

## Annex 1: Toda Report No. 216

Parameters	Interventions	Regulatory Approach	Regulation
<b>Tech-enhanced moderation</b>	Proactive Content Moderation	Rule 3(1)(b) of Information Technology (Intermediary Guidelines and Digital Media Ethics) Rules 2021 (India), and Article 12 of the Law on Freedom, Responsibility and Transparency in the Internet 2020 (Brazil)	<p><b>Rule 3(1)(b) of the Information Technology (Intermediary Guidelines and Digital Media Ethics) Rules 2021:<sup>1</sup></b></p> <p>The intermediary shall inform its rules and regulations, privacy policy and user agreement to the user in English or any language specified in the Eighth Schedule to the Constitution in the language of his choice and shall make reasonable efforts to cause the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information that:</p> <p>(i) belongs to another person and to which the user does not have any right; (ii) is obscene, pornographic, paedophilic, invasive of another’s privacy including bodily privacy, insulting or harassing based on gender, racialty or ethnically objectionable, relating or encouraging money laundering or gambling, or promoting enmity between different groups on the grounds of religion or caste with the intent to incite violence; (iii) is harmful to child; (iv) infringes any patent, trademark, copyright or other proprietary rights; (v) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any misinformation or information which is patently false and untrue or misleading in nature or is identified as fake or false by the fact check unit at the Press Information Bureau of the Ministry of Information and Broadcasting or other agency authorised by the Central Government for fact checking or, in respect of any business of the Central Government, by its department in which such business is transacted under the rules of business made under clause (3) of article 77 of the Constitution; (vi) impersonates another person; (vii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognisable offence, or prevents investigation of any offence, or is insulting other nation; (viii) contains software virus or any other computer code, file or program designed to interrupt, destroy or limit the functionality of any computer resource; (ix) is in the nature of an online game that is not in conformity with any law for the time being in force in India, including any such law relating to gambling or betting or the age at which an individual is competent to enter into a contract; (x) violates any law for the time being in force</p>

<sup>1</sup> Ministry of Electronics and Information Technology(MeitY).Information Technology (Intermediary Guidelines and Digital Media Ethics) Rules 2021. Rule 3(1)(b). (2021). India. <https://www.meity.gov.in/writereaddata/files/Revised-IT-Rules-2021-proposed-amended.pdf>

			<p><b>Article 12 of the Law on Freedom, Responsibility and Transparency in the Internet 2020:<sup>2</sup></b>  Art. 12 Internet application providers bound by this law must ensure the right to access of information and freedom of expression of its users within the process of elaborating and applying their terms of use, making mechanisms of appealing and due process available.  First paragraph: In the event of a complaint or of a measure applied in the function of applications' terms of use in this law, devolved upon content and account in operation, the user must be notified about the grounds, the process of analysis and the application of the measure, as well as about the deadlines and procedures for appealing.</p> <p>Second paragraph: Providers will dismiss users' notice if verified harms of:  I - immediate and difficult to repair harm;  II - information or users security;  III - violation of children and adolescents' rights;  IV - crimes classified on Law No 7,716/1989 ;  V - major reductions of usability, integrity or stability of the application.</p> <p>Third Paragraph The right of users to appeal content and accounts made unavailable must be ensured by the provider.</p> <p>Fourth Paragraph In the case of damage resulting from erroneous designation of content as violator of the applications' patterns of use or of what is determined in the present law, the providers will be responsible for repairing it, within service scope and technical limits.</p> <p>Fifth Paragraph: The defense period will be delayed in cases in which content uses manipulated images or voice, to fake reality, or to induce an error related to the identity of a candidate for public positions, except when encouraged by humour or parody.</p> <p>Sixth Paragraph The decision over the moderation procedures shall ensure the right of response of the offended to the same extent and scope of content deemed inappropriate.</p>
--	--	--	--

<sup>2</sup> Brazilian National Congress. Law on Freedom, Responsibility and Transparency in the Internet 2020. Article 12. Brazil. <https://cyberbrics.info/wp-content/uploads/2021/06/Brazilian-Fake-News-Draft-Bill-no.-2.630-of-2020.pdf>

