

NEWSLETTER

Technology, Media & Telecommunication Laws
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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. **Supreme Court Stays Cases In High Courts On OTT Content Regulation.**

The Supreme Court of India has stayed proceedings of cases seeking regulation of content on OTT platforms, including Netflix, Amazon Prime, Hotstar and others. Multiple petitions on the matter are being heard in high courts of Punjab and Haryana, Madhya Pradesh, Allahabad and others. A three-judge bench consisting of Justice Chandrachud, Justice Shah and Justice Sanjiv Khanna while hearing the petitions filed by the Justice for Rights Foundation, before deciding to transfer all cases to the apex court.

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2. **Delhi High Court issues notice in challenge to Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021 (hereinafter referred to as "IT Rules 2021")**

A bench of Chief Justice D.N. Patel and Justice Jasmeet Singh issued notices to the Ministry of Electronics and Information Technology and the Ministry of Information and Broadcasting, on a plea filed by Quint Digital Media Ltd., challenging the IT Rules 2021 which seek to regulate digital news media. The petition filed by Quint challenges the constitutional validity of the IT Rules, 2021 – particularly Part III of the Rules, which seeks to regulate digital media publications. The petition is limited to the rules' application on digital media platforms.

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3. **Kerala High Court issues notice in Livelaw's plea challenging the IT Rules 2021.**

The Kerala High Court has issued notice to the Central Government on a writ petition filed by LiveLaw challenging the constitutional validity of IT Rules 2021 notified by the Centre on February 25, as imposing "arbitrary, vague, disproportionate and unreasonable" restrictions on digital news media and social media intermediaries. The bench pronounced that no coercive action may be taken by the Central Government, against the petitioner, in lieu of the Rules formulated, and the challenge taken.

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4. **Supreme Court says amount paid to use foreign software will not amount as 'royalty'; not taxable in India.**

Settling an important issue in the income tax law, the Supreme Court held that the amounts paid by Indian companies for the use of software's developed by foreign companies do not amount to 'royalty' and that such payment do not give rise to income which is taxable in India.

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5. **NCPCR asks Netflix to stop streaming the recently released series, Bombay Begums**

The apex child rights body, National Commission for Protection of Child Rights ('NCPCR') has sent a notice to Netflix, in which it asked Netflix to stop streaming the recently released series, Bombay Begums. The child rights body while doing so has contended that the said series portrayed children inappropriately, which will pollute young minds and also result in their abuse and exploitation. Further, NCPCR in its notice has said that if Netflix did not respond to the notice, the body will initiate appropriate legal action against it.

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6. **Bombay High Court directs OTT platform to take down Telugu movie 'V' on actor Sakshi Malik's plea**

The Bombay High Court on Tuesday restrained Venkateshwara Creations Pvt. Ltd. from releasing the Telugu Movie 'V' on the OTT platform, Amazon Prime until deletion of a scene wherein a portfolio picture of Mumbai based actor, Sakshi Malik was used without her permission.

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7. **Cinematograph (Amendment) Bill, 2021 To Be Introduced To Prevent Piracy, Govt Says**

The government has indicated in the Parliament that it will introduce the Cinematographic (Amendment) Bill, 2021 to bring in steeper fines for piracy. The said bill has been in procedural steps since February 2019 when it was introduced. While doing so the government has cited an industry report which claims that piracy leads to Rs. 2100 crores in annual losses to the media and entertainment industry in our country.

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TECHNOLOGY

8. Virginia passes the Consumer Data Protection Act

On March 2, 2021, Virginia Governor Ralph Northam signed the Virginia Consumer Data Protection Act (CDPA) into law, setting up the newest state to enact broad privacy legislation aimed at giving consumers more control over their personal data. The bill will go into effect on January 1, 2023. However, unlike the CCPA, the CDPA does not allow for a private right of action for consumers. Instead, the Virginia Attorney General has the exclusive right to bring enforcement actions against organizations.

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9. Government to refresh laws before 5G rollout.

