

NEWSLETTER

Technology, Media & Telecommunication Laws
February, 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 NEWS

1. New Intermediary Guidelines released for regulation of digital media

The government has finalized the rules to regulate internet intermediaries and streaming platforms. The Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021 have defined "Digital Media" as "digitized content that can be transmitted over the internet or computer networks". It includes content received, stored or transmitted by and intermediary or online papers, news portals, news aggregators, news agencies and other such publishers of news and current affairs.

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2. CBFC issues notification to display title, credits in language of dialogues of films

The Central Board of Film Certification (CBFC) has called upon filmmakers to display the title, casting and credits of a film in the language of the movie that has been applied for certification. According to the notification, the applicant (filmmakers/producers) can additionally display the same in any other language, if they desire so.

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3. India's biggest e-learning startup, Byju's, is close to signing a deal to acquire rival Toppr Technologies Pvt. in a transaction valued at roughly \$150 million.

India's biggest e-learning startup, Byju's, is close to signing a deal to acquire rival Toppr Technologies Pvt. in a transaction valued at roughly \$150 million. The company had spent the latter half of 2020 raising capital from notable names including Mary Meeker and Yuri Milner. Two separate funding rounds in September, led by Silver Lake and BlackRock, respectively, had valued the startup at \$11 billion.

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4. Australia passes landmark law requiring tech firms like Google, Facebook to pay for news

Australia has passed a landmark law requiring Facebook and Google to pay for Australian news

under the new legislation. The government said the law would ensure that news businesses "are fairly remunerated for the content they generate, helping to sustain public interest journalism in Australia".

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5. Chingari joins hands with Amazon to venture into video commerce.

Short video app Chingari will foray into video-commerce wherein an AI tool will be utilized to scan through the videos 'frame-by-frame' by the app and suggest a live catalogue of similar products on Amazon. In case the exact same product is not found, the app will show "similar items".

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6. DHC directs news channel editors to exercise control while reporting investigations.

The Delhi High Court has directed news channel editors to exercise proper control while reporting so that the investigation into the farmers protests toolkit, in which arrested climate change activist Disha Ravi is implicated, is not hampered. The Court has further directed Ravi to ensure that the people connected to her do not indulge in scandalizing the Delhi Police during the investigation of the case.

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7. US streaming company wins \$50m to cover piracy damages.

Defunct US television streaming company Omniverse One World Television has been awarded \$50 million in damages after a US federal court found that its copyright licensing contract had been breached. The dispute over the company's licensing arrangements arose in February 2019, when the Alliance For Creativity and Entertainment (ACE) sued Omniverse and its owner Jason DeMeo, for supplying infringing content to third-party suppliers including Dragon Box, HDHomerun, Flixon TV, and SkyStream TV.

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OTT REGULATION AND NEWS

8. Veteran Hollywood Producer John Hart Drags Mukul Deora To Court Over Copyright Infringement

Legendary Hollywood producer, John Hart, has filed a case in the Delhi High Court against film financier Mukul Deora, for allegedly duping them by illegally producing *The White Tiger*, which is currently streaming on Netflix. The court has not granted them an ad interim injunction for stalling the release of the Netflix film, primarily because they approached the court at the eleventh hour in spite of being aware of the alleged wrong-doing in advance. However, the court has asked the defendants, Mukul Deora and Netflix, to keep an account of the profits from the film so that the amount to be recompensated to Hart would be accounted for and available, in case the need arose.

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9. Centre Seeks Transfer Of Cases Pending In High Courts To Supreme Court

The Central Government has filed a transfer petition in the Supreme Court seeking transfer of cases pending in different High Courts for regulation of Over The Top(OTT) platforms like Netflix, Prime Video, Disney Hotstar etc., to the SC. The move is significant as it comes amidst various indications given by the Centre that it will bring guidelines to regulate the content streamed in OTT platforms, which are outside the regulatory framework of the Central Board of Film Certification under the Cinematograph Act.

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10.No theatre release for 'Drishyam 2'.

The Kerala Film Chamber has taken a stern decision that the movies that have premiered on OTT platforms wouldn't be allowed to have a theater outing. The Kerala Film Chamber is the official association of the producers, theater owners and the distributors. The chamber had earlier decided

that the movies could have an OTT release 42 days after releasing in the theaters.

