup>. The messages that were displayed said: “the website has been blocked as per the order of the Ministry of Electronics and Information Technology”; or “the website cannot be reached”. Subsequently, SFLC.in filed an application under the RTI Act on 2 June 2022. In the reply to the application, MEITY stated that it has no information related to videolan.org. Subsequently, a First Appeal was filed on 22 June 2022. However, no satisfactory response was provided due to which a second appeal was filed on 11 July 2022.

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90 Kushagra Singh, Gurshabad Grover, Varun Bansal, *How India Censors the Web*, Center for Internet and Society, (May 30, 2020), <https://cis-india.org/internet-governance/how-india-censors-the-web-websci>.

91 Mitaksh, *VLC's Website Has Been Down For Over Two Months In India*, Medianama (May 19, 2022), <https://www.medianama.com/2022/05/223-vlc-website-blocked-two-months-india/>.



It is important for the ISPs to be cautious of the blocking techniques they use. Over censorship and under censorship both may result in adverse consequences for the ISPs.

59

Over censorship means blocking content when there is no legal mandate or a legal ground to do so. If an ISP blocks access to a website without an order issued by the government or the court it will amount to an offence under section 43 of the Information Technology Act, 2000. Section 43 entails that causing disruption to a computer network without the permission of its owner<sup>92</sup> or denial of access to any person authorised to access any computer network amounts to an offence and attracts liability in terms of penalty and compensation<sup>93</sup>.

Additionally, in case of under censorship, when an ISP fails to block a website as directed by the government or the court then it will lose the safe harbour immunity under section 79 of the IT Act and will become responsible for the third-party content/information<sup>94</sup>.

In order to understand the practical implementation of website

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92 The Information Technology Act, 2000, § 43(e).

93 The Information Technology Act, 2000, § 43(f).

94 The Information Technology Act, 2000, § 79.

blocking it is apposite to discuss the techniques used by the ISPs in India. This gives us a fair idea of how actually internet censorship is taking place in India. Following techniques are prevalent among ISPs in India:

### DNS TAMPERING

The Domain Name System (DNS) acts as a dictionary which stores the IP addresses of registered domain names. An IP address is a unique combination of numbers which is attached to each computer and server in the world. Most ISPs run their own DNS Servers.

60

Techniques of censoring the web which targets the DNS process are normally called DNS tampering. These include *DNS Poisoning* and *DNS Injection*. DNS Poisoning is a technique where the DNS server returns an incorrect/fake IP address. On the other hand with Injection, there is an intermediary introduced in the process of the DNS lookup and the intermediary injects the wrong IP address.<sup>95</sup>

Generally, this form of censorship can be bypassed by using DNS over HTTPS, as HTTPS is a secure protocol having encryption in place. DNS over TLS is another method (TLS is explained in a subsequent section). DNS tampering is a very common technique of blocking websites/URLs on the internet and is used by most of the major ISPs in India, like Airtel, Vi, ACT etc<sup>96</sup>.

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95 OONI Glossary, *DNS Tampering*, Open Observatory of Network Interface, <https://ooni.org/support/glossary#dns-tampering>; <https://cis-india.org/internet-governance/how-india-censors-the-web-websci>; Tarun Kumar Yadav, Akshat Sinha, Devanshi Gosain, Piyush Kumar Sharma, Sambuddho Chakravarty, *Where The Light Gets In: Analyzing Web Censorship Mechanisms in India*, IMC'18, 252, (October 31, 2018), <https://doi.org/10.1145/3278532.3278555>.

96 <https://cis-india.org/internet-governance/how-india-censors-the-web-websci>

## HTTP BLOCKING

Hypertext Transfer Protocol (HTTP) is a set of rules for transferring data across the internet. It is the underlying protocol used by the World Wide Web. In order to access a website on the internet, a request in HTTP format is sent to the server hosting the website and the server responds with the content of the website- therefore, giving access to the website. However, HTTP information is unencrypted. This makes it highly susceptible to blocking.<sup>97</sup>

HTTP Blocking is another method to block access to websites. Generally, ISPs intercept an HTTP request being sent to the server of the blocked website and return a forged packet which looks like it has been sent from the server of the requested website. A user can receive different responses, which can include a response showing a page which contains a blocking notice or redirect to a page which shows the blocking notice. In some instances a page showing an HTTP error can also occur. These responses vary from ISP to ISP.<sup>98</sup>

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One way to bypass blocking over the HTTP protocol is to use the HTTPS protocol. “S” in HTTPS stands for Secure, which is accomplished through encryption thereby making it difficult and/or time-consuming, to intercept.

## TCP/IP BLOCKING

Another method to block access to a website is by blocking the IP address of the server where the website is hosted. When a request is made to access a blocked website the ISP will redirect the request to its own server, which may display an error or block message. This form of blocking is executed through reading and intercepting the TCP packets. Transmission Control Protocol (TCP) is the protocol which manages the flow of data over the internet. It ensures

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97 OONI Glossary, *HTTP*, Open Observatory of Network Interface, <https://ooni.org/support/glossary#http>

98 How India Censors the Web- <https://cis-india.org/internet-governance/how-india-censors-the-web-websci>

that the packets of data reach the destination in the required form. Part of the information contained in a TCP packet is unencrypted metadata that contains the port number of the destination of a packet. Thus, the ISPs can read this information, identify the port number and stop the packet from reaching the blocked IP.

However, one particular IP address can be related to multiple websites, this is possible due to virtual or shared hosting. Therefore, if an IP address is blocked then all websites related to that IP address will be blocked and no differentiation can be made. This leads to over-blocking and thus, is not a popular technique of blocking websites among ISPs. However, in a recent study it was found that Reliance Jio Network uses TCP/IP blocking as well.<sup>99</sup>

### **TLS-SNI BLOCKING**

62

Transport Layer Security (TLS) is an encrypted layer on HTTP and manages certificates. A certificate here refers to the one which establishes the identity of a website and creates a secure connection between the website and the end user. Server Name Identification (SNI) is an extension of the TLS which helps with hosting multiple websites on the same server. The SNI contains the name of the website which can be read and subsequently blocked by the ISPs. This can be done using deep packet inspection as it travels in cleartext (unencrypted text). Deep Packet Inspection is the method of examining the full content of the packets of data being transferred over a network.<sup>100</sup>

The trend of SNI blocking has increased since 2019. It has been

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99 How India Censors the Web- <https://cis-india.org/internet-governance/how-india-censors-the-web-websci>

100 Simone Basso, Gurshabad Grover, Kushagra Singh, *Investigating TLS blocking in India*, OONI, (July 8, 2020), <https://ooni.org/post/2020-tls-blocking-india/>; <https://cis-india.org/internet-governance/how-india-censors-the-web-websci>

observed that China<sup>101</sup> and South Korea<sup>102</sup> are using this technique of website blocking. Recently, in a report published by OONI, it was found that Reliance Jio Network deploys SNI to censor websites.<sup>103</sup>

## QUIC NETWORK BLOCKING

A recent study by OONI has found that QUIC blocking is also happening in India.<sup>76</sup> QUIC is a network protocol, which removes TCP and replaces it with UDP (User Datagram Protocol). UDP is a transport layer protocol similar to TCP which is used to carry data packets across the internet. Furthermore, to ensure that the connection is encrypted QUIC uses TLS v1.3. When a connection between a host and a server is done via QUIC then a UDP multiplexed connection is created. In order to ban a website, the ISP will have to scan every stream continuously. Doing the same is resource intensive and may eventually result in a reduction in speed.<sup>104</sup>

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101 Sukhbir Singh, Arturo Filastò, Maria Xynou, China is now blocking all language editions of Wikipedia, OONI, (May 5, 2019), <https://ooni.org/post/2019-china-wikipedia-blocking/>.

102 *Investigating TLS blocking in India*<https://ooni.org/post/2020-tls-blocking-india/>

103 Id. <https://ooni.org/post/2020-tls-blocking-india/>; <https://cis-india.org/internet-governance/how-india-censors-the-web-websci>

104 Kathrin Elmenhorst, A Quick Look at QUIC Censorship, OONI, (June 16, 2022), <https://ooni.org/post/2022-quick-look-quick-censorship/>.

## INTERNATIONAL JURISPRUDENCE ON WEBSITE BLOCKING

### WEBSITE BLOCKING AND DUE PROCESS

Judgements from Indian Courts highlighted in the previous section have carved out the depth with which the jurisdiction has checked the exercise of powers of the State in blocking websites. This chapter undertakes a study of the judgements which have emerged from Courts in international jurisdictions. In effect, this is a study of the emerging judicial trends in dealing with the take-down of websites.

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Before embarking on this comparative analysis, two questions warrant attention: '*why is studying foreign precedent relevant?*', and '*what methodology has been followed to ensure that the comparative analysis is useful?*'.

*Relevance of a Comparative Analysis of Judgements:* The first question, of the relevance of foreign judgements in understanding the conflict of rights where website blocking is involved, is easily answered through the Late Justice Antonin Scalia's reasoning. He emphasizes that the presence and promise of fundamental rights are not enough to protect them from the State's powers. He suggests that the true strength of a bill of Rights rests in the institutional setup of a political system, and the functioning of each organ within that setup. This effectuates the true protection of rights, which are the same in text in any democracy and dictatorship.<sup>105</sup> Therefore, while every democratic, and most autocratic nation makes the promise of free speech in its Constitution, the

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105 Youtube.com. 2018. *Judge Ruth Bader Ginsburg and Justice Antonin Scalia: The Separation of Powers - Nov 15, 1988*. [online] Available at: <<https://www.youtube.com/watch?v=iCjWgomk79o>>



protection is not guaranteed merely by this promise and requires the different organs of Government to work in harmony.

Courts play the most important role here. They are the organ which checks the powers of the Government, and are the forum of appeal, against the Government, for the citizens. The enforcement of the fundamental rights, in essence, occurs in Courts of law, at the hand of Judges interpreting statutes, and sometimes going beyond statutes to invoke universally accepted principles of justice, to defend the rights in question.

A study, therefore, becomes important in order to see how Courts interpreting similar promises of their Constitutions react to acts of State which curb fundamental promises when blocking websites. Across jurisdictions with largely the same set of rights and duties which come into conflict when a website is blocked, we study the reactions of the Courts to such an act. This study is by way of understanding the instruments of interpretation they rely on, the kind of justifications they offer to their reaction (orders). The consideration rendered towards the impact of the order as precedent for future and other Courts to follow, and the navigation of various legal complexities to emerge with the final orders, presumably just, are also considered. Such a reading becomes extremely important as a case study for lawmakers, Courts, and civil society, by way of examples. Laws, policies, and interpretations can rely on the triumphs and failures of other jurisdictions to better understand the meaning of the rights in question, striking a proportionate response, and entrenching those rights which are in peril.

*Methodology:* The second question, requiring an explanation of the method of study, draws from the reason for the study, set out above. In order to understand the interaction of rights involved when a website is blocked by the State, judgements have been considered from the courts of final appeal from across continents. All attempts have been made to highlight instances where the rights involved are analogous to the rights in India both in text and

interpretation. The section deliberately considers both types of judgements- in which the blocking is upheld, or where the blocking order is struck down. This has been done to highlight the contrast in reasoning between the two types of judgements- an observation which will enable takeaways for all three organs of Government, and the civil society. Through this contrast, it is expected that the importance of procedural and substantive due process will emerge. The manner in which Courts have either circumvented these two elements of the judicial process either while upholding the impeachment of rights, or while defending such rights, to test the strength of justifications offered and where necessary, garner a critical approach pre-emptively, in the interest of promoting an ideal framework for the operation of the rights.

## ***EUROPE***

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### **The European Court of Human Rights**

#### **1. *Substantive Due Process and Website Blocking Orders [Russia]***

*In four significant judgments (Vladimir Kharitonov v Russia<sup>106</sup>, OOO Flavus and Ors. v Russia<sup>107</sup>, Bulgakov v Russia<sup>108</sup>, and Engels v Russia<sup>109</sup>), the European Court of Human Rights at Strausbaugh carved out substantive and procedural due process in state action which blocks websites. Causes of action arose when the Russian Government undertook various blocking measures against*

106 Vladimir Kharitonov v. Russia, application no. 10795/14, June 23, 2020, [https://hudoc.echr.coe.int/eng#%22itemid%22:\[%22001-203177%22](https://hudoc.echr.coe.int/eng#%22itemid%22:[%22001-203177%22).

107 OOO Flavus and Ors. v. Russia, application Nos. 12468/15, 23489/15, 19074/16, November 16, 2020, [https://hudoc.echr.coe.int/eng#%22itemid%22:\[%22001-203178%22](https://hudoc.echr.coe.int/eng#%22itemid%22:[%22001-203178%22).

108 Bulgakov v. Russia, application no. 20159/15, June 23, 2020, [https://hudoc.echr.coe.int/eng#%22itemid%22:\[%22001-203181%22](https://hudoc.echr.coe.int/eng#%22itemid%22:[%22001-203181%22).

109 Engels v. Russia, application no. 61919/16, June 23, 2020.

*the websites of the applicants. Highlighting the lack of procedural safeguards within the statutes in question and the lapse of application of such safeguards by the domestic Courts, all four website blocking orders were struck down, and the applicants were awarded damages.*

- In Vladimir *Kharitonov*, the IP address of the applicants' website was blocked by the telecoms regulator because it was hosted on the same IP address as another website with impermissible content. The applicant's complaint was rejected; the domestic Court simply observed that the blocking order passed was lawful, without considering any other factors of law or its impact<sup>110</sup>.
  - In *OOO Flavus*, the website of the media outlet - applicant, which published content critical of the Russian Government, was blocked under the domestic statute for content which contained acts of mass disorder, extremist activities, or unauthorised mass gatherings<sup>111</sup>, all of which enabled the blocking of their website without a court order.
  - In *Bulgakov*, the applicant's website, which hosted a book "which had previously been categorised as extremist publication"<sup>112</sup>, was blocked by a Court order at the service provider's level. Although the applicant was not aware of such an adverse order against him, upon becoming cognizant of it, he removed the book from his website. When the blocking measure was not lifted despite this, the applicant appealed. His appeal was dismissed by the appellate body on the grounds that the cause of action in the original case had arisen against the internet service provider, and not against the applicant's website or the book hosted by it. As such, the

110 Vladimir Kharitonov v. Russia, ¶ 1-11.

111 OOO Flavus and Ors. v. Russia, ¶ 21.

112 Bulgakov v. Russia, ¶ 5.

appellate court could not set aside the original blocking order. “Without examining the applicant’s evidence, the Regional Court held that it had not been shown that the offending e-book had been removed”<sup>113</sup>.

- Finally, in *Engels*, the court ordered the blocking of the applicant’s website by the local service provider, which hosted content dealing with freedom of expression and matters related to privacy. The State’s claim was that the applicant’s website contained suggestive content on bypassing content filters, which would enable the dissemination and access to extremist content. Here too, the applicant was not informed of the proceedings against him, and the applicant complied with the court order which would block access to his website unless he took down the relevant content. The applicant then applied for appeal questioning the fairness of the proceedings against him and questioned the illegality of the information which he published. The Court rejected his appeal without responding to the issues raised by the applicant.

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All of the above applications were brought claiming a violation

of the rights of the applicant under Article 10<sup>114</sup> and Article 13<sup>115</sup> under the European Convention on Human Rights, 1950, guaranteeing the freedom of expression, and an effective remedy before a national authority respectively.

The four judgements, collectively, are of immense importance in how they highlight the procedural guarantees rooted in the two broadly worded rights which were affected, apart from the literal interpretation which is lent to the wording of the provisions.

It was made emphatically clear that the right to impart and receive information was affected by State action in all four of these cases. While how the Court dealt with exceptions to this non-absolute freedom is laid out in more detail below for each case, of particular importance is the starting point for the Court in all of its judgements. The Court began by understanding the rights at stake in this matter and stating the important role which the internet plays in exercising the right to freedom of expression. Locating a free

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114 European Convention on Human Rights, 1950, Article 10(1). Freedom of Expression- Everyone has the right to freedom of expression. This right shall include the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

Article 10(2): Freedom of Expression- The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

115 European Convention on Human Rights, 1950, Article 13: Right to an Effective Remedy-Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

speech right on the internet enabled the Court to justify a finding that blocking websites is a gross violation of the right, by the State. What followed from there was an analysis by the Court which may be subtly referred to as a process of *elimination by aspects*, by testing the State-action against the different safeguards which a State must qualify before being able to legally justify its intrusion.

