

# WRITE TO INFORMATION

Technology, Media, Telecommunication,  
September 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. Ads regulator ASCI inducts Google, Facebook executives into board:

India's advertising industry regulator Advertising Standards Council of India (ASCI) on Friday said it has inducted Aditya Swamy, director of Google India into its board. Sandeep Bhushan, head of India global marketing solutions at Facebook will be a special invitee to the board. The appointments highlight the importance of digital advertising and the subsequent need to formulate policies for the medium.

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### 2. Copyright case Allahabad High Court refuses to grant interim relief against Amitabh Bachchan starrer 'Chehre':

The Allahabad High Court has refused to grant any interim relief against release of Amitabh Bachchan starrer Bollywood film 'Chehre' in a plea alleging copyright infringement. The Hon'ble High Court said that while the movie and the copyrighted work alleged to have been plagiarized, appear to have come from a common source, they are materially different in treatment and development.

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### 3. Apple can No Longer Prohibit Developers from Including Links that Drive Users Away from Apple's Store:

Fortnite makers, Epic games, initiated a suit against Apple for Epic's right to offer its own payment options, as Apple's payment options charged a high percentage of fee (30%) on Epic. It claimed that Apple was acting in a monopolistic manner and was taking advantage due to the popularity of its platform by its rigid App store policies. The suit was against Apple's anti-competitive behaviour.

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### 4. Hotstar to shut down in USA in 2022:

Disney has confirmed that it will shutting down streaming service, Hotstar in the USA, in late 2022. Content from Hotstar will move to Hulu and ESPN+, with the Hotstar brand in the US being phased out completely. Disney said, "The move from Hotstar, a premium brand for South Asian content, to ESPN+ and Hulu in the US, expands upon the rich and diverse catalogue of live events and stories delivered across the Disney Bundle and provides a platform for South Asian content to reach broader audiences."

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### 5. Compensation For Film Excluding Song Shown in Promo: Supreme Court Stays NCDRC Order Against Yash Raj Films:

The Apex Court stayed the consumer courts' order against Yash Raj Films which required them to compensate a complainant who approached the forums stating that she was cheated on account of non-inclusion of the song 'Jabra Fan' in the film 'Fan'. YRF appealed against the order of the NCDRC, inter alia, on the ground that the order impinges on its rights under Article 19(1)(g) and curbs the film maker's creative rights to decide the contents of their final product.

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### 6. Zee Enterprises board approves merger with Sony Pictures, Punit Goenka to remain MD & CEO:

Zee Entertainment Enterprises (ZEEL) on Wednesday announced that its board of directors at a meeting held on 21st September, unanimously provided an in-principle approval for the merger with Sony Pictures Networks India (SPNI).

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**7. Traditional media may understand court rationale, not private bloggers: Bombay High Court:**

While hearing the defamation suit filed by Shilpa Shetty, the Bombay High Court directed the Bollywood actress to segregate the defendants into two categories - private vloggers and bloggers and traditional media outlets for ease in granting relief. The Court was hearing Shetty's suit seeking an order restraining publication of incorrect, false, malicious, and defamatory information against her on social media and websites in connection with the arrest of her husband Raj Kundra. The New Indian Express, India TV, Free Press Journal, NDTV, Facebook, Instagram, and Facebook, among others, have been made parties to the defamation suit by Shetty.

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**8. Rummy A Game of Skill: Kerala High Court Lifts Ban on Online Rummy, Finds It Unconstitutional:**

The Kerala High Court on Monday quashed an amendment to a government notification issued under Section 14A of the Kerala Gaming Act, 1960 banning online rummy in the State, bringing huge relief to the online skill-gaming industry. Justice TR Ravi noted that the notification was arbitrary and violative of the right to trade, and commerce guaranteed under Article 19(1)(g) of the Constitution and the right to equality guaranteed under Article 14 of the Constitution.

