

# DRAFT REGULATORY GUIDELINES FOR CHILD PARTICIPATION IN THE ENTERTAINMENT INDUSTRY OR ANY COMMERCIAL ENTERTAINMENT ACTIVITY

## Preface

The entertainment industry is seen as one of the fastest growing industries in the country. Its various segments- films, television, advertising, print media and music, among others- have witnessed phenomenal growth in the last few years and this trend is expected to continue. Additionally, now with the boom of technology and social media, children are increasingly being used by the parents/guardians for content creation generating large numbers of viewers and followers.

2. Children have been involved with the entertainment industry since the beginning, and throughout the years have been exploited for their innocence, for lack of adequate regulations protecting them and their rights from the multiple stakeholders. Multiple cases have emerged of child actors being taken advantage of in the entertainment industry, with severe and multiple repercussions for the child. Particularly now, with the ease of access of every kind of content from all over the world, children are more prone to being exploited for selfish gains.

3. In view of the vulnerability of children, it is important to ensure a healthy work environment for them with minimal physical and psychological stress. In the absence of any monitoring mechanism, the children in the industry are at grave risk of exploitation because they lack the legal right to the earnings they generate, or safe working conditions and adequate protections via labour laws, etc. Participating in an adult-oriented industry, children are often exposed to unsuitable, anxiety inducing, and at times, dangerous operational hazards and situations. Many of these problems may be inherent and generic to the industry, but children, unlike their adult counterparts, should not be expected to handle the emotional and physical stress. Apart from the industry specific risks, the children are also susceptible to a plethora of other crimes against children such as sexual exploitation, child trafficking, bonded labour, etc.

4. The Indian Constitution, under Articles 15, 21, 24, 39 and 45 accords special status to children and has guaranteed them exclusive constitutional rights, and is the grundnorm for every law enacted for the benefit of children in the country. Although several laws are in place, no specific regulation or rule has been put in place for protection of the child artists in the adult dominated industry. Hence, the Commission has observed the need to frame guidelines especially for the children who are involved in films, TV, reality shows, OTT platforms, news and content creation for social media websites so that there may be some sort of easily comprehensible procedure in one place for all the stakeholders involved in order to make them aware of the repercussions of violating any right of the child, and also that the concerned authorities are aware of their respective duties towards children in this field.

5. Since the last guidelines issued by the Commission "*Guidelines to Regulate Child Participation in the Entertainment Industry*" in 2011, there have been many amendments in related laws and, additionally, a few new Act and Rules have been enacted protecting children from crimes under the Juvenile Justice Act, 2015, Child Labour Amendment Act, 2016, Protection of Children from Sexual Offences Act, 2012, Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, etc. Therefore, the need to bring other platforms under the ambit of these guidelines has been realised. Moreover, as discussed above, the dawn of social media, OTT Platforms and the accessibility of content on the internet has opened a Pandora's Box for creation of entertainment content. In addition to the problem of wrongful use of children in creation of such content, unsuitable content has also easily become available for children.

6. In light of the above, the new Guidelines have been made, incorporating the new laws, policies and keeping the best interest of children in mind. The Guidelines will ensure compliance of rights of children under the Indian Constitution, the Convention on the Rights of Child (UNCRC), 1989 and other laws of India pertaining to them.

*Chapter 1*  
**Introduction**

**1. Title and Scope of Guidelines**

- a) These Guidelines may be called Regulatory Guidelines for Child Participation in the Entertainment Industry.
- b) These Guidelines are made by NCPCR under its mandate under Section 13 of the Commissions for Protection of Child Rights Act, 2005.
- c) The scope of these Guidelines shall cover television programmes including but not limited to:
  - i. Reality shows;
  - ii. TV serials;
  - iii. News and informative media;
  - iv. Movies;
  - v. Content on OTT platforms;
  - vi. Content on social media;
  - vii. Performing arts;
  - viii. Advertising; and
  - ix. Any other kind of involvement of children in commercial entertainment activities.
- d) These Guidelines shall be applicable to any relevant institution comprising of but not limited to companies, organization/s, or individual/s involved in the production and broadcasting of such material along with the concerned Central and State Government authorities.

