# Unit 2: Rules and Regulations related to Cyber Cafe  2

**UNIT STRUCTURE**

1.1 Learning Objectives

1.2 Introduction

1.3 Legislative framework for Cyber Cafes in India

1.4 Guidelines pertaining to establishment of Cyber Cafes in India

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## 1.1 LEARNING OBJECTIVES

After going through this chapter, you should be able to understand:

- Cyber Crimes through Cyber Cafes

- Rules and Regulation governing Cyber Cafes

- Due Diligence pertaining to the establishment of Cyber Cafes

## 1.2 INTRODUCTION

Cyber Cafe is internet access point for public and it is been observed that public access point are the most obvious places used by cybercriminals, where visitor data can be usually hacked due to lack of awareness of Cyber-crime in Visitors as well as their identity is difficult to reveal as they are making use public internet point.[120] Many Cyber Cafes are now providing Wi-Fi services for their customers. Due to lack of awareness of cybersecurity many Cyber Cafe Visitors make mistakes such as making use of unencrypted devices or protocols, not logging out after work is

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[120] Rangaswamy, Nimmi. (2009) The non/formal business of cyber cafés: A case/study from India. J Inf., Comm, Ethics in Society

completed, simple password, same password for multiple sites, Information left on the hard drive, not clearing browser history, storing of data on public hard disk, not checking for illegal or malicious software before using public machine which results in loss to the Visitors. In 2013 report by Symantec 56 percent access their social networking account using public Wi-Fi unsecured network, 29 percent access their bank account, 54 percent access personal mail, 29 percent do online shopping, 3 out of 10 do not log off after using public Wi-Fi network and 39 percent do not take any special steps to protect themselves when using public Wi-Fi. Cyber-crimes can take place when pubic internet access points such as Cyber Cafes are used if security mechanisms are not used. Types of Cyber-crimes that have taken place through Cyber Cafe are credit card fraud by making use of key logger software, online share trading fraud, Email account hacking, phishing, Cyber terrorism, Malicious code like worms, virus etc.[121] Section 43, 66, 67, 69 and 70 of the Information Technology Act read with the relevant provision of Indian Penal Code, cover myriad of cybercrimes, which can be committed through Cyber Cafes-

- Harassment via a fake public profile on social network site;
- Online Hate community;
- Credit Card Fraud;
- Introduction of viruses, Backdoors, Trojans and Bugs;
- Cyber Terrorism;
- Online Sale of illegal Article;
- Cyber Pornography;
- Phishing and Email Scams;
- Tax Evasion and Money Laundering;
- Theft of Confidential information;
- Online Share Trading Fraud.
- Cyber Stalking

Information Technology Act 2000 is a legal framework created and implemented to prevent Cyber-crime and amendments have also taken place for it but still improvements are required.

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[121] Haseloff, M A [2005], *Cybercafés and their Potential as Community Development Tools in India,* The Journal of Community Informatics, Vol 1 no 3 pp 53-64

Today Indian cyberspace has an increase in spam and phishing activities, spread of botnets, virus, worms and malicious code are also on the rise. This has made India to be figured out as an active source in spreading malicious infection in computers, which is generally observed in developing countries.

Cyber Crime is not defined officially in the IT Act or in any other legislation. In fact, it cannot be too. Offence or crime has been dealt with elaborately listing various acts and the punishments for each, under the Indian Penal Code, 1860 and related legislation. Hence, the concept of cybercrime is just a *"combination of crime and computer".*

