# INTERMEDIARY LIABILITY AND SAFE HARBOR LAWS: BALANCING TECH PLATFORM RESPONSIBILITIES AND USER RIGHTS - IN LIGHT OF ZEE ENTERTAINMENT ENTERPRISES LTD. V. NYKAA AND THE EXPANDING ROLE OF META AS A PLATFORM INTERMEDIARY

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## I. INTRODUCTION

The rise of social media platforms as a commercial space for branding and marketing has fundamentally evolved the scope of intellectual property laws and licensing rights. The Content and music, which at one time were preserved by Broadcasters and Traditional licensors with labels, are now circulated and accessed regularly in algorithmic corridors of Platforms like Instagram, Facebook, and TikTok. The trending dispute between Zee Entertainment Enterprises Ltd. ("Zee") and Nykaa Fashion Private Ltd. ("Nykaa") before the Delhi High Court triggers an issue that has been silently passing under the radar for years: when a commercial entity uses the copyrighted music made available through an intermediary platform's native interface, who bears the responsibility for the resulting infringement? And, importantly, what is the legal position and liability of that platform, which is Meta Inc. In this case, that is silently facilitating such use.

A suit was filed by Zee in April 2026 at the Delhi High Court against Nykaa, a publicly listed fashion, beauty and lifestyle retailer, contesting that Nykaa has used multiple Zee's copyrighted songs in Instagram Reels for promotional purposes without securing any required commercial license from Zee[1]. Wherein the Zee's Agreement with Meta permits only non-commercial, personal use of its Music catalogue on the platform[2]. Further Nykaa on its part implead Meta

[1] Zee Entertainment Enterprises Ltd. v. Nykaa Fashion Private Ltd., CS(COMM) (Delhi High Court, filed April 3, 2026) (lawsuit documents reviewed by Reuters). See also Aditya Kalra & Munsif Vengattil, Zee Sues Nykaa Over Alleged Use of Copyright Songs on Instagram Reels, Business Standard (May 5, 2026), https://www.business-standard.com/companies/news/zee-sues-nykaa-over-alleged-use-of-copyright-songs-on-instagram-reels-126050500879_1.html.

[2] Id. Zee argued that its licensing agreement with Meta permits individuals to use its music in Instagram posts for non-commercial use only.

as a necessary party, arguing that only Meta can authoritatively clarify whether Nykaa's usage of Zee's Songs breached its applicable license terms[3]. Intrestingly none of the two parties has yet directly accused Meta of wrongdoing or any breach, but the Meta algorithmic music library remains the centre of the entire controversy[4].

This article critically examines the tripartite dispute through the lens of the intermediary liability under the Information Technology Act, 2000 ("IT Act") and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("IT Rules 2021"). It contends that Meta's plays the role of an active facilitator, designing and deploying music discovery tools that conceal the commercial use restriction and therefore fundamentally challenge its entitlement to "safe harbor" protection under section 79 of the IT Act. Analysing similar instances and cases from India and abroad, the article analyses whether the platform that curates, recommends and algorithmically surfaces copyrighted content can continue to shield behind the passive safe harbor protection.

## II. THE ZEE–NYKAA–META TRIANGLE: ANATOMY OF A TRIPARTITE DISPUTE

To understand the legal significance of this dispute, it's important to comprehend how infringing use arose. Instagram has its own in-app music picker, a feature developed, maintained and algorithmically curated by Meta, which allows its users to search, preview and apply the licensed songs to their Reels and stories. The Music library functions on Meta's licensing agreements with Major rights holders and Music labels, including Zee Entertainment. However, these agreements explicitly restrict the scope of licensed use to personal and creator accounts only; they can access the library for free, whereas business accounts that are commercial entities, like Nykaa, are denied free access and are directed to a far smaller sound collection library of royalty-free tracks[5].

The use and observation clearly show that Meta's user interface has a critical flaw or a

[3] Nykaa's Application to Implead Meta, CS(COMM) (Delhi High Court, filed May 19, 2026). See Munsif Vengattil, India's Nykaa Seeks to Include Meta in Music Copyright Fight with Zee, Reuters (May 20, 2026), https://finance.yahoo.com/markets/stocks/articles/indias-nykaa-seeks-meta-music-123316522.html.