**2. General Principles to be followed**

- a) The concerned Central and State Government authorities, and any other individual or institution employing children for creation and production of content for the entertainment industry shall be guided

by the standards laid down in the UNCRC, Juvenile Justice Act, 2015, and the following fundamental principles:-

- i. Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.
- ii. Principle of participation: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.
- iii. Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop his/her full potential.
- iv. Principle of family responsibility: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.
- v. Principle of safety: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.
- vi. Positive measures: All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.
- vii. Principle of non-stigmatising semantics: Adversarial or accusatory words are not to be used in the processes pertaining to a child.
- viii. Principle of non-waiver of rights: No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a

Committee and any non-exercise of a fundamental right shall not amount to waiver.

- ix. Principle of equality and non-discrimination: There shall be no discrimination against a child on any grounds including sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and treatment shall be provided to every child.
- x. Principle of right to privacy and confidentiality: Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.
- xi. Principles of natural justice: Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.

### 3. Definitions

In these Guidelines, unless the context otherwise requires:

- a) “child” means a person who has not completed 18 years of age;
- b) “child artist” means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities;
- c) “best interest of the child” means the basis for any decision taken regarding the child, to ensure fulfilment of his basic rights and needs, identity, social well-being and physical, emotional and intellectual development;
- d) “child in need of care and protection” means a child—
  - i. who is found without any home or settled place of abode and without any ostensible means of subsistence; or
  - ii. who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street; or

- iii. who resides with a person (whether a guardian of the child or not) and such person—
  - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
  - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out; or has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person; or
- iv. who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee; or
- v. who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child; or
- vi. who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or
- vii. who is missing or run-away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed; or
- viii. who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts; or
- ix. who is found vulnerable and is likely to be inducted into drug abuse or trafficking; or
- x. who is being or is likely to be abused for unconscionable gains; or
- xi. who is victim of or affected by any armed conflict, civil unrest or natural calamity; or

- xii. who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnisation of such marriage;
- e) "CWC" means the Child Welfare Committee constituted under Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015.
- f) "DCPU" means a Child Protection Unit for a District, established by the State Government under Section 106 of Juvenile Justice (Care and Protection of Children) Act, 2015, which is the focal point to ensure the implementation of this Act and other child protection measures in the district;
- g) "entertainment industry" means any organization, or individual, using the services of any minor in: motion pictures of any type (film, videotape, etc.), using any format (theatrical, film, commercial documentary, television program, etc.), by any medium (theatre, television, videocassette, etc.); photography; recording; modelling; theatrical productions; publicity; rodeos; circuses; musical performances; and any other performances; and any other commercial performances where minors perform to entertain the public;
- h) "family" means his mother, father, brother, sister and father's sister and brother and mother's sister and brother;
- i) "family enterprise" means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;
- j) "guardian" means in relation to a child, means his natural guardian or any other person having, in the opinion of the Committee or, as the case may be, the Board, the actual charge of the child, and recognised by the Committee or, as the case may be, the Board as a guardian in the course of proceedings;

- k) “Inspector” means any person appointed as Inspector under Section 17 of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 for the purposes of securing compliance of the provisions of the Act;
- l) “known person” means the person who has an authorized written mandate from the parents;
- m) “NCPCR” means the National Commission for Protection of Child Rights constituted under Section 3 of the Commissions for Protection of Child Rights Act, 2005;
- n) “OTT Platforms” means Over-The-Top (OTT) media service is a media service offered directly to viewers via the Internet. OTT bypasses cable, broadcast, and satellite television platforms; the types of companies that traditionally act as controllers or distributors of such content.
- o) “parent” means either the biological or step or adoptive mother or father of a child;
- p) “SCPCR” means State Commission for Protection of Child Rights constituted under Section 17 of the Commissions for Protection of Child Rights Act, 2005.
- q) “social media” means forms of electronic communication for social networking and micro blogging through which users create online communities to share information, ideas, personal messages, and other content.
- r) “JJ Act, 2015” means Juvenile Justice (Care and Protection of Children), 2015, enforced on 31<sup>st</sup> December, 2015.
- s) “POCSO Act, 2012” means Protection of Children from Sexual Offences Act, 2012 enforced on 19<sup>th</sup> June, 2012.
- t) “RTE Act, 2005” means Right of Children to Free and Compulsory Education Act, 2005 enforced on 26<sup>th</sup> August, 2009.
- u) “Child and Adolescent Labour Act, 1986” means the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.



