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Platform Liability for Unauthorized Distribution of News Content: A Comparative Study of India, EU DSM Directive & US DMCA

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ABSTRACT

While the rapid expansion of digital platforms has been beneficial to the creation, circulation, and consumption of news content, it has also been a major contributing factor to the problem of unauthorized distribution. Social media networks, search engines, news aggregators, and user-generated content platforms are frequently the places where unlicensed excerpts, snippets, or entire articles are hosted or shared without proper authorization, thus raising complex questions of copyright liability. This article compares the platform liability regimes in India, the European Union (EU), and the United States (US) regarding the unauthorized digital distribution of news content.

In India, the intermediary liability as per Section 79 of the IT Act, read with the 2021 IT Rules and the Copyright Act, provides a conditional safe harbour but is silent on targeted mechanisms for the protection of news publishers. On the other hand, the EU's DSM Directive, in particular Article 15, creates a specific "press publishers' right" thus, charging platforms with the obligation of licensing and filtering. The US DMCA takes a more subdued stance with a "notice-and-takedown" approach as per Section 512, which is the reason why the liability is waived if the platform, upon obtaining actual knowledge of the infringement, acts promptly.

Keywords: *Platform Liability, Unauthorized Distribution, News Content Regulation, Copyright Infringement, Digital Intermediary Responsibility.*

I. INTRODUCTION: RISE OF DIGITAL PLATFORMS AND THE CHALLENGE OF UNAUTHORIZED NEWS DISTRIBUTION

The worldwide media evolution through digital technology has changed in a way that is fundamental the generation, dissemination, and consumption of news. During the last ten years, social media platforms, search engines, content aggregators have become the main

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intermediaries between news publishers and audiences. Along with these, user-generated content websites have also played a vital role in the news ecosystem. Every day, billions of people are using platforms like Google, Meta (Facebook and Instagram), X (Twitter), YouTube, Reddit, and messaging services like WhatsApp. In this way, these platforms have become the major access points to information. This shift had opened new doors to the reach, speed, and audience engagement, but at the same time, it has caused serious legal issues regarding the unauthorized distribution of news content.

On the one hand, digital platforms facilitate the most rapid ways of copying, sharing, and reposting of articles, excerpts, headlines, pictures, and videos. On the other hand, these actions are by no means authorized most of the time i.e., the owners of the copyright (usually media houses and journalists) are not given permission. The problem is that consumers are able to easily break through paywalls, thereby taking snapshots, sharing PDF versions of e-papers, or posting entire reports on social media and closed messaging networks without there being any consent for it. As a consequence, traditional publishers, among whom subscription and advertisement models are typical, experience a significant loss of revenue for their sustainability has been undermined.

One cannot deny that these profit-making enterprises (i.e., the platforms) make money by user interaction as this is accompanied by ads and other data-driven analytics and hence the ethical and legal question that rises is the extent to which the platforms can be held responsible for the prevention of the unauthorized reproduction of news content. The major players' business strategies mostly revolve around the acquisition of news content's value at minimal costs to be paid by the publishers while creating what is known as the "value gap" or "revenue imbalance" in the digital news economy.

II. INDIA'S LEGAL FRAMEWORK: INTERMEDIARY LIABILITY UNDER THE IT ACT & COPYRIGHT ACT

India's legal framework concerning platform accountability for the illegal distribution of news content is mainly based on the Information Technology Act, 2000, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, and the Copyright Act, 1957. All these laws together outline the responsibilities of intermediaries like social media platforms, search engines, aggregators, and content-sharing services. According to the IT Act, Section 2(w) provides a definition of "intermediaries" that is quite comprehensive, and it includes not only the traditional telecom networks but also online platforms that host or transmit user-generated content.

The most important provision for the issue of liability is Section 79, which gives intermediaries a conditional "safe harbour" that protects them from liability for third-party content on the condition that they comply with statutory due diligence requirements. The safe harbour concept is based on three core ideas: (a) passive facilitation, where intermediaries only enable communication without initiating, selecting, or modifying content; (b) no actual knowledge of illegal activities; and (c) obligatory compliance with government takedown orders.

