

WRITE TO INFORMATION

Technology, Media & Telecommunication Laws
August, 2021

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ABOUT US

TMT Law Practice is a boutique law firm providing a full suite of services in the TMT sectors. Over time, the firm's practice has expanded from a niche boutique IP practice, to include practice areas such as commercial disputes resolution & arbitration, regulatory litigation & advisory, corporate/commercial advisory and transactional support, and policy and legislative drafting across industry verticals. The Firm represents a broad range of clients including Fortune 500 companies, as well as MSMEs and Start-ups.

The firm engages in the practice of the conventional domains of law, and, is also heavily invested in the niche areas of emerging technology, including space technology and policy; healthcare and ICT; data privacy and protection; and, sports laws.

The Firm stresses on developing well-rounded, solution - oriented professionals, who specialize in client - focused service delivery.



MEDIA AND ENTERTAINMENT NEWS

1. **Shilpa Shetty's plea for right to privacy upheld by High Court:**

The Bombay High Court has upheld Shilpa Shetty's right to privacy in a plea filed by her, where she had filed an application for injunction against several media outlets. The Bombay High Court ruled in favour of the actor and stated that the right to privacy is correct, and one cannot create conjecture on any person based on the tribulations that they or their family members may be facing.

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2. **Indian mythologist approaches Bombay High Court seeking injunction against Zee Entertainment:**

The Bombay High Court on August 25, 2021, made strong observations against Zee Entertainment Enterprises Ltd in a copyright infringement suit filed by a writer and mythologist alleging copyright violation with regard to the television series 'Baal Shiv' which is slated to be aired from August 31, 2021. The plaintiff, Chotental Saini had approached the Bombay High Court seeking an order of injunction against Zee Entertainment Enterprises Ltd. to perpetually restrain them from releasing the series 'Baal Shiv'.

On the basis of a suit filed against Zee Entertainment, agrees that they will reschedule the launch of their TV show until September 15. The Bombay HC has allowed Zee Entertainment to continue airing promos and teasers of the series that expressly mention its rescheduled launch date.

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3. **Supreme Court upholds Dream11 fantasy sports format as game of skill:**

The Hon'ble Supreme Court dismissed a Special Leave Petition (SLP) that alleged that the Online Fantasy Sports (OFS) format offered by Dream11 amounted to gambling, wagering and betting and is not a 'game of skill'.

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4. **Digital Music Giant Believe Acquires India's Venus Music, Rebrands it Ishtar:**

One of India's best known music brand Venus has been acquired by Paris-based Believe Digital Music as part of the 100% acquisition and Venus Music is now rebranded as Ishtar. Financial details of the deal were not disclosed.

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5. **[IT Rules 2021] Twitter seems to have complied with the law:**

The Central government informed the Delhi High Court that Twitter Inc has appointed permanent officers as required under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules, 2021) [*Amit Acharya v. Union of India and Ors*].

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6. **Bombay High Court stays two provisions of IT Rules 2021**

The Bombay High Court has stayed adherence of two clauses i.e., Rule 9(1) and (3) of the recently notified Information Technology (Guidelines for intermediaries and Digital Media Ethics Code) Rules, 2021, which requires digital news media

and online publishers to adhere to the "Code of Ethics" as prescribed by the rules.

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7. Online gaming gets court relief in TN but there may be other legal battles:

Relief by the Madras High Court on the Tamil Nadu government's ban comes as a booster dose for the Rs 7,700-crore online gaming industry but could be a precursor to legal battles in other states.

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8. Supreme Court adjourns the consideration of interim orders in the Broadcasters' challenge to Bombay High Court's NTO judgment.

While admitting the appeals filed by the Broadcasters against the Bombay High court judgment on NTO 2, the Supreme Court has deferred the consideration of interim relief to the Broadcasters. The Hon'ble Court directed the TRAI to file a reply and directed listing of the matter on 7th September 2021, on which date the SC will hear arguments on interim relief.