## General Safeguards

### 4. Registration of Child Artist with the District Magistrate

- a) Any producer of any audio-visual media production or any commercial event involving the participation of a child, shall involve a child in participation only after obtaining the permission from the District Magistrate of the district where the activity is to be performed, and shall furnish to the District Magistrate before starting the activity an undertaking in **Form A** and the list of child participants, consent of parents or guardian, as the case may be, name of the individual from the production or event who shall be responsible for the safety and security of the child;[**Section 17A of Child and Adolescent Labour Act, 1986 and Rule 2C of the Child and Adolescent Labour Rules, 2017**]
- b) Any producer of any audio-visual media production or any commercial event involving the participation of a child shall also ensure that screening of all films, television programmes, advertisements, reality shows, OTT platforms and social media platforms, shall be made with a disclaimer specifying that if any child has been engaged in the shooting, then, all the measures were taken to ensure that there has been no abuse, neglect or exploitation of such child during the entire process of the shooting;[**Section 17A of Child and Adolescent Labour Act, 1986 and Rule 2C of the Child and Adolescent Labour Rules, 2017**]
- c) The District Magistrate shall, if required, instruct the DCPU to conduct an inspection of the workplace, and accordingly issue a permit to the producer; [**Section 17B of Child and Adolescent Labour Act, 1986**]
- d) The District Magistrate, after issuing the permit shall instruct the DCPU to inform the concerned Child Welfare Committee and the Child Labour Inspector for the district.

- e) The permit obtained shall be valid only for a period of 6 months.

**[Rule2C of the Child and Adolescent Labour Rules, 2017]**

[Note: It may be noted that as per the W.P. (Cri.) No. 2069/2005 filed by **Save the Childhood Foundation, the Hon'ble High Court of Delhi**, in its Judgment dated 5 November 2014, has mentioned that *“all enforcement agencies should understand Child Labour as meaning the system of employing or engaging a child to provide labour or service to any person, for any payment or benefit, paid to the child or to any other person exercising control over the said child”*. It may be understood that as per the definition given by the Hon'ble High Court, any child who is working/doing any activity for a monetary payment or benefit or receives money for it, then the said activity or work being done by the child would be termed as “child labour” under the definition given by the Hon'ble High Court. Therefore, for all such activities being done by the child, the regulations given under the Child & Adolescent Labour (Regulation & Prohibition) Act, 1986 and under these guidelines of NCPCR would be applicable.]

## **5. Content**

- a) No child should be cast in a role or situation that is inappropriate to the child or that may distress him or put him in embarrassing situations. Consideration has to be given to the child's age, maturity, emotional or psychological development and sensitivity.

**[Section 75 of the Juvenile Justice Act, 2015]**

- b) No child should be exposed to ridicule, insult or discouragement, harsh comments or any behavior that could affect his/her emotional health. **[Section 75 of the Juvenile Justice Act, 2015]**

- c) No child should be shown to be imbibing alcohol, smoking or using any other substance or shown to be indulging in any sort of antisocial activity and delinquent behavior. **[Section 77 of the Juvenile Justice Act, 2015]**

- d) No child should be engaged in any situation involving nudity (either of the child or another person). **[Section 11 (i) and (ii) and Section 13 of the Protection of Children from Sexual Offences Act, 2012]**

- e) In programmes based on victims of child abuse, the content should be sensitively handled and the way children are projected should not harm or risk their welfare. [**Section 74 of the Juvenile Justice Act, 2015**]

#### **6. Presence of Parent/Guardian**

- a) At least one parent or legal guardian or a known person shall be present at all times if the child is above the age of 6 years.
- b) At least one parent or legal guardian shall be present at all times if the child is below the age of 6 years.
- c) If the child is an infant and is allowed to participate for more than one hour on a single day, a registered nurse or midwife must be present at all times along with the parent or legal guardian.
- d) One responsible person shall be appointed by the producer for maximum of five children for the production or event, so as to ensure the protection, care and best interest of the child.
- e) Travel arrangements should be made for the child and no child should be allowed to travel without his parent or legal guardian or known person.

#### **7. Physical Conditions and Safety of Child**

- a) It is necessary to ensure that the production environment is safe for children. All production units shall develop guidelines with respect to children. The guidelines shall include general principles, procedures for seeking consent of parents, good practices, staff protocols for engagement with children and a child protection policy. [**Section 13 of Child and Adolescent Labour Act, 1986**]
- b) A minor, especially below the age of 6 years, shall not be exposed to harmful lighting, irritating or contaminated cosmetics.
- c) Every person involved in the production who may be in contact with children shall submit a medical fitness certificates and certificate for

not carrying obvious contagious disease before shooting with children and police verification of such staff shall be done.