Nevertheless, the IT Rules, 2021 tried to broaden the compliance burden by intermediaries being required to perform more due diligence activities, designate compliance officers, set up grievance redressal systems, and use automated filtering tools for "proactive detection" of certain types of content. Although these Rules do not explicitly require the screening of copyrighted news material, their general obligations especially the requirement of "best efforts" for preventing re-uploading of already removed content cause a conflict between judicially protected safe harbor and executive expectations for platform vigilance.

The Indian courts have consistently upheld the view that intermediaries may be off the hook if they take prompt action upon receiving a notification. The Delhi High Court in *MySpace Inc. v. Super Cassettes* (2016) ruled that intermediaries are not deprived of safe harbor simply because their platform structure is capable of facilitating infringing content, provided that they remove the identified material within a reasonable time. The Court also recognized the technical difficulty of pre-screening all uploads and declined to impose a general monitoring obligation, a position that is in line with *Shreya Singhal*. This has significant implications for the news industry: platforms that aggregate or show snippets of articles use algorithmic systems that technically "select" and "organize" content. Whether this amounts to modifying content and thus disqualifying safe harbor is still debated.

While the Indian legal system does not provide a DSM-style "press publishers' right," news publishers argue that platforms get monetarily benefited through advertisement and traffic redirection while the economic value of original journalism is getting lowered. The lack of a statutory licensing scheme for news snippets causes the question of what constitutes an infringement to be unclear, especially when platforms are showing headlines, thumbnail pictures, or short extracts.

Besides that, India's IT Act and Copyright Act form a hybrid model, where the trigger of liability is under the Copyright Act, but safe harbour is under the IT Act. This dual-steering system is different from the EU (which has more stringent requirements for platforms) and the US (which is largely reliant on notice-and-takedown). In India, the safe harbour is only

temporary and intermediaries can be disqualified if they are not diligent, if they play an active role in the release of the content or if they get to know about it and yet they do not take action. The 2021 IT Rules further complicated this territory by bringing in obligations (not strictly copyright-related ones) stipulating that platforms must ensure that "news and current affairs" content complies with a code of ethics. Although these rules are mostly for digital news publishers, their ambiguous language sometimes involves intermediaries indirectly in the compliance process, thus creating regulatory uncertainty. For instance, platforms may be obliged to work with self-regulatory bodies and government oversight agencies, hence, their hosting role will be beyond mere facilitation.

Lastly, the execution of the law is a major problem. News publishers accuse platforms of not removing pirated articles, but due to the lack of a standardized notice-and-takedown mechanism under copyright law, there are different enforcement practices resulting in the inconsistency of enforcement. Unlike the US DMCA, the Indian system is dependent on a mixture of judicial and legislative provisions, rules from the administration, and interpretations of courts. Consequently, intermediaries most of the time choose to be on the safe side by quickly reacting to the notifications they receive, but they reject the implementation of proactive monitoring while citing legal precedents. This delicate equilibrium between safe harbour and content protection results in a regulatory gap being incompatible with digital news circulation's reality. The latter is accelerated by AI-driven aggregation and instant sharing, and therefore, unauthorized content distribution is going on at a much faster pace than before. So India's framework acknowledges both intermediary protection and publisher rights; however, it does not have a coherent platform-specific copyright enforcement model, which results in the ongoing debates about reform, harmonization, and the need for a clearer statutory mechanism for digital reproduction of news content .

III. EU'S DSM DIRECTIVE (2019): PUBLISHER'S RIGHT, LICENSING OBLIGATIONS & PLATFORM ACCOUNTABILITY

The European Union's Copyright in the Digital Single Market (DSM) Directive, a pivotal reform of worldwide copyright law, especially in the context of digital dissemination of news content, was adopted in 2019. The Directive came about due to the concern raised by European press publishers that online platforms, especially aggregators (Google News) and search engines, were making money off the circulation of news snippets, headlines, and previews without giving back a meaningful share to the original creators. As a result of this transition in the information ecosystem, a structural imbalance was created: although traditional publishers

invested heavily in generating credible journalistic content, digital platforms were able to take a disproportionate share of advertising revenue by simply hosting or displaying such content.

