

## Legal Compliances For Mobile Apps

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### Mobile App Legal Requirements

India holds about 5% of the global app market on Google Playstore with multiple apps having over 100 million users [1]. A similar number is present on the Apple App Store as well. With a high number of users of apps from different industries, the need for area-specific compliances, regulations becomes pertinent. While India does not have separate legislation to regulate apps, the Information Technology Act, 2000 is legislation that oversees the same.

Currently, mobile apps are considered 'intermediaries.' An intermediary is defined as a person who receives, stores or transmits electronic records on the behalf of another person. As such, an app is required to abide by the regulations laid down in legislation. During the development of an app, the following rules and regulations and mobile app legal requirements must be complied with:

#### Registrations

- Business Registration

An individual developer of an app does not necessarily need to be registered as a business, but if they are a business entity intending to create an app for transactional usage, then it must be registered. The inception of registrations begins with the registration of a company as a One Person Company, partnership firm, Limited Liability Partnership firm or a private limited company. To obtain the recognition of a 'startup' in India, the business can also register itself on the Startup India Portal after completing the process of becoming a legal entity.

- IPR

There are multiple types of intellectual property rights which protect the particulars of an app created. By having airtight IP protection, an app can maintain its originality and brand.

The points below indicate the importance and application of IPR rights:

1. To protect the brand, registration of the trademark of the mobile app such as the logo, name, a tagline is crucial.
2. Though it's not necessary to file for a patent for a mobile app in order to protect digital assets, an entity may file for one. However, an app code cannot be patented, only functionality can be.
3. Copyright protection is obtained at the inception of the creation of subject

matter. However, to protect it from third-party infringement, an entity may file an application for the same. Moreover, a code can be copyrighted.

#### Contractual Compliances

The points mentioned below cover the importance of clauses that are protective of the user's privacy rights, rules and regulations to abide by and the value of an NDA.

- Non-Disclosure Agreement (NDA)

The process of ideation and app development is a crucial stage of discussion. It is useful to protect the sensitive information discussed and created between the parties. An NDA acts as that protective document and helps avoid any disclosure of information to third parties.

- Intermediary Rules

Due diligence by an intermediary finds its place in the IT rules, 2021.

Although due diligence has not been defined and may differ in different areas of law, the rules do mention the duties to be followed by an intermediary under rule 3.

- Rules and Regulations

There are no standard rules and regulations of an app as they may vary wildly. However, an app must contain a set of rules and regulations which enable safe and healthy use of same. For example, the use of a 'disclaimer' is one such protective notice given to the user which allows them to assess the consequence of using the app and offers them the choice to continue or discontinue the usage of the app.

- User Agreement

A user agreement forms a legally-binding relationship between all the parties involved. It determines the roles, responsibilities and liabilities of each party. It is referred to as the 'Terms of Use' in some apps. It acts as a legal shield from a probable dispute arising out of the usage of the app.

- Privacy Policy

The privacy policy offers transparent insight into how user data is being stored, used and transmitted and to whom. The application of these policies is not limited to private apps but extends to government apps.

These rules allow the users to determine their usage of the app and help intermediaries maintain their exception from third-party liability under the IT Act, 2000.

#### Industry-Based Regulations For Apps

Apps come under a cross-sector industry and are difficult to pin down in terms of what industry they cover, since services on apps may range from medical to financial. Here are some aspects to consider in that regard of Mobile App Legal Requirements.

- E-commerce Apps

Due to the cross-border nature of an e-commerce app, there's a need to comply with Foreign Direct Investment policy and Foreign Exchange Management Regulations. At an app-centric level, they must provide their packaging, sale, shipping, refund and return policies.

- Fintech Apps

The purpose of Fintech apps is to provide financial services to the users; therefore, they have to constantly update the compliance guidelines required by guidelines from the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI) and National Payments Corporation of India (NPCI)

- Telecom & Communication Apps

The Department of Telecommunications has increased the level of regulation for Over-The-Top (OTT) communication apps; the Telecom Regulatory Authority of India (TRAI) has begun consultation for the regulation of such apps [2]. Apps need to be mindful of updated regulations to avoid legal repercussions.

Remarks

While building an app, it's crucial to ensure that all the latest rules and regulations have been observed and incorporated. If a business fails to meet the necessary regulations, it may face unforeseen legal hurdles. Involving a legal professional in the process of building an app-based business helps them avoid such situations. India is a huge market with immense potential, with rising popularity in app-based businesses. An increase in compliance is an obvious step for the government to ensure user safety.

For example, apps in the health sector are not covered under the primary legislation which causes many gaps in the security of the data [3]. There is a need to standardize regulations according to global benchmarks to allow businesses and their apps to globalize with ease.

1. <https://42matters.com/india-app-market-statistics>
2. <https://inc42.com/buzz/telecom-industry-urges-govt-to-regulate-ott-communication-apps/>
3. <https://health.economictimes.indiatimes.com/news/industry/is-india-lacking-healthcare-data-security-guidelines/88931122>