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**9. CBFC issues show-cause notice to Pratik Gandhi's 'Bhavai' for flouting certification rules:**

The Central Board of Film Certification (CBFC) said it has issued a show-cause notice to the makers of Pratik Gandhi-starrer 'Bhavai' for flouting certification rules and tampering with the content of the film. The musical drama, about the popular folk theatre form from Gujarat, was earlier titled "Raavan Leela". It is directed by Hardik Gajjar and backed by Pen

Studios. According to the CBFC, the makers changed the title in the trailer and also included portions "deposited" with the body.

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**10. Madras High Court dismisses PIL against celebrity endorsement of online games:**

The Madras High Court in the matter of *Mohammed Razvi v. TRAI and Ors* dismissed a public interest litigation (PIL) petition filed last year against online games and the celebrity endorsement of the same. The Bench of Chief Justice Sanjib Banerjee and Justice M Duraiswamy termed the plea a waste of time and fuelled by an ambition to gain publicity.

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**11. Bombay High Court's Stay on Enforcement of IT Rules 'Code Of Ethics' Against Digital Media Ought To Have Pan-India Effect: Madras High Court:**

Madras High Court stays sub-rules (1) and (3) of Rule 9 of the IT Rules, 2021, on the observation that the oversight mechanism of the Government as provided in the final tier of the process of oversight mechanism under the rules may jeopardize the independence of the media.

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## IPR NEWS

### 1. **Gucci moves Delhi Court against trademark infringement, gets permanent injunction restraining use of its logo**

Global luxury giant Gucci in the case of *Guccio Gucci SPA v. Intiyaz Sheikh*, obtained an *ex-parte* reprieve from a Delhi Court which restrained a local manufacturer from using the brand's iconic logo on its products. The Court passed a permanent injunction in Gucci's favour and asked the defendant to pay ₹2 lakh in damages and ₹1.66 lakh in costs.

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### 2. **Only humans can invent, says judge in first US AI patent decision:**

Only a human being can be legally listed on a patent as an inventor, according to a Virginia federal judge who delivered the first US ruling in the worldwide debate on the patentability of AI inventions.

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### 3. **Block websites infringing Aaj Tak trademark:**

The Delhi High Court has directed Google and Facebook to suspend the domain name and web platforms infringing the trade mark 'Aaj Tak'. The suit was filed by the owners of the Aaj Tak trademark who were aggrieved by the fact that the defendants were using their mark as a part of their websites.

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### 4. **Google appeals against €500m penalty over news hosting:**

Google is appealing against a €500m (£430m) fine imposed by France's antitrust watchdog after a dispute with local media about paying for news content. The financial penalty came amid increasing international pressure on online platforms such as Google and Facebook to share more

of the revenue they make from using media outlets' content.

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### 5. **Instagram sees embedded copyright suit dismissed:**

A group of photographers' allegations that Instagram's embedding tool enables users to infringe their copyrights have been dismissed by a San Francisco federal court. The Instagram feature doesn't violate the photographers' exclusive right to display the pictures publicly because third-party websites that embed the images don't store their own copies of them held by the US District Judge.

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### 6. **The Viewpoint: The TATA domain name dispute: Is the game of fame enough**

The TATA Group filed a complaint with the World Intellectual Property Organization (WIPO) Arbitration and Mediation Centre for recovery of the domain <taatas.com> on the ground that it was identical to the well-known TATA trade and service mark. The decision of the WIPO Panel makes it evident that while adjudicating domain name disputes, mere averments as to the well-known nature of a mark and bare allegations of bad faith are not sufficient to establish cyber-squatting.

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### 7. **Roblox, music publishers settle copyright licensing dispute**

The National Music Publishers' Association ('NMPA') of United States of America ('USA') settled its copyright dispute with video-game platform Roblox, wherein it alleged that the platform encouraged copyright infringement on a massive scale. NMPA members can now directly negotiate with the platform for use of music.

