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WHO CURATES THE CURATORS?

LEGAL AMBIGUITY OF NEWS AGGREGATORS IN INDIA

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ABSTRACT

News aggregators, such as **Inshorts** and **Google News** in India, are also **massing, curating** and **disbursing** news, and contends the way people routinely receive news. However, it remains uncertain the specific legal role they play under the **Information Technology Act, 2000**. News aggregators are neither **publishers** in the traditional sense, but they do interface with the public through algorithms as **news curators**. This encourages questions around the spread of **misinformation and responsibility**. Unlike **Australia's News Media Bargaining Code**, or the **EU's Digital Services Act** to address misinformation, this article explores the relationships and responsibilities of aggregators by contrasting international laws and policy approaches, concluding India should regulate aggregators as a “*curatorial intermediaries*” through clearly defined regulations for **transparency, complaint process or claims**, and a **reasonable standard of curation**, to honour the **freedoms of the press** and **democracy** while fostering new opportunities for growth in India's digital news for the future.

Keywords: *News aggregators, India, legal clarity, algorithms, misinformation, accountability, press freedom, democracy, regulation, transparency.*

INTRODUCTION

They don't write the news. They don't verify it. But they shape what millions of Indians see every hour. Shouldn't the law have something to say about that?

In an age of cyberspace, stories are becoming about anything and everything, in other words, individuals want to create rather than consume. The occurrence of a content writer coming into conflict with these news aggregators became an unfortunate area of controversy when these studios resorted to strong courage, resorting to prosecutions, or more astonished, some were last

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before the **Supreme Court of India**. Of the aggregators appearing into the dockets of the Supreme Court of India, the High Court, or any lower court, some are named in contempt proceedings, some as parties in civil suits, while others have been involved as co-respondents in copyright infringement proceedings in India under the **Copyright Act**.

Was that aggregators' interest one of a neutral intermediate or of an editorial publisher or something else? And very much more importantly- if public interest is undermined due to **misleading headlines, manipulated summaries, or biased algorithmic choices**, then can those aggregators be held liable? This article considers the existing type of **legal uncertainty** surrounding news aggregators in India and why the lack of regulatory clarity is fast becoming a matter of concern for **press freedom, democratic transparency, and digital governance**.

WHAT ARE NEWS AGGREGATORS, LEGALLY?

Such platforms are web-based systems that collect and institute some measure of curation depending on the sources, after which this content is redistributed, sometimes accompanied by headline summarisation, machine-blurred descriptions, or trending tags. In India, **Inshorts, DailyHunt, Flipboard**, and **Google News** stand on the apex of the tier. While they claim to serve as "conduits" for news, in reality, they are in editorial control along with the algorithms deciding what a user sees and when.

The law, however, fails to precisely carve out the place these platforms stand. Under the **Information Technology Act, 2000**, the word "*intermediary*" means platforms which "receive, store or transmit" information, data, or messages on behalf of another person, irrespective of whether they modify it in any manner². While aggregators might earn the label of intermediaries, the IT Act lacks any provision on the type of algorithmic curation or editorial shaping that they do.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 distinguish between *social media intermediaries and publishers of news and current affairs*³ but they are silent on the subject of aggregators, thereby throwing them into a regulatory grey zone. They are not traditional publishers but then they are not completely passive platforms either. The influence due to aggregation is editorial; liability, however, remains hazy.

² Information Technology Act 2000, s 2(1)(w).

³ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Rule 2(1)(t)

This ambiguity and concern increase when speed and clickbait become the priority for aggregators, stripping the context from public discourse, with no clearly established legal responsibility.

THE REAL RISKS: FREE SPEECH AND ACCOUNTABILITY

News aggregators seemed **neutral conduits of information** at first. But this neutrality is more illusion than reality. Aggregators employ **personalised algorithms** that filter, re-rank, and sometimes summarise headlines without giving any **editorial transparency**. The outcome is that users are faced with content placed not by journalists or editors but by these opaque computational systems, often guided by **engagement metrics** instead of precision or fairness.

And this presents disturbing consequences for **free speech** and **democratic accountability**. **Section 79 of the IT Act** provides intermediaries with a safe harbour for third-party content⁴, but the purpose of Section 79 was never to include platforms that **modify, prioritise or summarise** news in a manner that affects public perception. Aggregators might **present misleading facts** and they are effectively protected from defamation or misinformation law by truncating the original, thoroughly researched report into a bite-sized piece of discourse or by creating clickbait headlines.

There are real-world examples to pose this risk. of sharing dangerous misinformation. In 2021, **Inshorts** faced criticism for inaccurately representing a Supreme Court observation in a criminal case due to an oversimplified blurb.⁵ In politically sensitive moments in particular - during elections, protests, or riots for instance - this kind of oversimplifying can amplify misinformation or even **compromise the journalistic integrity** of the news content.

