

WRITE TO INFORMATION

Technology, Media, Telecommunication,
July 2022

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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.



A. TECHNOLOGY

1. Soccer club pilots 'smart scarf' to collect real time fan reaction

Manchester City, a football club operating in the top flight of English football, has partnered with CISCO Technologies to release the pilot of Connected Scarf, a "smart scarf" armed with sensors that the organization says will enable it to gauge fan emotions. According to the official Manchester City press release, the club has been piloting the accessory with six fans thus far and has recorded "over 120 moments of interest across the 90 minutes of a match." The scarf records a range of physiological measures, including heart rate, body temperature, and emotional arousal – and will enable the club to use the collected data to make "curated, customized experiences," for fans.

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2. PDPC publishes guidance on blockchain design, cloud security

Singapore's Personal Data Protection Commission released new guidelines for data protection associated with deploying blockchain applications that process personal information. The guidance seeks to cover data-protection-by-design principles and potential accountability management measures to ensure safeguards within blockchain apps. The PDPC also published an infographic for cloud service providers containing best practices for data security in the cloud. This document intends to guide organisations in making these choices when storing personal data on a blockchain network.

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3. Centre aims to make Big Tech pay for using content from news publishers:

The Central government is currently discussing a potential revision of the IT regulatory regime in India, to make Big Tech platforms (Google and Facebook) pay digital news publishers for using their content on their respective platforms. This follows from the policy moves in Germany, Australia, and Canada over the past 2 years to ensure digital news publishers are compensated for the use of their original content on Big Tech Platforms. Google is presently under investigation by the Competition Commission of India, for alleged abuse of its dominant position in the online news media market, over its advertisement revenue collection and distribution policies.

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4. Joint study to analyse the IP impact of NFTs

The United States Copyright Office and the United States Patent and Trademark Office (USPTO) announced that they would be conducting the study, responding to a recent request by two lawmakers to establish how NFTs will change the IP field soon. Senator Thom Tillis (R-NC) and Senator Patrick Leahy (D-VT) formerly requested last month that the USPTO and Copyright Office work together on the study. The two offices also revealed that they would involve other stakeholders from the NFT industry and the two legislators.

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5. Police Are Using Newborn Genetic Screening to Search for Suspects, Threatening Privacy and Public Health

A public records lawsuit filed in New Jersey this month details how police subpoenaed a new born blood sample to investigate a 1996 cold case. The State Police had re-opened an investigation into a "cold case" of sexual assault that had occurred in 1996 and had genetically narrowed the suspects to one of three brothers and their male offspring. By serving a subpoena upon the Newborn Screening Laboratory, the State Police allegedly sidestepped its constitutional obligation to develop probable cause and obtain a warrant "so that it could obtain a buccal swab from OPD's client to perform an

analysis of his DNA". Typically, blood samples are collected from babies in the immediate hours after their birth, to test for a panel of potentially life-threatening inherited disorders. However, there is no uniform national policy for how new born screening is conducted, and such regulation is left in the hands of state governments. The lawsuit, filed jointly by the OPD and the non-profit organization New Jersey Monitor, now seeks to force the state of New Jersey to disclose information on the full extent of the practice.

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6. CNIL closes Facebook cookie case

France's data protection authority, the Commission nationale de l'informatique et des libertés, (CNIL) closed its case against Facebook regarding alleged cookie violations under the ePrivacy Directive. The CNIL gave the company three months to correct alleged consent issues related to the placement of third-party cookies on Facebook users that resulted in a 60 million euro fine from the CNIL in January. The regulator reserved the right to conduct compliance checks to ensure Facebook maintains its new practices.

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7. Federal judge approves \$92M TikTok class-action settlement

A US District Judge has approved a \$92 million class-action settlement involving TikTok over a range of data protection violations, including of the Video Privacy Protection Act and Illinois Biometric Information Privacy Act. The settlement resolves litigation stemming from 2019, which consolidated 21 complaints against the social media company. In addition to the monetary settlement, TikTok must avoid transmitting users' biometric or geolocation data on the clipboard within its application unless it discloses the data sharing in its privacy notice. It also requires the company to avoid sending user information to servers outside the U.S. without notice.