The judgement in all four cases is largely similar in the procedural safeguards it highlights, apart from the requirement of a thorough necessity analysis while blocking websites. Relevant paragraphs from these judgements are summarised below:

a. The blocking order must be grounded in a valid law. In both the *Kharitonov* case and the *OOO Flavus and Ors.* case, there was no valid law to sustain the blocking. In the former, the applicant's website was blocked only because his website was hosted on the same IP address which hosted another website with illegal content as defined by statute. In the latter, promotion of “**unlawful actions**” was the claim against the latter's website, a phrase which is not used in the statutory provision under which the blocking address was ordered. While Article 10 right of the Convention is a qualified right, in that a law may provide for the abridgement of such right, such law must be “adequately accessible and foreseeable, that is, formulated with sufficient precision to enable the individual to foresee the consequences which a given action may entail”<sup>116</sup>. This also places the requirement of an absence of arbitrariness in the law. Therefore, in neither case, could the qualification for the interference of the applicants' rights could be said to have been met, owing to the failure of the concerned statutes to meet the ‘valid law’ requirement.

b. A procedural failure was noticed in the *OOO Flavus and Ors.* case, in which the second applicant's entire website was blocked. The impugned statute under which the blocking order had been issued itself specified that a notification blocking

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116 Vladimir Kharitonov v. Russia, ¶ 37.

websites must list specific URLs of the webpages of a website which host content defined as illegal under it. The notification issued in this case failed to meet this requirement of the law. The deprivation of a chance for the applicants to rectify their websites by removing the allegedly offending content<sup>117</sup> notwithstanding, the measure was a “wholesale blocking of access to a website”. This was an extreme step, as precedent emerging from the European Court has previously laid out. The illegality of such a measure was located by the Court in the disregard of such orders towards legal and illegal information, which is antithetical to the *necessity* of such infringement in a democratic society. Highlighting the importance of non-arbitrariness of blocking orders, the Court said that even if, in exceptional circumstances, a blocking order targeted at an entire website was to be issued, such an order would have to be justified on its own merit, separate from the justification for blocking the illegal content in particular<sup>118</sup>, under the permissibility of State-action under Article 10 and its interpretation. A similar approach was taken towards the blocking order issued in the *Bulgakov* case where only one book was uploaded, which was undisputedly illegal, and subsequently removed, while the website continued to remain banned.

c. The *Engels* judgement saw a blend of procedural and substantive inadequacies of the state action against website owners or content publishers. Without catering to the question of the legality of the applicant’s content under domestic law, the domestic Court had simply considered the possibility of the use of such information by extremist groups elsewhere and passed an adverse judgement against the applicant. The overbreadth of this approach was explained through an analogy by the Court in *Strausbaugh*: “suppressing information about the technologies for accessing information online on the grounds they may incidentally facilitate access to extremist material is

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117 OOO Flavus and Ors. v. Russia, ¶ 32.

118 *Id.* at ¶ 36-38.

no different from seeking to restrict access to printers and photocopiers because they can be used for reproducing such material”<sup>119</sup>. This defect of vagueness and overbreadth of the law notwithstanding, the absence of any procedural safeguards in the law to deliver notice to the applicant of the adverse action against them, was one of the grounds under which the blocking measure was found to be illegal. The State had also failed to offer any explanation for the urgency of blocking the website which could have justified not notifying the applicant. A blatant violation of the rule of law, these factors combined in the unfavorable order against the State.<sup>120</sup>

The glaring absence of safeguards from state action which causes an Article 10<sup>121</sup> violation by way of blocking websites was also a concern raised by the Strausbaugh Court in all of the above cases. Other concerns for the Court were: non-service of notice by the domestic Courts before an adverse order was passed against the applicants; non-accountability of the State for such non-service; and ambiguous provisions to appeal the order passed against them. More importantly, the European Court noted that the Russian Courts did not effectively undertake a substantive review measure, or a proportionality analysis, both of which were expected analyses by a Court where rights are concerned<sup>122</sup>. As a substantive review measure was absent, the European Court found in favour of the applicants and upheld that their Right under Article

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119 *Engels v. Russia*, ¶ 30.

120 *Id.* at ¶ 31-35.

121 Freedom of Expression (*Supra* note 111)

122 It may be of importance to note that since its expulsion from the Council of Europe, Russia ceases to be a High Contracting Party to the European Convention on Human Rights, following its invasion of Ukraine. This effectively ceases any possibility of a review of Russian judgements before the European Court of Human Rights. Although in 2015, the Russian Constitutional Court had passed a judgement limiting the effect of the judgements emerging from the Court at Strausbaugh to ‘executable’ only if they are in conformity with the Russian Constitution, the forum of appeal was still available to Russians.



13 of the Convention<sup>123</sup> was violated as well. Although the Russian Courts *did* conduct proceedings in each of these cases, their role as rubber-stamp courts, either by ignoring the evidence or arguments advanced by the complainants, or by only checking whether a competent authority had followed the text of the concerned statute, deprived the applicants of a fair right to have the orders passed against them reviewed.

In all of these cases, the European Court ordered Russia to pay damages to the complainants within a deadline (interest applicable thereafter), and reaffirmed the general jurisprudence of the European Convention's guarantee of both procedural and substantive protections in their Article 10<sup>124</sup> and 13<sup>125</sup> rights.

## ***2. Procedural Due Process and Website Blocking Orders<sup>126</sup> [Turkey]***

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*In an appeal to a Turkish Court's order blocking YouTube in the country for content which was "blasphemous", the European Court of Human Rights found in favour of the plaintiffs. The judgement sets an important landmark on questions of who may apply to challenge a website blocking order, and the requirements of a valid law which allows the blocking of a website.*

In 2008, the Ankara Criminal Court of First Instance ordered the blocking of access to media-sharing platform YouTube's website on the grounds that it contained about ten videos which allegedly insulted the memory of *Ataturk*. Relying on the domestic law which regulates content on the internet and penalises online

123 Right to an Effective Remedy (*Supra* note 112)

124 Right to Freedom of Expression (*Supra* note 111)

125 Right to an Effective Remedy (*Supra* note 112)

126 Cengiz and Ors. v. Turkey, application nos. 48226/10 and 14027/11, December 12, 2015.

offences, the order was passed. When an appeal was filed by three academics claiming that said an order violated the *freedom to receive and impart information* their request was denied on the grounds that the State had satisfied its burden under the law, and that the academics lacked *locus standi* to bring the appeal. The matter was finally appealed to the European Court of Human Rights at Strausbaugh, which admitted their appeal.

74 Firstly, the European Court settled the key question of the *locus* of the applicants. Two strong observations played a key role in the Court's justification in finding that the applicant had a standing in this matter- first, the Court noted the importance of platforms like YouTube which are essential for sharing information, including political information. Secondly, the Court observed that there is a difference between traditional media and online platforms such as YouTube. Greater accessibility of online platforms, and the breadth and variety of information which can be uploaded on, expands the scope of people to establish their *locus standi* when their right is infringed by the State through a blocking order<sup>127</sup>. The Court was also cognizant in its discourse about the lack of other means to access the kind of information which was made available on YouTube. These grounds justified the standing of the applicants before the Court.

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127 This is of significant importance for the purposes of this report. It highlights the presumption still taken by Courts and Governments that when websites are blocked, the party qualified to move the Court is the website itself, through its owners. The content owners on that website, or individuals who rely on receiving information, or disseminating information, or both, in this rationale. This interpretation propagates the logic that only the website owner's rights are infringed when it is blocked. However, the precedent set by the European Court in this judgement dispels this disillusion, by pointing out that the rights of those who may use the website are also affected. Considered further, this approach reflects on the truly decentralised role which the internet, and the websites on it, plays in the exercise of the freedom of expression, vesting an inherent right in each who use it.

The Court referred to the domestic law under which the website was blocked, and noted that it did not permit the wholesale blocking of a website. Instead, the domestic statute allowed only the censorship of selective offensive content. It also relied on the judgment of Turkish Courts which had set precedent against blocking websites *in toto*, where only some of the content was objectionable in law. Following the requirements of Article 10(2)<sup>128</sup>, that State action which curbs free speech rights must be prescribed by law, the Court invoked the definition that such a law should be clear, unambiguous, foreseeable, and compatible with the rule of law.

This, the Court said, was absent in the law relied upon by the Turkish Court banning YouTube- there was no law which could empower the Court to block the entire website. This basic condition not having been satisfied, the Court found in favour of the applicants.

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### **CENTRAL ASIA, ASIA AND SE ASIA (5)**

#### **1. Blocking Orders Upheld by the Supreme Court<sup>129</sup> [Kyrgyzstan]**

*The Kyrgyzstan Supreme Court upheld a blocking order on grounds of public interest.*

The website of a private TV channel, which was linked to a leader

<sup>128</sup> **Article 10(2)- Freedom of Expression:** The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. (*Supra* note 111)

<sup>129</sup> Prosecutor General v. TV Radio Company S-2 (Channel “September”), case no. 05-2854/17 GD, December 27, 2017.

from the opposition, was blocked on the grounds of sharing ‘extremist material’. No adequate notice was served to the representative of the TV channel and an order blocking the website was issued. The content alleged to be illegal was an interview aired on the channel, which had incited ethnic hatred between natives of the respondent state and the Uzbek. An expert academic’s view was taken by the Court, which concurred with the State’s reasons. The lower Court upheld the order based on this evidence. Provisions of the Constitution which limit rights in public interest were relied on by the State and approved by the Court. The channel was found liable for incitement.

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An appeal was filed on procedural and substantive grounds, which challenged the overbreadth of the order, non-compliance with principles of natural justice, wholesale blocking, and the right to a fair trial guaranteed by the International Covenant on Civil and Political Rights, 1966. On a technical ground, that the document of appeal filed before the Court on behalf of the channel had been signed by a person not authorised to do so, the Court dismissed the appeal, and upheld the ruling of the lower Court. There is no record of any relief being provided to the channel, nor was there any mention of leave to approach the Court again after overcoming this technical error.

## 2. **Blocking order issued by Court [Bangladesh]**

*The Bangladeshi High Court ordered the blocking of all unregistered news portals in a writ petition filed before it.*

A legal notice was sent to the Ministry of Information and Broadcasting, the Bangladesh Telecommunication Regulatory Commission, and the Bangladesh Press Council, asking them to formulate an ethical code of conduct for the publication of any news items. This was in response to the publication of a news item about the suicide of a twenty-one-year old girl, which had taken held the attention of media outlets, and online news portals in particular.

When no initiative was taken “to stop the spread of this news”, a writ petition was filed before the High Court demanding the registration of news portals online, and the formulation of an ethical code of conduct for the publication of news items<sup>130</sup>.

An order was passed by the Court giving the Commission seven days to block all unregistered news portals. This was extended by two weeks by the Court and asked for a report of the same after hearing arguments as to why it should not pass an order that the registration of the pending news portals that had applied be approved, and the unapproved news portals be closed.

*Note: It was later reported that in the process of shutting down unapproved and unregistered web news portals, several mainstream-approved news websites were also shut down by the Commission. “The Telecom regulator had started shutting down the unregistered news portals based on a list, but it had some wrong information”, was the statement issued by the Minister for Post and Telecommunications<sup>131</sup>.*

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### **3. Content blocking order issued by the Thai Government blocked by Thai Civil Court [Thailand]**

*Finding that the ambiguity of the parent statute is too vague to qualify the test of Constitutionality, the Court issued an emergency order which struck down the Government’s emergency regulation which made the circulation of “fake news” a punishable offence.*

130 Mehendi Hasan, *High Court: Shut down all unregistered online news portals within 1 week*, Dhaka Tribune, (September 14, 2021), <https://archive.dhakatribune.com/bangladesh/court/2021/09/14/high-court-shut-down-all-unregistered-online-news-portals-within-1-week>

131 *BRTC backtracks on blocking unregistered news portals*, Dhaka Times, (September 28, 2021), <https://archive.dhakatribune.com/bangladesh/2021/09/28/brtc-starts-shutting-down-unregistered-online-news-portals>

The Thai Government, with the objective of controlling the circulation of “fake news”, passed a regulation which prohibited the presentation or dissemination of any information which could cause fear amongst the public, or could result in a misunderstanding “of the emergency situation to the extent of affecting the security of the state, public order, or good morals of the people of Thailand”. The regulation allowed the identification of the owner of such content and empowered the relevant authority to pass an adverse order against them. The punishment for this would include an order issued to the service provider *to cease providing internet access to them*. This was in addition to the fines and imprisonment that the provision laid out against a transgressor.

78 Joint lawsuits filed by human rights lawyers and members of the online press before a Civil Court prayed for a revocation of the order. Their arguments were threefold:

- the provision was ambiguous, and therefore contrary to the requirement of criminal provisions - to be clear in the defining the nature of the act which is criminalised;
- the regulation was liable to be struck down because the legal circumstance under which such a measure may be adopted (“Serious Emergency Situation”) was not in force at the time of the regulation’s issuance;
- it was *ultra vires* Article 35 of the Thai Constitution, which promises freedom of the press<sup>132</sup>.

The Petitioners also conceded that should the Government want to block content in keeping with the Constitution, they may require the takedown of *particular* content. Wholesale blocking would violate the constitutional principle laid out above.

The Court issued an emergency order, which prohibited the Prime Minister from enforcing the impugned provision. The overbreadth,

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132 Online Reporters, *Civil Court blocks PM’s gag on free speech*, Bangkok Post, (August 6, 2021), <https://www.bangkokpost.com/thailand/general/2161247/civil-court-blocks-pms-gag-on-free-speech>

vagueness, and ambiguity of the provision notwithstanding, the Court held that the provision placed a disproportionate burden on the people to interpret the law and comply with it. Furthermore, the Court relied on the importance of the internet as a means of communication, particularly in respect of the COVID-19 lockdowns. In addition, it also considered the violation of free speech resulting from the regulation. These grounds sufficed a finding that the regulation was unconstitutional, and sufficed for a ruling to strike down the regulation<sup>133</sup>.

Although the order was neither final nor binding, the Government cancelled the impugned regulation, which is indicative of the weightage of the Court's order<sup>134</sup>.

#### 4. Court stresses on the independence of the Blocking Authority<sup>135</sup> [*Pakistan*]

*The Court recognised the absolute independence of the statutory authority created to review the State's exercise of powers to block websites, freeing said authority from any obligation to follow the Government's directions regarding the blocking of websites.*

*Bolo Bhi*, a non-profit organisation, moved the Islamabad High Court in 2014, challenging a 2006 Notification passed by the Pakistani Government, and the constitution of the Inter-Ministerial Committee for Evaluation of Websites created under it. Although

133 *Thai Civil Court issues injunction against PM's decree banning fake news with censorship threat*, Thai PBS World, (August 6, 2021), <https://www.thaipbsworld.com/thai-civil-court-issues-injunction-against-pms-decree-banning-fake-news-with-censorship-threat/>

134 Wongcha-um, *Thai Court suspends government order on false messages*, Reuters, (August 6, 2021), <https://www.reuters.com/world/asia-pacific/thai-court-suspends-government-order-false-messages-2021-08-06/>

135 *Bolo Bhi v. Federation of Pakistan*, writ petition no. 4994/2014, May 25, 2018.

the Notification of the Committee was revoked while the matter was *sub judice*, the Pakistani Parliament introduced a legislation, one of the provisions of which enabled the Pakistan Telecommunications Authority to:

*“remove or block of issue directions for removal or blocking of access to an information through any information system if it considers it necessary in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, public order, decency or morality, or in relation to contempt of court or commission of or incitement to an offence under this Act”.*<sup>136</sup>

80 The Petitioners’ claim lay against sub-section (3) of the impugned provision, which was a transitory enabling provision. This provision allowed the Federal Government to issue directions to the Authority until Rules were drafted to ensure a transparent oversight mechanism over the exercise of the blocking powers of the Authority. It was submitted by the petitioner that the Federal Government was misinterpreting the provision to mean that it (the Federal Government) may issue directions for website blocking to the Authority, which would be binding on it<sup>137</sup>.

The Court clarified that the power to block websites and access to information is vested solely in the Authority, and as such, it is to exercise this power without the influence of any other entity, including the Federal Government. Looking at precedent, the Court found that it had previously emphasised the importance of an independent evaluation wherever a body is vested with discretionary powers. Relying on this, the Court held that the Authority is *not* bound by the directions of the Federal Government and that it must be free from the influence of any other body.

### 5. Due process of law while blocking websites em-

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136 Bolo Bhi v. Federation of Pakistan, ¶ 1-3.

137 Bolo Bhi v. Federation of Pakistan, ¶ 3.



## bedded in principles of natural justice<sup>138</sup> [*Pakistan*]

*The ruling of the Court required that due process of law must be followed in the application of statutory provisions. This requirement would not be qualified on the explicit mention of such requirement in the concerned statute.*

The petitioner-political party had moved the Islamabad High Court in 2019 seeking an order requiring the Pakistan Telecommunications Authority to lift the blocking of the party's official website, frame the Rules as required by the 2016 legislation which dictates the law and procedure on blocking of websites, and issue reasons for the adverse exercise of power by the Authority, among others<sup>139</sup>.

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The petitioners claimed a violation of their natural and fundamental rights in the process which was undertaken to block their website. There was no service of notice of an adverse order having been passed against the petitioners. The Respondent-Authority argued that the enabling provisions made no requirement to issue a notice or an opportunity of hearing to those adversely affected by an order passed by the Authority.

The Court noted that principles of natural justice are a necessity in any statute, and the Constitution of Pakistan, vide Article 10-A<sup>140</sup>, mandates due process where adverse orders may be passed against an individual. In keeping with this principle, it was held that the Pakistan Telecommunication Authority is not enabled by the statute to overrule due process, and further, that it is the duty as required by the impugned provision<sup>141</sup>, for the Authority

138 *Awami Workers Party v. Pakistan Telecommunication Authority*, writ petition no. 634/2019, September 12, 2019.

139 *Awami Workers Party v. Pakistan Telecommunication Authority*, ¶ 1.

140 PAKISTAN CONST. Art. 10-A.

141 *Awami Workers Party v. Pakistan Telecommunication Authority*, ¶

to make Rules which introduce an oversight mechanism and bring about transparency in the processes concerning website blocking.

For the petitioner, the Court found a violation of their natural and fundamental rights, and the petition was disposed of upon noting that their website has been unblocked.