- d) The producer shall ensure that adequate and nutritious food, water to the children during the process of production. [**Chameli Singh & Ors. Vs. State of Uttar Pradesh 1996 (2) SCC 549**]
- e) Recreational material and rest facilities shall be available on the production set. Facilities should be appropriate to the age and needs of each child who is to use them.
- f) Children shall not be made to share dressing spaces/rooms with adults especially of the opposite sex. The producer should ensure there are facilities for the child to dress and undress in a private space.
- g) The producer shall ensure compliance to all laws applicable for the time being in force for the protection of children, including their right to education, care and protection, and against sexual offences.
- h) Proper facilities of first aid and medical counselling shall be present on the set at all times.
- i) Special facilities to meet the needs of the differently abled child shall be provided.

#### **8. Working Hours, Holidays and other Terms of Agreement**

- a) A child shall only participate in one shift per day, with a break after every three hours. [**Section 7 of Child and Adolescent Labour Act, 1986**]
- b) The period of work of a child shall be so arranged that inclusive of his interval for rest, it shall not be more than six hours, including the time spent in waiting for work on any day. [**Section 7 of Child and Adolescent Labour Act, 1986**]
- c) No child shall be made to work overtime or between 7 p.m. and 8 a.m. [**Section 7 of Child and Adolescent Labour Act, 1986**]
- d) Every child shall be given minimum one day leave, which shall be specified by the producer in a notice permanently exhibited in a

conspicuous place in the work place and the day so specified shall not be altered more than once every three months. [**Section 8 of Child and Adolescent Labour Act, 1986**]

- e) An infant below the age of 3 months shall not participate in shows except in programmes on promotion of breast feeding or immunization.
- f) No child shall be made to enter into an agreement, by virtue of which the child is required to do any work or render any service as a bonded labourer under the **Bonded Labour System (Abolition) Act, 1976** or by virtue of which the child is unable to terminate the agreement, or enter into any other agreement.

## **9. Wages**

- a) At least twenty per cent, of the income earned by the child from the production or event shall be directly deposited in a fixed deposit account in a nationalised bank in the name of the child which may be credited to the child on attaining majority.
- b) If the child is an extra or a background artist, the producer shall be exempted from this provision.

## **10. Education**

- a) It is the duty of the producer to ensure implementation of **Section 3 of the Child Labour Act, 1986**, and in the context of the **Right to Education Act, 2009**, ensure that the involvement of children in any work on any platform shall not affect the school education of the child.
- b) The producer shall arrange for appropriate facilities for education of the child to ensure that there is no discontinuity from his lessons in school and no child shall be allowed to work consecutively for more than twenty-seven days; [**Rule 2C of the Child and Adolescent Labour Rules, 2017**]

- c) A child excused from school attendance because of employment in the entertainment industry shall be instructed during the absence by a private teacher appointed by the producer.
- d) The minimum number of working days or instructional hours in an academic year should be maintained as provided in the **Schedule under the Right of Children to Free and Compulsory Education Act, 2009**. The requirement is as follows: -
  - i. two hundred working days for first class to fifth class;
  - ii. two hundred and twenty working days for sixth class to eighth class;
  - iii. eight hundred instructional hours per academic year for first class to fifth class;
  - iv. one thousand instructional hours per academic year for sixth class to eighth class
- e) The participation of children in recorded/live entertainment programmes may be done preferably on holidays so that the child does not miss school.

## **11. Anonymity**

The identity of the child, or any personal detail of the child shall not be revealed without the prior permission of the parent/legal guardian.

## *Chapter 5*

### **Social Media Intermediaries**

## **12. Category of Content Created on Social Media Platforms**

- a) The content created for social media applications or short video platforms involving children shall be bifurcated into content created by production houses or other organizations and content created by the child or his family.
- b) Content created by the child or his family/guardiana shall be treated as children working in a family enterprise as provided under **Section**

**3(2)(a) of the Child Labour and Adolescent Labour Act, 1986** and shall also follow a specific procedure as laid down in this Chapter, in addition to other provisions of the Regulations, if applicable.