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9. MIB grants new TV channel licences to Star India, Viacom18:

The Ministry of Information and Broadcasting (MIB) has granted fresh TV channel licences to Disney-owned Star India and Viacom18 Media. Both the companies have got four TV channel licences each. Viacom18 has received the licences under dummy channel names like Connected, Eco-Lution, My Cam, and Pick-A-Trick. The licences were awarded on June 10, 2021. It is pertinent to note that there is strong buzz in the media industry about Mukesh Ambani-backed Network18's entry into sports broadcasting.

Network18, through its subsidiary TV18, owns a majority stake in Viacom18.

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10. MeitY Can't Be Saddled With Duty To Regulate Online Gambling Websites, Lotteries; Issue Falls Under State List:

The Centre has told the Delhi High Court that the Ministry of Electronics and Information Technology cannot be saddled with the duty to regulate online gambling websites or lotteries as the issue falls within the domain of State- 'Betting and Gambling' being State subjects. The development comes in a petition seeking to ban gambling/gaming websites and lotteries from operating in the country. The plea also sought quashing of the order dated October 21, 2020, issued by the Centre wherein it was stated that MeitY does not have the competence to block gambling and betting websites in India.

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11. News Broadcasters Association Changes Name to Include Digital Media:

The News Broadcasters Association (NBA), India's largest body of news broadcasters, has decided to change its name to News Broadcasters and Digital Association (NBDA), it said in a statement. With the media landscape having changed drastically due to technology, enormous choices have now become available to viewers to access content on various mediums and digital seems to be the future, NBA Board has decided to change the name of NBA to NBDA in order to reflect the addition of digital media news broadcasters as its members," the statement said.

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12. Amazon to face 'Austin Powers' illegal streaming claims:

Amazon will face a lawsuit claiming it offered films including "Austin Powers: International Man of Mystery" for streaming illegally, a New

York federal judge has ruled. The lawsuit, filed by German businessman Ralf Hartmann, alleges that Amazon made four films available on the Prime Video platform without a licence.

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IPR NEWS

1. Thousands of authors ask UK to uphold IP exhaustion laws:

Thousands of authors including Philip Pullman, Kazuo Ishiguro and Bernadine Evaristo, have signed a letter urging the government to maintain "strong" UK copyright laws in its departure from the European Union.

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2. Broadcast of copyrighted music "Appears somewhat unworkable": Madras High Court issues notice in challenge to Rule 29(4) of Copyright Rules:

The Madras High Court issued notice on a petition moved by a radio broadcaster challenging the validity of Rule 29 (4) of the Copyright Rules, 2013 (Next Radio Ltd and Ors v. Union of India). As an interim relief, the Court has extended time given under the second proviso to Rule 29 to "within fifteen days" after broadcast, but subject to obtaining prior permission from the copyright owner before broadcast. *Rule 29 (4) pertains to information to be furnished to copyright owners prior to the broadcast of copyrighted musical works, literary works etc. as part of the process to obtain permission to broadcast such content.*

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3. India recognises AI as co-author of copyrighted artwork:

The copyright office has recognised an artificial intelligence tool – RAGHAV Artificial Intelligence Painting App – as the co-author of a copyright-protected artistic work. The copyright office rejected the first application, which listed RAGHAV as the sole author. The second application, on which both Sahni and the AI were named as co-authors, was granted registration in November 2020.

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4. Courts not meant to be forum for arm twisting: Delhi High Court pulls up Victoria Cross in trademark dispute with Victorinox:

In the matter of *Dinesh Gupta and Ors. v Victorinox AG*, the Delhi High Court expressed a prima facie view against users of the mark "Victoria Cross", observing that they had tried to mislead the High Court with 'half-truths' in an ongoing trademark dispute with Swiss Army Knifemaker, Victorinox.

A Division Bench of Justices Manmohan and Navin Chawla further noted that in a bid to be clever by half, the claimers of "Victoria Cross" (appellants) had tried to annex the declaration against them, along with a police complaint, without mentioning it in the appeal.