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8. **Judicial re-drafting of Rule 29(4) of Copyright Rules by Madras High Court unwarranted: Supreme Court:**

The Supreme Court in the matter of *Saregama India v. Next Radio* frowned upon the judicial re-drafting of Rule 29(4) of the Copyright Rules, 2013 by the Madras High Court in an interim order passed in August. The Bench

comprising of Justices DY Chandrachud and BV Nagarathna stayed the Madras High Court order which extended the time given under the second proviso to within fifteen days after the broadcast, subject to obtaining prior permission before the broadcast.

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## TECHNOLOGY

1. **Biggest deal in fintech: Dutch group Prosus to buy Bill Desk for \$4.7 billion:**

In the biggest ever M&A deal in India's fintech space, Dutch consumer Internet conglomerate Prosus, along with its financial services unit PayU, has agreed to buy 100% stake in Mumbai-based payment aggregator Bill Desk for \$4.7 billion. Bill Desk, which was founded in 2000 by former consultants M N Srinivasu, Ajay Kaushal, and Karthik Ganpathy, is among the largest payment gateway aggregators in the country, handling more than half of all online billing transactions, according to industry estimates.

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2. **Paytm seeks shareholders' nod to create firm for payments business:**

IPO-bound Paytm is seeking approval from its shareholders in an extraordinary general meeting (EGM) on September 23, to turn its payment aggregator business into a new subsidiary called Paytm Payments Services Limited. This follows a directive from the Reserve Bank of India (RBI).

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3. **Apple hit with antitrust case in India over in-app payments issues:**

Apple Inc (AAPL.O) is facing an antitrust challenge in India for allegedly abusing its dominant position in the apps market by forcing developers to use its proprietary

in-app purchase system, according to a source and documents seen by Reuters. The allegations are similar to a case Apple faces in the European Union, where regulators last year started an investigation into Apple's imposition of an in-app fee of 30% for distribution of paid digital content and other restrictions.

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4. **From South Korea, a warning for Google and Apple worldwide:**

South Korea's National Assembly has approved a landmark law changing the way platform companies operate their app stores. Nicknamed the "Anti-Google law", it has resonance beyond the country's borders and is one of a kind right now.

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5. **TRAI issues recommendations on 'RoadMap to Promote Broadband Connectivity and Enhanced Broadband speed':**

The Telecom Regulatory Authority of India has released its recommendations on "Roadmap to Promote Broadband Connectivity and Enhanced Broadband speed", as per which definition of broadband has been reviewed and the minimum download speed for broadband connectivity reviewed upward from the present 512 Kbps to 2Mbps. Based on download, speed, fixed broadband has been categorized into three different



categories - basic, fast and super-fast. In a bid to encourage lakhs of cable operators to provide broadband services, the authority's past recommendations on "definition of revenue base (AGR) for the Reckoning of License Fee and Spectrum Charges" has been reiterated. Also, TRAI recommended providing backhaul connectivity on optical fibre using the BharatNet network with Service Level Agreement.

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6. **Google's voice assistant in new EU antitrust investigation**

A fresh EU antitrust case could expose Alphabet Inc's Google (GOOGL.O) to a fine as much as 10% of its global turnover. It has been fined more than 8 billion euros (\$9.5 billion) by the European Commission in the last decade in three separate cases. The Commission in June said its sector inquiry into internet-connected devices drew concerns from respondents over certain exclusivity and tying practices related to voice assistants such as producers of smart devices being prevented from installing a second voice assistant on a device.

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7. **Big Telecom Reform: 100% FDI Through Automatic Route Cleared by Cabinet:**

In a big telecom reform, the centre has announced 100 per cent foreign direct investment (FDI) in the telecom sector through the automatic route as part of its comprehensive package for the telecom sector. The government also announced a four-year moratorium on unpaid dues, adjusted gross revenue (AGR) and spectrum dues.