[4] Nykaa Moves Delhi High Court to Include Meta in Zee Music Copyright Battle over Instagram Reels, Storyboard18 (May 2026), https://www.storyboard18.com/brand-marketing/nykaa-moves-delhi-high-court-to-include-meta-in-zee-music-copyright-battle-over-instagram-reels-98799.htm.

[5] Universal Music for Creators, Cross-Platform Music Licensing in 2025 (May 19, 2025), https://www.universalmusicforcreators.com/news/cross-platform-music-licensing (business accounts restricted to Meta Sound Collection of approximately 14,000 tracks).

deliberately built-in mechanism that does not, at any point, alert or stop the business accounts from using that track for commercial use. So, for instance the marketing or content creation team at Nykaa using Instagram's native music picker for creating a promotional Reel, would not encounter any visible restriction or warning notification[6]. So in process, the Song will remain available, and the algorithm presents viral songs that brands use for larger outreach. The result as Zee's lawsuits illustrates is ₹2 crore ($210,000) copyright claim against the brand that completely relied on the platform algorithm[7].

Nykaa's application to include Meta is very clear. The company's position that MEta can clarify whether its use breached the license, which now essentially shifts the inquiry from the question of "whether Nykaa used the song" (undisputed) to "what did Meta's license permit, and is Meta's Platform algorithm designed to facilitate an unlicensed use". Now this restructuring invites judicial scrutiny of Meta's intermediary status and its liability for due diligence. The Delhi High Court has not yet addressed a very similar issue in the context of the commercial use of licensed music (non-commercial use only) on social media platforms.

## III. META'S PLATFORM ARCHITECTURE: PASSIVE CONDUIT OR ACTIVE FACILITATOR?

The key element of safe harbor protection under Section 79 of the IT Act is the requirement that an intermediary role be passive and technical. Section 79(2) lays down the essential condition for immunity of an intermediary, which is that the intermediary should not be initiating a transmission, selecting the receiver, or selecting or modifying the content[8]. The moment an intermediary step beyond these bounds by curating, recommending, or editorially intervening in the content, the safe harbor begins to erode.

When we closely look into the fact that how Meta operates and functions, Meta's music library infrastructure is not passive. It further involves (i) negotiating the tailor-made licensing agreements with rights holders that explicitly contain the user distinctions. (ii) developing and maintaining an algorithmic music recommendation engine implanted in the content creation interface; (iii) positioning audio-fingerprinting technology that can flag and detect copyrighted

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6 SRIPLAW, Instagram Business Accounts and Copyright: The Licensing Gap Nobody Talks About (Nov. 22, 2025), https://sriplaw.com/blog/instagram-business-accounts-and-copyright.

7 Kalra & Vengattil, supra note 1 (Zee seeking ₹2 crore (approximately $210,000) in damages).

8 Information Technology Act, 2000, § 79(2), No. 21 of 2000 (India), as amended by Information Technology (Amendment) Act, 2008, No. 10 of 2009.

audio at the point of upload; and (iv) deliberately allowing business accounts to access and attach restricted tracks as per license agreement without real-time restriction. This entire Mechanism shows that Meta's system actively surfaces music to users; it does not merely host it.[9]

Meta's system actively surfaces music to users; it does not merely host it. By actively facilitating through choosing which content stays up and is available for selection, the platform is in the same practice that costs other companies their legal immunity[10].

Additionally, this licensed music engages many users, helping Meta produce good revenue from increased engagement via this music on the platform. Meta's Modus operandi is a reactive measure; it lets users perform the act that breaks the copyright laws and reacts only after receipt of complaints from right holders. Until the time Meta reacts, the infringed music is spread all over the platform. Generating revenue for Meta with the views gained using unlicensed music, while if things go wrong, Meta can simply raise its safe harbor protection, claiming that it's just a passive intermediary and has no active role in the infringement. But in reality its not a passive hosting but just an exploitation

## IV. A PATTERN OF PLATFORM CULPABILITY: ANALOGOUS VIOLATIONS

The present Zee vs Nykaa is not an isolated instance. It forms a part of a wider, well-structured pattern of social media plaforms Inviting copyright infringement through their music integration service and eventually activating the intermediary safeguard when the consequences are to be faced.

