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# **REGULATORY CHALLENGES IN DIGITAL INSURANCE: THE CHILLING EFFECT OF SOCIAL MEDIA RULES ON DIGITAL INSURANCE COMPANIE'S DISCLOSURE AND MARKET PARTICIPATION:**

AUTHORED BY - KUMARESH .S

## **ABSTRACT**

Insurance provides financial compensation after an unexpected accident or event, benefiting both natural and artificial persons during financial crises. Over time, the concept of insurance has evolved, leading to the emergence of digital insurance companies that use online platforms to advertise their products and attract customers. However, strict social media regulations limit these companies from fully disclosing insurance product details, resulting in a lack of transparency between insurers and customers. This ultimately affects consumer awareness and decision-making. The aim of this research is to examine how social media regulations impact digital insurance companies in providing complete product information. The study will adopt a qualitative or doctrinal research approach to assess these effects.

## **INTRODUCTION:**

Insurance provides financial protection by compensating individuals and businesses for unexpected losses. Over time, the insurance industry has evolved with the adoption of digital platforms, making the process more efficient and accessible. Digital insurance uses advanced technologies like artificial intelligence, big data, and block chain to simplify policy issuance, claims processing, and customer interactions. With the rise of internet usage, many insurers have turned to social media and online platforms to promote their products and engage with customers. In India, digital insurance has gained momentum due to increasing internet penetration and changing consumer preferences. Insurers use social media to share product details, offer customer support, and create awareness about insurance benefits. However, strict social media regulations have introduced challenges for these companies. Rules aimed at preventing misinformation and ensuring consumer protection may discourage insurers from providing complete policy details online. As a result, transparency between insurers and customers is affected, making it harder for consumers to make informed decisions. One of the major concerns is that insurers, fearing regulatory action, may limit their online communication

about policy terms, claim processes, and coverage details. This lack of transparency can lead to confusion among consumers, reducing trust in digital insurance services. Additionally, new and smaller digital insurers may face difficulties in reaching customers due to compliance restrictions, giving established companies a competitive advantage. This study explores how social media regulations impact digital insurance companies in India, particularly in terms of transparency and market participation. It aims to understand whether these rules create a chilling effect, discouraging insurers from openly sharing important information. The research will use qualitative or doctrinal methods to analyze these challenges and highlight the need for a balanced regulatory approach that protects consumers while allowing insurers to communicate effectively.

## **REVIEW OF DIGITAL INSURANCE IN INDIA:**

### ***DEFINITION OF DIGITAL INSURANCE***

Digital insurance refers to the use of technology to simplify and improve the entire insurance process, including policy issuance, underwriting, claims management, and customer service. It involves online platforms, mobile applications, and Insur Tech companies that make insurance more accessible, efficient, and personalized. Technologies such as artificial intelligence (AI), big data, block chain, and cloud computing play a key role in digital insurance.

According to the Insurance Regulatory and Development Authority of India (IRDAI), digital insurance includes all insurance-related services conducted through digital channels like websites, mobile apps, and digital intermediaries.

### ***SCOPE OF DIGITAL INSURANCE***

The scope of digital insurance in India is vast and evolving. It includes online policy issuance and distribution, where customers can compare, buy, and manage insurance policies without physical paperwork. Companies like Policy Bazaar and Digit Insurance provide such digital-first solutions. Automated underwriting and risk assessment are also improving, as AI and machine learning analyze customer data to offer personalized pricing and faster approval, as seen in companies like Acko.

Claims processing has become quicker and more efficient with AI-driven claim verification, reducing fraud risks. For example, Bajaj Allianz provides a Smart Claims service powered by AI. Digital insurance also supports new models such as pay-as-you-drive car insurance and

short-term health or travel policies, like those offered by Go Digit. Emerging technologies further enhance digital insurance. Block chain ensures secure and transparent transactions, while the Internet of Things (IOT) enables real-time monitoring, such as health tracking for life insurance. Regulatory measures play an important role in digital insurance. IRDAI's Regulatory Sandbox, introduced in 2019, allows controlled experimentation with new digital insurance solutions<sup>1</sup>. Additionally, the Information Technology Act, 2000, and the Intermediary Guidelines, 2021, regulate digital interactions to ensure security and compliance. These advancements and regulations together are making digital insurance more accessible and efficient in India. IRDAI has mandated that all insurance policies be issued digitally, ensuring a paperless and secure process. If you buy insurance, your policy will be stored in an e-Insurance Account (e-Insurance Account), similar to a demat account for shares. Four approved insurance repositories—CAMS, Karvy, NSDL, and the Central Insurance Repository of India—will manage these accounts. Policyholders can store and manage all their life, health, and general insurance policies in a single e-Insurance Account. Unlike multiple demat accounts for shares, a person can have only one e-Insurance Account. This initiative aims to enhance accessibility, security, and convenience for policyholders and insurers.