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5. **ITC and Britannia resolve packaging dispute:**

FMCG majors Britannia and ITC have reached a resolution over the nine-month long case in which the former had dragged ITC to the Delhi high court alleging infringement of product packaging. The judgement, dated 4 August, considered the matter resolved after ITC changed the packaging (pillow and box) scheme for its ‘Sunfeast Farmlite 5-Seed Digestive’ and Mumbai: FMCG majors Britannia and ITC have reached a resolution over the nine-month long case in which the former had dragged ITC to the Delhi high court alleging infringement of product packaging. The judgement, dated 4 August, considered the matter resolved after ITC changed the packaging (pillow and box) scheme for its ‘Sunfeast Farmlite 5-Seed Digestive’ and ‘Sunfeast Farmlite Veda Digestive’ which are already in the market.

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6. **Dabus: Australian judge says non-humans can be inventor:**

The Artificial Intelligence machine called Device for the Autonomous Bootstrapping of Unified Sentience (DABUS) is an artificial intelligence system that incorporates artificial neural networks that was named by Dr Thaler. The decision of the Australian Federal Court (‘Court’) is an appeal from a Patent Officer hearing where

the Office rejected Australian Patent application on the grounds that the AI system could not be considered as inventor in the context of the *Patent Regulations 1991*. However, the Court found that an artificial intelligence (AI) can be a named inventor- where ‘inventor’ may be construed broadly to include a ‘person or thing that invents’, but that non-humans cannot apply for patents.

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7. **Russian publisher demands Telegram crackdown on book piracy:**

Russia’s largest publishing group Eksmo-AST has filed two copyright infringement lawsuits against the instant messaging service Telegram, with the stated goal of completely blocking the service in Russia.

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8. **Second Circuit says Google v Oracle does not impact Prince judgment:**

The US Court of Appeals for the Second Circuit has refused to alter its ruling that Andy Warhol’s art series based on photos of the musician Prince infringed the original photographer’s copyright.

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TECHNOLOGY LAW

1. **IIITian-founded exchange is India's first cryptocurrency unicorn:**

CoinDCX became India's first cryptocurrency unicorn after the exchange raised 6.70 billion rupees (\$90 million) from investors led by Facebook Inc. co-founder Eduardo Saverin's B Capital Group. The latest funding round values the firm at \$1.1 billion, Chief Executive Officer and co-founder Sumit Gupta.

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2. **Google's new safety measures are designed to protect kids on YouTube, Search and more:**

Google has announced changes to YouTube, Search and its other apps designed to make them safer for kids. The latest updates will make YouTube videos created by kids private by default, allow minors or their parents to request the removal of their images from Google Image results, turn Safe Search on by default and more. The move is part of a recent push by Google to protect kids and give parents more control over what they see.

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3. **India second in global cryptocurrency adoption: Chainalysis:**

India has ranked second in the global cryptocurrency adoption index, according to the 2021 Global Crypto Adoption Index by blockchain data platform Chainalysis. The report, which ranked 154 countries, showed that worldwide crypto adoption grew over 881% in the last year, while global adoption has grown by over 2,300% since the third quarter of 2019.

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4. **Google removes from Play Store malicious apps masquerading as cryptocurrency cloud mining platforms:**

Google has removed eight malicious mobile apps masquerading as cryptocurrency cloud mining applications from the Play Store, according to a report by cybersecurity firm Trend Micro. The firm discovered eight malicious apps disguising as cryptocurrency cloud mining apps meant to trick users.

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5. **Facebook considering forming commission on election matters globally: NYT:**

Facebook has approached academics and policy experts about forming a commission to advise it on global election-related matters, said five people with knowledge of the discussions, a move that would allow the social network to shift some of its political decision-making to an advisory body.

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6. **Google ties up with fintech to let its users open FDs on GPay:**

Google has teamed up with Setu, a fintech specialising in providing application programming interfaces (APIs), to allow its users to book fixed deposits (FDs) through Google Pay, a person with knowledge of the matter said on the condition of anonymity.