Tracing the first originator of the message	Rule 4(2) of the Information Technology (Intermediary Guidelines and Digital Media Ethics) Rules 2021 (India), and Article 10 of the Law on Freedom, Responsibility and Transparency in the Internet 2020 (Brazil)	<p><b>Rule 4(2) of the Information Technology (Intermediary Guidelines and Digital Media Ethics) Rules 2021:</b><sup>3</sup></p> <p>A significant social media intermediary providing services primarily like messaging shall enable the identification of the first originator of the information on its computer resource as may be required by a judicial order passed by a court of competent jurisdiction or an order passed under section 69 by the Competent Authority as per the Information Technology (Procedure and Safeguards for interception, monitoring and decryption of information) Rules, 2009, which shall be supported with a copy of such information in electronic form....</p> <p><b>Article 10 of the Law on Freedom, Responsibility and Transparency in the Internet 2020:</b><sup>4</sup></p> <p>The private messaging service providers must keep the records of messages sent through mass forwarding, for 3 months, securing the privacy of the messages' content.</p> <p><b>Second paragraph:</b> The records referred to in this heading must have the <b>indication of users</b> that did the mass forwarding of messages, containing the date and time of this forwarding, and the quantitative total of the users that received that message.</p>
Retaining metadata for viral content	Article 11 of the Law on Freedom, Responsibility and Transparency in the Internet 2020 (Brazil)	<p><b>Article 11 of the Law on Freedom, Responsibility and Transparency in the Internet 2020:</b><sup>5</sup></p> <p>The use and trading of external tools by private messaging service providers aimed at mass messages forwarding are forbidden, except in the case of standardized technological protocols regarding internet application interaction.</p>
Disabling authorization by default	Article 9 (IV) of the Law on Freedom, Responsibility and Transparency in the Internet 2020 (Brazil)	<p><b>Article 9 (IV) of the Law on Freedom, Responsibility and Transparency in the Internet 2020:</b><sup>6</sup></p> <p>The private messaging service providers must establish use policies to (IV) disable the authorization by default to include individuals into groups or transmission lists or similar mechanisms of forwarding messages to multiple recipients.</p>

<sup>3</sup> Ministry of Electronics and Information Technology(MeitY).Information Technology (Intermediary Guidelines and Digital Media Ethics) Rules 2021. Rule 4(2). (2021). Government of India. India. <https://www.meity.gov.in/writereaddata/files/Revised-IT-Rules-2021-proposed-amended.pdf>

<sup>4</sup> Brazilian National Congress. Law on Freedom, Responsibility and Transparency in the Internet 2020. Article 12. Brazil. <https://cyberbrics.info/wp-content/uploads/2021/06/Brazilian-Fake-News-Draft-Bill-no.-2.630-of-2020.pdf>

<sup>5</sup> Brazilian National Congress. Law on Freedom, Responsibility and Transparency in the Internet 2020. Article 11. Brazil. <https://cyberbrics.info/wp-content/uploads/2021/06/Brazilian-Fake-News-Draft-Bill-no.-2.630-of-2020.pdf>

<sup>6</sup> Brazilian National Congress. Law on Freedom, Responsibility and Transparency in the Internet 2020. Article 9(IV). Brazil. <https://cyberbrics.info/wp-content/uploads/2021/06/Brazilian-Fake-News-Draft-Bill-no.-2.630-of-2020.pdf>