## **ROLE OF THE INSURANCE REGULATORY AND DEVELOPMENT**

### **AUTHORITY OF INDIA (IRDAI) IN DIGITAL INSURANCE:**

The Insurance Regulatory and Development Authority of India plays an important role in promoting and regulating digital insurance in India. Its main goal is to make insurance more transparent, secure, and accessible while ensuring policyholders are protected. To support digital transformation, it creates rules and guidelines that help insurance companies adopt new technologies. One of its key steps was introducing the regulatory sandbox in 2019, which allows insurers to test and launch innovative digital insurance products in a controlled setting. To further promote digitalization, it has made it mandatory for all insurance companies to issue policies in digital form from April 1, 2024. This ensures a paperless and secure way of handling insurance policies. Policyholders now need to store their policies in e-insurance accounts, which work like demat accounts for shares, allowing easy management of multiple insurance policies in one place. The regulatory body also encourages innovation in the insurance sector by supporting insur tech companies that use technologies like artificial intelligence, big data,

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<sup>1</sup> Document Detail - IRDAI, IRDAI (2019), <https://irdai.gov.in/document-detail?documentId=390684> (last visited Mar 16, 2025).

and block chain. These technologies help in faster policy approvals, automated claim processing, and fraud detection, making insurance more efficient and reliable. At the same time, it focuses on consumer protection by ensuring that digital insurance services are safe and that customers receive clear and transparent information about their policies. Insurance companies are required to provide all details on digital platforms to help customers make informed decisions. Additionally, it regulates digital insurance intermediaries, such as online insurance marketplaces and web aggregators, to ensure fair practices and prevent misleading sales tactics. It sets guidelines to monitor their operations and protect policyholders from fraudulent activities. Through these efforts, the Insurance Regulatory and Development Authority of India is shaping the future of digital insurance in India by encouraging innovation while maintaining strong regulations to protect consumers.

### **EVOLUTION OF INSURANCE'S CORPORATION IN INDIA:**

The history of insurance law in India has evolved over time. The first insurance company in India, the Oriental Life Insurance Company, was established in 1818 in Calcutta. Later, other companies such as Bombay Mutual (1871), Oriental (1874), and Empire of India (1897) emerged. In 1870, the British Insurance Act was introduced to regulate insurance activities. The first Indian law governing insurance was the Indian Life Assurance Companies Act of 1912, followed by the Indian Insurance Companies Act of 1928, which allowed the government to collect data on insurance businesses. A major development occurred in 1938 with the enactment of the Insurance Act, which introduced regulations for licensing, investments, and the protection of policy holders. In 1956, the Indian government nationalized the life insurance sector, merging 245 Indian and foreign insurers into the Life Insurance Corporation of India (LIC). Similarly, in 1972, general insurance companies were nationalized, leading to the creation of the General Insurance Corporation (GIC) along with its four subsidiaries: National Insurance Company Ltd., New India Assurance Company Ltd., Oriental Insurance Company Ltd., and United India Insurance Company Ltd. In 1999, the Indian government liberalized the insurance sector, allowing private companies to enter and establishing the Insurance Regulatory and Development Authority (IRDA) to oversee a industry. In 2000, foreign direct investment (FDI) in the insurance sector was permitted, initially capped at 26%, and later increased to 74% in 2021. These reforms brought more competition and improved services for

consumers. A significant milestone in the industry was the Initial Public Offering (IPO) of LIC in 2022, making it one of the largest IPOs globally <sup>2</sup>

## **CONSTITUTIONAL PROVISIONS FOR INSURANCE**

### **LAWS IN INDIA:**

The Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999 (IRDA Act) are based on various provisions of the Indian Constitution, mainly under the Union List of the Seventh Schedule. These laws provide the central government with the authority to regulate the insurance sector across the country, ensuring that it functions in a structured and fair manner.