No legal recourse to consider aggregators publishers means that such aggregator platforms are **bounded by none of the media accountability norms** that constrain traditional media outlets. This legal loophole arguably permits millions of users to consume **distorted narratives** with little to no accountability when many platforms have painfully slow regulatory and legislative pathways to change.

⁴ Information Technology Act 2000, s 79(1), read with s 79(2), which provides conditional exemption from liability to intermediaries.

⁵ Mohit M Rao, 'Inshorts drew ire for distorting SC quote. Who holds it accountable?' *The News Minute* (Bengaluru, 14 August 2021)

COMPARATIVE LEGAL MODELS: LESSONS FROM ABROAD

India is not unique in pondering the legal status of news aggregators. Other jurisdictions have made **definitive moves** countervailing the power of these platforms under public policy grounds, usually through some form of **media bargaining frameworks** or as part of **registration and licensing of digital platforms**.

In **Australia**, the **News Media Bargaining Code** was legislated in 2021 and was intended to force technology companies like Google and Meta **to negotiate or bargain payment contracts with news publishers** whose news is being aggregated or otherwise shown⁶.¹ The news media bargaining code was based on this premise, giving that while aggregators may not be creating any original journalism, they are nevertheless pulling some type of **economic value** from it and are at least in some circumstances required for compensation back to the creators. Although controversial, the law resulted in revenue-sharing agreements being struck and developed across the Australian media landscape.

In the case of the **European Union**, they have enacted the **Digital Services Act (DSA)** and have designated certain media related platforms such as Google News and Apple News, as **Very Large Online Platforms (VLOPs)** with new obligations to fulfill. These obligations explicitly address **algorithmic transparency, audit and risk assessment**, plus specific commitments to tackle and reduce systemic disinformation.⁷

In the **United States**, discussions are ongoing regarding the merits of introducing amendments to **Section 230 of the Communications Decency Act** which establishes broad immunity for platforms for user-generated content. Detractors of Section 230 contend that where a platform has done algorithmic curation of content which causes **amplification of harmful or misleading content** this protection should be removed.⁸

In the face of these, evolving and continually developing international approaches - India's legal silence is loud. There is no law or policy that meaningfully considers algorithmic responsibility, editorial discretion, or how content is monetised in the news aggregation ecosystem. India has

⁶ Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021 (Cth) (Australia).

⁷ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services (Digital Services Act), arts 25–35

⁸ Communications Decency Act 1996, 47 USC § 230. See also Eric Goldman, 'Why Section 230 Is So Controversial' (2021) *Santa Clara Univ. Legal Studies Research Paper No. 21-04*.

been presented with an insight into and a chance to learn, and localise, drawing upon global precedents to create a regulatory environment tailored to its own digital environment, demands and realities.

CONCLUSION: BRIDGING THE LEGAL GAP FOR AGGREGATORS

The rise of news aggregators has changed how millions of Indians receive their news, but the nature of their **legal status remains ill-defined**. They are not like traditional publishers and they are **not passively and neutrally facilitating** information sharing like a library might. They have found an ambiguous regulatory space that allows them to play a significant role in fostering and influencing public discourse with very little if any accountability. Lack of clarity around legal and regulatory principles is antithetical to the very principles of **press freedom, democratic transparency, and consumer protection**.

Indian legislators should appreciate the news aggregators are a new type of digital activity: "*curatorial intermediaries*", and they have distinctive responsibilities. Legislation should have clear-cut rules that require these aggregators would be terms of:

1. **Source disclosure**, and aim to provide **transparency** about **provenance and credibility** of news.
2. **Grievance redressal**, respond to defeasance from misinformation or defamation.
3. **Algorithmic explanation**, explain how news is curated and prioritized.
4. **Editorial liability standards** for aggregators when an abstract of content, a summary or even a headline misrepresent the facts.

These measures should not be seen as a barrier to innovation, but rather a means of **establishing accountability** that encourages innovation rather than **undermining** it. Ultimately, such measures will inspire platforms to balance speed with accuracy and fairness without relying upon clumsy censorship methods to approach accountability.

With India at a tipping point, a lack of regulatory reform will allow aggregators to continue to define the public discourse behind closed doors, free of responsibility. India can learn from developing and implementing initiatives such as **Australia's News Media Bargaining Code** and the **European Union's Digital Services Act** when designing a regulatory landscape that protects the integrity of democratic values in a vibrant digital news marketplace. As algorithms now largely function as editors, we should be asking, **who are the curators?**