## 1.3 LEGISLATIVE FRAMEWORK FOR CYBER CAFES IN INDIA

An Internet cafe or Cyber Cafe is a place, which provides Internet access to the public, usually for a fee. It includes any commercial establishment or Internet kiosk, the objective of which is to make Internet services available to the general public. The fee for using a computer is usually charged as a time-based rate. Cyber Cafe is considered to be a *"Place of Public Amusement"* as defined under *section 2 (9) of the Bombay Police Act, 1951 (Act XXII of 1951).* In 1998 India introduced new Internet policy and Sify was the first ISP. Internet cafes are the primary form of Internet access for people as a shared access model, which is more affordable than personal ownership of computer system and Internet connections. LAN gaming centre was also one of the Cyber Cafe model where various players play game online. These players can be connected to various other players in some different locations.[122] These Cyber Cafes provide multiplayer games, which are popular. Gaming Cyber Cafe has a large demand in various countries by youth and children's and thus have become a popular model for earning the profit. Cybercafes have been started with the intention to provide Internet services and other services to its users. It is a definite place, where you can access the Internet for your emails, talking to your relatives through chat, voice and video. Cyber Café has become one of the businesses nowadays where you are charged in exchange for the services. The aforesaid café has several computer stations connected to LAN. There are resorts, hotels, motels and ships, which provides Internet access to the guests. Cyber cafés also give training to the person who does not know the usage of the

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[122] Mancebo, François. (2003) Cybercafe

Internet and other activities available there. Cyber Café is defined under the Information Technology Act 2000 and rules and regulations to govern the cafes are mentioned under Information Technology Rules 2011.

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**1.4 GUIDELINES PERTAINING TO ESTABLISHMENT OF CYBER CAFES IN INDIA**

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In order to regulate Cyber Cafes, several states of India government Ministry of communication and Information Technology have passed regulations some under Information Technology Act (ITA) 2000 and some under the State Police Act. Now, the Information Technology Amendment Act, 2008 has made many significant changes in the prevailing laws of cyberspace applicable in India, one of which is regarding Cyber Cafes. Information Technology (Amendment) Act, 2008 has provided a specific definition for the term *"cyber café"* and also included them under the term *"Intermediaries"*. Several aspects of the Act, therefore become applicable to Cyber Cafes. The government of India has taken initiatives by the mean of Act to provide cyber security for Cyber Cafe.[123] These are the following steps need to be followed by Cyber Cafes under *Information Technology (Guidelines for Cyber Cafe) Rules, 2011* -

**1**. *Registration of Cyber Café*

Under Rule 3 of Information Technology (Guidelines for Cyber Cafe) Rules, 2011 all cyber cafes shall be registered with a URN (Unique Registration Number) through an agency called as registration agency has been notified by the State Government in this regard. The requirements of registration shall include: Name of establishment, date of incorporation, Address with contact details including email address, Whether individual or partnership or sole proprietorship or society or company, Owner's name, Type of service to be provided from cyber café, Whether registered or not (if yes, copy of registration with Registrar of Firms or Registrar of Companies or Societies).

**2.** *Identification Of User*

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[123] 'Cyber Cafes Under ITA 2008' (Naavi.org, 2020)
<https://naavi.org/cl_editorial_09/edit_jan07_itaa_analysis_7_cyber_cafe.htm>

Under Rule 3 of Information Technology (Guidelines for Cyber Cafe) Rules, 2011 all Cyber Cafes should not allow any person to access the services of cyber café without user identity. The user is supposed to produce certain documents before having access to the services of the cyber café so that proper identification of the user is known. Such documents are as follows: Identity card issued by any School or College, Voter Identity Card or Permanent Account Number issued by Income-Tax Authority or Photo Identity Card issued by the employer or any government agency or Passport or Driving License issued by the Appropriate Government or Unique Identification (UID) Number issued by the Unique Identification Authority of India (UIDAI).

### 3. _Log Register_

In accordance with Under Rule 5 of Information Technology (Guidelines for Cyber Cafe) Rules, 2011, after the identification of the user and any person associated with him has been established as per sub-rule (1) of rule 4, the Cyber Cafe shall register and maintain the required information of each user as well as associated person in the log register for a minimum period of one year. The Cyber Cafe shall maintain an online version of the log register. This online version of log register shall be checked by using digital signature and should contain details including Name, Address, Gender, Contact Number, Date, Type and detail of identification document, Computer terminal identification, Log in Time and Log out Time.