In the United States, Eight Mile Style, the publishing company managing Selected Tracks by Eminem, filed a suit against Meta in federal court in Michigan, contesting that Meta stored, replicated and circulated its copyrighted music without holding any valid license[11]. The Petitioner publishing company was seeking at least $109 Million in damages, stating that Meta's licensing framework was not adequate to cover the required scope of infringement across Facebook and Instagram. Meta's most likely defence is that it maintains a licensing

[9] SRIPLAW, Facebook Reels and Rights: The Copyright Crisis in Meta's Empire (Nov. 22, 2025), https://sriplaw.com/blog/facebook-reels-and-rights-the-copyright-crisis-in-metas-empire.
[10] Id.
[11] Eight Mile Style, LLC v. Meta Platforms, Inc. (E.D. Mich. filed 2024). See Queenie Wong, Meta Sued by Eminem's Publishing Company Over Alleged Copyright Infringement, L.A. Times (2024), https://www.aol.com/news/meta-sued-eminems-publishing-company-185053812.html.

obligation with thousands of Global partners is likely to advance before the Delhi High Court.

In a similar litigation of Bang Energy, in the context of video platforms in the United States, it is instructive. Here, Universal Music Group sued Bang Energy, a beverage brand that was using its copyrighted music in over 140 TikTok promotional videos[12]. The court held that the license possessed by TikTok doesn't cover commercial use by Brands for their promotional activities. Further, the court clarified the accessibility of music on platforms, ruling that the brand’s reliance on the platform’s apparent accessibility of the music tracks won't constitute a defence. Further, this similar Ruling will be applicable to Nykaa’s present situation, which relied on the accessibility of music on the platform without relying on Meta’s Music Guidelines.

Within Indian Jurisdiction, Litigation involving Jiostar and Zee, wherein Zee filed a suit alleging that Jiostar has unauthoritatively used its music catalogue at least fifty times after the licensing agreement had lapsed back in 2024-2025[13]. While Jiostar is a licensee, not an intermediary, the case demonstrates that commercial entities routinely fail to honour the boundaries of licensing agreements, and that rights holders such as Zee are actively willing to litigate such disputes.

This cross-platform licensing gap is very serious in the Meta ecosystem. Because Meta’s licensing deals with many companies are for a specified platform or specified territory. For example, a track licensed for Instagram may not be licensed for Facebook. So, when a User cross-posts any content using Meta’s own tools, the audio may disappear or generate a rights claim on another platform, even though both platforms have the same parent company as Meta. Now this blind patchwork of rights is a product of Meta’s internal architecture. The understanding of this critical licensing structure is ignored by general users as well as commercial brands[14].

## V. THE IT ACT FRAMEWORK: SAFE HARBOR AND ITS CONDITIONS

Section 79(1) of the Information Technology Act, 2000 grants intermediaries blanket immunity

[12] Universal Music Grp. Recording, Inc. v. Vital Pharms., Inc. (Bang Energy), No. 20-cv-61240 (S.D. Fla. 2022). See also SRIPLAW, Beyond the Platform Library: Why Your Brand’s Social Media Music Use Might Be Illegal (Nov. 23, 2025), https://sriplaw.com/blog/beyond-the-platform-library-why-your-brands-social-media-music-use-might-be-illegal.

[13] Zee Entertainment Enterprises Ltd. v. Jio Star (Reliance-Disney JV) (Delhi High Court, filed April 14, 2026). See Kalra & Vengattil, supra note 1.