	Minimising data processing risk	Section 8.2 of the Personal Data Protection Bill 2021 (Pakistan)	<p><b>Section 8.2 of the Personal Data Protection Bill 2021:</b><sup>7</sup></p> <p>A data controller or processor shall, when collecting or processing personal data take practical measures to protect the personal data in the terms mentioned under sub-section (1) by having regard to the nature of the personal data and the harm that would result from such loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction;</p> <p>a) to the place or location where the personal data is stored;</p> <p>b) to any security measures incorporated into any equipment in which the personal data is stored;</p> <p>c) to the measures taken for ensuring the reliability, integrity and competence of personnel having access to the personal data; and</p> <p>d) to the measures taken for ensuring the secure transfer of personal data.</p>
<b>Algorithmic Transparency</b>	Right to explanation	Article 10 (§2) of General Data Protection Law, (Brazil) and Digital India Act (India)	<p><b>Article 10 (§2) of General Data Protection Law:</b><sup>8</sup></p> <p>The controller shall adopt measures to ensure transparency of data processing based on her/his legitimate interests.</p>
	Accountability (disclosure of functioning of algorithms)	Article 20 (§1) of General Data Protection Law (Brazil), Digital India Act (India), and Rule 5(3)(d) of the India Consumer (E-Commerce) Rules 2020 (India)	<p><b>Article 20 (§1) of General Data Protection Law:</b><sup>9</sup></p> <p>The data subject has the right to request for the review of decisions made solely based on automated processing of personal data affecting her/his interests, including decisions intended to define her/his personal, professional, consumer and credit profile, or aspects of her/his personality. (§1) Whenever requested to do so, the controller shall provide clear and adequate information regarding the criteria and procedures used for an automated decision, subject to commercial and industrial secrecy.</p> <p><b>Rule 5(3)(d) of the India Consumer (E-Commerce) Rules 2020:</b><sup>10</sup></p> <p>Every marketplace e-commerce entity shall provide the following information in a clear and</p>

<sup>7</sup> Ministry of Information Technology & Telecommunication. Personal Data Protection Bill. (2021). Government of Pakistan. Pakistan.

[https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://moitt.gov.pk/SiteImage/Misc/files/25821%2520DPA%2520Bill%2520Consultation%2520Draft.docx.pdf&ved=2ahUKEwjlLmX5\\_6JAxVJEGIAHTSuDFgQFnoECDIOAQ&usg=AOvVaw3-Pr7g2tBj019S-nh4J4ls](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://moitt.gov.pk/SiteImage/Misc/files/25821%2520DPA%2520Bill%2520Consultation%2520Draft.docx.pdf&ved=2ahUKEwjlLmX5_6JAxVJEGIAHTSuDFgQFnoECDIOAQ&usg=AOvVaw3-Pr7g2tBj019S-nh4J4ls)

<sup>8</sup> Brazilian National Congress. Brazilian General Data Protection Law. Article 10 (§2). (2019) Brazil.

[https://iapp.org/media/pdf/resource\\_center/Brazilian\\_General\\_Data\\_Protection\\_Law.pdf](https://iapp.org/media/pdf/resource_center/Brazilian_General_Data_Protection_Law.pdf)

<sup>9</sup> Brazilian National Congress. Brazilian General Data Protection Law. Article 20 (§1). (2019) Brazil.

[https://iapp.org/media/pdf/resource\\_center/Brazilian\\_General\\_Data\\_Protection\\_Law.pdf](https://iapp.org/media/pdf/resource_center/Brazilian_General_Data_Protection_Law.pdf)

<sup>10</sup> Ministry of Consumer Affairs, Food & Public Distribution. India Consumer (E-Commerce) Rules 2020. Rule 5(3)(d). (2020). Government of India. India.

<https://consumeraffairs.nic.in/sites/default/files/E%20commerce%20rules.pdf>

			accessible manner, displayed prominently to its users at the appropriate place on its platform: an explanation of the main parameters which, individually or collectively, are most significant in determining the ranking of goods or sellers on its platform and the relative importance of those main parameters through an easily and publicly available description drafted in plain and intelligible language.
	Users' control over recommendations	Article 20 of the General Data Protection Law (Brazil)	<b>Article 20 of the General Data Protection Law:</b> <sup>11</sup> The data subject has the right to request for the review of decisions made solely based on automated processing of personal data affecting her/his interests, including decisions intended to define her/his personal, professional, consumer and credit profile, or aspects of her/his personality
<b>Interoperability</b>	Data portability	Digital Personal Data Protection Act (2023) (India), Section 10.2 of the Personal Data Protection Bill (Pakistan), Data Protection Act (Sri Lanka), Article 11(\$4)(I) of the General Data Protection Law (Brazil), Section 38(2) of the Data Protection Act of 2019 (Kenya), and Part 3, Regulation 3.1(15) of the Data Protection Regulation	<b>Section 10.2 of the Personal Data Protection Bill 2021:</b> <sup>12</sup> A data subject shall be given access to his personal data held by a data controller and the data controller be liable to correct that personal data where the personal data is inaccurate, incomplete, misleading or not up-to-date, except where compliance with a request to such access or correction is refused under this Act. <b>Article 11(\$4)(I) of the General Data Protection Law:</b> <sup>13</sup> Communication or shared use between controllers of sensitive personal data referring to health to obtain an economic advantage is prohibited, except in hypotheses related to the provision of health services, pharmaceutical assistance and health insurance, as long as paragraph 5 of this article is observed, including auxiliary diagnostic and therapeutic services, in benefit of the interests of the data subject and also to allow: I - data portability of data when requested by the data subject. <b>Section 38(2) of the Data Protection Act of 2019:</b> <sup>14</sup> A data subject has the right to transmit the data obtained under subsection (1), to another data