### **6. Court blocks websites before allegedly inflammatory content was published [Azerbaijan]**

82 An Azeri Court recently upheld a blocking order issued by the Government against several media outlets which were critical of the Government, and which allegedly incited mass protests and actions with the objective of undermining the Government. Opposition newspapers and a website backed by the US Government were both blocked by the Government. This action was taken by the Ministry of Transport, Communications and Technology, deemed permissible by the Sabail District Court in Baku in May, 2017.<sup>142</sup> While the judgement remains inaccessible, questions regarding the legitimacy of the court's ruling, and filing of the complaints by the State to the Court *before* the articles were written<sup>143</sup> have raised serious concerns on the satisfaction of the principles of natural justice in the first place. Procedural and substantive due process remains opaque for any analysis.

## **WEBSITE BLOCKING AND COPYRIGHT INFRINGEMENT**

Introduction: Copyright infringement has been recognised as

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142 *Azerbaijani Court Orders Block on RFE/RL Website*, Radio Free Europe Radio Liberty, (May 12, 2017), <https://www.rferl.org/a/azerbaijan-rferl-service-website-court-orders-blocked/28482679.html>; *Azeri court supports block on several media websites*, Reuters, (May 13, 2017), <https://www.reuters.com/article/us-azerbaijan-media-idUSKB-N1882NT>

143 Mike Runey, *Azerbaijan: Court Upholds the blocking of Independent Media Outlets*, Eurasianet, (May 15, 2017), <https://eurasianet.org/azerbaijan-court-upholds-the-blocking-of-independent-media-outlets>

a legitimate ground for blocking websites, even in jurisdictions which have focused on content-based censorship in order to prevent wholesale website takedowns. This is the result of the nature of the right which has been disputed and the degree to which its violation is enabled by the internet. Copyright is a *right in rem* at an overarching level, in the nature of protection extended towards a property. The clarity and technicality of the copyright regime, once a right is established, leaves little room for alternative arguments that the respondent website can offer. A website blocking order, in such cases, is usually issued to the Internet Service Provider hosting the website, whose duty it becomes to take down the content.

However, issues of balancing rights inevitably emerge- and should emerge if they are not a natural byproduct of these proceedings- especially with the adoption of dynamic injunction orders by Courts. The spontaneous blocking of websites allowed by these orders calls for caution on the part of Courts to consider a proportionate balance owed to the rights of both parties- the owner of the intellectual property represented on the internet, and the freedom of speech and expression of the owners of the website which cause such representation, and the rights of users of the website to access said material. 83

As in the comparative analysis carried out in this report previously, this section too aims to highlight the differences in responses issued by Courts towards website blocking orders issued due to copyright infringement, for the purposes of laying out practises which have been considered healthy, or otherwise. Such examples serve as inspiration to adopt a model which delivers complete justice in the conflict of rights, or enables Courts and lawmakers to pre-emptively protect the rights under challenge in an effective manner.

## EUROPE

1. **Court of Justice of the European Union: Finds a law enabling prior-censorship compliant with the Charter of Human Rights<sup>144</sup> [*Poland v. Parliament and Council*]**

*In this landmark case, the CJEU upheld prior-censorship of content which violates the copyright of the right holder, a move often argued as a motivating factor for the chilling effect of free speech. It locates its justification in contrast with the free speech promises of the European Charter of Human Rights.*

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The Court of Justice of the European Union in April 2022 supplied an important interpretation of Article 17 of the Copyright in the Digital Single Market Directive (CDSMD)<sup>145</sup>, and its enforceability against fundamental rights. Article 17 of the Directive is the “upload filters provision” which creates a liability regime against online content sharing service providers for providing access to the public of copyright-protected material uploaded by their users. A liability exemption regime is also in place under the statute.

The Republic of Poland moved the European Court challenging the validity of part of the provision. It claimed that the provision violated the fundamental right of free speech and information as guaranteed by the European Charter of Fundamental Rights<sup>146</sup>. It called upon the Court to check the *vires* of parts of the Article on the grounds that its implementation would inevitably require online content sharing service providers to employ automated filtering mechanisms. Such prior review of content would abridge the fundamental rights of speech guaranteed in the Charter, and therefore, the abusive part must be struck down. An alternative

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144 Poland v. Parliament and Council, ECLI:EU:C:2022:297.

145 Directive 2019/790

146 Article 11 of the European Charter of Fundamental Rights

prayer of striking down the entire provision was also filed.

The Court emphasised that fulfilling the obligations placed under the Directive would require prior review of content which would be uploaded to the content sharing service providers. In an attempt to check if the provision can be saved from being struck down, it carried out a proportionality analysis.

The justification for limitation of concerning fundamental rights was found in Article 52(1) of the Charter, which provides that any fundamental right may be abridged, provided that such an abridgement is prescribed by law, and respects the essence of those rights and freedoms. In this analysis, a legitimate objective in the limitation of the right was found by the Court in the interest of the protection of the rights of the copyright holders. It was also noted that the mechanism was effective in achieving this legitimate aim.

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The Court went on to observe that the provision lays out a clear and precise limitation on the abridgement of right, specifically in how it excluded the filtering and blocking of lawful content which is uploaded on the platform. Relying on precedent, it found that any measure which requires the introduction of blocking measures which fails to distinguish between lawful and unlawful content disproportionately affects the freedom of speech and expression. It read this into Article 17, which would mean that any filtering mechanism introduced under it which is unable to distinguish between lawful and unlawful content would not survive legally under the Article. Examining the argument of the applicant that the provision leads to a general monitoring which has been found to be unconstitutional before, the Court provided the following explanation- any national legislation which is passed to enforce the Directive would, by virtue of Article 17(8) of the Directive, have to introduce safeguards to ensure that content service providers do not withhold uploading of content, effectively prohibiting a mandate against service providers from scanning all uploaded content. The presence of additional procedural safeguards in the challenged

provision, that would protect the interest of those content users whose uploads were erroneously taken down by any entity, was an additional impetus for the Court to protect the provision. Concluding with the mandate that all national authorities and Courts must ensure that the national law introduced to enforce the Directive must comply with Article 17, and must be interpreted in a manner which does not conflict with other principles of the Union’s law, “such as the principle of proportionality”, the Court felt that the balance between the freedom of expression and the rights of users, and the right of copyright holders were not upset by the challenged provision. Therefore, the provision survived.

## 2. Preventive Steps against overblocking in copyright challenges<sup>147</sup> [Germany]

*While upholding the blocking measure undertaken to protect the copyright of a film distributor, the Court emphasised the importance of avoiding overblocking, sensitive to the contrasting right of free speech in question.*

The applicant, a film distributor with ownership rights, had sought an injunction based on copyright law against the respondent, which provides cable connections to supply the internet to an approximate 3 million people. The case was in connection with a particular movie, which was available on the Respondent’s website without permission. No response was received from the website owners despite notices sent. The applicant claimed that the Respondent

147 Benjamin Lotz, Lutz Reulecke, *First blocking order in Germany to prevent access to copyright infringing website*, Kluwer Copyright Blog, (May 10, 2018), <http://copyrightblog.kluweriplaw.com/2018/05/10/first-blocking-order-germany-prevent-access-copyright-infringing-website/>; Christoph Wagner, Johannes Hieronymi, *Germany: Landmark Decision Of German Federal Court Of Justice On Blocking Of Copyright-Infringing Websites*, Mondaq, (December 8, 2015), <https://www.mondaq.com/germany/copyright/449866/landmark-decision-of-german-federal-court-of-justice-on-blocking-of-copyright-infringing-websites>.

website is an “internet service with an illegal business model”, and so it moved the relevant forum under domestic law seeking an injunction against the website, with a penalty for non-compliance. In the alternative, it was prayed that the Respondent “be obligated to block” access to the film on their website (no mention of penalty was made in this alternate prayer). The respondents’ arguments lay on the possibility of overblocking by virtue of such an order, qualified on their basic claims that the application lacks ground for an injunction under domestic law, and the ineffectiveness and high cost of blocking.

On an appeal against a lower forum, the German Federal Court decided the matter. The Court was not convinced by the Respondent’s argument that the blocking would be ineffective, after studying the process thoroughly. Rejecting their argument, the court held that the focus of a blocking order is blocking access to the protected material, and not taking legal action against access providers “finally prevents the dissemination of copyright infringing content on the internet”. To weigh the conflicting interests involved, the Respondent, despite being one of the largest internet service providers, was actively causing copyright infringement. Therefore, the imposition of costs would not be disproportionate, especially since the cost could be passed to the consumers. 87

As such, the Court found in favour of the copyright holder.

### **3. Defining the point of accountability of the ISPs<sup>148</sup>** ***[United Kingdom]***

*In this landmark judgement, the Court laid out the grounds on which Internet Service Providers become liable when a copyright violation is made by a third party using its network.*

148 Twentieth Century Fox Film Corporation and Ors. v. British Telecommunications PLC, (2011) EWHC 1981 (Ch).

The plaintiff, the Motion Pictures Association and others (hereinafter ‘the Studios’), successfully secured an order against Newzbin Ltd., which operated a website distributing protected material without permission from the owners. The injunction was secured, and the website ceased to operate. Soon after, an identical website emerged that operated on the same model, with a slight alteration of the name of the website (transition being from Newzbin1 which was blocked, to Newzbin2). In response to this, the Studios brought an application before the High Court of London against British Telecommunications, an internet service provider. The application sought orders to be issued to British Telecom (British Telecom, hereinafter), to block its users from accessing the websites under Section 97A of the Copyright, Designs and Patents Act<sup>149</sup> to block the new websites.

- 88 British Telecom argued firstly that the Court lacked jurisdiction under the Act to pass an adverse order against it. The provision being relied upon by the Studios only allows an injunction against internet service providers if they have actual knowledge of their service being used to infringe copyright. The Studios relied on

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**149 Section 97A: Injunctions against service providers**

- (1)The High Court (in Scotland, the Court of Session) shall have power to grant an injunction against a service provider, where that service provider has actual knowledge of another person using their service to infringe copyright.
- (2)In determining whether a service provider has actual knowledge for the purpose of this section, a court shall take into account all matters which appear to it in the particular circumstances to be relevant and, amongst other things, shall have regard to—
- (a)whether a service provider has received a notice through a means of contact made available in accordance with regulation 6(1)(c) of the Electronic Commerce (EC Directive) Regulations 2002 (SI 2002/2013); and
- (b)the extent to which any notice includes—
- (i)the full name and address of the sender of the notice;
- (ii)details of the infringement in question.
- (3)In this section “ service provider ” has the meaning given to it by regulation 2 of the Electronic Commerce ( EC Directive) Regulations 2002. ]



precedent emerging from the European Court, wherein access providers were found to be enablers by virtue of the internet connection they were providing, which allowed third-party members to infringe copyright. Therefore, an order issued against them would not be *ultra vires* the impugned provision, which emerges from the same European Directive<sup>150</sup> which was in consideration in the precedent referred to.

British Telecom then claimed that their users did not “use” their services any more than we may use a postal service to send a pirated CD to another person. Without giving reasons for rejecting this analogy, the Court found that enabling clients to use internet services, which then makes violation possible, is sufficient grounds to determine ‘use’. As for ‘actual knowledge’ British Telecom claimed that it did not qualify that requirement, and therefore the provision cannot be applied against them. Reading the Information Society Directive, the Court held that the requirement of actual knowledge should not be read too restrictively, since as per the same, ISPs are “best placed” to restrict infringement. Therefore, there is no requirement for a meticulously specific intimation to the service provider of an infringement. “A sufficiently detailed notice and a reasonable opportunity to investigate the position” were sufficient grounds to qualify as actual notice within the meaning of the provision. 89

British Telecom claimed that it did not qualify for that requirement, and therefore the provision cannot be applied against them. Reading the Information Society Directive, the Court held that the requirement of actual knowledge should not be read too restrictively, since as per the same, ISPs are “best placed” to restrict infringement. Therefore, there is no requirement of a meticulously specific intimation to the service provider of an infringement. “A sufficiently detailed notice and a reasonable opportunity to

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150 Eur. Parliament, Directive 2001/29/EC, On harmonisation of certain aspects of copyright and related rights in the information society, may 22, 2001, Article 8(3)(o)

investigate the position” were sufficient grounds to qualify as actual notice within the meaning of the provision.

Another ground on which British Telecom argued against the possibility of an injunction against it, was Article 10 of the European Convention on Human Rights (ECHR), which guarantees freedom of expression to all. The Court responded to this by clarifying that this would not be a blanket or abstract order, which would require prior-review or introduction of new technical mechanisms of censorship. Instead, the injunction order sought by the Studios is a specific one, which requires British Telecom to employ the same technical mechanisms in place to block websites hosting child pornography. The cost, as suggested by British Telecom, is not excessive. This, the Court opined, disarmed the claim of British Telecom of a violation of freedom of expression.

90 Accordingly, the Court found for the Studios.

## ASIA

### 1. Legitimacy of Dynamic Injunctions [Singapore<sup>151</sup>]

*In a landmark judgement issuing dynamic injunctions, the Court undertook a deep study into its jurisdiction to be able to do so, an important step in the expansion of the Judiciary’s powers to provide a remedy in cases of copyright infringement, by way of blocking websites.*

The Plaintiffs, owners of copyrights in various movies and TV shows, moved the Singapore High Court under the Singapore Copyright Act<sup>152</sup>, applying for a site-blocking order under the statute. The prayer was for two types of orders to be issued to Internet Service Providers- one to block all the existing URLs to websites which are violating the rights of the owners, and another to block

151 Disney Enterprises Inc. and Ors. v M1 Ltd. [2018] SGHC 206

152 Copyright Act, 2021, No. 20, Acts of Parliament, 2021 (Singapore).

any new URLs which emerge subsequently providing access to the same websites.

The domestic copyright statute lays out a series of qualifying tests for certain websites to be categorised as “Flagrantly Infringing Online Locations”. A Flagrantly Infringing Online Location is an “online location” which must primarily be serving the purpose of *facilitating* copyright infringement by providing access to protected works in an indexed form.

While the High Court found in favour of the plaintiffs for their first prayer, it undertook a deeper consideration of its jurisdiction for a dynamic injunction. Interpreting the impugned domestic provision, the Court found that it was worded broadly enough to *not* preclude a dynamic injunction. Statutory leeway apart, several other factors motivated the legalisation of dynamic injunction orders- (a) a dynamic order would essentially require the blocking of the same websites which have been identified as infringers, except that they are now accessible using alternative URLs; (b) such an order would not cover any *new* websites other than the ones identified in the primary order; and (c) this process would reduce the burden on Courts and ISPs from requiring the latter to approach the former repeatedly for the same purpose. To further support its claim, the Court considered how this measure would reduce the harm caused to plaintiffs, and that a dynamic injunction order would be necessary to sustain the primary injunction, where one is granted. As a precautionary step, the Court required the plaintiffs to submit, via affidavit, the list of new URLs which provide access to the enjoined website under the primary order, and provided sufficient powers to the ISPs to *not* block such URLs if they are of the view that the grounds laid out for the blocking of the listed websites are insufficient.

## NORTH AMERICA

### 1. Common law justifications for expanding powers

## of the Court to block websites [*Canada*]<sup>153</sup>

*The final court of appeal in Canada upheld the judgement of the lower court allowing the blocking order, where appellants claimed that it was prohibited by statute to issue such an injunction.*

92

The Federal Court of Appeal in Canada unanimously affirmed a site blocking order against Internet Service Providers to block copyright-infringing websites. The original action was filed by Canadian broadcasting companies against unidentified defendants whose websites published protected content. Following precedent, the Appellate Court did not entertain questions of facts, and engaged only on three questions of law: the jurisdiction of the court, conflict with freedom of expression, and “whether the Order was just and equitable”.

The power of the Court to grant an injunction was located in precedent, and the lower court was found not to have erred. An important challenge forwarded by the appellants was that the domestic copyright statute<sup>154</sup> does not empower Courts to introduce injunctions like site-blocking orders. It was submitted by them that the only statute which enabled orders against internet service providers was the *Telecommunications Act*<sup>155</sup>, and that issuing an order on grounds different from the ones mentioned in that statute by relying on the copyright statute instead, was beyond the scope of the statute and the Court. The Telecommunication Act explicitly prohibited orders which would amount to controlling or influencing content. The intent of Parliament, the appellants claimed, was clear in not empowering Courts in the Telecommunications Act to block websites.

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153 Teksavvy Solutions Inc. v Bell Media Inc, 2021 FCA 100.

154 Copyright Act (R.S.C., 1985, C-42)

155 Telecommunications Act (SC 1993, c.38)

The Court responded to the challenge based on the nature of remedies permissible under the copyright statute by stating that the statute *did not* exclude remedies specifically, and therefore, an injunction by way of a website-blocking order would not contradict the statute. On the question of a blocking order countermanding the mandate of the Telecommunications Act, the Court stated that the provisions of that statute, which restricted the powers of the Court to prevent control or influence of content, would not be displaced by an order issued by the Court under the copyright statute, which is aimed at facilitating an equitable injunction. Such an injunction would not, thus, contradict the Telecommunications Act either.