The DSM Directive seeks to remedy this imbalance by a set of rights and obligations that are harmonized, most notably a new neighbouring right for press publishers with rigorous accountability requirements for digital platforms, being the closest accomplice.

The emergence of Article 15 led to a lot of debates, especially concerning the impact on news aggregators (e.g., Google News, Bing) and search engines. Those who were against the idea termed it a “link tax” and opined that if platforms are to pay for snippets, user access to information might be limited and thus the free flow of hyperlinks which are the building blocks of the modern web will be disrupted. Actually, the Directive is not mandating the payment solely for link sharing but it is specifying parts of the copyrighted text accompanying links whose reproduction is to be regulated. However, at the outset, some big players were not eager to follow the rules. For instance, after France enforced Article 15, Google was reluctant to reward publishers and it even warned that it might cease snippet presentation. The French Competition Authority, on the other hand, determined that Google's stance constituted an abuse of dominant position and hence directed Google to enter into licensing negotiations with French publishers. The case, therefore, became a landmark in the actual enforceability of Article 15 and showed that Member States could use competition law to back up copyright protection.

The discussion concerning upload filters has been rather fierce. On one side, rightsholders maintain that such automated solutions are crucial to effectively monitor the enormous amounts of content uploaded every minute, and on the other side, opponents (including civil society organizations and digital rights advocates) caution that such technologies may result in over-blocking which in turn stops the lawful uses of, say, parody, criticism, quotation, or reporting. The DSM Directive tries to address these issues by stipulating that Member States must guarantee that lawful uses as per copyright exceptions, for instance, quotation and caricature, are considered. Moreover, the Directive requires the setting up of user redress mechanisms whereby users can contest wrongful blocking. As far as these protections are concerned, the very heavy operational burden on platforms makes the EU's liability model far more demanding compared to the DMCA's reactive notice-and-takedown system used in the US.

Another important element of the Directive is its focus on transparency and fair remuneration in the digital news ecosystem. In case of licensing agreements between platforms and publishers, the former have to give the latter elaborate accounts on revenue-sharing arrangements, the number of people accessing their content, and the exploitation of the

copyrighted news materials. This is part of a broader policy goal of leveling the playing field in negotiations between tech giants and media organizations. The Directive attempts to facilitate the work of freelance journalists by requiring that the authors be given an adequate portion of the income generated through licensing agreements with publishers. This article recognizes individual journalists and thus assures that they will not be sidelined by the newly created publisher's right.

Implementation of the DSM Directive in the EU Member States has varied resulting in different national interpretations influencing publishers and platforms in different ways across the European market. Some Member States have implemented wide-ranging exceptions for "very short extracts," whereas others have adopted stricter definitions that require licensing even for minimal usage. The outcome is a harmonized framework in principle but still leaving a lot of space for litigation, national trial, and judicial clarification. The Directive is already impacting the worldwide copyright debate despite the differences in implementation across Member States. Countries beyond the EU such as Australia with its News Media Bargaining Code have adopted similar measures that require platforms to remunerate publishers thus indicating a global trend towards enhanced platform accountability in the news ecosystem.

Ultimately, the EU's DSM Directive sets a **proactive, publisher-centric model of platform liability** that contrasts sharply with the more platform-friendly frameworks in India and the United States. Its focus on licensing, transparency, automated enforcement, and recognition of publishers' rights represents an ambitious attempt to re-balance the digital marketplace. While concerns remain regarding over-blocking and the power dynamics between major platforms and smaller publishers, the Directive undeniably marks a turning point in the legal regulation of digital news distribution. It provides a robust framework for ensuring that platforms contribute fairly to the economic sustainability of journalism and demonstrates how copyright law can evolve to meet the challenges posed by digital reproduction and large-scale content sharing.

IV. US DMCA REGIME: NOTICE-AND-TAKEDOWN, SAFE HARBOURS & LIMITATIONS

The United States Digital Millennium Copyright Act (DMCA), a landmark legislation passed in 1998, continues to serve as the main legal basis for defining the liability of platforms in cases of copyright infringements committed online.