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DATA PROTECTION AND PRIVACY

1. **PV Sindhu to send notices to 15 firms for using her name, pictures in ads:**

Sports marketing firm Baseline Ventures that manage the portfolio of the badminton player is sending notices to Happydent (Perfetti), Pan Bahar, Eureka Forbes, ICICI Bank, HDFC Bank, Vodafone Idea, MG Motor, UCO Bank, PNB, SBI, Kotak Mahindra Bank, Fino Payments Bank, Bank of Maharashtra, Indian Bank, Wipro Lighting. The legal notice, which is seeking damages to the tune of ₹5 crore, has alleged that these companies illicitly used Sindhu's name and image without her consent to gain public attention in violation of her intellectual property and privacy rights.

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2. **“Right to be Forgotten” Inherent to Right to Privacy Reiterates Delhi High Court**

The Delhi High Court in a suit filed by a Bengali actress upheld and reiterated that “right to be forgotten” and “right to be left alone” are an essential and inherent part of the fundamental right to privacy. The court categorically held that the right to privacy of the plaintiff has to be protected, ‘especially when it is her person that is being exhibited, and against her will’.

3. **China set to pass one of the world's strictest data-privacy laws:**

China's top legislative body is expected this week to pass a privacy law that resembles the world's most robust framework for online privacy protections, Europe's General Data Protection Regulation. But unlike European governments, which themselves face more public pressure over data collection, Beijing is expected to maintain broad access to data under the new Personal Information Protection Law.

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4. **Nothing To Do With Pegasus : WhatsApp Tells Supreme Court:**

WhatsApp's counsel told the Supreme Court on Monday that it has got nothing to do with Pegasus. This happened before a bench led by the Chief Justice of India which is hearing a batch of petitions seeking a court-monitored probe by a Special Investigation Team or a judicial probe into the reports of snooping of activists, journalists, politicians and constitutional authorities using the Pegasus spyware.'

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5. **Separate probe by Bengal can wait, observes Supreme Court:**

The Supreme Court urged the West Bengal government to wait and not go ahead with a separate judicial inquiry into the Pegasus snooping allegations when the apex court is already seized of the issue. A Bench of Chief Justice of India (CJI) N.V. Ramana and Justice Surya Kant did not pass a formal order staying the work of the government-appointed commission of inquiry after senior advocate Abhishek Manu Singhvi gave an oral assurance to convey the apex court's message of “restraint” to the government.

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6. **Delhi HC asks Centre to file reply over plea to review data breaches of BigBasket, Domino's, MobiKwik, Air India:**

The Delhi High Court has asked the Centre to file a reply in a petition seeking direction to Computer Emergency Response Team -India (CERT-In), for commencing investigation and review of the recent data breaches of BigBasket,

Dominoes, MobiKwik and Air India. Justice Rekha Palli has asked Centre and others to file a reply and listed the matter for further hearing on September 23.

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7. Gujarat High Court to decide whether Gujarat Prohibition Act is violative of right to personal food preference weaved within right to privacy:

The Gujarat High Court in the case of *Peter Jagdish Nazareth vs. State of Gujarat*, held that five petitions challenging the Constitutional validity of the Gujarat Prohibition Act of 1949 claiming violation of fundamental rights under Articles 14, 19 and 21, are maintainable. A Bench of Chief Justice Vikram Nath and Justice Biren Vaishnav decided to hear the petitions on merits holding

that the law is open to examination under the dictum laid down in Justice KS *Puttuswamy vs. Union of India* that first recognised right to privacy as a fundamental right.

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8. T Mobile investigates possible data breach:

The second-largest U.S. wireless operator reportedly leaked customer addresses, Social Security numbers, among other data. T-Mobile US Inc. said it will investigate the reported theft of personal information belonging to its more than 100 million customers after some subscriber details were found for sale on the web.

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RULES AND REGULATIONS CHANGES

1. India Notifies Drone Rules 2021

The central government officially notified the national drone policy. The Drone Rules 2021 make it significantly easier for people and companies in the country to now own and operate drones since under the new drone policy, no security clearance is required before registration of license issuance.

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