As for the contention that the order violates the freedom of expression, the Court held that the websites were not engaged in a process of expression, but acted only as carriers. The activities undertaken by the website did not prefer one form of content over the other, and as such, their freedom of expression is not violated. The appellants had also submitted that the consumers of the content posted on their website have a right to expression, in that they are entitled to receive the information made available through the website. The Court admitted that interest could be claimed in this regard. However, since this was a matter arising from a claim for an equitable injunctive relief, a balance of convenience test had to be carried out by the lower Court. In its conclusion, the lower Court found that the balance was not tipped in favour of the appellants herein, in light of interests at stake and the irreparable damage which is done by the infringing website. The Court of Appeal agreed with this reasoning, and thus, although a stake existed for consumers of information, it agreed that the same did not outweigh the irreparable harm the order sought to limit. The just and equitable nature of the matter concerned was determined based on whether the test which was applied by the lower Court, was applied correctly, after considering the interests of both parties in the matter. This was a classic three-part that required a strong *prima facie* case, the existence of irreparable harm and a balance

of convenience. This, the Appellate Court decided, was carried out correctly by the lower Court. Therefore, the appeal against the website-blocking order was dismissed.

## UNITED STATES OF AMERICA

*(Note: The case summarised below is of particular importance for our purposes. As pointed out in the previous chapter, the Digital Millennium Copyright Act is enforceable in India. Any challenge to its provisions in the United States, therefore, is of acute importance for the purposes of understanding the Indian copyright regime, and its interactions with rights constitutionally protected.)*

94

DMCA's provision was subjected to a test of constitutionality in a suit filed by the Electronic Frontier Foundation in 2016. The Foundation challenged Section 1201 of the DMCA, the anti-circumvention provision, which introduces a penalty for breaking access restrictions to protected works. The challenge<sup>156</sup> was based on the chilling effect that the provision had on free speech. It was claimed by EFF that the failure of the Library of Congress's grant of exemption from DMCA's anti circumvention provision, a power exercisable by the Library as per law, "for speech using clips of motion pictures, for the shifting of lawfully-acquired media to different formats and devices, and for certain forms of security research", was contrary to the dictates of the statute. On behalf of two scientists seeking to access protected information, EFF argued that the exemption allowed by the statute itself forms the basis on which the constitutionality of the copyright statute was upheld in the previous cases. Although the Court upheld the claim of the two scientists on behalf of whom the EFF had filed the suit, on the question of the constitutionality of the provision, the Court ruled on the negative. As recently as January 2022, EFF has filed an appeal against this decision.

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156 Matthew Green, *et all v. Department of Justice, et all*, District Court of Columbia, Civil action no. 16-1492 (EGS).

In a sixty-one page memorandum opinion, the Court dealt with the various grounds on which the provision was challenged, including a First Amendment challenge to it. The plaintiffs submitted that the provision was over-broad in covering “a substantial range of protected speech that is disproportionate to its legitimate sweep”. Relying on precedent, the defendants argued that the extent of a First Amendment right may include the right to freely share information which has been acquired or received, but there is no First Amendment right in acquiring that information in the first place. Therefore, the plaintiff’s arguments, that there is a First Amendment right in employing anti-circumvention measures, and sharing such material, cannot hold.

On the argument of overbreadth of the provision, the Court held that the plaintiffs had failed to establish the same. They had failed to establish how the impugned provision covers within its ambit speech which falls under material which is in the realm of fair use. A First Amendment on the grounds of overbreadth requires broad working of the law which transgresses the free speech rights of third parties. Failing to meet this qualification resulted in the dismissal of this claim of the plaintiffs. 95

On the question of prior-restraint introduced by the anti-circumvention provision, the Court stated that the plaintiffs had been unable to meet the requirement for a favourable ruling. There was a burden on them to satisfy that the ruling by the Library of Congress to not grant certain exemption was a censorial act based on what the plaintiffs wanted to express, what their viewpoint was, or who they were. Instead, the plaintiffs argued that the exemption process itself is unconstitutional because such a process prohibits acts which are otherwise permissible under the First Amendment, and affect legitimate activity. This, as per the Court, does not satisfy their burden, and therefore, their plea on these grounds failed.

In light of the above arguments, the Court refused the challenge to the provision on First Amendment grounds.

## RECOMMENDATIONS

**Recommendation 1:** As noted above, maximum number of blocks were issued under section 69 A of the IT Act. However, the confidentiality clause which results in non publication of orders raises significant concerns with respect to the rule of law and freedom of speech and expression in a democracy.

**A plain reading of the language of Rule 16 makes it clear that it is a violation of the right to freedom of speech and expression of the citizens.** Article 19(1)(a) of the Constitution guarantees protection of freedom of speech and expression in any form, which may include websites, social media posts, YouTube videos etc., against unreasonable state action. Blocking of content that takes place under the Blocking Rules, 2009 is a restriction on this right, thereby, subjecting it to conditions laid down under Article 19(2). According to Article 19(2) l for a restriction to be valid it must fall under one of the eight grounds and it must be reasonable. It is a settled principle of law that for a restriction to be reasonable it must satisfy the principles of natural justice.<sup>157</sup>

One of the essential principles of natural justice is *audi altarem parte*, which means that both parties must be given a reasonable opportunity to be heard. One of the important conditions to be satisfied for this principle to be effective is to provide reasoned notice/ order to the affected party. Unless a party is not made aware of the grounds on which an action is being taken, it cannot challenge the same<sup>158</sup>. Now even though the rules provide for an opportunity for hearing, it is effectively meaningless. It has been observed so far and is also clearly reflected in the case of blocking

157 State of Madras v. V G Row 1952 SCR 597; Anuradha Bhasin v. Union of India (2020) 3 SCC 637, ¶ 115; B K Srinivasan v. State of Karnataka (1987) 1 SCC 658.

158 Fazal Bhai Dhala v. Custodian-General AIR 1961 SC 1397.



of Dowry Calculator website, that the order is not made available to the owner of the website. More often than not, owners of the website are not given any meaningful opportunity to challenge the decision of the Ministry. Therefore, rule 16 is violative of the principles of natural justice and is an unreasonable restriction. Thus, the rule violates the right to freedom of speech and expression of creators of websites.

Additionally, the right to freedom of speech and expression under article 19(1)(a) has been interpreted to include the right to information<sup>159</sup>. Taking down a website is also a restriction on an individual's right to information as recognised under article 19(1) (a). This means that the Ministry is bound by principles of natural justice in this respect as well. Thus, an order blocking access to a website must be published and made available so that an effective opportunity to challenge the order is available for individuals.

97

It may also be considered that Rule 16 contradicts Section 69A of the IT Act. Section 69A clearly states that the order must be written and reasoned. It contemplates the order to be made available to the citizens as their right to know and right to free speech is being affected. As pointed out earlier, in *Shreya Singhal* the court, while upholding the constitutional validity of the section, observed that the reasons given in the order can be challenged before any court under Article 226. The court interpreted the section to envisage a reasonable opportunity for the creators of the website to challenge the order. However, the language of rule 16 and the reliance of the government on it to deny any kind of information concerning website blocking clearly translates into a denial of a reasonable opportunity to challenge the order.

In light of the meaning awarded to Section 69A of the IT Act by the Supreme Court of India in the *Shreya Singhal* case, the absence of adequate procedural safeguards envisioned by the Court become glaringly evident. When considered with the standards

laid down in precedent, and general principles of statutory interpretation, the case for a *vires* of Rule 16 weakens- a delegated legislation cannot contradict the parent statute.<sup>160</sup>

The deficit in the procedural safeguards of Section 69A of the Act require a deeper consideration of how the right to seek an effective remedy can be realised. The non-publication of details regarding the blocking of websites, the cause for such blocking, and render ineffective the existence of appeals to such orders which are made available by the Court's interpretation of the provision (with regard to Article 226). A rethink becomes urgent when the true impact of such acts by the State is considered- rampant impeachment of fundamental rights without an effective remedy against such violation.

98 Another pertinent issue which demands attention is the conflict between Rule 16 and the RTI Act, 2005. Section 22 of the RTI Act gives an overriding effect to the provisions of the Act. As per hierarchy of norms, a subordinate legislation must give way to the Parent legislation in case of a conflict. It may be argued that IT Act contains a *non obstante* clause as well. However, it must be observed that in case of such a conflict special legislation prevails over the general legislation. It must be noted, under this specific circumstance RTI Act is the special legislation as the information is being sought through the procedure established under the RTI Act as opposed to other mechanisms. Consequently, the confidentiality Rule applies generally under all circumstances, unless, the information is sought under the RTI Act which has an overriding effect. In the light of this argument, application and interpretation of Rule 16 requires reconsideration. As it defeats the purpose of essential safeguards vested in citizens to protect their fundamental rights.

On a jurisprudential level, the philosophy ascribed to the exchange

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160 Ram Prasad v. State AIR 1952 ALL 843; State of Tamil Nadu v. P. Krishnamurthy (2006) 4 SCC 517.

of ideas on the internet by the Court was that of *the marketplace of ideas*- where all ideas may be freely propounded, with exceptions to ideas which cause immediate harm, and like in a marketplace, there is a freedom for all to be exposed to such ideas and form an informed opinion accordingly. Ironically, by virtue of unreasoned blocking orders which cannot always be challenged for grounds other than their legitimacy, the State actively interferes with the marketplace. By virtue of Section 69A and the Rules formed under it, without adequate procedural safeguards, the State is empowered to influence the free flow of certain ideas, while restricting those which may not be to its satisfaction. Not only does the Court's philosophy stand contradicted through such preferential treatment of ideas enabled by the statute, values fundamental to freedom are also threatened where due process standards are not introduced.

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**Recommendation 2:** Currently the review committee that reviews blocking orders has a skewed composition as it only consists of members from the executive branch. There is requirement of higher standard of scrutiny and absence of bias, as blocking of website involves a question of fundamental right under the Constitution. In a recent revelation, MEITY stated that the Review Committee has not overturned any of its section 69A orders in the past 13 years<sup>161</sup>. MEITY has blocked 27,277 websites since 2010<sup>162</sup>. However, the Review Committee did not overturn blocking of a single website.

Moreover, the Review Committee formed under Rule 419A is also responsible for reviewing the decisions under the Indian Telegraph Rules, 1951 and Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of

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161 Saurav Das, *IT Review Panel Didn't Disapprove of a Single Social Media Takedown Order from Govt: RTI*, The Wire (August 10, 2022), <https://thewire.in/tech/it-rules-review-committee-social-media-post-takedown-govt>.

162 Refer to the annexure-2. RTI reply by MEITY.

Information) Rules, 2009<sup>163</sup>. In the past it has been observed that a large number of orders are issued under these two rules, reflecting the burden upon the committee<sup>164</sup>.

These observations give rise to three significant issues which require attention. *First*, the Review Committee mechanism violates Article 14 as it suffers from an institutional bias. The statute laying down the composition of an administrative decision making body must satisfy the principles of Natural Justice. The first principle of Natural Justice lays down that no person can be a judge in their own cause. The principle entails that an administrative decision making body is not capable of taking fair and just decision if there is a likelihood of bias. This bias can be on the basis of multiple factors such as pecuniary interest, personal relationship or being part of the same institution or the department.

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The Review Committee performs the function of an oversight mechanism which ensures that the law laid down in section 69A is followed in letter and spirit. However, the provisions of review fail to provide for an oversight mechanism in intent and purport. The members of the Committee are part of the central government itself even though from different departments. The likelihood of a fair review being conducted while the officials deciding blocking of the content and the officials reviewing this decision are part of the same institution.

It has been held in plethora of cases that where review mechanism has been struck down as it suffered from an institutional bias. In the case of **Bidhannagar (Salt Lake) Welfare Association v Central Valuation Board**<sup>165</sup> it was held that in a Review

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163 Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009, Rule 2(q), Rule 7 and Rule 22.

164 <https://sflc.in/information-received-under-rti-for-surveillance>

165 *Bidhannagar (Salt Lake) Welfare Association v Central Valuation Board* (2007) 6 SCC 668.

Committee cannot be said to be independent when it consists of members of the Board and the Municipality which has interests in the decision being reviewed by the Committee. The court observed that the members were not *“independent persons and each one of them is, in one way or the other, interested in the matter.”*[para 26] The court further observed that the jurisdiction of the civil courts being barred and only a limited judicial review being available makes the situation worse. Thus, it was held that *“the provisions for review conferred in terms of the statute for all intent and purport are illusory ones and do not satisfy the test of Article 14 of the Constitution of India. No statute which takes away somebody's right and/or imposes duties, can be upheld where for all intent and purport, there does not exist any provision for effective hearing.”* [para 45]

*Second*, there is a lack of transparency in the working of the Review Committee. This procedural lack of transparency translates into substantive violation of principles of natural justice and freedom of speech and expression. In order to place accountability for executive action the procedure so followed must be transparent. It is also essential to ensure that the procedure as established by law is being followed or not and whether the decisions are made well reasoned or not. As the question involved is of the fundamental rights the requirement for transparency becomes extremely pertinent. 101

*Third*, the Review Committee conducts the oversight of interception orders issued under section 5 of the Indian Telegraph Act and for the blocking taking place under section 69A of IT, Act. As noted above, a large number of orders are to be reviewed by the same committee. This corroborated with the fact that no single order has been overturned by the Review Committee since 2010, reflects that there is significant likelihood of non application of mind by the Review Committee on these orders.

In the light of the above observations, it is recommended that the

Review Committee must have wider representation and include a judicial member and an independent member. Alternatively, it is recommended that review mechanism for blocking of content on the internet ought to be done by the different organ of the State. As the orders are passed and the review is conducted by the same organ of the state, the standard of the scrutiny is lower. Therefore, the review mechanism must include judicial oversight.

Additionally, it is recommended that there is a need to have a separate review mechanism for section 69A orders and the interception orders passed under section 5 of the Indian Telegraph Act. Streamlining of the review process will make it effective and give ample of time and resources for application of mind on each instance of blocking.

### 102 **Recommendation 3:**

In their current form, the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 provide that where a request for blocking of website is received, all efforts are to be made to trace the intermediary *or* the person hosting the information, to provide them with a window of forty-eight hours within which they must “appear and submit their reply and clarifications, if any, before the committee”<sup>166</sup>. In cases of emergency, where the blocking of a website is considered “necessary or expedient”, the Secretary, Department of Information Technology may issue directions “he may consider necessary” to the person or intermediary hosting the impugned information *without giving him an opportunity of hearing*<sup>167</sup>. Although the order must be submitted to the Review Committee within forty-eight hours of being issued, the Committee may uphold the request of the Designated Officer to block the website. Finally, under Rule 16, as has been previously stated in this report, there is a mandate of strict confidentiality on all requests to block websites, and com-

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166 Blocking Rules, 2009, Rule 8(1).

167 Blocking Rules, 2009, Rule 9.

plaints against a website received, and the actions which are taken on such requests and complaints.

It is submitted that these provisions adversely affect the *opportunity of hearing* of the persons whose websites are blocked under the Rules. ‘*Audi alteram partem*’ (translated: let the other side be heard as well”) is a principle of natural justice. It requires ‘fair play in action’; that where an administrative or a quasi-judicial body determines a course of action which may prejudice a person, they must be offered an opportunity to present their case by way of a hearing, in the interests of equity, fairness, and justice <sup>168</sup>. “*The core of it must, however, remain, namely that the person affected must have a reasonable opportunity of being heard, and the hearing must be a genuine hearing and not an empty public relations exercise.*”<sup>169</sup> The right must be read to exist by implication, even when the statute may not explicitly word it in its provisions.<sup>170</sup>

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Elements of fairness of the procedure of hearing has been deemed of paramount importance in the execution of this principle of natural justice. Describing what fairness and reasonableness in procedures of hearing amounts to, the Supreme Court of India has said:

*“The rule of “fair hearing” requires that the affected party should be given an opportunity to meet the case against him effectively and the right to hearing takes within its fold a just decision supplemented by reasons and rationale. Reasonable opportunity of hearing or right to “fair hearing” casts a steadfast and sacrosanct obligation on the adjudicator to ensure fairness in procedure and action, so much so that any remiss or dereliction in connection therewith would be at the pain of invalidation of the decision eventually taken.”*<sup>171</sup>

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168 Maneka Gandhi v Union of India, (1978) 1 SCC 248, paras 59-65

169 *Ibid*, para 14

170 *Ibid*.

171 Kanachur Islamic Education Trust v Union of India (2017) 15 SCC 702.



It is well settled that the nature of the operation of principles of natural justice may differ when the forum is an administrative, or a quasi-judicial body, as opposed to a court of law. Such bodies do not execute a judicial adjudication, so they are not obliged to follow the judicial process which applies in a court of law. However, in explaining the scope and ambit of the principle, it has been opined by the Apex Court that “*a person against whom an order to his prejudice may be passed should be informed of the allegations and charges against him, be given an opportunity of submitting an explanation thereto, have the right to know the evidence, both oral or documentary, by which the matter is proposed to be decided against him, and to inspect the documents which are relied upon for the purpose of being used against him, to have the witnesses who are to give evidence against him examined in his presence and have the right to cross-examine them, and to lead his own evidence, both oral and documentary, in his defence.*”<sup>172</sup> These have been identified as the elements of an opportunity of hearing irrespective of the nature of the adjudicating body, since after this explanation, the Court adds that administrative and quasi-judicial bodies need not comply with the technicalities of judicial adjudication with their rules of procedure and evidence, and that they are not required for adjudication before said bodies<sup>173</sup>. [Union of India v Tulsiram Patel (1985) 3 SCC 398]

Pressing this point further, the Court in *Natwar Singh v Director of Enforcement and Anr*<sup>173</sup> has held that “*..the fundamental principle remains that nothing should be used against the person which has not been brought to his notice. If relevant material is not disclosed to a party, there is prima facie unfairness irrespective of whether the material in question arose before, during or after the hearing.*” Here, however, the Court notes exceptions. It is recorded that the application of the natural justice principles depends on the nature of the inquiry, and the kind of consequences

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172 Union of India v Tulsiram Patel (1985) 3 SCC 398.