### **13. Conditions of Work for Children Involved in Content Creation for Social Media Platforms**

- a) Subject to the provisions of Section 3 of the Child and Adolescent Labour Act, 1986, a child may, without affecting his school education, in any manner help his/her family in his/her family enterprise, subject to the following conditions as laid down in Rule 2B of the Child Labour (Prohibition and Regulation) Amendment Rules, 2017-
- i. shall not be in any hazardous occupation or process listed in Part A and Part B of the Schedule to the Act;
  - ii. shall not include work or occupation or process at any stage of the manufacturing, production, supply or retail chain that is remunerative for the child or his family or the family enterprise;
  - iii. shall only be allowed to help in his family, or in a family enterprise, where his family is the occupier;
  - iv. shall not perform any tasks during school hours and between 7 p.m. and 8 a.m.;
  - v. shall not be engaged in such tasks of helping which hinders or interferes with the right to education of the child, or his attendance in the school, or which may adversely affect his education including activities which are inseparably associated to complete education such as homework or any extracurricular activity assigned to him by the school;
  - vi. shall not be engaged in any task continuously without rest which may make him tired and shall be allowed to take rest to refresh his health and mind, and a child

- shall not help for more than three hours excluding the period of rest in a day;
- vii. shall not include in anyway substitution of the child for an adult or adolescent while helping his family or family enterprise; and
  - viii. shall not be in contravention to any other law for the time being in force;
- b) aid or assist his family in such manner which is not incidental to any occupation, work, profession, manufacture or business, or for any payment or benefit to the child or any other person exercising control over the child, and which is not detrimental to the growth, education and overall development of the child.

#### **14. Education**

Where a child is involved in content creation for social media platforms under this Chapter, is receiving education in a school remains absent consecutively for thirty days without intimation to the Principal or Head Master of the school, then, the Principal or Head Master shall report such absence to the District Officer or any other officer appointed by the District Magistrate in this regard. **[Rule 17C (1)(i) of Child Labour (Prohibition and Regulation) Amendment Rules, 2017]**

#### **15. Wages**

At least twenty per cent of the income earned by the child from the production or event or publishing of such content online on any social media platform shall be directly deposited in a fixed deposit account in a nationalised bank in the name of the child which may be credited to the child on attaining majority.

- i) In cases where the content is created and published by any production house/media house/organization etc. the said organization would be responsible for depositing the amount in the bank account of the child.



- ii) In cases where the content is created and published by the parents/siblings/guardians of the child then the parents/siblings/guardians would deposit the amount in the bank account of the child.

#### **16. Regulation of Content created and Published on Social Media Platforms**

- a) No child should be cast in a role or situation that is inappropriate to the child or that may distress him or put him in embarrassing situations. Consideration has to be given to the child's age, maturity, emotional or psychological development and sensitivity. **[Section 75 of the Juvenile Justice Act, 2015]**
- b) No child should be exposed to ridicule, insult or discouragement, harsh comments or any behavior that could affect his/her emotional health. **[Section 75 of the Juvenile Justice Act, 2015]**
- c) No child should be shown to be imbibing alcohol, smoking or using any other substance or shown to be indulging in any sort of antisocial activity and delinquent behavior. **[Section 77 of the Juvenile Justice Act, 2015]**
- d) No child should be engaged in any situation involving nudity (either of the child or another person). **[Section 11 (i) and (ii) and Section 13 of the Protection of Children from Sexual Offences Act, 2012]**

#### **17. Duties of social intermediaries for content uploaded on their platforms**

- i. **Provisions given under the IT Rules, 2021 for due diligence to be followed by social media intermediaries**

- a. Rule 2(1)(q) of the IT Rules, 2021 defines online curated content any curated catalogue of audio-visual content, other than news and current affairs content, which is owned by, licensed to or contracted to be transmitted by a publisher of online curated content, and made available on demand, including but not limited through subscription, over the internet or computer networks, and includes films, audio visual programmes, documentaries, television programmes, serials, podcasts and other such content;
- b. Rule 2(1)(t) of the IT Rules, 2021 defines publisher of news and current affairs content and Section 2(1)(u) of IT Rules, 2021

defines publisher of online curated content.

- c. Rule 3 of the IT Rules, 2021 provides for certain due diligence that needs to be followed by any social media intermediary. It states that the intermediary shall promptly publish, publish on its website, mobile based application or both, as the case may be, the rules and regulations, privacy policy and user agreement for access or usage of its computer resource by any person.
- d. Further, Rule 3 provides that the rules and regulations, privacy policy or user agreement of the intermediary shall inform the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information which is harmful to the child, violation of any law being in force, defamatory, pornographic, invasive of another's privacy, including bodily privacy, insulting or harassing on the basis of gender, libellous, racially or ethnically objectionable, relating or encouraging money laundering or gambling, or otherwise inconsistent with or contrary to the laws in force.
- e. Rule 3(c) provides that an intermediary shall periodically inform its users, at least once every year, that in case of non-compliance with rules and regulations, privacy policy or user agreement for access or usage of the computer resource of such intermediary, it has the right to terminate the access or usage rights of the users to the computer resource immediately or remove non-compliant information or both, as the case may be.
- f. Rule 3(d) empowers Appropriate Government or its agency under clause (b) of sub-section (3) of section 79 of the IT Act, 2000 to issue a direction, order or notice to any intermediary for disabling the hosting of such information on its platform which is prohibited under any law for the time being in force in relation to the interest of the sovereignty and integrity of India; security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence relating to the above, or any information which is prohibited under any law for the time being in force.