The Insurance Act, 1938 is one of the earliest laws governing insurance in India. Its constitutional validity comes from Entry 47 of the Union List, which states that only the central government has the power to make laws related to insurance.<sup>3</sup> Entry 48 of the Union List, which deals with stock exchanges and financial markets, is also relevant since insurance involves financial transactions. Additionally, Article 246(1) of the Constitution gives Parliament exclusive power to make laws on subjects listed in the Union List, including insurance. This provision ensures that the insurance sector is managed at the national level rather than by individual states.

The IRDA Act, 1999, which established the Insurance Regulatory and Development Authority of India (IRDAI), is also supported by constitutional provisions. Similar to the Insurance Act, it derives its authority from Entry 47 of the Union List. Additionally, Article 73 extends the executive power of the Union to matters listed in the Union List, including insurance regulation<sup>4</sup>. Article 252 enables Parliament to create laws for multiple states if they request it, providing a legal framework for regulatory authorities like IRDAI. Furthermore, Article 19(1)(g) ensures that every citizen has the right to engage in any profession or business, including insurance, though the government can impose reasonable restrictions. Article 300A

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<sup>2</sup> INTERNATIONAL JOURNAL OF LAW WWW.LAWJOURNALS.ORG HISTORY OF INSURANCE AND DEVELOPMENT OF INSURANCE IN INDIA, (2024), <https://www.lawjournals.org/assets/archives/2024/vol10issue2/%2010072.pdf> (last visited Mar 16, 2025).

<sup>3</sup> THE CONSTITUTION OF INDIA 2024 GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE LEGISLATIVE DEPARTMENT, OFFICIAL LANGUAGES WING, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2024/07/20240716890312078.pdf>.

<sup>4</sup> Ibid

protects citizens' property rights, stating that no person can be deprived of their property, including insurance benefits, except by legal authority and Article 19(1)(a) of the Indian Constitution guarantees the right to freedom of speech and expression to all citizens. This includes the right to express opinions, share information, and communicate freely through various mediums, including speech, writing, and digital platforms. However, this freedom is not absolute and is subject to reasonable restrictions under Article 19(2) to protect national security, public order, decency, morality, and relations with foreign states. Laws regulating hate speech, defamation, and social media content fall under these restrictions.

In conclusion, both the Insurance Act, 1938 and the IRDA Act, 1999 are backed by the Constitution, particularly Entry 47 of the Union List, which grants Parliament exclusive authority over insurance laws in India. These laws help regulate the insurance sector at the national level, ensuring transparency, stability, and protection for policyholders.

## **REGULATORY FRAMEWORK ON DIGITAL INSURANCE**

### **ADVERTISEMENTS:**

The Insurance Advertisement Guidelines ensure that all advertisements are fair, transparent, and do not mislead customers. They classify ads into brand promotion and product advertisements, where the former focuses on creating awareness about the company, while the latter aims to sell insurance policies. Advertisements should provide clear and accurate information, ensuring that customers can make informed decisions. Misleading content, exaggerated claim's or comparisons that misrepresent competitors are strictly prohibited. Product advertisements must highlight both benefits and risks without making unrealistic promises based on past performance. Digital and online ads should provide full terms and conditions while allowing users to opt out of promotional messages. Cold calls must be respectful, with clear disclosures about the product and an option for customers to decline further communication. Joint advertisements with partners should comply with the regulations, and third-party endorsements should not mislead customers into believing they are direct sales promotions. Claims about awards and ratings should be based on genuine, independent sources, and insurers cannot falsely claim superiority based on market size. Mandatory disclosures, including important product details, must be clearly visible and occupy at least 10% of the ad space. Every advertisement must carry a unique reference number as per IRDA regulations. Additionally, any slogans or branding must be accurate and not create a false impression about

the company's reliability. These guidelines are designed to protect customers from misleading advertisements and ensure transparency in the insurance industry.<sup>5</sup>