173 (2010) 13 SCC 255.



which could follow from that inquiry. Therefore, for example where the disclose of information would result in a “*breach of confidence or might be injurious to the public interest because it would involve the revelation of official secrets, inhibit frankness of comment and the detection of crime, might make it impossible to obtain certain clauses of essential information at all in the future*”<sup>174</sup>, the administrative body may not reveal the documents based on which action has been initiated against the aggrieved, or a decision is being arrived at. More generally, the principle adopted by the Court is that whether the principle will apply or not shall be determined based on “*the express language and the basic scheme of the provision conferring the power; the nature of the power conferred; the purpose for which the power is conferred and the final effect of the exercise of that power on the rights of the person affected*”<sup>175</sup>.

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When read with the above-mentioned understanding of the meaning and scope of an opportunity to a hearing, the following deformities emerge in the Rules as they exist currently:

- The Rules currently allow the aggrieved *or* the intermediary to respond to the notice which has been served on the objectionable website. Since the takedown of a website would impinge the right of the originator of the information, it is imperative that all attempts are made to allow said individual to make a representation and exercise their right of being heard before an adverse action is taken against them. Only when the originator cannot be identified or communication cannot be established with them should the intermediary be notified.
- A fair hearing, which is inherent in the right to a hearing, requires that the aggrieved is *enabled* to present their case against a proposal of adverse action against them. The blanket confidentiality of Rule 16 against the disclosure of requests and complaints received to block the website denies the aggrieved

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174 *Ibid.*

175 *Ashwin S Mehta v Union of India* (2012) 1 SCC 83.

the right to face their accuser, and the basis of the accusation against their website. Requiring the aggrieved to defend their case without full knowledge of the exact grounds on which action is likely to be taken against them leads to arbitrariness, which is the anti-thesis of a fair hearing, as the judgements cited above state.

- The current process of the blocking of website only allows the aggrieved to make a representation before one forum under Rule 8, without any opportunity to appeal against the order. Rule 16 allows the non-disclosure of an action taken on the complaint or the request received to block a website. Read together, these rules do not allow complete access to the details of the action taken against an individual, nor do they allow an opportunity to make a detailed or proper representation. When SFLC.in filed a Right to Information application under the Right to Information Act, 2005, seeking a copy of a Standard Operating Procedure which is followed in said 'hearings'. However, an unsatisfactory response was received which states that the IT Act, 2000 may be referred to. No mechanism for appeal is laid out either. This allows the authority to proceed with the censorship, without giving all details of the action taken against the aggrieved, which then disables them to make an *effective* representation in ways laid out in *Union of India v Tulsiram Patel* quoted above.

- No measures of accountability are prescribed under the Rules in their current form for actions taken by the authority which are manifestly arbitrary. This has led to exceptions to the right to hearing become the rule, and the right to a hearing becoming the exception.

The following recommendations are therefore forwarded to rectify the shortcomings in the Rules in their current form. Each recommendation corresponds to the deformities laid out above chronologically:

- An obligation must rest on the adjudicatory authority to trace the originator of the website which against which a re-

quest for blocking has been received, to invite them to make a representation. Only upon failure of any communication with the originator should the intermediary be notified about the request for blocking received. Otherwise, there must be a requirement to necessarily notify *both* the originator, and the intermediary.

- The originator of the information, or the intermediary, must be allowed access to the complaint or the request filed which could lead to censorship of their right to free speech.
- Drawing from the judgements cited above, in some cases, the law allows the disclosure of the grounds on which a certain right is being impugned. These exceptions must clearly be stated in the statute, with a requirement that the fact circumstances which require the authority to withhold the information shall be recorded in writing.
- A procedure which ensures that an effective right of representation is made, by way of allowing the aggrieved access to all the details of actions against them, provisions allowing them to effectively question the document which form the basis of the action against them, and to present their own evidence, to argue affectively against the violation of their rights, is recommended to be laid down by the authority in the interest of a fair hearing, and to prevent arbitrariness.
- A requirement on the authority is proposed, to follow the standard operating procedure, and take all measures implicit in the principle of fair, reasonable, just, and equitable proceedings to ensure that the aggrieved is enabled to exercise their right to a hearing. A statutory mandate, that a failure of the authority to follow this requirement would lead to the declaration of its orders as null and void is recommended.

**Recommendation 4:** The instances which have come forth reflect that MEITY and MIB often block entire websites, accounts on a social media platform or YouTube channel as opposed to a particular post, video or URL. However, it is recommended that a stricter standard must be adopted by the government while

determining blocking of an entire website, account or channel.

While blocking websites and other content on the internet the orders issued by the executive must withstand the proportionality test. Each order issued by the MEITY and MIB under the respective rules must be proportionate and reasonable. It was in the case of ***State of Madras v. V G Row***<sup>176</sup> that the proportionality standard for a restriction under Article 19 was laid down. The court interpreted the proportionality standard to be the currency for evaluating reasonableness of a statute restricting freedoms under Article 19. The court observed as follows:

108

*“It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned, and no abstract standard. or general pattern, of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict.”*

Over years there has been a line of precedent where it has been categorically held that an executive action which restricts fundamental freedoms under Article 19 must satisfy the conditions provided from Article 19(2) to (6). In the case of ***Modern Dental College v. State of Madhya Pradesh***<sup>177</sup> the Supreme Court observed that there exists tension between fundamental freedoms and the need to restrict these freedoms for protection of social interests. To strike a balance between these interests restrictions must be imposed in a reasonable manner and the doctrine of proportionality was read to be essential part of the reasonableness test. The court once again emphasised on the requirement of (i) the restriction not being arbitrary or excessive and (ii) proximate nexus between the restriction and the objective to be achieved. The

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176 1952 AIR 196

177 AIR 2016 SC 2601

test so propounded has three prongs which must be satisfied for the executive action to be valid. These are: (i) there must be a law, (ii) the law must aim to achieve a legitimate state goal, (iii) there exists a rational nexus between the goal sought to be achieved and the measure.<sup>178</sup> Following the established line of jurisprudence the substantive and procedural requirements of the statute must be couched in this constitutional principle.

Entrenching proportionality in the action of authorities empowered in the Rules can be brought about by mandating such requirements in the substantive and procedural parts of the provisions. It is suggested that the following statutory obligations be introduced in order to condition proportionality into acts of censorship of websites:

- Most orders of website blocking require that the entire website be blocked, instead of the URLs of the website which host the material offensive in law. This results in the illegal censorship of permissible speech hosted on the website. The legal mandate must require that only the offending URLs, if found to satisfy the grounds for blocking, be denied access to. The ‘wholesale blocking of websites’ must be made an exception, where the authority must be required to present in a detailed manner the reasons for which the takedown of URLs would not suffice. 109
- It is also proposed that a standard format be introduced which the Designated Authority and the Review Committee must follow while rendering their orders and decisions. Any order or decision made by the authority must be required to answer a set of questions compulsorily, which would require them to consider questions inherent in a proportionality analysis such as:
  - Whether the content published on the website is protect-

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178 Anuradha Bhasin v Union of India, (2020) 3 SCC 637, ¶ 78-90; Justice K S Puttaswamy v Union of India (2017) 10 SCC 641.

ed under Article 19(1)(a). If not, is it explicitly prohibited under Article 19(2)?

- Is the blocking of the entire website necessary? If so, why is the blocking of the URLs of the website hosting the impugned information insufficient?
- What is the likely impact of the denial of the information to the public? Is the denial of such information by blocking the website going to violate their right to access information?

## CONCLUSION

Websites which include applications, web portals, web pages, social media platforms can be blocked by the Executive and the Judiciary through a variety of mechanisms. The most number of blocks are carried out under Section 69A of the Information Technology Act, 2000 by Ministry of Electronics and Information Technology (MEITY) as well as Ministry of Information and Broadcasting (MIB). These websites are blocked using different technologies out of which DNS blocking is used by the majority of Internet Service Providers in India. None of the orders of website blocking are published by MEITY. Moreover, MEITY also refrains from providing information on the names of websites that have been blocked by it under Section 69A of the Information Technology Act, 2000.

111

Screaming fire in a crowded theatre cannot qualify as protected speech online or offline. It is speech that has to be curtailed. The Internet has been a marketplace of Ideas, these ideas are occasionally violative of local laws. It is necessary to act swiftly and remove these ideas which may cause widespread harm. It cannot be emphasized enough that while removing the content, constitutional principles and judicial precedents need to be strictly adhered to. This report has also highlighted the procedural lapses as well as infirmities in law that need to be addressed at an urgent basis. Principles of Natural justice need to be followed in the strictest possible manner while regulating information on the internet. There also needs to be comprehensive information available in the public domain for citizens to access. Restrictions on speech need to be minimal and authorities should only block selective information rather than issuing blanket orders.

There is a lot left to learn about website blocking not just in India but around the world. Internet is merely 25 years old and the regulatory issues facing internet are emerging just now and at a

fast pace. It is foremost to keep democratic principles at the heart of any regulation that seeks to control noxious use of it. There is much to study around Website blocking regime in India and we believe that this report can be a starting point in that discussion.



## ACKNOWLEDGMENT

We express our sincere gratitude to Mishi Choudhary & Associates LLP, our knowledge partner, without whom this report would not have been made possible. We also thank the various experts, named and unnamed herein, who spent time off their busy schedules to share with us their knowledge and opinions to make this report as rich as we could make it.

## ANNEXURE 1

10/01/2023, 11:53

RTI Online :: Request/Appeal Form Details



## Online RTI Request Form Details

## RTI Request Details :-

RTI Request Registration number	DITEC/R/E/22/00669
Public Authority	Department of Electronics & Information Technology

## Personal Details of RTI Applicant:-

Name	
Gender	
Address	
Country	India
State	
Status	Details not provided
Educational Status	Details not provided
Phone Number	Details not provided
Mobile Number	Details not provided
Email-ID	rti[at]sfc[dot]in

## Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No

(Description of Information sought (upto 500 characters))

Description of Information Sought	
According to Rule 8(1) of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009, the Designated Officer has to make all reasonable efforts to identify the person or intermediary who has hosted the information. Further, efforts are to be made to identify the computer resource on which the information is being hosted. With reference to this, following information is sought:	
1. Is there any internal operating procedure laid down by the Ministry to be followed by the designated officer to ensure that all reasonable efforts are made to identify the person, intermediary or the computer resource.	
1.1. If yes, kindly provide the procedure so laid down.	
Concerned CPIO	Dr. Gaurav Gupta (Cyber Law)
Supporting document <i>(only pdf upto 1 MB)</i>	Supporting document not provided

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10/01/2023, 11:52

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Home
Submit Request
Submit First Appeal
View Status
View History
Login
User Manual
Contact Us
FAQ

## Online RTI Status Form

Note: Fields marked with \* are Mandatory.

<b>Enter Registration Number</b>	DITEC/R/E/22/00669
<b>Name</b>	
<b>Received Date</b>	04/07/2022
<b>Public Authority</b>	Department of Electronics & Information Technology
<b>Status</b>	REQUEST DISPOSED OF
<b>Date of action</b>	27/07/2022
<b>Reply :- Refer IT Act, 2000 and rule therein.</b>	
IT Act is available at <a href="https://www.indiacode.nic.in/">https://www.indiacode.nic.in/</a>	
<b>CPIO Details :-</b>	Dr[dot] Gaurav Gupta (Cyber Law) Phone: 24301703 gupta[dot]gaurav[at]meity[dot]gov[dot]in
<b>First Appellate Authority Details :-</b>	Tulika Pandey (Cyber Law) Phone: 011-24301208 tulikapandey[at]gov[dot]in
<span style="border: 1px solid black; border-radius: 5px; padding: 2px;">Nodal Officer Details :-</span>	
<b>Telephone Number</b>	24301968
<b>Email Id</b>	rakesh[at]meity[dot]gov[dot]in

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115

## ANNEXURE 2

10/01/2023, 11:41

RTI Online :: Request/Appeal Form Details



## Online RTI Request Form Details

## RTI Request Details :-

RTI Request Registration number	DITEC/R/E/22/00486
Public Authority	Department of Electronics & Information Technology

## Personal Details of RTI Applicant:-

Name	
Gender	
Address	
Country	
State	
Status	Details not provided
Educational Status	Details not provided
Phone Number	Details not provided
Mobile Number	Details not provided
Email-ID	rti[at]sflc[dot]in

## Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No

(Description of Information sought (upto 500 characters))

Description of Information Sought	
<p>Section 69A of the Information Technology Act, 2000 enables blocking of websites/URLs. This Section mentions that the Central Government or an officer authorized by it may, through a speaking order recorded in writing, block public access to information on a computer resource, by directing any agency of government or intermediary. With reference to this, kindly provide the following information.</p> <ol style="list-style-type: none"> <li>1. Number of Websites/ URLs currently blocked.</li> <li>3. Number of Websites/URLs blocked in 2021 and 2022.</li> <li>4. Names or URLs of the websites that are blocked.</li> <li>5. Copy of blocking orders issued in 2021 and 2022.</li> <li>6. The number of hearings conducted by the committee as provided under Rule 7 of the Information Technology (Procedure and Safeguards for blocking for access of Information by Public) Rules, 2009.</li> </ol>	
Concerned CPIO	Dr. Gaurav Gupta (Cyber Law)
Supporting document <i>(only pdf upto 1 MB)</i>	Supporting document not provided

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02/06/2022, 15:51

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## Online RTI Status Form

Note: Fields marked with \* are Mandatory.

Enter Registration Number	DITEC/R/E/22/00486
Name	
Received Date	17/05/2022
Public Authority	Department of Electronics & Information Technology
Status	REQUEST DISPOSED OF
Date of action	02/06/2022
<p><b>Reply :- Q.1-Q.5:Section 69A of the IT Act, 2000 empowers Government to block information from public access under specific conditions of (i) interest of sovereignty and integrity of India, (ii) defence of India, (iii) security of the State, (iv) friendly relations with foreign States or (v) public order or (vi) for preventing incitement to the commission of any cognizable offense relating to above.</b></p> <p>The due process being followed is defined in The Information Technology (Procedure and safeguards for blocking for access of information by public) Rules, 2009. A copy of the said Rules is enclosed.</p> <p>Number of URLs blocked under Section 69A through the committee constituted under the rules therein are 9, 21, 362, 62, 471, 500, 633, 1385, 2799, 3635, 9849, 6096 and 1482 (till March 2022) during the year 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022 (till March 2022) respectively. These include all type of URLs, i.e. webpages, websites, pages on social media platforms etc.</p> <p>Further, as per Rule 16 of Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009, strict confidentiality shall be maintained regarding all the requests and complaints received and actions taken thereof.</p> <p>Further, As section 69A of The Information Technology Act, 2000 and its matters are related to sovereignty and integrity of India, the security of Nation, relation with foreign State. Thus, it attracts provisions of 8(1)(a) of the RTI Act 2005. Hence, the information asked is exempted as per RTI Act.</p> <p><b>Q.6:-</b></p> <p>Total 39 meetings were conducted by the committee as provided under Rule 7 of the Information Technology (Procedure and Safeguards for blocking for access of Information by Public) Rules, 2009 in year 2021.</p>	
CPIO Details :-	Dr[dot] Gaurav Gupta (Cyber Law) Phone: 24301703 gupta[dot]gaurav[at]meity[dot]gov[dot]in
First Appellate Authority Details :-	Tulika Pandey (Cyber Law) Phone: 011-24301208 tulikapandey[at]gov[dot]in
Nodal Officer Details :-	
Telephone Number	24361951
Email Id	s[dot]chaudhary[at]nic[dot]in

https://rtionline.gov.in/request/status.php

1/2

## ANNEXURE 3

11/07/2022, 17:18

RTI Online :: Request/Appeal Form Details



## Online RTI Request Form Details

## RTI Request Details :-

RTI Request Registration number	DITEC/R/T/22/00266
Public Authority	Department of Electronics & Information Technology

## Personal Details of RTI Applicant:-

Name	
Gender	
Address	
Country	India
State	
Status	Details not provided
Educational Status	Details not provided
Phone Number	Details not provided
Mobile Number	Details not provided
Email-ID	

## Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No


(Description of Information sought (upto 500 characters))

Description of Information Sought
<p>It has been observed by us that the following list of websites are blocked:</p> <ol style="list-style-type: none"> <li>1. altrasurf.us</li> <li>2. anonymitycheker.com</li> <li>3. anonymsurfen.com</li> <li>4. apniisp.com</li> <li>5. arabtimes.com</li> <li>6. archweb.org</li> <li>7. atjehcyber.net</li> <li>8. bannedthought.net</li> <li>9. betternet.co</li> <li>10. bollyextreme.com</li> <li>11. bspindia.org</li> <li>12. collegehumor.com</li> <li>13. dafabet.com</li> <li>14. du-recorder.com</li> <li>15. exgay.com</li> <li>16. fgmnetwork.org</li> <li>17. helo-app.com</li> <li>18. kashmirawareness.org</li> <li>19. kashmircivitas.com</li> <li>20. kickass.to</li> <li>21. kwai.com</li> </ol>

11/07/2022, 17:24

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Home
Submit Request
Submit First Appeal
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View History
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User Manual
Contact Us
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Note: Fields marked with \* are Mandatory.