The government plans to simplify and update the archaic laws that govern telecom services in India before the launch of 5G to allow, for instance, communication between connected devices to spur growth in the digital economy, a top official said. The department of telecommunications (DoT) has proposed replacing the outdated provisions of the Indian Telegraph Act and the Indian Wireless Telegraphy Act, which came into effect in 1885 and 1933, respectively, with rules that embody the current reality and evolving communication trends.

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10. Parliamentary Committee Flags Predatory Pricing, Consumers' Data Privacy In New Report

The Committee on Subordinate Legislation, headed by Congress MP Partap Singh Bajwa, has raised certain issues pertaining to the Consumer Protection (E-Commerce) Rules, 2020 to the Ministry of Consumer Affairs, namely predatory pricing and data security and privacy of the end users. The Committee further noted that the Consumer Protection Act per se does not address data breaches and resultant compromise of consumers' data privacy, which is ultimately used to manipulate product ratings.

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11. YouTube Studio Gets New 'Checks' Feature, Flags Copyright Issues Before Publishing

YouTube is incorporating a new feature in YouTube Studio for desktop that checks for copyright infringement whenever a user uploads a video on the video sharing platform. The video sharing platform, along with copyright owners, actively checks for any violation of the laws that can lead the

video being pulled down or even the channel being banned. YouTube will now check for copyright infringements before the video is being uploaded to avoid any such instance once the content is uploaded.

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12. Kerala bans online rummy for stakes, amends the state Gaming Act.

The Kerala government has outlawed online rummy for stakes, in response to the petition calling out the gray regulatory areas in online rummy. In a notification made dated February 23, the state government has amended the Kerala Gaming Act, 1960, to include online rummy involving stakes.

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

The Future Group companies have moved the Delhi High Court in appeal Challenging the Single-Judge bench order of the Delhi High Court upholding an award by a Singapore Tribunal against the contested Reliance-Future Retail Ltd stake sale deal worth nearly INR 25,000 crores.

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14. TRAI's ultimatum in relation to TCCPR Regulations.

TRAI has issued a press release for implementation of the TCCPR Regulations, 2018. By way of the present press release, the TRAI has granted one last opportunity till March 31, 2021 to the "principle entities" such as banks, including major banks like State Bank of India, HDFC Bank, Axiz Bank etc, and telemarketers who continue to be non-compliant by not transmitting mandatory parameter like content template IDs, PE IDs etc. even in cases where content templates have been registered, while sending such messages to the TSP for delivery. TRAI has also requested regulators like RBI, SEBI and IRDAI to assist in implementation of the content scrubbing regulatory requirement.

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15. PRC court sets aside cryptocurrency award on public interest grounds.

Shenzhen Intermediate People's Court has ordered that an arbitral award made by Shenzhen Arbitration

Commission (also known as Shenzhen Court of International Arbitration) be set aside on the ground that awarding damages in US dollars in lieu of crypto is against the public interest. This ruling sends a clear warning that enforcing a crypto-related arbitral award may be difficult in jurisdictions, such as Mainland China, which show little tolerance for the cryptocurrency business.

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16. CCI calls Whatsapp's privacy policy, exploitative, exclusionary; orders a detailed probe into the policy.

The Competition Commission of India (CCI) ordered a detailed probe in WhatsApp's new privacy policy and terms of services, saying the firm contravened the provisions of competition laws through its exploitative and exclusionary conduct in the garb of the policy update. In January, WhatsApp had come out with an update in its privacy policy and terms of services that required users to agree to sharing of their data of chat with business accounts, payments and transaction information with its parent company Facebook and third parties associated with it. After criticism from users over sharing of their data, the company postponed the rollout of the policy update to May 15 from February 8.

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17. Apple to pay \$308m over digital rights management infringement.

Apple has been ordered to pay \$308.5 million in damages to patent licensing company Personalized Media Communications (PMC), after a jury ruled that the tech giant infringed a digital rights management (DRM) patent. The decision was handed down from the District Court for the Eastern District of Texas Marshal Division jury on Friday, March 18, asking Apple to pay PMC a running royalty. PMC first sued Apple in July 2015, claiming that it had sold and

marketed products that infringed two of its patents, US number 8,191,091 and 8,559,635.

