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The Big Picture – Election Code and New Age Media

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Social media platforms Facebook, Google, WhatsApp, ShareChat, TikTok and the IAMAI have agreed to a voluntary code of ethics to abide by during the Lok Sabha Elections 2019, which are set to begin on April 11. The code came into effect on March 20, and will remain in force throughout the elections.

Drishti Input:

Commitments made in the Code:

- Social Media Platforms have developed a notification mechanism for the ECI to legally notify them of potential violations of Section 126 of the Representation of the People Act, 1951 and other electoral laws.

- Platforms will also endeavour to impart training to the nodal officer at ECI on their products, and on the mechanism for sending requests to the platforms as per procedure established by law.
- For reported violations of Section 126 of the RP Act, platforms will acknowledge and/or process the legal orders within 3 hours (as per the **Sinha Committee recommendations**). For other legal requests, platforms will act upon them “expeditiously” based on the nature of reported violation.
- Platforms will update the ECI (via the IAMAI) on measures they have taken to prevent abuse of their platforms, pursuant to legal requests by the ECI.
- The members to the code will carry out information, education and communication campaigns to build awareness on electoral laws and other related instructions.
- Participants will commit to facilitating transparency in paid political advertisements, including utilising their pre-existing labels/ disclosure technology for such advertisements.

Section 126 of RPA Act prohibits displaying any election matter by means, inter alia, of television or similar apparatus, during the period of 48 hours before the hour fixed for conclusion of poll in a constituency.

The Internet & Mobile Association of India (IAMAI):

- It is a not-for-profit industry body registered under the Societies Act, 1896.
- Its mandate is to expand and enhance the online and mobile value added services sector.
- It is dedicated to presenting a unified voice of the businesses it represents, to the government, investors, consumers and other stakeholders.

Umesh Sinha Committee Recommendations on Section 126 of the RP Act in view of social media expansion:

- It has suggested amending Section 126(1) of RP Act to impose the ‘campaign silence period’ on print, electronic media and intermediaries.
- Apart from asking political parties to observe the silence period on all forms of media, the committee has suggested that star campaigners should desist from assessing press conferences or giving interviews on election matters during this period.
- For intermediaries including social media companies, the committee has recommended that they should commit to procedures that would ensure that their platforms are not misused to vitiate free and fair polls. This would include a notification mechanism by which EC may notify the platform of potential violations of Section 126 of RP Act.
- Internet Service Providers and Social media companies should take down content violating the 48-hour ban on campaigning prior to polling, instantly and latest within 3 hours of EC issuing such a direction.

- Intermediaries, as per the committee, should report to the Commission on measures taken to prevent abuse of their platforms, including generating publicly-available action taken reports.
- All political advertisements may be clearly labelled as such and be pre-approved by an EC-appointed content monitoring committee. The intermediaries would also need to maintain a repository of political advertisements with information on their sponsors, expenditure and targeted reach.

Need of enforcing code on social media

- **Possibility of elections being influenced by foreign countries/agencies:** India has a hostile neighbourhood and thus neighbouring and other countries can try to weaken its political discourse by giving fake and paid advertisements or by disclosing information not meant for public over social media.
- **Double Standards:** Social Media Platforms are biased. They regulate the content over their sites only in selected countries.

Challenges in enforcing code on social media

- Penetration of social media is vast. Anyone can upload whatever s/he wants, making **regulation of the content by ECI or even by social media platforms almost impossible**. Till now, ECI has been able to take care of only that content which has been brought under its notice.
- The social media has a wider reach and there is also **no way to verify the content over social media**. Huge impact of social media content has been seen on the minds of people.
- **Fake news keeps getting circulated over social media platforms, despite steps taken by government in this regard.**
- Dealing with **political proxy advertisements by fan pages** is another challenge.
- **Social Media platforms' also voice concerns over check on their freedom** in the form of arguments on privacy, right to freedom of speech etc.
- Getting a staff for monitoring and checking the content over social media is a difficult task.
- Even if one sets a 'monitoring machinery' over social media content, how much monitoring it would be able to do, is a point of concern.

Way Forward

- **On an immediate basis, social media platforms need to rely on ECI's judgements over the content on social media and should take a quick action accordingly.**

- Users of the social media need to be made aware enough so that they can make difference between the fake news and the correct news.
- Social Media is expected to play a constructive and fair role, especially during the time of elections. The social media platforms should work within the moral code of conduct framework during the elections.
- Social media platforms in general should also take care of the content that gets published on their sites to ensure peace and harmony globally.
- Political Parties should have consensus regarding not misusing the social media platforms and fighting the elections in a fair manner.
- Free and fair elections are important for citizens of any country. **Monitoring of open content i.e. content posted for public, is therefore admissible.**
- India has election expenditure limit for candidates. It needs to have the same for the political parties also.
- **ECI needs to ensure that no political advertisement runs on social platforms during 48 hours period from any social media account.**
- ECI, especially at the time of elections remains busy not only with the election process but also with various queries from Chief Electoral Officers and Returning Officers. **A separate machinery within the Election Commission is required to take care of the political content over the social media.**

Intention is the key. Everyone, be it political parties, social media platforms or citizens of a country, needs to ensure that no fake or unfair information gets disseminated through their hands.