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8. **Facebook asks Oversight Board for guidance on 'cross-check' system:**

Facebook Inc said it will ask its independent Oversight Board for recommendations on how to improve its cross-check system, an

internal program the social media company says is used to double check enforcement actions against certain users. Earlier this month, the Wall Street Journal reported millions of Facebook accounts belonging to celebrities, politicians and other high profile users are exempt from its rules under the system, allowing them to post rule-violating content.

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9. **Digital Health ID card for every Indian:**

Prime Minister Narendra Modi launched the Ayushman Bharat Digital Mission to provide a digital Health ID to people which will contain their health records. The nationwide rollout of the digital Health ID coincides with National Health Authority (NHA) celebrating the third anniversary of Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (AB PM-JAY).

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10. **U.N. Urges Moratorium on Use of Face-Scanning Technology and AI That Threatens Human Rights**

The U.N. human rights chief is calling for a moratorium on the use of artificial intelligence technology that poses a serious risk to human rights, including face-scanning systems that track people in public spaces. Applications that should be prohibited include government "social scoring" systems that judge people based on their behavior and certain AI-based tools that categorize people into clusters such as by ethnicity or gender.

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## DATA PROTECTION AND PRIVACY

1. **WhatsApp fined a record 225 million euro by Ireland over privacy**

In Ireland, the messaging giant WhatsApp has been fined a record 225 million euro (1947 crore) for data privacy violations.

The Data Protection Commission imposed the penalties today following an inquiry into the messaging app's transparency around sharing data with other Facebook companies.

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2. **'Tarnishes His Image': Bombay Court Temporarily Restrains Access To 'Selmon Bhoi' Game Allegedly Based On Salman Khan Hit & Run Case:**

A Bombay Civil Court has ordered temporary restraint on access to an online mobile game titled 'Selmon Bhoi', allegedly based on the hit and run case connected with the actor Salman Khan.

Noting that the game is open to the public and that Khan's permission has not been sought, the Court held that it violates his "right to privacy", further tarnishing his image.

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3. **Right To Be Forgotten Depends on How Far It Has to Be Stretched, Rights Have To Be Balanced: Delhi High Court:**

The Delhi High Court on Wednesday observed that the Right to be Forgotten depends on how far it has to be stretched and that the rights of a person have to be balanced. The oral observation came from Justice Rekha Palli who said: "*Right to be Forgotten depends on how far it has to be stretched. Tomorrow, people who defraud the banks will come and say, 'please remove the judgment'. We have to balance the rights.*"

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4. **Plea alleges unauthorized access of Aadhaar, banking data by GPay: HC seeks RBI, UIDAI response:**

The Delhi high court has sought a response from the Unique Identification Authority of India (UIDAI) and Reserve Bank of India (RBI) on a PIL alleging unauthorized access, use and storage of users' Aadhaar and banking information by Google Pay. A bench of chief justice DN Patel and Justice Jyoti Singh issued notice on the petition and also sought the stand of Google India Digital Services Pvt.

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## RULES AND REGULATIONS CHANGES

1. **The Karnataka Police (Amendment) Bill, 2021:**

The Karnataka Police (Amendment) Bill, 2021 was passed by the State Govt. with a view to curb the menace of gaming through internet & mobile apps & to wean the citizens away from the vice of gambling. Previously, there was an

exception for playing of & wagering on pure games of skill. The Amendment now prohibits all forms of gaming including online gaming by all means of instruments, cyberspace, mobile application or any virtual platform. Inter alia, punishment for owning, occupying, etc. places of gaming, has been increased to 3 years & 1 lakh from 1 year & 1 thousand.





Established in 2008, headquartered in New Delhi, with branch office in Bengaluru and Mumbai, TMT Law Practice is India's premiere Law Firm in segment of Technology, Media and Telecom, behind India's iconic clients and judgements, often cited for "Where Law Meets Innovation"...

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