### **PENALTIES FOR NON-COMPLIANCE:**

Under the Insurance Act, 1938, strict penalties are imposed for non-compliance with regulations and it includes advertisement Guidelines. Section 102 states that if a person fails to submit required documents, statements, accounts, returns, or reports to the Authority, does not follow directions, fails to maintain solvency margins, or does not comply with insurance treaty rules, they will be penalized. The penalty is ₹1 lakh per day of failure or up to ₹1 crores, whichever is lower. Section 103 imposes a severe penalty on anyone carrying out an insurance business without obtaining a certificate of registration under Section 3. Such a violation can result in a penalty of up to ₹25 crores along with imprisonment for up to 10 years. Section 104 deals with violations related to investment regulations under Sections 27, 27A, 27B, 27D, and 27E. If a person does not comply with these provisions, they may face a penalty of up to ₹25 crores. These penalties are designed to ensure that insurance companies operate transparently, maintain financial stability, and prevent fraudulent or misleading business practices.<sup>6</sup>

### **SOCIAL MEDIA REGULATIONS AFFECTING DIGITAL INSURANCE**

Social media regulations play a significant role in shaping how digital insurance companies interact with customers, market their products, and disclose policy-related information. In India, digital insurance companies must comply with various legal and regulatory frameworks that govern social media use to ensure transparency, consumer protection, and fair market practices. One of the key regulations affecting digital insurance is the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021**.<sup>7</sup> These rules require platforms and businesses, including insurance companies, to ensure responsible online communication, prevent misinformation, and provide mechanisms for consumer grievance redressal. Insurers using social media for marketing and customer engagement must

<sup>5</sup> Document Detail - IRDAI, IRDAI (2015), [https://irdai.gov.in/document-detail?documentId=379394&utm\\_source=chatgpt.com](https://irdai.gov.in/document-detail?documentId=379394&utm_source=chatgpt.com) (last visited Mar 16, 2025).

<sup>6</sup> India Code: Section Details, INDIACODE.NIC.IN (2025), [https://www.indiacode.nic.in/show-data?abv=CEN&statehandle=123456789/1362&actid=AC\\_CEN\\_2\\_33\\_00044\\_193804\\_1523351752525&sectionId=18308&sectionno=102&orderno=215&orgactid=AC\\_CEN\\_2\\_33\\_00044\\_193804\\_1523351752525](https://www.indiacode.nic.in/show-data?abv=CEN&statehandle=123456789/1362&actid=AC_CEN_2_33_00044_193804_1523351752525&sectionId=18308&sectionno=102&orderno=215&orgactid=AC_CEN_2_33_00044_193804_1523351752525) (last visited Mar 16, 2025).

<sup>7</sup> Aspire IAS, *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*, ASPIREIAS.COM (2021), <https://www.aspireias.com/daily-news-analysis-current-affairs/Information-Technology-Intermediary-Guidelines-and-Digital-Media-Ethics-Code-Rules-2021> (last visited Mar 16, 2025).

be careful not to mislead consumers with exaggerated claims or unclear policy terms. The IRDAI's Advertising Regulations also impact how digital insurers use social media for promotions. Insurers must ensure that advertisements on social media platforms are not deceptive and comply with fair disclosure norms. Misleading ads that do not provide complete or accurate policy details can result in regulatory action.

Additionally, **data protection laws** influence how digital insurance companies collect, store, and process customer information shared on social media. While India is in the process of implementing the **Digital Personal Data Protection Act, 2023**<sup>8</sup>, companies must already adhere to principles of data security and customer privacy when engaging with users on social media platforms. Insurers need to ensure that any data collected through social media interactions is used ethically and with proper consent. Another challenge arises from the **chilling effect** of social media regulations, where strict compliance requirements may discourage insurers from fully utilizing digital platforms for customer engagement and transparency. Concerns over regulatory scrutiny may lead to reduced disclosure of policy updates, claim processes, or risk-related information, which can impact market participation. As digital insurance continues to grow, companies must strike a balance between leveraging social media for outreach and ensuring compliance with evolving regulatory frameworks. IRDAI and other authorities are expected to refine these guidelines to support digital innovation while safeguarding consumer interests.

### **THE CHILLING EFFECT ON DIGITAL INSURANCE COMPANIES**

The chilling effect on digital insurance companies happens when strict rules make insurers afraid to communicate openly online. Because of regulations on social media and data privacy, companies may avoid sharing important details about policies, claims, or risks to avoid legal trouble.

