



KAMARAJ IAS ACADEMY
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Fact Check Unit

Published On: 23-03-2024

Why is in news? Why Supreme Court has stayed Govt's 'Fact Check Unit' for now

The Supreme Court on March 21 **stayed the operation of the amended Information Technology (IT) Rules**, which empowered the **government to identify "fake news" on social media platforms** through a **"Fact Check Unit" (FCU)**.

The Union Electronics and IT Ministry had notified the FCU on March 20, as a **statutory body under the Press Information Bureau** with powers to flag what it believes is false information related to the central government and its agencies on social media sites.

The amendment to the IT Rules, 2021, which **allowed the Ministry to appoint the FCU** were notified in April 2023.

On January 31 this year, a two-judge Bench of the HC gave a split verdict on a challenge to the Rules.

A third judge who was assigned to give an opinion on the split verdict is yet to give his final decision. However, on March 11, the third judge declined to stay the setting up of the FCU — and on March 13, the division Bench said by a 2-1 majority that it would not stay the notification of the FCU.

PIB Fact Check Unit:

The **Press Information Bureau** has been at the forefront of **taking proactive measures to combat fake news** related to the Government of India.

In November 2019, PIB established a Fact Check Unit (FCU) with the purpose of tackling the issue of fake news pertaining to the Government of India, its various ministries, Departments, Public Sector Undertakings, and other Central Government organizations.

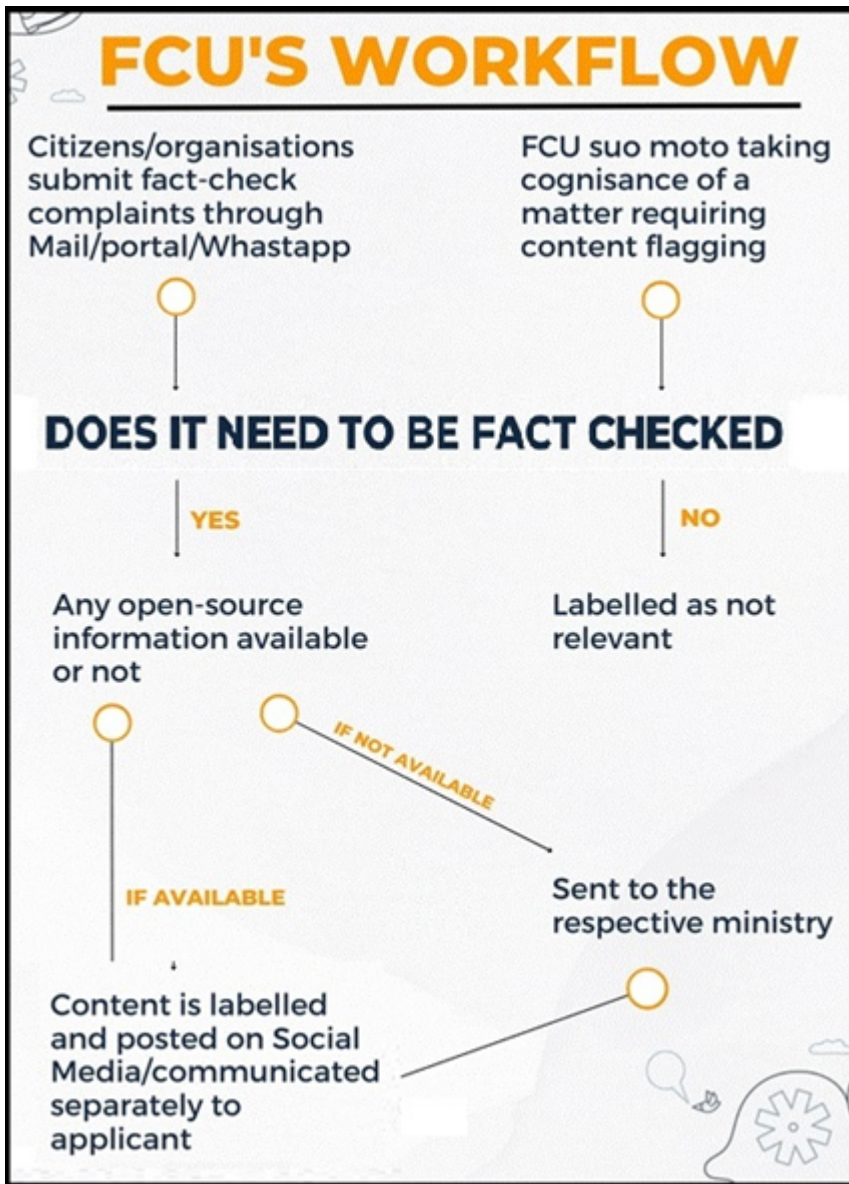
The unit verifies claims about government policies, regulations, announcements and measures

Through an established rigorous fact-checking procedure, the PIB Fact Check Unit helps in dispelling myths, rumours and false claims, and provides accurate and reliable information to the public.