ii. Therefore, as per the above-mentioned provisions in cases where there is notice issued by any Appropriate Government or its agency to take down content which is violating the provisions of law, the social media intermediary is bound to take action against the said content published on its platform and against the user who has posted the said content. The provisions of IT Rules, 2021 explicitly provide for actions that can be taken by social media intermediaries' *suo-moto* or upon the notice of the Appropriate

Government or upon a Court Order.

iii. In such cases where there is apparent violation of child rights under any of the laws in force and/or violation of IT Rules, 2021, the social media intermediaries are to take swift and prompt action in such matters and in case of inaction on the part of social media intermediaries, procedure as per IT Rules, 2021 will be followed.

## *Chapter 6*

### **News and Media**

#### **18. Children in News and Media**

- a) Media and Production Houses shall ensure that child victims of rape, other sexual offences, trafficking, drug/substance abuse, elopement, organized crimes, and children used in armed conflicts, children in conflict with law and child witnesses etc. are automatically guaranteed anonymity for life. [**Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015**]
- b) Media shall not sensationalize issues or stories, especially those relating to children, and should be conscious of the harmful consequences of disclosing/highlighting information in a sensational form and the harm it may cause to children.[**Section 23 of the Protection of Children from Sexual Offences Act, 2012**]
- c) While conducting an interview of a child, the media production houses shall ensure the following: -
  - i. That the interview is in the best interest of the child.
  - ii. That the interview does not aggravate the child's situation further.
  - iii. That the manner and content of the interview shall not affect/interfere with the child's right to privacy.
  - iv. That if the interview is in the child's best interest, the same shall be done under supervision and consent of the child's

parent(s) or legal guardian, or in the alternative, the competent authorities for the child.

- v. Frequent interviewing of a child must be avoided.
- vi. The child and/or his parents/ legal guardian or any person having control over him shall not be coerced or enticed in any manner including financial or other inducement to secure consent for the interview.

#### **19. Use of child in advertisements.**

- a) An advertisement that addresses or targets or uses children shall not –
  - i. condone, encourage, inspire or unreasonably emulate behaviour that could be dangerous for children;
  - ii. take advantage of children's inexperience, credulity or sense of loyalty;
  - iii. exaggerate the features of goods, product or service in such manner as to lead children to have unrealistic expectations of such goods, product or service;
  - iv. condone or encourage practices that are detrimental to children's physical health or mental wellbeing;
  - v. imply that children are likely to be ridiculed or made to feel inferior to others or become less popular or disloyal if they do not purchase or make use of such goods, product or service;
  - vi. include a direct exhortation to children to purchase any goods, product or service or to persuade their parents, guardians or other persons to purchase such goods, product or service for them;
  - vii. use qualifiers such as 'just' or 'only' to make the price of goods, product or service seem less expensive where such advertisement includes additional cost or charge;
  - viii. feature children for advertisements prohibited by any law for the time being in force, including tobacco or alcohol-based products;
  - ix. feature personalities from the field of sports, music or cinema for products which under any law requires a health warning for such advertisement or cannot be purchased by children;
  - x. make it difficult for children to judge the size, characteristics and performance of advertised products and to distinguish between real life situations and fantasy;
  - xi. exaggerate what is attainable by an ordinary child using the product being marketed;
  - xii. exploit children's susceptibility to charitable appeals and shall explain the extent to which their participation will help in any charity-linked promotions;
  - xiii. resort to promotions that require a purchase to participate and include a direct exhortation to make a purchase addressed to or targeted at children;

- xiv. claim that consumption of a product advertised shall have an effect on enhancing intelligence or physical ability or bring exceptional recognition without any valid substantiation or adequate scientific evidence;
  - xv. claim any health or nutritional claims or benefits without being adequately and scientifically substantiated by a recognized body;
  - xvi. be published in any mass media, including advertisement on network games in respect of medical services, drugs, dietary supplements, medical instruments, cosmetic products, liquor or cosmetic surgery which are adverse to the physical and mental health of children.
- b) An advertisement of any goods, product or service which addresses or targets children shall not—
    - i. be such as to develop negative body image in children;
    - ii. give any impression that such goods, product or service is better than the natural or traditional food which children may be consuming.
  - c) An advertisement for junk foods, including chips, carbonated beverages and such other snacks and drinks shall not be advertised during a program meant for children or on a channel meant exclusively for children.
  - d) Any advertisement which offers promotional gifts to persuade children to buy goods, product or service without necessity or promotes illogical consumerism shall be discouraged.