A monthly report of log register including date-wise details and use of computer resource shall be prepared and there shall be the submission of hard copy and soft copy to the agency of registration or person as pointed out by the registration agency by the 5th of every month. History of websites accessed by the user using computer resource at cyber café. Logs of proxy server installed at a cyber cafe. Cyber Cafe may refer to "Guidelines for auditing and logging – CISG-2008-01" prepared and updated from time to time by Indian Computer Emergency Response Team. Cybercafe shall ensure that log register is not changed and it is been maintained in a secure manner for a period of at least one year.[124]

### 4. _Management and Administration Of Physical Layout And Computer Resource_

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[124] Keniston, K and D. Kumar, (2004) Ed _Bridging the Digital Divide: Experience in India_, London, Sage Publications

In accordance with Under *Rule 6 of Information Technology (Guidelines for Cyber Cafe) Rules, 2011,* Cyber Cafes shall adhere to following guidelines-

1. Partitions of Cubicles put inside the Cyber Cafe, should not surpass four and a half feet in the range from the floor level.
2. The screen of all PCs introduced other than in Partitions or Cubicles should be confronted 'outward', i.e. they should confront the regular open space of the Cyber Cafe.
3. Any Cyber Cafe having work areas or segments might not enable minors to utilize any PC asset in desk areas or allotments aside from when they are recognized by their gatekeepers or guardians.
4. All-time checks and servers introduced in the Cyber Café of the PC framework should be coordinated with the IST (Indian Standard Time).
5. All the PCs in the cyber cafe might be furnished with the monetarily accessible security or separating programming in order to maintain a strategic distance from quite far, access to the sites identifying with erotica including kid smut or disgusting data.
6. Cyber Cafe should take vital measures to guarantee that their PC asset is not used for any unlawful activity.
7. Cyber Cafe might show on the PC that review the explicit destinations on PC is prohibited and one ought to do nothing which is against the law or illicit.
8. Cyber Cafe should make essential measures to not permit the client from meddling with the PC framework settings.
9. Client personality data and log enlist ought to be kept up by cyber bistro in a secure way.
10. Record of the cyber bistro's staff might be kept up for 1 year legitimately.
11. Cybercafe might not abuse or change the data in the log register Information Technology Rules-2011

**5.** *Investigation of Cyber Cafe*

In accordance with Under Rule 7 of Information Technology (Guidelines for Cyber Cafe) Rules, 2011 an officer authorized by the registration agency, is authorized to check or inspect cyber cafe and the computer resource of the network established therein, at any time for the compliance of these rules. The cyber cafe owner shall provide every related document, registers and any necessary information to the inspecting officer on demand.

A Cyber Cafe Owner is expected to preserve and retain such information as may be specified for particular duration and in such manner and format as the Central Government may prescribe and on failure to do so he may be punished with an imprisonment for a term, which may extend to three years and shall also be liable to fine. Thus, the responsibility of Cyber Cafes has now been clearly

defined with three-year imprisonment, which is also cognizable, bailable and compoundable. There are many government stakeholder agencies formed for a secure computing environment and adequate trust and confidence in an electronic transaction.[125]

In India, many individuals go to Internet bistro to complete their everyday online exercises. Web cafes, or cybercafés, are spots that give administrations of web and different exercises and consequently clients need to pay them according to the time they have gotten to the administrations. Web cafes can be set up in genuine eating/drinking foundations, voyage ships, or different sorts of areas. Other than utilizing the PC workstation, you may likewise have the capacity to print or sweep reports, contingent upon the Internet cafe.[126] Yet, today the matter of Cyber Café has been declining in light of the fact that individuals get access to web at home, as they have the wideband association at home. Building up the cyber bistro is not a major ordeal, it has fewer prerequisites as contrast with different organizations however proprietors must be more secure on the grounds that cyber wrongdoing is been expanding in the present-day world.

