

WRITE TO INFORMATION

Technology, Media & Telecommunication Laws
July, 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. **Delhi High Court creates Intellectual Property Division to deal with IP cases; exclusive IP Benches likely to be constituted**

The Delhi High Court has created an Intellectual Property Division (IPD) to deal solely with cases related to intellectual property issues. This decision was taken in view of the fact that the Tribunals Reforms Ordinance, 2021 led to the abolition of various Boards/Appellate Tribunals which existed under different laws governing IPR.

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2. **The Supreme Court has held that WhatsApp messages have no evidential value**

The Supreme court consisting of a bench of Chief Justice N V Ramana, Justices A S Bopanna and Hrishikesh Roy mentions that “Prima facie consideration for the purported admission in WhatsApp message is not to be looked into”. If it is not late, then the parties should appear before the arbitrator and would be bound by the arbitrator’s award,”

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3. **Netflix chooses Mumbai for first music creative, production team in APAC**

American streaming service Netflix has set up its first music creative and production team in the Asia Pacific region, in Mumbai. The unit will provide production support to the music creators working with the platform in India and connect them with local music talent, besides partnering with composers, producers, labels, publishers, and artist management teams to make music for series and films backed by the service.

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4. **WeChat suspending new signups as China continues crackdown on its tech giants**

It’s been a dreadful month for Tencent. First, the Chinese government clamped down on the tech giant in early July, alleging irregularities at the company—including possible anti-monopolistic behaviours over mergers and acquisitions. Now, as Bloomberg reports, Tencent has announced it will suspend all new WeChat signups as it undertakes a “security technical upgrade” in line with relevant Chinese laws. Yesterday’s announcement of the suspension of new user signups wiped over 10% from the company’s value on the stock market as of the time of this writing. That 10% fall wiped almost \$100

billion from the market cap of China’s most valuable company.

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5. **Flipkart moves Supreme Court against probe in antitrust case**

Walmart-owned Flipkart filed an appeal with the Supreme Court challenging the Karnataka high court’s recent decision to allow Competition Commission of India (CCI) to continue its investigation against the e-commerce firm and its rival Amazon India for alleged competition law violations. In its 700-page written appeal, Flipkart said the court has failed to argue the main issue that CCI did not comply with its own threshold requirements before ordering an investigation.

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6. **AMUL wins Trademark case in Federal Court of Canada**

The Federal Court at Ontario, Canada permanently barred a company Amul Canada from infringing trademark and copyright of the plaintiffs - Kaira District Co-operative Milk Producers' Union Limited and Gujarat Co-operative Milk Marketing Federation Ltd. owners of the trademark "AMUL" (India's largest food brand). Justice Diner ordered the defendants to transfer to the plaintiffs within 30 days of judgment, ownership and all rights access, administration and control for and over the LinkedIn pages, domain names and other social media pages controlled by the defendants displaying the plaintiff's trademark or copyright.

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7. **WhatsApp Faces EU Complaint For ‘Aggressive’ Rollout of Controversial Privacy Policies**

Facebook’s WhatsApp is facing complaints from consumer groups after allegedly pressuring users to accept changes to its privacy policy and terms of service, which were delayed earlier this year after millions of users left the app believing the changes made it less secure.

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8. **Cryptocurrency Bill set for Monsoon Session**

The government is likely to present the Cryptocurrency and Regulation of Official Digital Currency Bill, 2021 in Parliament during the Monsoon session that begins on July 19. Union Finance Minister Nirmala Sitharaman said that they have done a lot of work on the bill and the Cabinet note is

ready. She added that views, perspectives and feedback have been taken from stakeholders.

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9. After IBF, more broadcasters file petitions against Bombay HC order on NTO 2.0 in SC

After Indian Broadcasting Foundation (IBF), Star, Disney India and Sony Pictures Networks India (SPNI) have filed petitions challenging the Bombay High Court order in the New Tariff Order (NTO 2.0) matter on Wednesday. Other broadcasters including ZEEL and Viacom18 are expected to move the apex court. The IBF, Star/Disney India, and SPNI have challenged the Bombay High Court's decision to grant more powers to the Telecom Regulatory Authority of India (TRAI) to regulate pricing and impose restriction on bouquet discounts if it is necessary in the larger 'public interest'. The HC has done so while relying on the Supreme Court's judgement on airwaves in the Ministry of Information & Broadcasting (MIB) vs Cricket Association of Bengal (CAB) matter.

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10. Police complaint against Kareena Kapoor for hurting religious sentiments

A Christian group has taken objection to the title of a book written by actress Kareena Kapoor and filed a police complaint in Beed city of Maharashtra against her and two others, accusing them of hurting religious sentiments of the community. In the complaint, Shinde has referred to the title of the book, "Pregnancy Bible", authored by Kareena Kapoor and Aditi Shah Bhimjani, and published by Juggernaut Books.