[14] SRIPLAW, Facebook Reels and Rights, supra note 9.

from third-party liability, provided they satisfy the conditions in sub-sections (2) and (3). In summary, these require that: (a) the intermediary's function is limited to providing access, without initiating, selecting, or modifying the content; (b) the intermediary observes due diligence as prescribed; and (c) upon receiving "actual knowledge" of unlawful content, the intermediary acts expeditiously to remove or disable access to it.[15]

The Supreme Court's landmark decision in Shreya Singhal v. Union of India[16] clarified that "actual knowledge" for Section 79(3)(b) means knowledge derived from a court order or government directive, more than just a personal grievance. This substantially confined the notice-and-takedown mechanism and Sheltered platforms from liability arising out of private grievances. But the scope of liability remains unsheltered in cases where the platform has actual, institutional knowledge of the violative nature of content, or the possibility of an infringement. Which exactly what Meta does throguh its audio – fingerprinting and licensing

However, the Court's holding did not extinguish liability in cases where the platform has actual, institutional knowledge of the infringing nature of the content — as Meta demonstrably does through its audio-fingerprinting and licensing management systems.

When we examine the language of section 79 (2) (c), read with Rule 3 of the IT Rules 2021, it puts a liability for "due diligence" on intermediaries in their operations. Further, the IT Rules 2021 impose obligations on "Significant Social Media Intermediaries" (SSMIs), such platforms having more than fifty lakh registered Indian users are classified as Significant Social Media Intermediaries, a threshold that Meta exceeds by miles[17]. These Obligations involves appointing a Chief Compliance Officer, and a Nodal Contact Person; further with the responsibility of publishing a monthly compliance report and providing a mechanism for expeditious content takedown[18]. If the intermediary fails to comply with these conditions, that will result in the forfeiture of safe harbour protection.

The important question on due diligence that Meta will face is whether its platform design,

[15] Information Technology Act, 2000, § 79(1)–(3), No. 21 of 2000 (India), as amended. See also Anand & Anand, Intermediary Liabilities and Safe Harbour: An Umbrella for the Rain (Jan. 13, 2026), https://www.anandandanand.com/news-insights/intermediary-liabilities-and-safe-harbour-an-umbrella-for-the-rain.

[16] Shreya Singhal v. Union of India, (2015) 5 SCC 1 (India).

[17] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Rule 2(1)(v) (India) (defining "Significant Social Media Intermediary" as one with more than 50 lakh registered Indian users).

[18] Id., Rules 4 & 7; see also KS&DK Law, Safe Harbour Principle and the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, https://ksandk.com/media-and-entertainment/safe-harbour-principle.

especially the failure to restrict the business accounts from using the music tracks that are outside their license scope, constitutes a breach of the imposed due-diligence standard. Meta has the technical capability to curb access, yet it deliberately refrains from deploying those capabilities at the point of music selection.

## VI. CRITICAL ANALYSIS: SHOULD META LOSE ITS SAFE HARBOR?

The question of whether intermediaries like Meta, having a large number of users and commercial brands registered with them, should such intermediaries lose their safe harbour protection. Especially in such instances wherein they actively contribute and facilitate copyright violations. Several serious Arguments could be raised against Meta in this battle; the Delhi high court needs to weigh them, seeing a long-term impact.

The lifting of safe harbor protection is based on three critical factors. First, Meta's music library is a revenue generating source; it's not a neutral infrastructure; the library acts as an algorithmically structured product that is used by Meta to engage and sustain users. At present when Meta secures a license with any Music labels, e.g. Zee, Sony, Saregama, the license standard terms confine the commercial use of its track, but still Meta algorithmically deploys a music picker that doesn't implements the restriction against business accounts and permits them to use the restricted track for their advertising content. Further, it arguably "modifies" the effective terms of third-party access in such a manner that transcends the passive-conduit carve-out under section 79(2)(b)[19].

Second, Meta has actual institutional knowledge of the licensing distinction between personal and commercial use. Its audio-fingerprinting systems can identify copyrighted content in real time; its account-management systems classify users as personal, creator, or business. The conflux of these capabilities means that Meta is not an unknowing conduit; it is an aware gatekeeper that has chosen not to enforce the licensing obligations which it has negotiated.

