Blocking Online Content

What is the issue?

The website of VideoLAN Client (VLC) has been banned in India.

What is VLC?

- VLC is a free and open-source, portable, cross-platform media player software and streaming media server developed by the VideoLAN project.
- VLC easily integrates with other platforms and streaming services and supports all file formats without requiring additional codecs.
- It gained popularity in India in the late 90s when advancements in information technology led to the penetration of personal computers in Indian homes.
- The website has been blocked as per order of the Ministry of Electronics and Information technology (MeitY) under IT Act, 2000.

Why was VLC banned?

- Civil society organisations have filed RTI applications with the MeitY but it was stated that no information is available with the Ministry.
- Lack of authoritative information from the government has led to speculation that VLC was banned along with the 54 Chinese applications in February this year.
- Although VLC is not a Chinese app, reports from cybersecurity firms suggest that Cicada, a hacker group allegedly backed by China, has been using VLC to deploy a malicious malware loader.
- It is being suggested that this was part of a longer cyberattack campaign that started in mid-2021 and was still active in February 2022.
- While the VLC website has been banned, the VLC app continues to be in Google and Apple stores because the app stores' servers are considered safer than servers where the desktop versions are hosted.

In which situations can online content be blocked?

- **Executive route**- Section 69A of the Information Technology Act, 2000 allows the government to direct an intermediary to block online content for access by the public.
- Reasons
    - In the interest of sovereignty and integrity of India
    - Defence of India
    - Security of the state
    - Friendly relations with foreign states
    - Public order
    - Preventing incitement to commission of any cognisable offence
- Section 69A draws its power from Article 19(2) of the Constitution which allows the

government to place reasonable restrictions on the fundamental right to freedom of speech and expression.

- **Judicial route**- Courts in India, also have the power to direct intermediaries to make content unavailable in India to provide effective remedy to the victim/plaintiff.
- For example, courts may order internet service providers to block websites which provide access to pirated content and violate the plaintiff's copyright.

What is the procedure for blocking access to content online?

- **IT Rules 2009**- The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 have been formulated under Section 69A of the IT Act.
- **Power of the government**- Only the Central government can exercise this power of directing intermediaries to block access to online content directly, and not the State governments.
- **Nodal officer**- Central or State agencies will appoint a nodal officer who will forward the blocking order to the designated officer of the Central government.
- **Designated officer**- The designated officer, as part of a committee, examines the request of the nodal officer.
- **Committee**- The committee comprises representatives from the Ministries of Law and Justice, Information and Broadcasting, Home Affairs, and the Cert-In.
- **Opportunity of hearing**- The creator/host of the content in question is given a notice to submit clarifications and replies.
- **Recommendation of the committee-** The committee then makes a recommendation on whether the request of the nodal officer should be accepted or not.
- **Removal of content**- If this recommendation is approved by the MeitY, the designated officer can direct the intermediary to remove content.

How can this process be improved?

- **Transparency-** Rule 16 of the IT Rules, 2009 provides that strict confidentiality is to be maintained with respect to any requests or actions under the IT Rules, 2009.
- This should be revisited and an element of transparency should be introduced, something that has been done in the recent order in the ***Tanul Thakur case***.
- **Opportunity of hearing**- Even though the IT Rules provide for an opportunity of hearing to the creator/host of content, it seems that this opportunity may not be afforded to affected parties in all cases.
- The lack of an opportunity to submit clarifications violates the principles of natural justice.
- It can also lead to erroneous decision making by the committee, which may not be in possession of the full facts.
- **Review mechanism-** A recent RTI has disclosed that the Review Committee, which is required to meet every two months to review orders of the committee, has not disagreed with a single decision of the committee.
- This raises doubts on the effectiveness of the review mechanism which has been provided as a safeguard against excesses of the committee.
- **Over-complying with the directions**- Given that non-compliance with directions

under the IT Rules can lead to loss of immunity from liability for content being hosted, it has been argued that intermediaries over-comply with these directions, which can have chilling effects on free speech.
- The Supreme Court in *Shreya Singhal* has upheld the procedure enshrined in IT Rules, 2009 on the basis that it provides for adequate application of mind and transparency.

Reference

1. https://www.thehindu.com/sci-tech/technology/the-recent-blocking-of-the-vlc-media-player/article65784072.ece?homepage=true