For example, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, require companies to be responsible in their online communication and prevent false information. While these rules protect customers, they also make insurers cautious about what they post on social media. They may avoid explaining policies in detail or

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<sup>8</sup> THE DIGITAL PERSONAL DATA PROTECTION ACT, 2023, INDIANKANOON.ORG (2023), [https://indiankanoon.org/doc/3510545/?utm\\_source=chatgpt.com](https://indiankanoon.org/doc/3510545/?utm_source=chatgpt.com) (last visited Mar 16, 2025).

interacting with customers online to avoid any legal risks. Similarly, the Digital Personal Data Protection Act, 2023, has strict rules on how companies collect and use customer data. Insurance companies must take extra care to get consent and protect personal information. Because of this, they may avoid using digital tools like AI to suggest personalized insurance plans or targeted advertisements. These strict rules can also hurt competition. Small digital insurance companies may struggle to follow complicated regulations, while big companies with legal teams have an advantage. This could slow down innovation and limit customer choices.

### **REGULATORY AND FINANCIAL BARRIERS:**

Market participation barriers in digital insurance refer to the difficulties that prevent new and small companies from entering and competing in the industry. These challenges arise due to strict regulations, high costs, and technology limitations. One major challenge is regulatory complexity. Digital insurance companies must follow many laws related to data protection, advertising, and online customer interactions. Understanding and complying with these rules require legal experts and compliance teams, which can be costly for small businesses. This makes it easier for big companies to compete while smaller ones struggle. High costs are another barrier. Setting up a digital insurance company requires investment in technology, cyber security, and customer support. Companies need strong IT systems for online transactions, AI-driven underwriting, and digital claims processing. Smaller firms may not have enough funds, making it difficult for them to grow and compete. Trust and customer acceptance also matter. Many people still prefer traditional insurance and hesitate to switch to digital platforms. Digital insurers must prove they are reliable, provide clear policy details, and handle customer data safely to gain trust. Large insurance companies create another challenge. Established firms have well-known brands, financial stability, and strong partnerships with banks. This makes it difficult for new digital-only insurers to attract customers in a market dominated by traditional players. To solve these problems, regulatory bodies should make compliance easier, support innovation, and help smaller firms adopt digital technology. Clear rules, financial incentives, and awareness programs can create fair competition for all digital insurers.

### **RECOMMENDATIONS:**

The government should make rules that protect customers from false information but also allow digital insurance companies to share important details about their policies. The IRDAI should give clear instructions on how insurers can use social media without breaking any rules. Since the Indian Constitution gives everyone the right to free speech, the rules should not be too strict and stop companies from sharing necessary information. The law should be simple so that insurers can explain their policies clearly. Small insurance companies should get support so they can compete with bigger ones. People should also be educated about digital insurance and how to check if a policy is real. Instead of making very strict rules, the government can use smart technology to find false ads while letting insurers do their job. These changes will help digital insurance companies work better, follow rules, and be fair to customers.

### **CONCLUSION:**

Digital insurance has made insurance policies more accessible and easier to manage in India. Online platforms and social media help insurance companies connect with customers and provide important policy information. However, strict social media regulations have made it difficult for insurers to openly share details about their products. These rules aim to prevent false information and protect consumers, but they also reduce transparency, making it harder for customers to understand and compare policies. The strict social media rules that apply to digital insurance companies may also violate Article 19 of the Indian Constitution, which guarantees the right to freedom of speech and expression. These regulations limit how insurers can communicate and disclose information about their policies, creating a "chilling effect" where companies avoid sharing important details due to fear of regulatory action. As a result, customers may not receive complete and clear information, affecting their ability to make informed decisions. Smaller insurance companies face even greater challenges as they struggle with compliance costs and competition from larger firms. If regulations remain too rigid, they may slow down innovation and limit customer awareness in the digital insurance sector. To address these issues, a balanced regulatory approach is needed. Authorities should ensure that rules protect consumers while also allowing insurance companies to communicate openly. Clearer guidelines on what insurers can share, better consumer education, and support for digital insurers can create a fair and transparent system. This will help digital insurance grow while ensuring that customers have access to accurate and complete information.