

Information Technology (Amendment) Act 2008

Section 79 - (f) Notwithstanding anything contained in any law for the time being in force Enmploa

but subject to the provisions of sub-sections (2) and (1), an intermediary from I.illbiluy of Illunnc.lhary ill shall not be liable for any third party information, data, or communication link made =w> "" a\3i1able or hosted by him. (2) The provisions of sutJ.secrion (/) shall apply if- (a) the function of the intermediary iJ limited to providing access to a communication system over which infonnahon made available by third panies is tmlSmiued or temporarily stored or hosted; or 16 THE GAZETTE OF INDIA EXTRAORDINARY (P"",U- (b) the intermediary does not- (/) initiate the transmission, (it) select the receiver oflht ImWn.ission. and (iii) select or modify the information contained in the transmission; (c) the intennediary observes due diligence while discharging his duties under this Act and also observes st!ch other guidelines as the Central Governmrnt may prescribe in this behalf. (3) The provisions of sub-section (J) shallI not appty if- (a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in tbecommission of the unlawful act; (b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information. data or communication link residing in or connected to a computer resouru controlled by the intermediary is being used 10 commit the unlawful act, the intermediary rails 10 expeditiously remove: or disable acces510 that material on that resource without vitiating the evidence in any manner. uplanD/jon.-For the purposes of this section, the expression "thud party information" means any information dealt with by an intermediary in his capacity8S an intermediary. CHAPTER XJIA ., ExAMiNER OJ' BJiCTIWSIC EVIDENCECent.. 1