## *Chapter 7*

### **Penalties and Offences**

#### **20. Violation of Child and Adolescent Labour Act, 1986**

- a) If the producer or the parents/legal guardian is found in violation of Chapter 2 of these guidelines, then the producer shall be in contravention of Section 3 of the Child and Adolescent Labour Act, 1986 and Rule 2C of the Child Labour (Prohibition and Regulation) Amendment Rules, 2017, which is a cognizable offence.

Provided that the parents/legal guardian shall not be punishable unless they permit the child in contravention Section 3 of the Child and Adolescent Labour Act, 1986 and the complementing Rule 2C of the Child Labour (Prohibition and Regulation) Amendment Rules, 2017.

- b) The producer or the parents/legal guardian for the above contravention shall be punishable, with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both, and shall be a

cognizable offence as per Section 14 and Section 14A of Child and Adolescent Labour Act, 1986.

- i. If a similar offence is committed again by the producer, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.
  - ii. If similar offence is committed again by parents/legal guardian, he shall be punishable with fine which may extend to ten thousand rupees.
- c) The producer in violation of any other provision of the Child and Adolescent Labour Act, 1986 shall be liable to be punished under Section 14 of the Act and shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

## **21. Violation of Protection of Children from Sexual Offences Act, 2012**

If contravention of any provision of the Protection of Children from Sexual Offences Act, 2012 is committed or there is apprehension of such violation in the work place or during the production, and is in the knowledge of the producer or any person involved in the production, the production house shall be held liable under Section 19 of the Act if information is not provided to the SJPU or the local police in the manner laid down in the POCSO Act, 2012.

## **22. Violation of Juvenile Justice (Care and Protection of Children) Act, 2015**

- d) If there is disclosure of identity of any child involved in production, the production house shall be in violation of **Section 74 of the Juvenile Justice Act, 2015**, i.e., Prohibition on Disclosure of Identity of Children, which is punishable with imprisonment for a term which may extend to six months or fine which may extend to two lakh rupees or both.

- e) If cruelty is committed against any child involved in the production, the production house shall be held liable under **Section 75 of the Juvenile Justice Act, 2015**, i.e., Cruelty to Child as per Section 75 of JJ Act, 2015 is committed during the production, which is punishable with imprisonment which may extend to three years or with fine of one lakh rupees or with both.
- f) If intoxicating liquor or narcotic drug or psychotropic substance is given to a child during the production, the production house shall be in violation of **Section 77 of the Juvenile Justice Act, 2015**, i.e., Penalty for Giving Intoxicating Liquor or Narcotic Drug or Psychotropic Substance to a Child, which is punishable with imprisonment which may extend to seven years and shall also be liable to a fine which may extend up to one lakh rupees, and **the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production and Supply and Distribution) Act, 2003**.
- g) If there is exploitation of any child involved in production, the production house shall be in violation of Section 79 of the Juvenile Justice Act, 2015, i.e., Exploitation of a Child Employee, which is punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to a fine which may extend up to one lakh rupees.

### **23. Any Other Violation**

Any other violation committed under these Guidelines shall be punished under its respective Act.

### **17. Procedure for a Child in Need of Care and Protection**

Any child against whom an offence enumerated under this Chapter is committed, is a child in need of care and protection and shall be

produced before the CWC in the manner specified in Section 31 of the Juvenile Justice Act, 2015. Information shall also be provided to the DCPU, who shall follow the procedure as laid down in the Juvenile Justice Act, 2015 in the best interest of the child.

## *Chapter 8*

### **Inspection and Complaints**

#### **24. Periodic Inspections**

The Inspector appointed under Section 17 of the Child Labour and Adolescent Act, 1986 shall carry out the following tasks: -

- a) periodical inspections to be conducted by the Inspector of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out;
- b) the intervals at which an Inspector shall report to the Central Government complaints received to him relating to the subject matter of inspection under clause (a) and the details of action taken by him thereafter;
- c) maintenance of record electronically or otherwise of-
  - i. children and adolescent found to be working in contravention of the provisions of the Act including children who are found to be engaged in family or family enterprises in contravention of the Act;
  - ii. number and details of the offences compounded;
  - iii. details of compounding amount imposed and recovered;  
and
  - iv. details of rehabilitation services provided to children and adolescents under the Act

#### **25. Complaints**

Any complaint regarding any violation committed against a child under these Guidelines or any other law in force during child's participation in



the entertainment industry at the time can be made by any person to the District Magistrate or the NCPCR or the SCPCR of the respective state.