Meta's interface is a critical factor; the use of dark patterns to engage users is an established practice by platforms in the Indian digital economy. In the Meta user algorithm, it significantly allows users of both business and non-business accounts to select the song that is restricted for business accounts. The user doesn't get any disclaimer or warning for the restricted music use;

[19] Information Technology Act, 2000, § 79(2)(b)(iii) (intermediary must not "select or modify the information contained in the transmission").

this clears the point that Meta Music Picker doesn't distinguish between different categories of accounts when it comes to music selection. This leads to the creation of a false impression of legitimacy in the minds of business account users, which results in infringement and copyright violation without knowledge. This allows Meta to generate revenue with such an algorithm-driven unlicensed music system while hiding behind the safe harbor protection. Arguably, Meta already has the capable system to detect and take down copyrighted audio; here, the dispute is much more about whether the company should be bound to compel the business accounts immediately upon selection rather than reacting after the infringement triggers.

In the Shreya Singhal case, the Supreme Court ruled that making platforms pre-screen and remove content based on private complaints would lead to a chilling effect on free speech. Therefore, one could validly contest that it is inequitably burdensome to ask Meta to monitor its own library to avoid misuse and violation. One perspective could contend that Meta is already capable of detecting and taking down copyrighted audio for which a license is not granted. This asserts the conclusion that the dispute Herein was never about the technical capabilities of the platform, but more about whether the platforms should be compelled to act at that point.

The implementation of the IT Rules 2021 and subsequent amendments have compelled the platforms to have a proactive approach[20]. The legislature is slowly trying to take a shift from passive hosting to active diligence of online platforms. With this move, safe harbor protection won't continue to be an automatic shield, but rather it will be a qualified privilege that can be enacted only when the platform shows full compliance with required standards[21].

## VII. BALANCING USER RIGHTS WITH PLATFORM ACCOUNTABILITY

Reconsideration of safe harbor protection should align with user rights and meet reasonable expectations. A brand like Nykaa is an established market player and a listed entity that relies on the platform's own interface to select music for its promotional content. The legal vulnerability they are facing arose from Meta's system design, not from deliberate misconduct by the brand. A legal setting that punishes only the end user while completely absolving the

[20] KS&DK Law, Safe Harbor Under Section 79 IT Act: Why Legal Immunity for Platforms Is Crumbling (July 15, 2025), https://ksandk.com/corporate/safe-harbor-intermediary-immunity-indian-law.

[21] Outlook Business, AI Labelling, Quicker Takedowns: Decoding India's New Social Media Rules (Feb. 11, 2026), https://www.outlookbusiness.com/explainers/ai-labelling-quicker-takedowns-decoding-indias-new-social-media-rules.

platform that knowingly created an environment that is likely to lead a user towards infringement. Such a setting is neither fair nor helpful to a healthy digital economy.

A practical compromise would make safe-harbour conditional on Meta adding interface controls that stop business accounts from choosing tracks outside their licensed permissions. This is achievable in practice. Meta already distinguishes account types and stores licensing metadata and would safeguard rights holders and commercial users without resorting to intrusive, real-time moderation that risks chilling free expression.

Shifting liability on Meta and forcing it to add an interface that stops business accounts from selecting tracks outside its licensing obligations will effectively make safe harbor conditional. This idea is achievable in practice. Further, in such cases, courts might adopt a doctrine of contributory infringement, based on U.S secondary-liability principles such as the Sony-Betamax line. Under such an approach, platforms could be held liable when they possess actual knowledge pf licensing limitations and have the technical capacity to address it but deliberately fails to do so.

## VIII. CONCLUSION

In a decade of technological innovations and advancements, the Zee vs Nykaa dispute and the Delhi High Court's ruling will set a precedent for the platforms acting as intermediaries. The Court will closely monitor and analyse whether this safe harbor model, which was enacted to safeguard passive intermediaries from third parties, is being misused for commercial gain and market influence.

With all the given reasons in this Article alongside the technological capabilities of Platforms like Meta, it cannot be considered as a mere passive conduit. It shows active participation through its algorithm and licensing framework. When the present conduct of Meta is matched alongside section 79 of the IT Act, and IT Rules 2021 Meta's claim for safe harbor is hanging by a thread.

Delhi High Courts, while primarily dealing with copyright infringement case between two main parties, would also have to decide the extent of immunity possessed by intermediaries in such cases. When the intermediary platforms knowingly facilitate the infringement through their algorithms without any warning to the users.

The harbour was built for ships that merely passed through. Platforms that actively steer vessels into contested waters should not expect to remain sheltered within it.