Enter Registration Number	DITEC/R/T/22/00266
Name	
Received Date	01/06/2022
Public Authority	Department of Electronics & Information Technology
Status	REQUEST DISPOSED OF
Date of action	20/06/2022
<p><b>Reply :-</b> MeITy is empowered to issue directions for blocking for access of information by public under section 69A of The Information Technology Act, 2000.</p> <p>Section 69A of the IT Act, 2000 empowers Government to block information from public access under specific conditions of : (i) interest of sovereignty and integrity of India, (ii) defence of India, (iii) security of the State, (iv) friendly relations with foreign States or (v) public order or (vi) for preventing incitement to the commission of any cognizable offence relating to above. The detailed process for blocking of websites/URLs is notified through Information Technology (Procedure and Safeguards for Blocking for Access of Information for Public) Rules, 2009.</p> <p>The due process being followed is defined in The Information Technology (Procedure and safeguards for blocking for access of information by public) Rules, 2009. A copy of the said Rules is enclosed.</p> <p>As per Rule 16 of Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009, strict confidentiality shall be maintained regarding all the requests and complaints received and actions taken thereof.</p> <p>The information asked in the RTI comes under Rule 16 of Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 which is confidential in nature.</p> <p>Further, As section 69A of The Information Technology Act, 2000 and its matters are related to sovereignty and integrity of India, the security of Nation, relation with foreign State. Thus, it attracts provisions of 8(1)(a) of the RTI Act 2005. Hence, the information asked is exempted as per RTI Act.</p>	
CPIO Details :-	Dr[dot] Gaurav Gupta (Cyber Law) Phone: 24301703 gupta[dot]gaurav[at]meity[dot]gov[dot]in
First Appellate Authority Details :-	Tulika Pandey (Cyber Law) Phone: 011-24301208 tulikapandey[at]gov[dot]in
<span style="border: 1px solid black; border-radius: 5px; padding: 2px;">Nodal Officer Details :-</span>	
Telephone Number	24363071
Email Id	spa[dot]1999[at]meity[dot]gov[dot]in

## ANNEXURE 4

15/06/2022, 15:31

RTI Online :: Request/Appeal Form Details



## Online RTI Request Form Details

## RTI Request Details :-

RTI Request Registration number	MOIAB/R/E/22/00252
Public Authority	Ministry of Information & Broadcasting

## Personal Details of RTI Applicant:-

Name	
Gender	
Address	
Country	
State	
Status	Details not provided
Educational Status	Details not provided
Phone Number	Details not provided
Mobile Number	Details not provided
Email-ID	rt[at]sfl[dot]in

## Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No

(Description of Information sought (upto 500 characters))

Description of Information Sought	
<p>As per Rule 14, 15 and 16 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 the Ministry of Information and Broadcasting has the power to issue directions to delete, modify and block access to the content on hosted on the internet. With reference to this please provide the following information:</p> <ol style="list-style-type: none"> <li>The number of directions issued by the Authorised Officer in the Ministry of Information and Broadcasting, under Rule 15 of the Rules, since 25th February 2021.</li> <li>The number of websites and URLs blocked by the Authorised Officer in the Ministry of Information and Broadcasting, under Rule 15 of the Rules, since 25th February 2021.</li> <li>Please provide the copy of Directions issued by the Authorised Officer in the Ministry of Information and Broadcasting, under Rule 15 of the Rules, since 25th February 2021.</li> <li>The number of directions issued by the Authorised Officer in the Ministry of Information and Broadcasting, under Rule 16 of the Rules, since 25th February 2021.</li> <li>The number of websites and URLs blocked by the Authorised Officer in the Ministry of Information and Broadcasting, under Rule 16 of the Rules, since 25th February 2021.</li> <li>Please provide the copy of Directions issued by the Authorised Officer in the Ministry of Information and Broadcasting, under Rule 16 of the Rules, since 25th February 2021.</li> </ol>	
Concerned CPIO	Prem Chand, US(Digital Media)
Supporting document <i>(only pdf upto 1 MB)</i>	Supporting document not provided

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**By Speed Post**  
**RTI Matter**

**No.I-11011/160/2022 -DM**  
**Government of India**  
**Ministry of Information & Broadcasting**  
**'A Wing, Shastri Bhawan, New Delhi**  
**Digital Media Division**

Dated 15.06.2022

To,

Subject: Information sought under RTI Act, 2005-regarding.

Sir,

Please refer to your RTI application with registration No. MOIAB/R/E/22/00252 dated 01.06.2022 on the subject mentioned above and to provide point-wise information as under:-

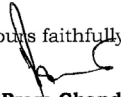
Point 1 to 3:- The information may be treated as "Nil".

Point 4 & 5:- As per provisions of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the directions under Rule 16 are not issued by the Authorised Officer.

Point 6:- Does not arise.

2. Appeal, if any, against the above reply, may be made to Shri Amarendra Singh, Deputy Secretary(DM) & 1st Appellate Authority, M/o Information and Broadcasting, Room no. 760, A Wing, Shastri Bhawan, New Delhi-110001, within 30 days of receipt of this letter.

Yours faithfully

  
(Prem Chand)

**Under Secretary to the Govt. of India/CPIO (DM)**  
**Tel:-2338 6199**

Copy to:-

1. RTI section w.r.t. above mentioned RTI application.

## ANNEXURE 5

10/01/2023, 11:43

RTI Online :: Request/Appeal Form Details



## Online RTI Request Form Details

## RTI Request Details :-

RTI Request Registration number	DOTEL/R/E/22/00396
Public Authority	Department of Telecommunications

## Personal Details of RTI Applicant:-

Name	
Gender	
Address	
Country	India
State	
Status	Details not provided
Educational Status	Details not provided
Phone Number	Details not provided
Mobile Number	Details not provided
Email-ID	rti[at]sflc[dot]in

## Request Details :-

Citizenship	Indian
Is the Requester Below Poverty Line ?	No

(Description of Information sought (upto 500 characters))

Description of Information Sought	
<ol style="list-style-type: none"> <li>1. Provide the number of websites or URLs ordered to be blocker by the Department of Telecommunications pursuant to a court order/ judgment within the period of 2015-2022</li> <li>2. Please provide a the name of the websites and URLs blocked within the period of 2015-2022.</li> <li>3. Please provide copies of the blocking orders issued by the Department of Telecommunications 2015-2022.</li> </ol>	
Concerned CPIO	Subodh Saxena, Dir (DS-II)
Supporting document <i>(only pdf upto 1 MB)</i>	Supporting document not provided

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## Online RTI Status Form

Note: Fields marked with \* are Mandatory.

Enter Registration Number	DOTEL/R/E/22/00396
Name	
Received Date	01/06/2022
Public Authority	Department of Telecommunications
Status	REQUEST DISPOSED OF
Date of action	27/06/2022
<p><b>Reply :-</b> It is to mention that role of Department of Telecommunications (DoT) is limited to forwarding of court orders to Internet Service Providers for compliance as per directions of the various Honorable courts for blocking of websites/URLs.</p> <p>Onward to April 2022: Details of court orders for blocking of websites/URLs is available at <a href="https://dot.gov.in/data-services/2883">https://dot.gov.in/data-services/2883</a>.</p> <p>2019 March 2022: List of court cases with details of court order and no. of URLs/websites is attached in which DS Cell, DOT has forwarded the court order to ISPs for compliance. Concerned court website/registry may be approached for court orders, related documents and IA etc.</p> <p>Year 2015 2018: No consolidated list is available for this period. May visit/ask this office or approach respective Honorable court for a specific cases.</p>	
View Document	
CPIO Details :-	Tejpal Singh, Dir (DS-II) Phone: 23036860 dirds2-dot[at]nic[dot]in
First Appellate Authority Details :-	Vivek Narayan, DDG (DS) Phone: 23717050 dddgs-dot[at]nic[dot]in
<div style="border: 1px solid black; border-radius: 5px; padding: 2px; display: inline-block;">Nodal Officer Details :-</div>	
Telephone Number	011-23372519
Email Id	ramanuj[dot]dey[at]nic[dot]in

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S.No.	Case	Order dated	URLS
1	CS Comm 27 of 2019, Before Hon'ble Delhi High Court	21/1/2019	18
2	CS 93 of 2019, before Hon'ble Madras High Court	30/1/2019	1
3	CS Comm 38 of 2019, before Hon'ble Delhi High Court	24/1/2019	32
4	CS Comm 54 of 2019, before Hon'ble Delhi High Court	1/2/2019	12
5	CS Comm 20 of 2019, before Hon'ble Delhi High Court	16/1/2019	11
6	CS Comm 117 of 2019, before Hon'ble Delhi High Court	16/3/2019	16
7	CS Comm 139 of 2019, before Hon'ble Delhi High Court	18/3/2019	21
8	CS Comm 59 of 2019, Before Patiala House Courts, New Delhi	18/3/2019	2113
9	CS Comm 195 of 2019, before Hon'ble Delhi High Court	15/4/2019	78
10	JM 1st Class court no.5 , west Tripura, Agartala in Case no. 2019 WAG 084	27/4/2019	1
11	Addi. Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai OW No. 582 of 2019	26/3/2019	2
12	CS 78 of 2019, Before Hon'ble High Court, Calcutta.	18/3/2019	5
13	CS(Comm) 724/2017 UTV Software Communications Ltd. and Ors. vs 1337x.to & Ors. with CS(Comm) 768/2018, CS(Comm) 770/2018, CS(Comm) 776/2018, CS(Comm) 777/2018, CS(Comm) 778/2018, CS(Comm) 799/2018 and CS(Comm) 800/2018.	10/4/2019	31
14	TM 19 of 2018, Before Saket District Court, New Delhi.	10/5/2019	1

15	CS Comm 195 of 2019, before Hon'ble Delhi High Court	7/5/2019	83
16	CS Comm 281 of 2019, before Hon'ble Delhi High Court	27/5/2019	15
17	CS Comm 321 of 2019, before Hon'ble Delhi High Court	31/5/2019	1
18	CS Comm 281 of 2019, before Hon'ble Delhi High Court	27/5/2019	45
19	CS Comm 298 of 2019, before Hon'ble Delhi High Court	30/5/2019	4
20	CS 78 of 2019, Before Hon'ble High Court, Calcutta.	18/3/2019	1
21	CS Comm 195 of 2019, before Hon'ble Delhi High Court	21/5/2019	46
22	TM 65 of 2019, Before Patiala House Courts, New Delhi	4/6/2019	677
23	CS Comm 799 of 2018, before Hon'ble Delhi High Court	28/5/2019	10
24	CS Comm 770 of 2018, before Hon'ble Delhi High Court	28/5/2019	1
25	CS Comm 281 of 2019, before Hon'ble Delhi High Court	27/5/2019	14
26	CS Comm 281 of 2019, before Hon'ble Delhi High Court	27/5/2019	31
27	CS Comm 724 of 2017, before Hon'ble Delhi High Court	4/7/2019	22
28	CS Comm 768 of 2018, before Hon'ble Delhi High Court	4/7/2019	13
29	CS Comm 776 of 2018, before Hon'ble Delhi High Court	4/7/2019	7

30	CS Comm 777 of 2018, before Hon'ble Delhi High Court	4/7/2019	86
31	CS Comm 778 of 2018, before Hon'ble Delhi High Court	4/7/2019	22
32	TM No. 91 of 2019, before Tis Hazari Courts, New Delhi	18/7/2019	60
33	CS Comm 366 of 2019, before Hon'ble Delhi High Court	24/7/2019	1
34	CS Comm 367 of 2019, before Hon'ble Delhi High Court	24/7/2019	1
35	CS Comm 368 of 2019, before Hon'ble Delhi High Court	24/7/2019	1
36	CS Comm 369 of 2019, before Hon'ble Delhi High Court	24/7/2019	124
37	CS Comm 374 of 2019, before Hon'ble Delhi High Court	26/7/2019	81
38	CS Comm 378 of 2019, before Hon'ble Delhi High Court	29/7/2019	81
39	CS Comm 408 of 2019, before Hon'ble Delhi High Court	5/8/2019	67
40	CS Comm 399 of 2019, before Hon'ble Delhi High Court	5/8/2019	6
41	CS Comm 402 of 2019, before Hon'ble Delhi High Court	5/8/2019	3
42	CS Comm 403 of 2019, before Hon'ble Delhi High Court	5/8/2019	2
43	CS Comm 407 of 2019, before Hon'ble Delhi High Court	5/8/2019	1
44	CS Comm 409 of 2019, before Hon'ble Delhi High Court	5/8/2019	2
45	CS Comm 418 of 2019, before Hon'ble Delhi High Court	9/8/2019	1

46	CS Comm 419 of 2019, before Hon'ble Delhi High Court	9/8/2019	2
47	CS Comm 422 of 2019, before Hon'ble Delhi High Court	9/8/2019	19
48	CS Comm 400 of 2019, before Hon'ble Delhi High Court	5/8/2019 & 9/8/2019	2
49	CS Comm 408 of 2019, before Hon'ble Delhi High Court	5/8/2019	20
50	Addl. Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai in OW No. 1240/2019 & OW No. 582 of 2019	26/3/2019 & 8/7/2019	1
51	CS Comm 471 of 2019, before Hon'ble Delhi High Court	29/8/2019	46
52	CS Comm 408 of 2019, before Hon'ble Delhi High Court	5/8/2019	28
53	CS Comm 457 of 2019, before Hon'ble Delhi High Court	26/8/2019	77
54	CS Comm 369 of 2019, before Hon'ble Delhi High Court	2/9/2019	16
55	CS Comm 500 of 2019, before Hon'ble Delhi High Court	13/9/2019	11
56	CS Comm 500 of 2019, before Hon'ble Delhi High Court	13/9/2019	23
57	CS Comm 510 of 2019, before Hon'ble Delhi High Court	17/9/2019	102
58	CS Comm 515 of 2019, before Hon'ble Delhi High Court	18/9/2019	68
59	Cont.Ptn. No. 1757 of 2019 in WP.No.27509 of 2018 Hon'ble High Court of Madras	25/10/2019	24

60	CS Comm 333 of 2019 Before Saket District Courts, New Delhi.	17/10/2019	1
61	CS Comm 576 of 2019, before Hon'ble Delhi High Court	16/10/2019	44
62	Metropolitan Magistrate, 54th Court, Sewri, Mumbai in CR No.46 of 2019	14/10/2019	1
63	CS Comm 594 of 2019, before Hon'ble Delhi High Court	24/10/2019	68
64	CS Comm 576 of 2019, before Hon'ble Delhi High Court	16/10/2019	86
65	CS Comm 712 of 2019, before Hon'ble Delhi High Court	20/12/2019	43
	Total=		4533



S.No.	Subject/Case	Court order date	No. of websites/ URLs
1	CS Comm No. 369 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://tamilrockers.ws">https://tamilrockers.ws</a> & before Delhi High Court	24-12-2019	91
2	CS Comm No. 399 of 2019; Warner Bros. Entertainment Inc. vs. <a href="http://mp4moviez.io">http://mp4moviez.io</a> & Ors. Before Hon'ble Delhi High Court	24-12-2019	2
3	C.S.(COMM) No. 400 of 2019; Warner Bros. Entertainment Inc. vs. <a href="http://www2.series9.io">http://www2.series9.io</a> & Ors., before Hon'ble Delhi High Court	24-12-2019	1
4	C.S.(COMM) No. 422 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://xmovies08.ru">https://xmovies08.ru</a> & Ors., before Hon'ble Delhi High Court	24-12-2019	9
5	C.S.(COMM) No. 457 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://moviesflix.net">Moviesflix.net</a> & Ors., before Hon'ble Delhi High Court	17-12-2019	52
6	CS Comm No. 366 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://hindilinks4u.to">https://hindilinks4u.to</a> & Ors. before Delhi High Court	24-12-2019	1
7	CS Comm No. 367 of 2019; Warner Bros. Entertainment Inc. vs <a href="https://otorrents.com">https://otorrents.com</a> & Ors. before Delhi High Court	24-12-2019	1
8	CS Comm No. 368 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://www2.filmlinks4U.is">https://www2.filmlinks4U.is</a> & Ors. before Delhi High Court	24-12-2019	1
9	C.S.(COMM) No. 402 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://www.uwatchfree.st">https://www.uwatchfree.st</a> & Ors., before Hon'ble Delhi High Court	24-12-2019	2
10	C.S.(COMM) No. 418 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://yo-movies.com">https://yo-movies.com</a> & Ors., before Hon'ble Delhi High Court	24-12-2019	2
11	C.S.(COMM) No. 515 of 2019; Warner Bros. Entertainment Inc. v/s <a href="https://rutracker.org">rutracker.org</a> & Ors. before Hon'ble Delhi High Court	24-12-2019	6
12	C.S.(COMM) No. 594 of 2019; Disney Enterprises, Inc. & Ors. vs RLSBB.UNBLOCKED.LTDA & Ors, before Hon'ble Delhi High Court.	17-12-2019	92
13	C.S.(COMM) No. 712 of 2019; Star India Pvt. Ltd. v <a href="https://moviesjoy.in">Moviesjoy.in</a> & Ors., before Hon'ble Delhi High Court	20-12-2019	31
14	C.S.(COMM) No. 712 of 2019; Star India Pvt. Ltd. v <a href="https://moviesjoy.in">Moviesjoy.in</a> & Ors., before Hon'ble Delhi High Court	20-12-2019	51
15	C.S. Comm No. 724 of 2017 UTV Software Commuincations ltd. and Ors. Vs <a href="https://1337x.to">1337x.to</a> and Ors. Before Delhi High Court	19-12-2019	4
16	C.S.(COMM) No. 768 of 2018 (UTV Software Communications Ltd. and Ors. vs <a href="https://bmovies.is">Bmovies.is</a> and ORs.) before the Hon'ble Delhi High Court	19-12-2019	2
17	C.S. (COMM) No. 770 of 2018, UTV Software Communications Ltd. and Ors. vs V. <a href="https://fmovies.pe">Fmovies.pe</a> and Ors., before the Hon'ble Delhi High Court.- regarding pictures "Original Content "	19-12-2019	2