### *Chapter 9*

#### **Duties of the Monitoring Authorities**

##### **26. Duties of the District Magistrate**

- a) The District Magistrate shall -
  - i. specify such officers subordinate to him, as he considers necessary, to be called nodal officers, who shall exercise all or any of the powers and perform all or any of the duties of the District Magistrate conferred and imposed on him by the Central Government under Section 17A;
  - ii. assign such powers and duties, as he thinks appropriate, to a nodal officer to be exercised and performed by him within his local limits of jurisdiction as subordinate officer;
- b) The District Magistrate shall ensure through nodal officers that the children and adolescents who are employed in contravention of the provisions of these Guidelines and the Acts existing to protect children are rescued and shall be rehabilitated in accordance with the provisions of -
  - i. the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016) and the rules made there under;
  - ii. the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);
  - iii. the Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016;
  - iv. any National Child Labour Project;
  - v. any other law or scheme for the time being in force under which such children or adolescents may be rehabilitated; and subject to -

(I) the directions, if any, of a court of competent jurisdiction;

(II) the guidelines for rescue and repatriation issued by the Central Government from time to time in this regard.

## **27. Duties of the Inspector**

An Inspector appointed by the Central Government under Section 17, for the purposes of securing compliance with the provisions of the Act, shall -

- a) comply with the norms of inspection issued by the Central Government from time to time;
- b) comply with the instructions issued by the Central Government from time to time for the purposes of securing the compliance with the provisions of the Act; and
- c) report the Central Government quarterly regarding the inspection made by him for the purposes of securing the compliance with the provisions of the Act and the action taken by him for such purposes.

## **28. Functions of NCPCR and SCPCR**

- a) The National Commission for Protection of Child Rights and the State Commission(s) for Protection of Child Rights are mandated to monitor the proper and effective implementation of the Protection of Children from Sexual Offences (POCSO) Act, 2012; Juvenile Justice (Care and Protection of Children) Act, 2015 and Right to Free and Compulsory Education (RTE) Act, 2009 on a national and state level, respectively.
- b) The Commissions for Protection of Child Rights Act, 2005 lays down the functions of the National and State Commissions under Section 13 and Section 24 respectively. The functions of the National Commission and the State Commissions with regards to these Guidelines are: -
  - i. examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;

- ii. inquire into violation of child rights and recommend initiation of proceedings in such cases;
- iii. look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;
- iv. inquire into complaints and take suo motu notice of matters relating to—
  - (i) deprivation and violation of child rights;
  - (ii) non-implementation of laws providing for protection and development of children;
  - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children, or take up the issues arising out of such matters with appropriate authorities; and
- v. Such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

## *Chapter 10*

### **Sensitization and Awareness Training**

#### **29. Sensitization and Awareness**

- a) Proper training and sensitization to handle children shall be provided to the staff involved with children during the production/creation of content by the production houses and media houses or any other corporate houses involved in the entertainment industry.
- b) The staff shall also be made aware of the current laws protecting the rights of the children by the production houses and media

houses or any other corporate houses involved in the entertainment industry.

- c) The child and his parents/local guardian shall be made aware of the rights of the child and the authorities they can approach regarding any grievance or complaint by the production houses and media houses or any other corporate houses involved in the entertainment industry.

**FORM A**

**Undertaking under rule 2C (1) (b) of the Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988**

I ..... producer of ..... an audio- visual media production or organiser of ..... a commercial event, involving the participation of the following child/children, namely: -

S.No. Name of the Child/ Parent's/Guardian's Address Children Name

do hereby undertake that in the course of the involvement of the above-mentioned child/children in the event or the audio- visual production ..... (specify the event or the audio- visual media production), there shall be no violation of any of the provisions of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) and the Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988 and full care shall be taken of the physical and mental health, and other requirements of the child/children, so that he/they feel no inconvenience. I also undertake that during the event, all laws applicable for the time being in force for the protection of children, including their right to education, care and protection, and legal provisions against sexual offences will be complied.

Dated:

Name and signature of the Producer