

Blocking Of Websites

UNION OF INDIA

India

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Rule BLOCKING-OF-WEBSITES of 2003

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/650 MINISTRY OF COMMUNICATION AND INFORMATION TECHNOLOGY (Department of Information Technology) ORDER New Delhi, 7th July, 2003 Subject: Procedure for Blocking of Websites As per the Gazette Notification (Extraordinary) No. G.S.R. 181(E), dated 27th February, 2003, published in Part II, Section 3, Sub-section (i), Indian Computer Emergency Response Team (CERT-In) has been designated as the single authority for issuing of instructions in the context of blocking of websites. CERT-In has to instruct the Department of Telecommunications to block the website after, (i) verifying the authenticity of the complaint (ii) satisfying that action of blocking of website is absolutely essential. II. The blocking of website may be the need of several agencies engaged in different walks of public and administrative lives due to a variety of reasons. Explicit provision for blocking of the website in the Information Technology Act, 2000 is available only in section 67, relating to pornographic content on the website. In addition, section 69 empowers the Controller of Certifying Authorities to intercept any information transmitted through any computer resource in relation only to the following five purposes: (i) Interest of the sovereignty or integrity of India, (ii) The security of the State, (iii) Friendly relations with foreign States, or (iv) Public order, or (v) For preventing incitement to the commission of any cognizable offence. III. As already noted there is no explicit provision in the Information Technology Act, 2000 for blocking of websites. In fact, blocking is taken to amount to censorship. Such blocking can be challenged if it amounts to restriction of freedom of speech and expression. But websites promoting hate content, slander or defamation of others, promoting gambling, promoting racism, violence and terrorism and other such material, in addition to promoting pornography, including child pornography, and violent sex can reasonably be blocked since all such websites may not claim constitutional right of free speech. Blocking of such websites may be equated to "balanced flow of information" and not censorship. IV. The websites promoting the abovementioned types of content, not covered under Freedom of

Speech may need to be blocked under the inherent powers of the Government, "to the extent of executive authority read with legal powers vested in Central Government and Controller under various provision of various laws".V. The detailed procedure for submitting a complaint to the Director, CERT-In for blocking of a website shall be as follows:

1. The following officers listed in Para 2 of the Gazette Notification can submit the complaint to the Director, CERT-In:

(i)Secretary, National Security Council Secretariat (NSCS);(ii)Secretary, Ministry of Home Affairs, Government of India;(iii)Foreign Secretary in the Department of External Affairs or a representative not below the rank of Joint Secretary;(iv)Secretaries, Department of Home Affairs of each of the States and of the Union territories;(v)Central Bureau of Investigation (CBI), Intelligence Bureau (IB), Director General of Police of all the States and such other enforcement agencies;(vi)Secretaries or Heads of all the Information Technology Department of all the States and Union Territories not below the rank of joint Secretary of Central Government;(vii)Chairman of the National Human Rights Commission or Minorities Commission or Scheduled Castes or Scheduled Tribes Commission or National Women Commission.(viii)The directive of the Courts;(ix)Any others as may be specified by the Government.

2. The complaint shall contain the following:

(i)Name of the complainant with address, telephone number, fax number, and e-mail.(ii)The address of the offending website.(iii)The name of the organisation with address, if known, which is promoting /hosting the website.(iv)Specific reasons for requesting blocking of website. This may be from any of the following:Promoting hate content, slander or defamation of others, promoting gambling, promoting racism, violence and terrorism and other such material, promoting pornography, including child pornography and violent sex.(v)Any other reasons may be specified by the complainant.(vi)Segment of population or the audience that is adversely affected by the offending website.

3. The complaint may be submitted in writing by an authorised officer of the abovenamed organisation on the letter head. This can be sent either by mail or by fax or by e-mail digitally signed.

4. Each complaint shall be assigned a complaint number and recorded in a register alongwith the time and date of the receipt.

5. CERT-In staff shall verify that the complainant belongs to one of the organisations that have been listed above. If needed, this will be verified telephonically from the concerned office.

- 6. Each complaint shall be acknowledged to the complainant within 24 hours of its receipt.**
- 7. In the case of complaints received by fax and e-mail which is not digitally signed, the complainant shall be required to provide an ink-signed copy of the complaint so as to reach CERT-In within 3 days of the receipt of the complaint by fax or e-mail. The processing of the complaint shall begin without waiting for the receipt of the ink-signed copy.**
- 8. Director, CERT-In will assign the complaint to a technical expert to view the said website and print the offending content as a sample within a day of the receipt of the complaint.**
- 9. The complaint alongwith the printed sample content of the website shall be examined by a duly constituted committee under the Chairmanship of Director, CERT-In with representatives of DIT and Law Ministry/Home Ministry. The committee will meet within a day of the complaint and the content being notified by Director, CERT-In to the members of the Committee. It will meet and take on the spot decision on whether the website is to be blocked or not.**
- 10. The decision on blocking of the website by the Committee alongwith the complaint and details thereof shall be submitted by Director, CERT-In to the Additional Secretary, DIT for the approval of the Secretary, DIT.**
- 11. On receipt of the approval from DIT, Director, CERT-In will issue instructions to DOT for blocking of website.**
- 12. The entire exercise shall be completed within seven working days of the receipt of a complaint.**
- 13. In case of an emergency situation, to be decided by Director, CERT-In in consultation with the Additional Secretary, DIT, instructions for blocking of website will be immediately issued by Director, CRET-In to DOT.**
- 14. Strict confidentiality shall be maintained by CERT-In regarding all the complaints as also their processing.**

15. The Director, CERT-In shall maintain complete record, in electronic database as also in paper files/registers, of the cases of blocking of website processed. This database shall be the property of the DIT and shall not be used for any commercial purpose.

16. The Director, CERT-In shall submit a monthly report of the cases of blocking of the website processed in each month, by 7th of the next month (or the next working day if 7th happens to be a holiday) to the Additional Secretary, DIT.

17. The Director CERT-In shall arrange to make available, the record of the cases of blocking of the website processed by CERT-In, as and when required for audit by an officer designated by Secretary, DIT for this purpose. This inspection /audit may be undertaken on a quarterly basis.

18. The service for blocking of the website containing offending material is to be provided by CERT-In in public interest and hence no fees shall be charged for providing this service.