<sup>11</sup> Brazilian National Congress. Brzillian General Data Protection Law. Article 20. (2019) Brazil.

[https://iapp.org/media/pdf/resource\\_center/Brazilian\\_General\\_Data\\_Protection\\_Law.pdf](https://iapp.org/media/pdf/resource_center/Brazilian_General_Data_Protection_Law.pdf)

<sup>12</sup> Ministry of Information Technology & Telecommunication. Personal Data Protection Bill. (2021). Government of Pakistan. Pakistan.

[https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://moitt.gov.pk/SiteImage/Misc/files/25821%2520DPA%2520Bill%2520Consultation%2520Draft\\_docx.pdf&ved=2ahUKewiJLmX5\\_6JAxVJEGIAHTSuDFgQFnoECDIQAQ&usg=AOvVaw3-Pr7g2tBj019S-nh4j4ls](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://moitt.gov.pk/SiteImage/Misc/files/25821%2520DPA%2520Bill%2520Consultation%2520Draft_docx.pdf&ved=2ahUKewiJLmX5_6JAxVJEGIAHTSuDFgQFnoECDIQAQ&usg=AOvVaw3-Pr7g2tBj019S-nh4j4ls)

<sup>13</sup> Brazilian National Congress. Brzillian General Data Protection Law. Article 11 (\$4)(I). (2019) Brazil.

[https://iapp.org/media/pdf/resource\\_center/Brazilian\\_General\\_Data\\_Protection\\_Law.pdf](https://iapp.org/media/pdf/resource_center/Brazilian_General_Data_Protection_Law.pdf)

<sup>14</sup> Republic of Kenya. The Data Protection Act . (2019). Republic of Kenya. Kenya.

<http://kenyalaw.org:8181/exist/rest//db/kenyalex/Kenya/Legislation/English/Acts%20and%20Regulations/D/Data%20Protection%20Act%20-%20No.%2024%20of%202019/docs/DataProtectionAct24of2019.pdf>

		2019 (Nigeria)	<p>controller or data processor without any hindrance.</p> <p><b>Part 3, Regulation 3.1(15) of the Data Protection Regulation 2019:</b><sup>15</sup></p> <p>In exercising his right to Data Portability, the Data Subject shall have the right to have the Personal Data transmitted directly from one controller to another, where technically feasible. Provided that this right shall not apply to processing necessary for the performance of a task carried out in the public interest or the exercise of official authority vested in the Controller</p>
Interoperable financial services or digital infrastructure	Account Aggregator Framework (India), Raast Payment System (Pakistan), Digital Economy Strategy (Sri Lanka), Digital Economy Blueprint (Kenya), Health Information System (Kenya), and National Digital Economy Policy and Strategy (NDEPS) (Nigeria)	<p><b>Account Aggregator Framework:</b><sup>16</sup></p> <p>The Account Aggregator (AA) network was introduced as a financial data-sharing system by the Reserve Bank of India (RBI). AA is a Non-Bank Finance Company (NBFC) engaged in the business of providing the service of retrieving or collecting financial information of the customer. No financial information of the customer is retrieved, shared or transferred by the AA framework without the explicit consent of the customer. AA transfers data from one financial institution to another providing the feature of interoperability on financial data based on an individual's instruction and consent.</p> <p><b>Raast Payment System:</b><sup>17</sup></p> <p>State Bank of Pakistan has enabled an interoperable Raast P2M service to facilitate digital payment acceptance for merchants and businesses. This will accelerate the pace of digitization of merchant and business transactions in Pakistan conducted through mobile apps, internet banking portals and USSD channels. (pg:13)</p> <p><b>Digital Economy Strategy 2030:</b><sup>18</sup></p> <p>Maximizing the social and economic value of data by encouraging investment in data infrastructure and services, strengthening data governance, and the development of integrated data management</p>	