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## 1.5 LET'S SUM UP

[125] Haseloff Anikar M. - "Cybercafes and their Potential as Community Development Tools in India "- The journal of community informatics - Vol-1 No-3 2005 <http://ci-journal.net/index.php/ciej/article/view/226/181>

[126] Gadge Reena K, Dr. Meshram B.B.,"Detect and Prevent Threats in Websites"-IJCST-International Journal of computer science and Techno- vol 3, Issue 1, Jan. - March 2012 ISSN : 0976-8491 (Online) | ISSN : 2229-4333 (Print)

In this chapter, we have studied the meaning of cyber café along with a legislative framework for cyber cafes in India. Finally, we have ended our discussion with the guidelines that need to be followed by the cyber cafes as per the Information Technology (Guidelines for Cyber Cafe) Rules, 2011.

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## 1.6 FURTHER READING

- Singh, Umrav. (2016). Cyber Laws in India.
- Rangaswamy, Nimmi. (2009). The non/formal business of cyber cafés: A case/study from India. J. Inf., Comm, Ethics in Society. 7. 136-145. 10.1108/14779960910955855.
- Internet Privacy in India — The Centre for Internet and Society, Cis-india.org (2019), https://cis-india.org/telecom/knowledge-repository-on-internet-access/internet-privacy-in-india (last visited Nov 20, 2019).
- Citeseerx.ist.psu.edu (2019),

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## 1.7 CHECK YOUR PROGRESS: POSSIBLE ANSWERS

### 1. What is Cyber café?

Cyber Cafe is an internet access point for public and it is been observed that public access point are the most obvious places used by cybercriminals, where visitor data can be usually hacked due to lack of awareness of Cyber-crime in Visitors as well as their identity is difficult to reveal as they are making use public internet point.

### 2. Short note on legislative framework of cyber café in India?

An Internet cafe or Cyber Cafe is a place, which provides Internet access to the public, usually for a fee. It includes any commercial establishment or Internet kiosk, the objective of which is to make Internet services available to the general public.The fee for using a computer is usually charged as a time-based rate. Cyber Cafe is considered to be a *"Place of Public Amusement" as defined under section 2 (9) of the Bombay Police Act, 1951* (Act XXII of 1951). In 1998 India introduced new Internet policy and Sify was the first ISP. Internet cafes are the primary form of

Internet access for people as a shared access model, which is more affordable than personal ownership of computer system and Internet connections.

### 3. How do you register a cyber café?

Under Rule 3 of Information Technology (Guidelines for Cyber Cafe) Rules, 2011 all cyber cafes shall be registered with a URN (Unique Registration Number) through an agency called as registration agency has been notified by the state Government in this regard. The requirements of registration shall include: Name of establishment, date of incorporation, Address with contact details including email address, Whether individual or partnership or sole proprietorship or society or company, Owner's name, Type of service to be provided from cyber café, Whether registered or not (if yes, copy of registration with Registrar of Firms or Registrar of Companies or Societies).

### 4. Short note on investigation of cyber café?

In accordance with Under Rule 7 of Information Technology (Guidelines for Cyber Cafe) Rules, 2011 an officer authorized by the registration agency, is authorized to check or inspect cyber cafe and the computer resource of network established therein, at any time for the compliance of these rules. The cyber cafe owner shall provide every related document, registers and any necessary information to the inspecting officer on demand.

A Cyber Cafe Owner is expected to preserve and retain such information as may be specified for particular duration and in such manner and format as the Central government may prescribe and on failure to do so he may be punished with an imprisonment for a term, which may extend to three years and shall also be liable to fine. Thus, the responsibility of Cyber Cafes has now been clearly

defined with a three-year imprisonment, which is also cognizable, bail able and compoundable.

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**1.8 ACTIVITY**

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Explain the guidelines pertaining to establishment of cyber café in India along with a case study. (1000 words)