18	C.S.(COMM) No. 776 of 2018 [UTV Software Communications Ltd and Ors. V. Rarbg.is and Ors.] before Hon'ble Delhi High Court	19-12-2019	2
19	C.S.(COMM) No. 777 of 2018 [UTV Software Communications Ltd and Ors. V. Thepiratebay.org and Ors.] before Hon'ble Delhi High Court	19-12-2019	110
20	C.S. (COMM) No. 778 of 2018 [Twentieth Century Fox Film Corporation &Ors. Vs. Yts.am & Ors.] Before Hon'ble Delhi High Court: - regarding pictures "Original Content".	19-12-2019	5
21	C.S.(COMM) No. 712 of 2019; Star India Pvt. Ltd. v Moviesjoy.in & Ors., before Hon'ble Delhi High Court	20-12-2019	6
22	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17-09-2019	43
23	CS(Comm) No. 54 of 2020; Star India Pvt. Ltd. & Anr. v/s airhdx.com & Ors. before Hon'ble Delhi High Court	05/02/20	15
24	CS(Comm) No. 95 of 2020; Star India Pvt. Ltd. v/s watchonlinemovieshd.online & others before Hon'ble Delhi High Court	27/02/2020	34
25	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17/09/2019	63
26	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17/09/2019	11
27	C.S.(COMM) No. 712 of 2019; Star India Pvt. Ltd. v Moviesjoy.in & Ors., before Hon'ble Delhi High Court	20/12/2019	51
28	WP(PIL) No. 158 of 2018 before Uttarakhand High Court	27/09/2018	563
29	CS(Comm) No. 95 of 2020; Star India Pvt. Ltd. v/s watchonlinemovieshd.online & others before Hon'ble Delhi High Court	27/02/2020	89
30	CS(Comm) No. 95 of 2020; Star India Pvt. Ltd. v/s watchonlinemovieshd.online & others before Hon'ble Delhi High Court	27/02/2020	23
31	CS Comm No. 110 of 2020; SAP SE V/s VTECH SOFT SOLUTIONS & ORS, before Hon'ble Delhi High Court	16/03/2020	2
32	CS(Comm) No. 95 of 2020; Star India Pvt. Ltd. v/s watchonlinemovieshd.online & others before Hon'ble Delhi High Court	27/02/2020	25
33	CS Comm No. 147 of 2020; GS1 India v. Global Barcodes SL and Ors, before Hon'ble Delhi High Court	29/05/2020	2
34	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17/09/2019	52
35	CS Comm No. 147 of 2020; GS1 India v. Global Barcodes SL and Ors, before Hon'ble Delhi High Court	26/6/2020	1
36	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17/09/2019	48
37	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta.	18/03/2019	1

38	CS Comm No. 250 of 2020; Star India Pvt. Ltd. & Anr. Vs Oxibuzz.com & Ors. before Hon'ble Delhi High Court	13/07/2020	74
39	CS Comm No. 264 of 2020; titled as SNAPDEAL PRIVATE LIMITED v/s SNAPDEALLUCKY-DRAWS.ORG.IN & ORS., before Hon'ble Delhi High Court.	20/07/2020	50
40	CS (Comm) No. 275 of 2020; DISNEY ENTERPRISES, INC. & ORS. Vs KIMCARTOON.TO & ORS. before Hon'ble Delhi High Court	27/07/2020	118
41	CS(Comm) No. 95 of 2020; Star India Pvt. Ltd. v/s watchonlinemovieshd.online & others before Hon'ble Delhi High Court	27/02/2020	51
42	CS Comm No. 264 of 2020; titled as SNAPDEAL PRIVATE LIMITED v/s SNAPDEALLUCKY-DRAWS.ORG.IN & ORS., before Hon'ble Delhi High Court.	4/8/2020	41
43	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17/09/2019	36
44	CS(COMM) NO.350/2020 TITLED AS "GUJARAT COOPERATIVE MILK MARKETING FEDERATION LIMITED AND ANR VS AMUL-FRANCHISE.IN AND ORS	28/08/2020	8
45	CS(COMM) NO.350/2020 TITLED AS "GUJARAT COOPERATIVE MILK MARKETING FEDERATION LIMITED AND ANR VS AMUL-FRANCHISE.IN AND ORS	28/08/2020	60
46	CS(COMM) NO.370 of 2020 titled as FLIPKART INTERNET PRIVATE LIMITED v/s GODADDY OPERATING COMPANY LLC & ORS.	10/09/20	12
47	C.S. Comm No. 724 of 2017 UTV Software Commuincations ltd. and Ors. Vs 1337x.to and Ors. Before Delhi High Court	10/09/20	15
48	C.S. (COMM) No. 770 of 2018, UTV Software Communications Ltd. and Ors. vs V. Fmovies.pe and Ors., before the Hon'ble Delhi High Court.- regarding pictures "Original Content "	10/09/20	7
49	C.S.(COMM) No. 776 of 2018 [UTV Software Communications Ltd and Ors. V. Rarbg.is and Ors.] before Hon'ble Delhi High Court	10/09/20	6
50	C.S.(COMM) No. 777 of 2018 [UTV Software Communications Ltd and Ors. V. Thepiratebay.org and Ors.] before Hon'ble Delhi High Court	10/09/20	29
51	C.S. (COMM) No. 778 of 2018 [Twentieth Century Fox Film Corporation &Ors. Vs. Yts.am & Ors.] Before Hon'ble Delhi High Court: - regarding pictures "Original Content".	17/09/2020	11
52	C.S.(COMM) No. 799 of 2018 [UTV Software Communications Ltd. &Ors Vs. Extratorrent.ag &Ors.] before Hon'ble Delhi High Court	17/09/2020	1
53	C.S.(COMM) No. 800 of 2018 [UTV Software Communications Ltd. &Ors Vs. Torrentmovies.co & Ors.] before Hon'ble Delhi High Court	17/09/2020	3
54	CS Comm No. 394 of 2020; titled as Star India Pvt. Ltd. & Anr. v/s Jackstreams.com & Ors., before Hon'ble Delhi High Court	23/09/2020	51

55	CS Comm No. 394 of 2020; titled as Star India Pvt. Ltd. & Anr. v/s Jackstreams.com & Ors., before Hon'ble Delhi High Court	23/09/2020	144
56	CS Comm No. 369 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://tamilrockers.ws">https://tamilrockers.ws</a> & before Delhi High Court	30/09/2020	36
57	C.S.(COMM) No. 407 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://ww2.movierulzfree.com">https://ww2.movierulzfree.com</a> & Ors., before Hon'ble Delhi High Court	30/09/2020	14
58	C.S.(COMM) No. 409 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://skymovies.live">https://skymovies.live</a> & Ors., before Hon'ble Delhi High Court	30/09/2020	1
59	C.S.(COMM) No. 457 of 2019; Warner Bros. Entertainment Inc. vs. Moviesflix.net & Ors., before Hon'ble Delhi High Court	30/09/2020	40
60	C.S.(COMM) No. 515 of 2019; Warner Bros. Entertainment Inc. v/s <a href="http://rutracker.org">rutracker.org</a> & Ors. before Hon'ble Delhi High Court	30/09/2020	13
61	CS (Comm) No. 275 of 2020; DISNEY ENTERPRISES, INC. & ORS. Vs KIMCARTOON.TO & ORS. before Hon'ble Delhi High Court	16/10/2020	46
62	CS(COMM) NO.370 of 2020 titled as FLIPKART INTERNET PRIVATE LIMITED v/s GODADDY OPERATING COMPANY LLC & ORS.	14/10/2020	15
63	CS Comm No. 394 of 2020; titled as Star India Pvt. Ltd. & Anr. v/s Jackstreams.com & Ors., before Hon'ble Delhi High Court	23/09/2020	74
64	C.S.(COMM) No. 402 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://www.uwatchfree.st">https://www.uwatchfree.st</a> & Ors., before Hon'ble Delhi High Court	8/10/2020	3
65	C.S.(COMM) No. 403 of 2019; Warner Bros. Entertainment Inc. vs <a href="http://www.onlinewatchmovies.com.pk">http://www.onlinewatchmovies.com.pk</a> & Ors., before Hon'ble Delhi High Court	8/10/2020	1
66	C.S.(COMM) No. 418 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://yo-movies.com">https://yo-movies.com</a> & Ors., before Hon'ble Delhi High Court	8/10/2020	5
67	C.S.(COMM) No. 422 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://xmovies08.ru">https://xmovies08.ru</a> & Ors., before Hon'ble Delhi High Court	8/10/2020	2
68	CS (COMM) No. 448 of 2020; Sporta Technologies Pvt. Ltd. & Anr. v/s Dream11 Prime. & Ors. before Hon'ble Delhi High Court.	14/10/2020	51
69	C.S.(COMM) No. 594 of 2019; Disney Enterprises, Inc. & Ors. vs RLSBB.UNBLOCKED.LTDA & Ors, before Hon'ble Delhi High Court.	08/10/20	40
70	CS Comm No. 394 of 2020; titled as Star India Pvt. Ltd. & Anr. v/s Jackstreams.com & Ors., before Hon'ble Delhi High Court	23/09/2020	104
71	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17/09/2019	80
72	CS Comm No. 394 of 2020; titled as Star India Pvt. Ltd. & Anr. v/s Jackstreams.com & Ors., before Hon'ble Delhi High Court	23/09/2020	59
73	CS (COMM) No. 485 of 2020; Star India Pvt. Ltd. & Anr. v/s <a href="http://afilmywap.top">afilmywap.top</a> & Ors. before Hon'ble Delhi High Court.	3/11/2020	50

74	CS Comm No. 394 of 2020; titled as Star India Pvt. Ltd. & Anr. v/s Jackstreams.com & Ors., before Hon'ble Delhi High Court	23/09/2020	12
75	CS Comm No. 471 of 2020; titled as PB Fintech Pvt Ltd V/s Policy Bazar Finance & ORS., before Hon'ble Delhi High Court.	11/11/20	8
76	CS(COMM) NO.350/2020 TITLED AS "GUJARAT COOPERATIVE MILK MARKETING FEDERATION LIMITED AND ANR VS AMUL-FRANCHISE.IN AND ORS	19/11/2020	1
77	CS (COMM) No. 519 of 2020; titled as Sony Pictures Network India Pvt. Ltd. V/s www.b1.mylivecricket.bizand & Ors before Hon'ble Delhi High Court.	24/11/2020	94
78	CS (COMM) No. 485 of 2020; Star India Pvt. Ltd. & Anr. v/s afilmlywap.top & Ors. before Hon'ble Delhi High Court.	3/12/2020	26
79	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta.	18/03/2019	2
80	CS Comm No. 264 of 2020; titled as SNAPDEAL PRIVATE LIMITED v/s SNAPDEALLUCKY-DRAWS.ORG.IN & ORS., before Hon'ble Delhi High Court.	7/10/2020	127
81	C.S.(COMM) No. 510 of 2019; Star India Pvt. Ltd. & Anr. v. Aapkeajaanese.net & Ors before Hon'ble Delhi High Court	17/09/2019	45
82	CS Comm No. 264 of 2020; titled as SNAPDEAL PRIVATE LIMITED v/s SNAPDEALLUCKY-DRAWS.ORG.IN & ORS., before Hon'ble Delhi High Court.	23/12/2020	153
83	CS Comm No. 577 of 2020; titled as Infiniti Retail Limited vs. M/s The Croma through its proprietor & ors., before Hon'ble Delhi High Court.	24/12/2020	1
84	C.S. Comm No. 724 of 2017 UTV Software Commuincations Ltd. and Ors. Vs 1337x.to and Ors. Before Delhi High Court	21/12/2020	3
85	C.S.(COMM) No. 777 of 2018 [UTV Software Communications Ltd and Ors. V. Thepiratebay.org and Ors.] before Hon'ble Delhi High Court	21/12/2020	6
86	C.S. (COMM) No. 778 of 2018 [Twentieth Century Fox Film Corporation &Ors. Vs. Yts.am & Ors.] Before Hon'ble Delhi High Court: - regarding pictures "Original Content".	21/12/2020	1
87	C.S. (COMM) No. 770 of 2018, UTV Software Communications Ltd. and Ors. vs V. Fmovies.pe and Ors., before the Hon'ble Delhi High Court.- regarding pictures "Original Content "	21/12/2020	2
88	C.S.(COMM) No. 776 of 2018 [UTV Software Communications Ltd and Ors. V. Rarbg.is and Ors.] before Hon'ble Delhi High Court	21/12/2020	1
89	C.S.(COMM) No. 457 of 2019; Warner Bros. Entertainment Inc. vs. Moviesflix.net & Ors., before Hon'ble Delhi High Court	23/12/2020	12
90	CS (Comm) No. 275 of 2020; DISNEY ENTERPRISES, INC. & ORS. Vs KIMCARTOON.TO & ORS. before Hon'ble Delhi High Court	22/1/2021	4
91	CS (Comm) No. 401 of 2021; Realme Mobile Telecommunications V/s R Partner Realme, before Tis Hazari Court Delhi.	1/2/2021	18

92	CS (COMM) No. 448 of 2020; Sporta Technologies Pvt. Ltd. & Anr. v/s Dream11 Prime. & Ors. before Hon'ble Delhi High Court.	11/2/2021	84
93	C.C.No 242/MISC/2021 of S.S.Branch, CR. No.15/2021, Sakinaka Police station, CR. No.53/2021 before The Metropolitan Magistrate, Special Court for ITPA, 54 <sup>th</sup> Court at Mazgaon, Mumbai.	9/2/2021	54
94	CS (COMM) No. 84 of 2021; Star India Pvt. Ltd. & Anr. V/s sportstody.com & Ors. before Hon'ble Delhi High Court.	18/2/2021	29
95	TM No. 31 of 2020; RADO UHREN AG & ORS. V/s AJIT SINGH & ORS. before Patiala House Court Delhi.	15/02/2021	196
96	CS Comm No. 471 of 2020; titled as PB Fintech Pvt Ltd V/s Policy Bazar Finance & ORS., before Hon'ble Delhi High Court.	09/03/2021 & 26/02/2021	13
97	CS Comm No. 264 of 2020; titled as SNAPDEAL PRIVATE LIMITED v/s SNAPDEALLUCKY-DRAWS.ORG.IN & ORS., before Hon'ble Delhi High Court.	17/3/2021	101
98	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s y1.mylivecricket.biz & Ors. before Hon'ble Delhi High Court.	26/03/2021	16
99	CS (COMM) No. 136 of 2021; Novi Digital Entertainment Pvt. Ltd. V/s w1.123movies11.com & Ors. before Hon'ble Delhi High Court.	24/03/2021	29
100	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s y1.mylivecricket.biz & Ors. before Hon'ble Delhi High Court.	26/03/2021	15
101	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s y1.mylivecricket.biz & Ors. before Hon'ble Delhi High Court.	26/03/2021	21
102	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	18
103	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	22
104	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s y1.mylivecricket.biz & Ors. before Hon'ble Delhi High Court.	19/04/2021 & 26/03/2021	40
105	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	8
106	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s y1.mylivecricket.biz & Ors. before Hon'ble Delhi High Court.	19/04/2021 & 26/03/2021	10
107	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	4
108	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	5
109	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	13
110	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	3