<sup>15</sup> National Information Technology Development Agency (NITDA). Data Protection Regulation. (2019). Government of Nigeria. Nigeria. <https://nitda.gov.ng/wp-content/uploads/2020/11/NigeriaDataProtectionRegulation11.pdf>

<sup>16</sup> Ministry of Finance. Account Aggregator Framework. Department of Financial Services. <https://financialservices.gov.in/beta/index.php/en/account-aggregator-framework>

<sup>17</sup> Digital Financial Service Group. Payment Systems Review (for second quarter of fiscal year 2023-2024. State Bank of Pakistan.. [https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.sbp.org.pk/psd/pdf/PS-Review-Q2FY24.pdf&ved=2ahUKEwid-bvy7v6jAxVFEFkFHfS\\_QSMQFnoECCIOAQ&usg=AOvVaw2BUOWwIPGu5HcADHIXg\\_gu](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.sbp.org.pk/psd/pdf/PS-Review-Q2FY24.pdf&ved=2ahUKEwid-bvy7v6jAxVFEFkFHfS_QSMQFnoECCIOAQ&usg=AOvVaw2BUOWwIPGu5HcADHIXg_gu)

<sup>18</sup> Ministry of Technology. National Digital Strategy 2030. Government of Sri Lanka. Sri

Lanka. <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://mot.gov.lk/assets/files/National%2520Digital%2520Economy%2520Strategy%25202030%2520Sri%2520Lanka-bc77184e0b6035d235cd0bb1ebf75707.pdf&ved=2ahUKEwiT68PV9P6jAxUIjQIHdSqj1cQFnoECBYQAQ&usg=AOvVaw0NhWKCSwZKz2dV3oKOGv5l>

			<p>infrastructure, platforms, and analytical capabilities (Components of National Digital Strategy).  <b>Digital Economy Blueprint 2019:</b><sup>19</sup>  Digital businesses require affordable, resilient, open and efficient payment systems to develop and adopt widespread merchant acceptance of digital payment platforms that are both customer and business-friendly in terms of interoperability, security, fees/tariffs and quality of service (pg: 38)</p> <p><b>Kenya Health Information Systems Interoperability Framework:</b><sup>20</sup>  The objectives of this framework are to promote the use of interoperability concepts and standards in harmonizing health information exchange technical and architectural activities within the Kenya eHealth ecosystem; to enhance the application of interoperability guidelines to facilitate interoperability design, analysis, and assessment; to introduce appropriate governance mechanisms and organizational practices in support of interoperability; to provide an interoperability conceptual framework; and lastly to provide guidance on interoperability maturity (pg:14)</p> <p><b>National Digital Economy Policy and Strategy (NDEPS)</b><sup>21</sup>:  Service infrastructure is the 4th pillar of the Nigerian NDEPS, and therefore the policy objectives demand the implementation of the approved e-government masterplan which includes the e-Government Interoperability Framework (NeGIF) (pg:29)</p>
--	--	--	---

<sup>19</sup> National Communications Secretariat (NCS), Ministry of Information Communications and Technology (MoICT). Digital Economy Blueprint. (2019). Republic of Kenya. p:38. <https://ict.go.ke/sites/default/files/2024-09/Kenya-Digital-Economy-2019.pdf>

<sup>20</sup> Ministry of Health. Kenya Health Information Systems Interoperability Framework. Republic of Kenya. p:14. [https://www.data4sdgs.org/sites/default/files/services\\_files/Kenya%20Health%20Information%20Systems%20Interoperability%20Framework.pdf](https://www.data4sdgs.org/sites/default/files/services_files/Kenya%20Health%20Information%20Systems%20Interoperability%20Framework.pdf)

<sup>21</sup> Federal Ministry of Communications and Digital Economy. National Digital Economy Policy and Strategy 2020-2030. (2020). Nigerian Government. Nigeria. p:29. <https://nitda.gov.ng/wp-content/uploads/2020/06/National-Digital-Economy-Policy-and-Strategy.pdf>