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11. Sony accuses Gymshark of 'massive' music copyright infringement

Sony Music has sued fitness apparel company Gymshark, alleging it misappropriated copyrighted music from artists such as Beyoncé, Britney Spears and Travis Scott in its social media video ads.

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12. Snoop List Has 40 Indian Journalists, Forensic Tests Confirm Presence of Pegasus Spyware on Some

The phone numbers of over 40 Indian journalists appear on a leaked list of potential targets for surveillance, and forensic tests have confirmed that some of them were successfully snooped upon by an unidentified agency using Pegasus

spyware, The Wire can confirm. The leaked data includes the numbers of top journalists at big media houses like the Hindustan Times, including executive editor Shishir Gupta, India Today, Network18, The Hindu and Indian Express.

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13. HC allows Sushant Singh Rajput's father to approach single judge over release of film

The Delhi High Court Monday granted liberty to father of Sushant Singh Rajput to approach the single judge with his grievances surrounding the release of a film purportedly based on the late Bollywood actor's life. A bench of Justices Rajiv Shakdher and Tawant Singh said the parties were "free to advance their stand" before the single judge in view of the fact that the film 'Nyay: The Justice' now stood released on a digital platform.

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14. 40 streaming platforms have transmitted data to the I&B Ministry in accordance with the IT rules

Over 40 over-the-top streaming services (OTT) and 1,800 news publishers have submitted information about themselves to the Ministry of Information and Broadcasting in accordance with the rules for information technology (broker liability and code of ethics for digital media) in 2021, the MIB said in parliament.

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15. Puma settles 'Roar' logo infringement claim

Puma has settled a dispute with Brooklyn-based artist Christophe Roberts over claims that the company infringed his 'Roar' logo by using the design on its clothing, reports Reuters. Roberts, who has collaborated with brands such as Nike in the past, claimed that Puma copied his signature 'Roar' design on items such as jackets and t-shirts after a member of the company saw his work at an art installation and hired several people working there.

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16. Foundation Of Media Professionals Seeks Intervention in Plea Challenging Sedition Law Before Supreme Court

The Foundation of Media Professionals has moved an intervention application before the Supreme Court in the petition challenging constitutionality of the offence of sedition under Section 124A of the Indian Penal Code. The main petition was heard by a bench comprising Justices UU Lalit and Ajay Rastogi and the matter has been adjourned to

July 27 to enable the Central Government and the Attorney General to file their response.

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17. Adidas sues Thom Browne for 'infringing' stripe TM

Adidas is suing US fashion designer Thom Browne for allegedly infringing the trademarks for its signature three stripe logo by using "confusing similar marks" on a sports apparel range. The German sportswear company filed the complaint on Monday, June 28, at the US Court for the Eastern District of New York. In the filing, Adidas accused Browne of selling "athletic-style apparel and footwear

featuring two, three or four parallel stripes in a manner that is confusingly similar to Adidas's three-stripe mark".

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18. Recorded Music Performance Limited (RMPL) granted registration as a copyright society

The DPIIT under the aegis of Ministry of Commerce & Industry has granted certificate of registration to Recorded Music Performance Limited (RMPL) under Section 33(3) of the Copyright Act, 1957 and permitted it to commence and carry on the copyright business in sound recording works.

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TECHNOLOGY LAW

19. Virtual hearing cannot substitute physical hearing; Will discuss with High Court CJs on restarting physical courts: Law Minister Kiren Rijju

The newly appointed Law minister Kiren Rijju was addressing at an event organised by the Bar Council of India on July 25 to facilitate him. He acknowledged that virtual hearing of cases by courts cannot be a substitute for physical hearings. Rijju said that he will speak to the Chief Justices of High Courts to ensure that physical hearings are restarted considering the fact that COVID situation has improved.

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20. Air India sued over data breach; flyer seeks Rs 30 lakh in damages

Air India has been sued by a flyer over the recent personal data leak of 4.5 million customers. Ritika Handoo, a journalist from Delhi, has sought damages of Rs 30 lakh from the airline for the breach of data. She has termed the breach as a violation of her "right to be forgotten and informational autonomy". A sophisticated hacking attack on Air India's passenger service system provider SITA resulted in the theft of personal data of 4.5 million passengers in February. Victims include flyers from across the world, the airline said. SITA is based in Geneva, Switzerland. Data registered between August 26, 2011, and February 20, 2021, were stolen by the hackers. Details that were compromised include name, date of birth, contact information, passport information, ticket information, etc.

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21. Affidavits show "total non-compliance" with IT Rules 2021

Delhi High Court pulls up Twitter for unclear position on appointment of officers in the matter of "Amit Acharya v. Union of India & Ors". The Delhi High Court pulled up Twitter Inc for filing inadequate affidavits on the appointment of officers under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules, 2021).