With the advent of social media platforms, digital aggregators, and user-driven content-sharing websites, the DMCA has become increasingly relevant to the unauthorized distribution of news content. The central framework of the DMCA is designed around the ideas of safe harbour

protections, the noticed-and-takedown mechanism, and the intricate judicial interpretations that have influenced the extent of platform accountability. Collectively, these factors determine the circumstances under which platforms like YouTube, Google, Reddit, and Facebook are not held liable for facilitating or enabling the unauthorized use of copyrighted news material.

Safe Harbour Provisions Under Section 512:

The DMCA extends safe harbour protection to online service providers (OSPs) operating under Section 512, on the condition that they meet a set of legal stipulations. The statute identifies various categories of service providers, i.e., conduit services, caching services, hosting services, and search tools and separately provides protection to them as long as they are passive intermediaries. The protection comes with certain conditions, which imply that platforms should not have “actual knowledge” of the infringement, they should not be in receipt of a “sunken” direct financial benefit arising from the infringing activity they control and should establish and maintain a policy, regarding the termination of repeat infringers under which they exercise reasonable implementation.

In the case of news distribution, this matter becomes very significant because platforms are frequently hosting user-uploaded articles, excerpts, screenshots, or even materials that are fully reproduced. As far as the platform is not deliberately selecting or encouraging infringement and responds in a proper manner upon the receipt of a notice, it continues to be protected from liability. However, the determination of whether a platform has actual or constructive knowledge of infringement has been a major deterrent in court battles, especially when there is a huge volume of user-generated news content.

The Knowledge Standard and Platform Responsibility

One of the aspects of the DMCA most frequently questioned in court is the concept of “knowledge”. The judges differentiated actual knowledge when the platform can point directly at the infringing content and is explicitly aware of it and red-flag knowledge that occurs when the infringement is so obvious that the platform should have anticipated it. However, the majority of courts have set a stringent criterion for the identification of a red-flag, thereby concluding that platforms are not obliged to verify or scrutinize itself with a proactive approach.

The landmark case on this point *Viacom v. YouTube*, leads the Second Circuit to argue that mere general knowledge of widespread infringement is not enough, rather a platform must have knowledge of specific instances of infringement. The standard therefore is instrumental to platforms in cases of the unpermitted sharing of news content. Platforms are kept from the risk of litigation if after receiving the notification they remove the specific infringement, even when

publishers are aware that entire articles or screenshots are habitually circulated on platforms like Facebook or Reddit. It has been pointed out that this repressive mechanism may be responsible in facilitating the widespread of copyrighted news material making it difficult for right-holders to react quickly enough.

Limitations and Criticisms of the DMCA for News Content

Originally the DMCA was designed in a way such that copyright enforcement could go hand in hand with innovation, but its shortcomings have become more and more obvious in the field of digital journalism. A crucial limitation of it is the issue of scale: the amount of content uploaded every single minute is so large that it is almost impossible for publishers to pinpoint every single infringement. Automatically working bots that download articles from subscription services and proceed to instantly share them are actually killing business models based on subscriptions. Therefore those platforms that enjoy safe harbor protection declare themselves as unable to undertake content pre-screening and thus as not accountable unless they have received a notification.

A great deal of criticism for the DMCA has been its notice-and-takedown system being abused where overly broad or fake takedown notices are employed to conceal scorn, parody or rightful fair-use commentary. For journalism, this translates into a negative impact on the freedom of expression and editorial independence. Additionally, the new system fails to support the concept of algorithmic amplification platform algorithms may be promoting unauthorized news copies to a broader audience, hence, the damage is increased whereas the platform is still under the protection of the DMCA.

Fair Use Defences and Transformative Uses

On top of everything, there is the American copyright law which is equipped with a fairly robust fair use clause. The latter sometimes may provide a legal base for sharing small portions of the news, headlines, or commentary. Usually platforms put forward the argument that users, who in their posts take news stories and provide their own brief or summary, are engaged in the activities of commentary, criticism, or transformative use. Courts judge fair use on an individual basis, following their judgment they take into consideration the purpose, the nature of the work, the amount used, and the market impact. Unfortunately, most of the copyrighted digital distribution cases nowadays are done by verbatim reproduction, in which there is no commentary and/or transformation; therefore, fair use offers very little in the way of legal protection for those activities. All the same, the uncertainty surrounding the concept of fair use that this provision that serves as a defence is in existence, hence, an enforcement publisher-

versus-platform confrontation becomes more complicated and thus difficult for publishing houses to enforce their rights.