111	CS (Comm) No. 240 of 2021; Western Digital Technologies, Inc. v. Sumit Pandey & Ors. before Hon'ble Delhi High Court	27/5/2021	3
112	CS (COMM) No. 768 of 2018 (UTV Software Communications Ltd. & Ors Vs. Bmovies.is & Ors.) before Hon'ble Delhi High Court.	28/5/2021	1
113	CS (OS) No. 68 of 2021; Srei Infrastructure Finance Ltd. & Ors. V/s International Media Corporation & Ors. before Hon'ble Delhi High Court.	7/6/2021	2
114	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	4
115	CS (COMM) No. 291 of 2021; Sporta Technologies Pvt. Ltd. v/s John Doe & others, before Hon'ble Delhi High Court	9/6/2021	36
116	C.S. (COMM) No. 770 of 2018, UTV Software Communications Ltd. and Ors. vs V. Fmovies.pe and Ors., before the Hon'ble Delhi High Court.- regarding pictures "Original Content "	28/5/2021	5
117	C.S.(COMM) No. 776 of 2018 [UTV Software Communications Ltd and Ors. V. Rarbg.is and Ors.] before Hon'ble Delhi High Court	27/5/2021	1
118	C.S.(COMM) No. 777 of 2018 [UTV Software Communications Ltd and Ors. V. Thepiratebay.org and Ors.] before Hon'ble Delhi High Court	28/5/2021	2
119	C.S. (COMM) No. 778 of 2018 [Twentieth Century Fox Film Corporation &Ors. Vs. Yts.am & Ors.] Before Hon'ble Delhi High Court: - regarding pictures "Original Content".	28/5/2021	1
120	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	12
121	CS (Comm) No. 275 of 2020; DISNEY ENTERPRISES, INC. & ORS. Vs KIMCARTOON.TO & ORS. before Hon'ble Delhi High Court	4/6/2021	29
122	CS (COMM) No. 289 of 2021; Sony Pictures Network India Private Limited V/s www.sportsala.tv and others, before Hon'ble Delhi High Court	4/6/2021	46
123	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	13
124	C.S.(COMM) No. 407 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://ww2.movierulzfree.com">https://ww2.movierulzfree.com</a> & Ors., before Hon'ble Delhi High Court	12/7/2021 & 14/7/2021	3
125	CS Comm No. 264 of 2020; titled as SNAPDEAL PRIVATE LIMITED v/s SNAPDEALLUCKY-DRAWS.ORG.IN & ORS., before Hon'ble Delhi High Court.	12/7/2021	19
126	CS Comm No. 369 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://tamilrockers.ws">https://tamilrockers.ws</a> & before Delhi High Court	12/7/2021 & 14/7/2021	3
127	C.S.(COMM) No. 422 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://xmovies08.ru">https://xmovies08.ru</a> & Ors., before Hon'ble Delhi High Court	12/7/2021 & 14/7/2021	1

128	C.S.(COMM) No. 457 of 2019; Warner Bros. Entertainment Inc. vs. Moviesflix.net & Ors., before Hon'ble Delhi High Court	12/7/2021 & 14/7/2021	27
129	C.S.(COMM) No. 515 of 2019; Warner Bros. Entertainment Inc. v/s rutracker.org & Ors. before Hon'ble Delhi High Court	12/7/2021 & 14/7/2021	1
130	CS Comm No. 264 of 2020; titled as SNAPDEAL PRIVATE LIMITED v/s SNAPDEALLUCKY-DRAWS.ORG.IN & ORS., before Hon'ble Delhi High Court.	12/7/2021 & 3/8/2021	61
131	CS (COMM) No. 353 of 2021; Star India Pvt Ltd & Anr. v/s yodesiserial.su & Ors. before Hon'ble Delhi High Court.	9/8/2021	50
132	CS (COMM) No. 364 of 2021; Star India Pvt Ltd & Anr. v/s moviesghar.art & Ors. before Hon'ble Delhi High Court	9/8/2021	43
133	CS (Comm) No. 367 of 2021; 'Viacom18 Media Private Limited vs www.oreo-tv.com and others' before Hon'ble Delhi High Court.	9/8/2021	32
134	CS (COMM) No. 364 of 2021; Star India Pvt Ltd & Anr. v/s moviesghar.art & Ors. before Hon'ble Delhi High Court	9/8/2021	47
135	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta	18/3/2019	3
136	CS (COMM) No. 399 of 2021; Hindustan Unilever Limited v/s Nitin Kumar Singh & Ors. before Hon'ble Delhi High Court	27/8/2021	10
137	CS (Comm) No. 400 of 2021; Sporta Technologies Pvt. Ltd. vs GHD Sports and Others, before Hon'ble Delhi High Court	27/8/2021	134
138	CS (COMM) No. 364 of 2021; Star India Pvt Ltd & Anr. v/s moviesghar.art & Ors. before Hon'ble Delhi High Court	9/8/2021	36
139	C.S.(COMM) No. 594 of 2019; Disney Enterprises, Inc. & Ors. vs RLSBB.UNBLOCKED.LTDA & Ors, before Hon'ble Delhi High Court	12/7/2021	1
140	CS (Comm) No. 401 of 2021; Universal City Studios LLC and Ors. vs myflixer.to and Ors., before Hon'ble Delhi High Court	31/08/2021	78
141	CS (COMM) No. 364 of 2021; Star India Pvt Ltd & Anr. v/s moviesghar.art & Ors. before Hon'ble Delhi High Court	9/8/2021	25
142	CS (COMM) No. 399 of 2021; Hindustan Unilever Limited v/s Nitin Kumar Singh & Ors. before Hon'ble Delhi High Court	27/8/2021	2
143	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta	18/3/2019	1
144	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s y1.mylivecricket.biz & Ors. before Hon'ble Delhi High Court.	19/04/2021 & 26/03/2021	27
145	CS (COMM) No. 176 of 2021; Snapdeal Private Limited V/s GoDaddy.com, LLC & Ors. before Hon'ble Delhi High Court	16/09/2021	431
146	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta	18/3/2019	1
147	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s y1.mylivecricket.biz & Ors. before Hon'ble Delhi High Court.	19/04/2021 & 26/03/2021	16



148	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	14
149	CS Comm No. 366 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://hindilinks4u.to">https://hindilinks4u.to</a> & Ors. before Delhi High Court	29/9/2021	1
150	C.S.(COMM) No. 407 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://ww2.movierulzfree.com">https://ww2.movierulzfree.com</a> & Ors., before Hon'ble Delhi High Court	29/9/2021	23
151	C.S.(COMM) No. 409 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://skymovies.live">https://skymovies.live</a> & Ors., before Hon'ble Delhi High Court	29/9/2021	4
152	C.S.(COMM) No. 422 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://xmovies08.ru">https://xmovies08.ru</a> & Ors., before Hon'ble Delhi High Court	04/10/21	11
153	CS (COMM) No. 474 of 2021; LOREAL S.A. V/s ASHOK KUMAR AND OTHERS & ORS before Hon'ble Delhi High Court	28/9/2021	1
154	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s <a href="http://y1.mylivecricket.biz">y1.mylivecricket.biz</a> & Ors. before Hon'ble Delhi High Court.	19/04/2021 & 26/03/2021	7
155	CS (COMM) No. 151 of 2021; Star India Pvt. Ltd. & Anr. V/s <a href="http://y1.mylivecricket.biz">y1.mylivecricket.biz</a> & Ors. before Hon'ble Delhi High Court.	19/04/2021 & 26/03/2021	7
156	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/04/2021	1
157	CS (COMM) No. 448 of 2020; Sporta Technologies Pvt. Ltd. & Anr. v/s Dream11 Prime. & Ors. before Hon'ble Delhi High Court.	20/9/2021	67
158	CS (Comm) No. 518 of 2021; Star India Pvt. Ltd. and Anr. v/s <a href="http://filmyclub.wapkiz.com">filmyclub.wapkiz.com</a> And Ors., before Hon'ble Delhi High Court.	12/10/21	47
159	CS (Comm) No. 3812 of 2021; GS1 India V/s Indian EAN Barcodes and Ors., before District Judge (Commercial Court)-01, Central, Tis Hazari Courts, Delhi.	05/10/21	1
160	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta	18/3/2019	1
161	C.S. Comm No. 724 of 2017 UTV Software Commuincations ltd. and Ors. Vs <a href="http://1337x.to">1337x.to</a> and Ors. Before Delhi High Court	20/9/2021	2
162	C.S. (COMM) No. 770 of 2018, UTV Software Communications Ltd. and Ors. vs V. <a href="http://fmovies.pe">Fmovies.pe</a> and Ors., before the Hon'ble Delhi High Court.- regarding pictures "Original Content "	20/9/2021	1
163	C.S.(COMM) No. 777 of 2018 [UTV Software Communications Ltd and Ors. V. <a href="http://Thepiratebay.org">Thepiratebay.org</a> and Ors.] before Hon'ble Delhi High Court	20/9/2021	2
164	CS Comm No. 369 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://tamilrockers.ws">https://tamilrockers.ws</a> & before Delhi High Court	29/9/2021	15
165	C.S.(COMM) No. 402 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://www.uwatchfree.st">https://www.uwatchfree.st</a> & Ors., before Hon'ble Delhi High Court	29/9/2021	3

166	C.S. (COMM) No. 778 of 2018 [Twentieth Century Fox Film Corporation & Ors. Vs. Yts.am & Ors.] Before Hon'ble Delhi High Court: - regarding pictures "Original Content".	20/9/2021	6
167	CS (Comm) No. 275 of 2020; DISNEY ENTERPRISES, INC. & ORS. Vs KIMCARTOON.TO & ORS. before Hon'ble Delhi High Court	20/9/2021	15
168	CS (COMM) No. 399 of 2021; Hindustan Unilever Limited v/s Nitin Kumar Singh & Ors. before Hon'ble Delhi High Court	27/8/2021	3
169	CS (Comm) No. 400 of 2021; Sporta Technologies Pvt. Ltd. vs GHD Sports and Others, before Hon'ble Delhi High Court	30/9/2021	119
170	C.S.(COMM) No. 418 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://yo-movies.com">https://yo-movies.com</a> & Ors., before Hon'ble Delhi High Court	04/10/21	3
171	C.S.(COMM) No. 457 of 2019; Warner Bros. Entertainment Inc. vs. Moviesflix.net & Ors., before Hon'ble Delhi High Court	04/10/21	17
172	CS (Comm) No. 518 of 2021; Star India Pvt. Ltd. and Anr. v/s filmyclub.wapkiz.com And Ors., before Hon'ble Delhi High Court.	12/10/21	32
173	CS (COMM) No. 524 of 2021; Kamdhenu Limited V/s Raghunath Virdharam Bishnoi & Ors. before Hon'ble Delhi High Court	25/10/2021	1
174	C.S.(COMM) No. 594 of 2019; Disney Enterprises, Inc. & Ors. vs RLSBB.UNBLOCKED.LTDA & Ors, before Hon'ble Delhi High Court.	04/10/21	6
175	CS (COMM) No. 364 of 2021; Star India Pvt Ltd & Anr. v/s moviesghar.art & Ors. before Hon'ble Delhi High Court	09/08/21	45
176	CS(Comm) No. 181 of 2021; Star India Pvt. Ltd. & Anr. V/s SAJID HUSSAIN & ORS., before Hon'ble Delhi High Court.	16/4/2021	1
177	CS (Comm) No. 518 of 2021; Star India Pvt. Ltd. and Anr. v/s filmyclub.wapkiz.com And Ors., before Hon'ble Delhi High Court.	12/10/21	36
178	CS (Comm) No. 518 of 2021; Star India Pvt. Ltd. and Anr. v/s filmyclub.wapkiz.com And Ors., before Hon'ble Delhi High Court.	12/10/21	14
179	CS (Comm) No. 400 of 2021; Sporta Technologies Pvt. Ltd. vs GHD Sports and Others, before Hon'ble Delhi High Court	27/8/2021	1
180	CS (COMM) No. 291 of 2021; Sporta Technologies Pvt. Ltd. v/s John Doe & others, before Hon'ble Delhi High Court	12/11/2021 & 09/06/2021	10
181	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta	18/3/2019	1
182	CS (COMM) No. 364 of 2021; Star India Pvt Ltd & Anr. v/s moviesghar.art & Ors. before Hon'ble Delhi High Court	09/08/21	92
183	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	32
184	CS (COMM) No. 605 of 2021; Universal City Studios LLC & Ors. v/s dramacool.news & Ors. before Hon'ble Delhi High Court.	26/11/2021	65

185	CS (COMM) No. 353 of 2021; Star India Pvt Ltd & Anr. v/s yodesiserial.su & Ors. before Hon'ble Delhi High Court.	29/11/2021	50
186	CS (COMM) No. 399 of 2021; Hindustan Unilever Limited v/s Nitin Kumar Singh & Ors. before Hon'ble Delhi High Court	27/8/2021	2
187	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	46
188	CS (COMM) No. 399 of 2021; Hindustan Unilever Limited v/s Nitin Kumar Singh & Ors. before Hon'ble Delhi High Court	27/8/2021	2
189	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	30
190	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	110
191	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta	18/3/2019	3
192	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	60
193	TM No. 195 of 2021; Rado Uhren AG & Ors Vs. Johnny Walker & Ors. before ADJ- 01, Patiala House Court, New Delhi.	24/12/2021	44
194	C.S. Comm No. 724 of 2017 UTV Software Commuincations Ltd. and Ors. Vs 1337x.to and Ors. Before Delhi High Court	17/12/2021	3
195	C.S. (COMM) No. 770 of 2018, UTV Software Communications Ltd. and Ors. vs V. Fmovies.pe and Ors., before the Hon'ble Delhi High Court.- regarding pictures "Original Content "	17/12/2021	3
196	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	26
197	CS (COMM) No. 12 of 2022; New Balance Athletics Inc v/s Nbstoresinindia.in & Ors. before Hon'ble Delhi High Court.	07/01/22	10
198	CS (COMM) No. 26 of 2022; HT Media Ltd v/s Pooja Sharma & Ors., before Hon'ble Delhi High Court.	13/1/2022	5
199	CS (COMM) No. 63 of 2022; Sporta Technologies Pvt Ltd v/s Hillside (Sports) Enc and Ors, before Hon'ble Delhi High Court.	25/1/2022	18
200	CS (Comm) No. 275 of 2020; DISNEY ENTERPRISES, INC. & ORS. Vs KIMCARTOON.TO & ORS. before Hon'ble Delhi High Court	21/12/2021 & 27/07/2020	2
201	CS (COMM) No. 353 of 2021; Star India Pvt Ltd & Anr. v/s yodesiserial.su & Ors. before Hon'ble Delhi High Court.	21/1/2022	91
202	CS Comm No. 369 of 2019; Warner Bros. Entertainment Inc. v. <a href="https://tamilrockers.ws">https://tamilrockers.ws</a> & before Delhi High Court	17/12/2021	16
203	CS (COMM) No. 399 of 2021; Hindustan Unilever Limited v/s Nitin Kumar Singh & Ors. before Hon'ble Delhi High Court	27/8/2021	1
204	CS (Comm) No. 401 of 2021; Universal City Studios LLC and Ors. vs myfliker.to and Ors., before Hon'ble Delhi High Court	22/12/2021	21
205	C.S.(COMM) No. 422 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://xmovies08.ru">https://xmovies08.ru</a> & Ors., before Hon'ble Delhi High Court	17/1/2022	4

206	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	69
207	C.S.(COMM) No. 594 of 2019; Disney Enterprises, Inc. & Ors. vs RLSBB.UNBLOCKED.LTDA & Ors, before Hon'ble Delhi High Court.	17/12/2021	8
208	C.S.(COMM) No. 776 of 2018 [UTV Software Communications Ltd and Ors. V. Rarbg.is and Ors.] before Hon'ble Delhi High Court	22/12/2021	1
209	C.S.(COMM) No. 777 of 2018 [UTV Software Communications Ltd and Ors. V. Thepiratebay.org and Ors.] before Hon'ble Delhi High Court	17/12/2021	5
210	C.S. (COMM) No. 778 of 2018 [Twentieth Century Fox Film Corporation &Ors. Vs. Yts.am & Ors.] Before Hon'ble Delhi High Court: - regarding pictures "Original Content".	17/12/2021	6
211	C.S.(COMM) No. 799 of 2018 [UTV Software Communications Ltd. &Ors Vs. Extratorrent.ag &Ors.] before Hon'ble Delhi High Court	22/12/2021	1
212	CS (COMM) No. 12 of 2022; New Balance Athletics Inc v/s Nbstoresinindia.in & Ors. before Hon'ble Delhi High Court.	24/1/2022 & 11/02/2022	7
213	C.S.(COMM) No. 407 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://ww2.movierulzfree.com">https://ww2.movierulzfree.com</a> & Ors., before Hon'ble Delhi High Court	07/02/22	16
214	C.S.(COMM) No. 457 of 2019; Warner Bros. Entertainment Inc. vs. Moviesflix.net & Ors., before Hon'ble Delhi High Court	07/02/22	38
215	CS (COMM) No. 116 of 2022; Universal City Studios LLC. & Ors. v/s 123movieshub.tc & ors. before Hon'ble Delhi High Court.	21/2/2022	56
216	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	125
217	CS (COMM) No. 135 of 2022; Dabur India Ltd. v/s Ashok Kumar and ors. before Hon'ble Delhi High Court.	3/3/2022	3
218	CS Comm No. 157 of 2022 Star India Pvt. Ltd. & Anr. Vs live.flixhub.net & Ors. Before Hon'ble Delhi High Court	11/3/2022	8
219	CS No. 78 of 2018, titled as Indiamart Intermesh Ltd. Vs Ankit & Ors., before Hon'ble High Court, Calcutta	18/3/2019	1
220	CS Comm No. 159 of 2022, Adobe, Inc Vs Namase Patel & Ors. Before Hon'ble Delhi High Court	11/3/2022	2
221	C.S.(COMM) No. 407 of 2019; Warner Bros. Entertainment Inc. vs. <a href="https://ww2.movierulzfree.com">https://ww2.movierulzfree.com</a> & Ors., before Hon'ble Delhi High Court	11/3/2022	3
222	C.S.(COMM) No. 457 of 2019; Warner Bros. Entertainment Inc. vs. Moviesflix.net & Ors., before Hon'ble Delhi High Court	11/3/2022	12
223	CS (COMM) No. 588 of 2021; Star India Pvt. Ltd. v/s extramovies.click & Ors. before Hon'ble Delhi High Court.	24/11/2021	50
224	CS (COMM) No. 353 of 2021; Star India Pvt Ltd & Anr. v/s yodesiserial.su & Ors. before Hon'ble Delhi High Court.	10/3/2022	74