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22. Delhi High Court Notifies New Nomenclature Relating to IPR Disputes Coming into Force with Immediate Effect

The Delhi High Court has notified new nomenclature in respect of the matters relating to Intellectual Property Rights (IPR) coming into force with immediate effect. The High Court had recently established the Intellectual Property Division (IPD) to deal with all matters related to Intellectual Property Rights (IPR). The IP deals with original proceedings, Writ Petitions (Civil), CMM, RFA, FAO on Intellectual Property Rights disputes, except those required to be dealt with by the Division Bench.

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23. Antitrust watchdog okays SoftBank's investment in Swiggy

The second largest publicly traded company in Japan, Softbank, has received approval from the Competition Commission of India (CCI) to invest in Bengaluru based

Bundl Technologies, which operates local food delivery giant Swiggy. The \$450 million infusion into Swiggy is reported to be a part of the larger \$800 million round being raised by the startup, valuing it at \$5.5 billion.

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24. Drone Rules 2021: Industry Happy with Ease of Norms but Privacy Concerns Remain

Stakeholders affected by these new regulations have come to perceive it as a double-edged sword that cuts red tape for drone manufacturing in India but doesn't include any safeguards for collected data. Although India's new draft for the Drone Rules 2021, which will supersede the Unmanned Aerial Systems (UAS) Rules abolishes various norms in a bid to promote the drone industry, many legal experts pointed out that the proposed rules do not address privacy concerns like the outgoing UAS Rules, 2021 did.

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25. "Right to privacy extends to control over one's mobile phone:" Journalists N Ram, Sashi Kumar move Supreme Court for probe into Pegasus scandal

The Director of Hindu Group of publications N Ram and founder of Asianet Sashi Kumar have approached the Supreme Court seeking an enquiry by a sitting or retired judge of the Supreme Court into the Pegasus surveillance scandal. The petitioner also sought directions to be issued to the Government of India to disclose if the Government of India or any of its agencies have obtained license for Pegasus spyware or used it either directly or indirectly, to conduct surveillance as alleged.

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26. Centre's letter to Apple asking for IT Rules compliance withdrawn

Following the implementation of the Intermediary Guidelines and Digital Media Ethics Code, commonly called the IT Rules —MeitY is learnt to have written to Apple India seeking details on compliance with the new rules, specifically with respect to the US tech major's proprietary messaging service. The letter, however, has been withdrawn after the government reached an understanding that Apple's iMessage would not be considered a 'social media intermediary' as it was not "primarily or solely" an instant messaging service provider for enabling interaction between two or more users.

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27. DNA Technology Bill Listed for Consideration and Passing in Upcoming Lok Sabha Session

The DNA Technology (Use and Application) Regulation Bill, 2019 has been listed for 'consideration and passing' in the upcoming Monsoon Session of the Lok Sabha, according to a bulletin uploaded on the Lok Sabha website. The bill, which was first introduced in Parliament in July 2019, seeks to regulate the use of DNA technology to establish the identity of persons in relation to criminal matters and civil matters.

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28. After Tandav Backlash, Vishal Bhardwaj Show on IC 814 Hijacking Dropped by Streaming Platform

After the backlash to the Amazon Prime Video series Tandav by right-wing groups, a webseries on the hijacking of Indian Airlines flight IC 814 was dropped by a streaming platform, director Vishal Bhardwaj told journalist Barkha Dutt in an interview on The Mojo Story. "Darr ke maare (Scared out of their minds), the OTT platforms said we can't touch anything," Bhardwaj said. "I told them it's a fact, it happened in our history. And it's not against our current government, because it was not about the government; our entire nation was being blackmailed, we were at siege." Bhardwaj cited "the fear among the moneymen [and] the OTT platforms" as a reason for his show being dropped.

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29. New York City's new biometrics privacy law takes effect

A new biometrics privacy ordinance has taken effect across New York City, putting new limits on what businesses can do with the biometric data they collect on their customers. Businesses that collect biometric information most commonly in the form of facial recognition and fingerprints are required to conspicuously post notices and signs to customers at their doors explaining how their data will be collected. The ordinance applies to a wide range of businesses retailers, stores, restaurants and theatres, to name a few which are also barred from selling, sharing or otherwise profiting from the biometric information that they collect.

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30. Delhi Police Registers POCSO Case Against Twitter, Platform says, 'Zero Tolerance Policy' On Child Sexual Exploitation

Days after the National Commissioner for Protection of Child Rights (NCPCR) issued a notice to Delhi Police for not taking action on its complaint about the availability of child pornographic material on Twitter, various reports said that the Delhi Police has registered an FIR against the social media

company. This is the third case that has been booked against Twitter on Tuesday, the other two against Twitter India employee Manish Maheshwari for the social media company's inaccurate depiction of Jammu and Kashmir on a world map on the platform's website. Various organisations including news agency ANI, NDTV, and others reported that Delhi

Police Cyber Cell has filed a case against Twitter for alleged child pornographic content on their platform. ANI reported that the case was registered against Twitter under POCSO Act and IT Act on the basis of NCPCR's complaint.

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