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18. Sony has filed a patent for a system that could turn bananas and other household items into PlayStation controllers.

The United States Patent and Trademark Office recently published a bizarre request from Sony Interactive Entertainment Inc. to patent a system that turns ordinary household objects and food products into PlayStation controllers. Entrepreneur reports. "The system comprises an input unit operable to obtain images of a non-luminous passive object held by a user as a video game controller," the patent says. In the patent, Sony uses an illustrated banana to visualize their new system. Oranges are among one of the other examples the company uses. While the patent designs shows a banana, Sony anticipates that the system would work with anything from a coffee mug to a pen.

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19. Dolby moves Delhi High Court alleging violation of standard-essential patents by Reliance Jio, Reliance Retail

Dolby International has moved the Delhi High Court alleging violation of its standard-essential patents in the field of audio coding technologies by Reliance Jio Infocomm Limited and Reliance Retail Limited (Dolby International vs Reliance Jio Infocomm Limited). Senior Advocate Chander Lall, appearing for Dolby, today told a single-judge Bench of Justice Jayant Nath that Reliance was claiming that its handsets/devices were compliant with the ISO/IEC standards related to the technology in question, in spite of the absence of any licence agreement with Dolby.

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TRADEMARK AND DESIGN NEWS

20. Oreo maker takes Parle to court for 'copying' cookie design.

The maker of Oreo biscuits has moved the Delhi High Court against Parle Products, alleging that the design of the Indian firm's Fabio biscuits is "deceptively similar" that of Oreo. Mondelez had launched Oreo in India about a decade ago and has so far has introduced various variants of the popular brands, including Oreo Orange Crème, vanilla, choco crème and strawberry, whereas, Parle Products had launched Fabio in January 2020.

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21. Decathlon India files trademark infringement suit against NCR-based Pentathlon Sports

Decathlon Sports India has filed a trademark infringement suit against NCR-based Pentathlon Sports. Decathlon says that its legal action is to stop Pentathlon Sports from "illegal and mala fide acts of inter alia of infringement of the registered trademark of the Plaintiff No I (Decathlon), selling substandard products in the market and passing them off as goods/ products of the Plaintiffs (Decathlon)." The suit further says that Pentathlon copied their trademarked tagline, Sports for All / All for Sports.

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22. Dolce & Gabbana seeks over \$600M damages from two U.S. bloggers.

The Milan fashion house Dolce & Gabbana has filed a defamation suit in an Italian court seeking over \$600 million in damages from two U.S. fashion bloggers who reposted anti-Asian comments attributed to one of the designers that led to a boycott by Asian consumers. The suit was filed in Milan civil court in 2019 but only became public this week when the

bloggers posted about it on their Instagram account, Diet Prada. Their feed is widely followed in the fashion world for its cutting commentary on unoriginality in designs and on social issues.

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23. China launches special action against trademark squatters.

The Chinese National Intellectual Property Administration (CNIPA) has unveiled a new plan to combat trademark squatting. CNIPA's 'Special Action Plan for Combating Malicious Trademark Squatting' was announced in a notice prompting local IP offices to join CNIPA in a new push to target squatters across the country. CNIPA has identified ten 'malicious' acts that constitute infringement or squatting, which will be targeted as part of the special action plan. Among these are the acts of registering trademarks of famous logos, names, places and events.

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24. Pepsi's Gatorlyte launch halted over trademark dispute.

Pepsi has been blocked from rolling out its new Gatorlyte product, after a federal court in Texas found that Mexico-based Laboratorios Pisa had good grounds for proving the beverages company infringed its trademarks. The emergency injunction was handed down on February 27 at the US District Court for the Southern District of Texas. Laboratorios Pisa sued Pepsi on February 18, alleging that Pepsi had ripped off the trademarks designs used on the packaging of its Electrolit products, a range of rehydration drinks.

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