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11. Toonz launches OTT animation platform for kids

Technopark, Thiruvananthapuram-based Toonz Media Group, an entertainment company specializing in animation content production, has launched an over-the-top (OTT) platform for children and family entertainment called MyToonz. The platform is considered to be a first-of-its-kind exclusive kids' OTT platform launched by an Indian entertainment company.

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12.Allahabad HC Denies Anticipatory Bail to Aparna Purohit.

Allahabad High Court has denied pre-arrest bail to Commercial Head of Amazon Prime Video, Aparna Purohit, in the ongoing investigation against Tandav. The Court further opined that the use of the word "TANNAV" as the name of the movie could be offensive to the majority of the people of the country since the word is associated with Lord Shiva who is considered a pious figure in Hindu mythology.

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13.BookMyShow rolls out pay-per-view streaming service.

Online ticketing site BookMyShow has launched a pay-per-view video streaming service BookMyShow Stream with 600 movie titles, with the TVoD (transaction video-on-demand) service that hopes to offer to 2,000 films over the next 9-12 months will bring a range of Hollywood, Hindi and independent, foreign cinema in partnership with American studios such as Sony Pictures, Warner Bros and Universal Pictures.

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DATA PROTECTION AND PRIVACY

12. UK strips Chinese state-owned TV channel of broadcast permit

U.K. regulators stripped China's state TV channel of its national broadcasting license on Thursday, after an investigation cited lack of editorial control(which is a mandatory requirement in the UK) and links to China's ruling Communist Party. The U.K. watchdog said it found the entity that held the station's license, Star China Media Limited, didn't have editorial responsibility for CGTN's output. Star China was merely the channel's distributor and none of the employees involved in day-to-day operations or decision-making were its employees.

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13. RBI rejects demand of online merchants to store customers' credit card data.

RBI has rejected demands of top merchants to store customer credit card data under the new payment aggregators and payment gateway norms enforceable from July 2021. The storage of the credit card data could cause cyber security risks without a proper recourse. Under the new RBI guidelines, merchants cannot store customer cards and related data on their servers. Under this guideline, payment aggregators (PA) also cannot store the data of the customer's card at the places where the merchant has access. According to industry experts, not allowing the data to be stored will increase customer problems and disrupt the digital payment ecosystem.

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14. Supreme Court seeks response from WhatsApp, Google etc.

The Supreme Court sought the responses of WhatsApp India, Facebook, Google Pay, Amazon Pay and the Union Government on a plea seeking directions to ensure that data collected by Unified Payment Interface(UPI) platforms is not shared with parent company or any other third party under any circumstances.

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14. Govt considering certain clarifications on FDI in e-commerce sector.

Government may issue clarifications on "FDI in e-commerce sector" to ensure that the e-commerce sector works in true spirit of the law and rules that have been laid down. While the current FDI policy is robust and well-defined, there have been certain complaints from consumers and small retailers about certain practices of the e-commerce companies, which are under investigation.

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15. DPITT seeking to invest in startups.

The Department for Promotion of Industry and Internal Trade (DPIIT) is all set to invest in startups through incubators from April 1 under the Startup India Seed Fund Scheme and is in the process of setting up a committee to shortlist these incubators. Announced by the Prime Minister last month, Rs 1,000-crore fund will offer startups grants and equity capital. Going forward, the government will also help startups in raising debt capital.

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16. EU releases the Draft UK Adequacy decision

The EU has released 2 draft adequacy decisions to determine the future of data flows between the European Union and United Kingdom. The drafts will now go to the European Data Protection Board – the EU's collection of data protection authorities – for a non-binding opinion before Member State representatives assess the agreements in its "comitology procedure." If the Member States "green light" the proposals, the Commission could then "proceed to adopt the two adequacy decisions."

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TECHNOLOGY

17. MEITY shrugs responsibility over predatory lending apps

MEITY claims that it is the responsibility of state governments to investigate cases of malpractices by predatory digital lending apps. Upon receiving complaints concerning fraud and harassment by these app operators, MEITY did not provide information on the government's stance on the Chinese-backed lending app fiasco, and instead vaguely responded that 'public order' and 'police' are State subjects.

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18. Nintendo wins ISP anti-piracy injunctions in Spain

Nintendo secured a pair of injunctions at a Barcelona court last month, ordering internet service providers (ISPs) to block sites facilitating a workaround of its piracy security systems. The decision is the first in continental Europe that has granted applications to block access to websites dealing with devices that circumvent technological protection measures (TCMs).