The Broader Policy Challenge:

Overall, the DMCA remains a fundamentally **reactive** framework unsuited to the speed and scale of today's news-sharing environment. While it protects platforms from crippling liability and supports a thriving digital ecosystem, it places an overwhelming enforcement burden on news publishers who must police their own rights. As news organizations shift toward subscription and paywall models, unauthorized digital reproduction directly undercuts revenue streams. Policymakers and scholars have increasingly argued for reforms, including notice-and-staydown obligations, stronger repeat-infringer enforcement, and clearer standards for platform responsibility. However, such proposals must also safeguard free speech and avoid overbroad censorship. In comparison to the EU's more proactive DSM Directive, the U.S. DMCA remains significantly more platform-friendly, making it an imperfect tool for protecting news content in the contemporary digital landscape.

V. COMPARATIVE ANALYSIS & WAY FORWARD: TOWARDS A BALANCED LIABILITY MODEL

A comparative assessment of India's intermediary liability rules, the EU DSM Directive, and the US DMCA reveals three different regulatory frameworks for the unauthorized distribution of news content on digital platforms. These frameworks reflect different constitutional, economic, and technological priorities.

Firstly, the EU is based on a publisher-centred and a highly protective model, where Article 15 of the DSM Directive provides news publishers with a neighbouring right in the digital use of their content. The right thus grants digital platforms such as Google, Meta, and news aggregators certain positive obligations of negotiating licenses, stopping unlicensed reproductions, and, in some instances, installing content-recognition technologies. The French antitrust case against Google at the court of law, was the proof of the EU's readiness to force platforms to agree with publishers on the fair payment of remuneration. Whereas, the US uses a more platform-friendly method through the DMCA's notice-and-takedown system, in which safe harbour is allowed if the platform acts promptly upon receiving a valid notice. The onus of finding infringements is mainly placed on the rights holders, and the platform liability standard is very high, i.e., actual knowledge or wilful blindness is necessary. This reactive model assumes that innovations and freedom of expression would be hindered if the platforms were required to be proactive in the content they provide.

India represents a hybrid model, reflecting features of both systems, in that while intermediaries are given safe harbour under Section 79 of the IT Act, the 2021 IT Rules make it compulsory for them to be more diligent in tracing, grievance redressal, and compliance - albeit Indian law does not provide for a publisher's right similar to that in the EU. Hence, Indian platforms are functioning in a comparatively more uncertain and developing liability environment, which has been impacted by both court decisions and changing regulatory priorities.

Secondly, the discrepancies in the objective and a degree of the platform's duty determine the effectiveness of the news publishers to keep their content safe. The EU system focuses on the proactive content screening and licensing as a means of compliance, thus substantially limiting the unauthorized distribution of the press but exposing the risk of potential over-blocking and embassies of the smaller platforms. On the other hand, the US DMCA structurally supports big platforms as the reason is that the notification of takedown requires a lot of monitoring work on the part of publishers, with the result that news content can be broadly distributed before the enforcement mechanisms have even been triggered. The Indian system, which combines reactive takedown requirements with the IT Rules' enhanced diligence, provides for some level of protection albeit it is incapable of dealing with such issues as AI-driven content scraping, real-time republication, or automated news summarization engines. Consequently, publishers in India are burdened with a high enforcement challenge and do not have an additional source of income like the EU licensed one. This hybrid of safe harbour provisions with compliance obligations leads to intermediaries and rights holders being in a state of uncertainty, thus undermining the protection of copyright for news in the rapidly evolving digital space.

Third, notwithstanding these structural differences, all of the three jurisdictions grapple with common challenges caused by the technological changes. The proliferation of AI news aggregators, recommendation algorithms, and automated summarization tools is putting a strain on the traditional copyright concepts of substantiality, originality, and transformative use. The EU's licensing scheme has more potential to control such technology as it connects the use of the publisher's content, whether original, modified, or summarized, with negotiated payment. The US methodology keeps on handling such problems by means of the fair use doctrine, thus leaving the results to be doubtful, particularly in terms of AI-generated outputs. As for India, without specific legal provisions for AI and copyright, it is like inviting the unrestrained duplication of news stories by the use of digital technology that are beyond the capabilities of conventional takedown mechanisms.