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Organization:

The PIB Fact Check Unit is headed by a **senior DG/ADG level officer of the Indian Information Service (IIS)**.

The day-to-day operations of the Unit are handled by IIS officers at various levels.

The Unit reports to the **Principal Director General, PIB** who functions as the Principal Spokesperson of the Government of India.

Fact-Check Mechanism:

Users send requests over WhatsApp, email or a web portal.

Each such request received is considered as a 'Query'. Queries are segregated by the Unit based on their relevance to matters pertaining to Government of India.

Only queries pertaining to Government of India are considered and taken up as Actionable Queries, while others are deemed not relevant for action.

The information in question is checked rigorously through multiple layers of cross-checking through Government Open-source information, use of technological tools and verification from the concerned Government of India

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organization.

Categories of Fact-Checked Content:

Fake: Factually incorrect information intentionally or unintentionally disseminated to deceive or manipulate the audience.

Misleading: Information presented with partial truths, selective facts, or distortion to mislead recipients.

True: Information verified to be factually accurate after rigorous investigation.

Amendments to IT Rules, 2021:

The amendment to **the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021** notified in April 2023 did two things:

They brought in a **legal framework for the online gaming eco-system** and

More crucially, **introduced a legal mechanism** for the government to **fact-check online content** pertaining to “government business”

Key Features of the Rules:

Intermediaries must ensure compliance with rules and regulations, privacy policy, and user agreement, and make reasonable efforts to cause users to not create, upload, or share prohibited content. They must also respect the Constitutional rights of users.

The central government will **establish one or more Grievance Appellate Committee** to hear appeals against the decisions of grievance officers.

The draft Amendments propose to **prohibit false/fake information** and also **regulate online gaming**.

Intermediaries must remove any information **identified as false or fake by the fact check unit** of the Press Information Bureau (PIB), **or any other centrally authorised agency** from their platforms, to avoid liability for such content.

Online games are defined as games played on the internet with a deposit and the expectation of a winning. An **online gaming intermediary** has to ensure additional due diligence such as displaying a random number generator and a no-bot certificate.

Self-regulating bodies (SRBs) will also be empowered to regulate the content of registered games. SRBs must evolve a framework to test, verify, and register games such that the sovereignty, integrity, and security of the country is secured.

Concerns related to fact check unit:

Against Article 19: It violates the freedom of speech and expression guaranteed by Article 19(1)(a) of the Indian Constitution.

Curbs dissent: The fact check unit could potentially censor any dissenting or critical views of the government.

Affect media's independence: It could undermine the role of independent media and journalism.

Lack of clarity: The unit lacks clear criteria for determining what constitutes fake, false or misleading information.

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Political interference: The fact check unit could be influenced by political or ideological biases and arbitrarily label any information as false or misleading, without providing evidence or justification.

Infringes Article 21: It could access and monitor the online activities of the users and compel the intermediaries to disclose their personal information thus infringing the right to privacy.

Lack of fair hearing: The order does not give a chance for the author of the post to defend themselves, and gives the government the power to decide and act on the authenticity of the information.

Conflict of interest: The government becomes the judge, jury, and executioner on the authenticity of information.

Exceeded authority: It exceeds the scope of Information Act, 2000 under which it is established. The intermediaries could lose their independence and efficiency due to the unit, which could burden them with excessive and unjustified duties, without any legal authority or approval.

Way Forward:

Early Judgement of the Bombay High Court: The Kunal Kamra v. Union of India (2023) case challenging the notification of fact-check unit of the Central Government must be decided by the Bombay High Court at the earliest which will establish its constitutionality.

Building consensus among political parties: With Opposition political parties criticising the notification of PIB's fact-check unit as the Govt's official fact check body, the government must build consensus by assuring them of 'credible' functioning of the body.

Develop a more transparent and participatory process: The government should work with civil society, media organizations, and other stakeholders to develop a more transparent and participatory process for determining what content should be considered fake or misleading.

Need an independent and non-partisan fact-checking body: The government should ensure that anybody tasked with fact-checking is independent and non-partisan, with clear guidelines for how decisions are made.

Ensure functioning according to judicial and legal guidelines: The government should ensure that any takedown requests are made in accordance with the procedures and safeguards laid out in Shreya Singhal v. Union of India or under Section 69A of the IT Act.