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19. WhatsApp Pay removes Request Payment feature in India

WhatsApp has removed the Request Payment feature for its UPI-based payment service in India. Users can no longer request peer-to-peer payments as was possible when WhatsApp was beta testing the app. Requesting payments was possible on WhatsApp until recently in-chat by selecting the Pay option. Now, neither the Payments tab nor chats show the option for requesting payment on WhatsApp.

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20. The Department of Science and Technology announces changes to India's mapping policy.

The Centre has announced sweeping changes to the country's mapping policy, which it said will benefit Indian companies. The changes have been made in the policy keeping in mind the Atmanirbhar Bharat vision. The changes seek to remove unnecessary red tape and obstacles in innovation.

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21. RBI sets rules for digital payments in India

The Reserve Bank of India (RBI) has published detailed guidelines to strengthen India's digital payments architecture and improve security, control and compliance among banks, gateways, wallets and other non-banking entities that are at the vanguard of helping New Delhi achieve its goal of a 'less-cash' economy.

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22. Govt committee recommends ban all cryptocurrencies, except those issued by state - Finance Ministry.

A high-level committee suggested that all the private cryptocurrencies, except any virtual currencies issued by state, will be prohibited in India, remarked finance minister Nirmala Sitharaman. Earlier in February, the Reserve Bank of India (RBI) had said that it has plans to bring a digital version of the Indian Rupee. The central bank was exploring the possibility as to whether there was a need for a digital version of fiat currency and its usage in the future.

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23. Facebook is 'looking at' facial recognition technology for upcoming smart glasses, executive confirms

Facebook's has confirmed that the company is "looking at" incorporating facial recognition technology for its upcoming smart glasses devices, but only if people want that feature. However, Bosworth, the head of hardware, has noted that there are ethical concerns with the numerous ways that face recognition and always-on cameras and microphones could be abused.

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24. Homegrown platform Koo gets a boost with the Twitter wars.

Koo, India's homegrown micro-blogging platform, is getting a big push amid the stand-off between the Narendra Modi-led government and Twitter over the issue of suspension of certain accounts for their role in fueling the on-going protests in Delhi and surrounding areas. The platform, which has 1 million+ downloads on Google Play Store, was trending on Twitter with top politicians announcing

their decision to join the platform. The relations between the government and Twitter have deteriorated in recent times due to the non-

compliance of the government's instructions by Twitter.

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RULES AND REGULATION CHANGES

25.Reform of appellate tribunals incoming with new legislation.

The government plans to dismantle five appellate tribunals for patents, copyrights and cinematography under The Tribunals Reforms (Rationalization And Conditions Of Service) Bill, 2021. Analysis of data of the last three years have shown that tribunals in several sectors have not necessarily led to faster justice delivery, and are also at a considerable expense to the exchequer, according to the Bill.

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26.Arbitration & Conciliation (Amendment) Bill, 2021 gets Lok Sabha nod.

The Bill was introduced in the Lok Sabha on February 4, 2021 by Law Minister Ravi Shankar Prasad. It is already in force by way of an Ordinance promulgated on 4th November 2020. It seeks to amend the Arbitration and Conciliation Act, 1996 so as to (i) enable automatic stay on awards in certain cases and (ii) specify by regulations the the qualifications, experience and norms for accreditation of arbitrators.

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27.Esports to be recognized as a sport.

Indian Olympic Association [IOA] is ready to announce the Esports as an official Sport. IOA will also recognize the Esports Federation of India [ESFI] as the governing body of Esports in the country.

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28.Guidelines issued for locker facilities.

The Supreme Court has issued guidelines to Banks which are providing locker or safe deposit facilities, including implementation of blockchain technology to maintain appropriate records. These guidelines fill the lacunae created by RBI's directions, which imposed a duty of care on banks in respect of protection of bank lockers but left the exact procedure to the discretion of the banks.

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29.ASCI issues draft guidelines for influencer advertising on digital media.

The Advertising Standards Council of India (ASCI) had released draft guidelines for influencer advertising on digital media. The guidelines for influencers advertising on digital media will be available for all stakeholders, including industry, digital influencers as well as consumers for feedback till March 8, 2021. Based on the feedback and inputs, the final guidelines will be issued by ASCI by March 31, 2021. This guideline will be applicable to all promotional posts published on or after April 15, 2021.

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