Considering these comparative results, a future balanced liability model should combine the advantages of each system while compensating for their drawbacks. India, for instance, could

gain a lot by the introduction of a structured neighbouring right for news publishers similar to Article 15 of the EU DSM Directive so as to guarantee that digital platforms which get a significant economic benefit from news aggregation and distribution pay the publishers fairly. The implementation of such a right could be accompanied by the provision of flexible exemptions for very brief extracts or non-commercial uses so as not to be a hindrance to the public's access to information. At the same time, India should not fall into the trap of the EU over-regulation risk by having the proportionate intervention approach: small or start-up platforms should not be under the same level of requirements as the dominant digital intermediaries. A layered compliance system whereby one's obligations grow with user base, revenue, and market power would keep the spirit of innovation alive and, at the same time, allow for the responsibilities to be discharged.

The following step for India is to make its notice-and-takedown system more robust by DMCA-like textual features but without over-utilizing rights holders for infringement policing. The setting up of legal timeframes, the use of standardized notice formats, and the provision of transparent reporting ways will, together, lead to predictable enforcement routes. However, it must be accompanied by the large platforms' selective proactive measures for example, forbidding the repeated uploads of already checked for infringement news content so that publishers would not be in the unending loop of detection and notification. The said balanced mixture of the reactive and limited proactive roles is more appropriate for such a dynamic phenomenon as news reproduction where turnover speed has a huge impact on market value.

Another government reform issue worth the politicians' attention is AI-driven news reproduction regulation. The policymakers must give clear-cut answers if AI-generated summaries, extracts, or reproductions are considered fair dealing or if they necessitate a license. A futuristic setting could require that platforms which use news for training AI have to sign collective licensing agreements with publishers or be obliged to pay into a regulatory remuneration account. These steps would resonate well with the EU's protective goal while at the same time keep open the door for future technological progress.

The last but not least of the reform areas is cross-border harmonisation. Since platforms are global, while copyright enforcement is local, disjointed standards provide loopholes that weaken publisher rights. India has a chance to offer better protection by signing bilateral or multilateral conventions on the enforcement of digital copyright, using compatible notice procedures, and taking an active part in international debates on AI and copyright governance. Such a global coordinated answer would alleviate complying with it unclear, encourage fair competition, and be of help to ensure that news publishing be it big or small gets their fair share

from the digital economy.

VI. CONCLUSION

The question of how platforms should be held accountable for the unauthorized distribution of news content is at the core of the debate around copyright law, digital governance, and media sustainability. Legal issues related to the reproduction of content without permission have become more prominent as the consumption of news has shifted to digital platforms that include not only the likes of Google, Meta, and X but also local feed providers. The comparative examination of India, the EU DSM Directive, and the US DMCA uncovers three diametrically opposed sets of regulations, the differences of which result from different policy intents, technological backgrounds, and even constitutional considerations.

On the other hand, the Indian system is positioned between the two extremes. Section 79 of the IT Act offers conditional safe harbor, which is further enhanced by the due diligence provisions in the 2021 Intermediary Guidelines. Nevertheless, the Indian copyright law also stipulates that digital reproduction without authorization constitutes infringement; however, enforcement is still a challenge due to sluggish procedures, limited publisher bargaining power, and the lack of a clearly defined "publisher's right" analogous to the EU model. The law is mainly reactive, thus giving platforms and messaging services ample opportunities cutting news without the consent of publishers.

Comparing each of those models shows that none of them is flawless. A better-balanced regulatory framework may entail such elements as the EU's idea of the publisher's rights, the DMCA's innovation-friendly character, and the India standard upgradation of the intermediaries. In fact, the establishment of equity in the digital news market must be accompanied by clear licensing standards, transparent platform roles as well as by devices enabling publishers especially small-scale ones to accrue their creative outputs in a way that is compatible with not only freedom of expression, user rights but also technological growth.

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