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8. Artificial intelligence is not breaking patent law: EPO publishes decision

The EPO Board of Appeal has published its full decision on the question of whether a machine can be an inventor. The Board of Appeal had previously announced its decision to refuse two European patent applications naming an algorithm ("DABUS") as the sole inventor, within the patent application, at the end of last year. The decision demonstrates that the current patent system is more than capable of dealing with AI inventions when and if they arise, without harming innovation or treating the AI inventors unfairly. Under the EPC the inventor had to be a person with legal capacity. At least for this reason, the main request was not allowable.

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9. Member States must prevent unlawful uses of GIs also in exports, says CJEU in Feta case

In its ruling delivered last week, the Court of Justice of the European Union (CJEU) found that Denmark had breached its obligations under Regulation (EU) No 1151/2012, by failing to stop the use of the Greek PDO "Feta" on cheese produced in Denmark and intended for export outside of the EU. The ruling originates from two complaints of the European Commission against Denmark over the production for exports of cheese under the name "Feta", that is: "Danish Feta" and "Danish Feta cheese". Greece claims feta as part of its cultural heritage because it has made the sheep and goat milk cheese for 6,000 years. Feta has been designated a traditional Greek product by the EU executive since 2002, giving it legal protection in the 27-country bloc.

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10. Domain Name Registrars should create mechanism for removing infringing domains: Delhi High Court.

The Hon'ble Delhi High Court has issued directions to the registrar of domain names, who's offices are situated outside India, who offer domain name registration services in India, to devise a mechanism to remove infringing domain names. The Court gave directions to ensure that the names of the registrants which are found to be fictitious, non-existent, or whose proper details are not revealed, do not escape injunction orders, the Registrars of domain names henceforth shall be required to, (1) Disclose the details as available on their database of all the persons registering the said impugned domain names, and, (2) disclose the details of the payments received by them for registering the domain name as also for any other services which may have been provided such as website hosting services, cloud services, etc. (Snapdeal Private Limited v. GoDaddyCom LLC and Ors).

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11. Restaurant Association moves Delhi High Court challenging restriction on adding service charge by default in food bill.

The National Restaurant Association of India (NRAI) has moved the Hon'ble Delhi High Court challenging the guidelines issued by the Central Consumer Protection Authority (CCPA) on July 4 stipulating that service charges must not be automatically computed to food bills by hotels and restaurants. The plea contends that there is no law which disallows restaurants from levying service charge and there has been no amendment to the existing laws which would render levy of the service charge illegal [NRAI & Ors v. UOI & Ors.]

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12. WhatsApp privacy policy still in force, unable to proceed against them despite court order: CCI to Delhi High Court

The Hon'ble Delhi High Court has reserved its orders in an appeal by social media giants Facebook and WhatsApp challenging the probe ordered by the Competition Commission of India (CCI) into the WhatsApp's privacy policy. During the proceedings, the CCI submitted that WhatsApp's updated privacy policy of 2021 has not been withdrawn and its probe concerning the policy should be allowed to proceed. CCI further contended that unless there is a lack of jurisdiction or mala fides or arbitrariness, the CCI probe cannot be stalled.

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B. MEDIA

13. Social Media Influencers required to pay extra tax:

Social media influencers will now be required to pay a 10% tax deducted at source (TDS) on any freebies and perks received worth above ₹20,000, from businesses for sales promotion, effective July 1, under the new tax rules. This could potentially include free air tickets, mobile phones, hotel stays, luxury products, and other free gifts or services, as per Section 194R, a recent addition to the Income-tax Act. However, they will be exempted from the tax if they return the product to the respective brands. The influencer will have to pay 10 per cent of the value of the benefit by way of advance tax and present the provider with evidence of payment in the form of a challan and a declaration before receiving the benefit.

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14. Bombay High Court allows release of Khuda Haafiz 2

The Hon'ble Bombay High Court has allowed for the release of the film, Khuda Hafiz 2, in theatres, after the producers agreed to and implemented the recommended changes by CFBC. The petitioners had approached the court to stall and ban the release of the film and further sought withdrawal of the trailer from media portals. The changes to the film included deleting the word "Husain" from the film's song replacing it with "junoon," and also deletion of the scene wherein the particular blade used for zanjeer-ka-matam, is portrayed in a negative light.

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15. Andhra Pradesh High Court stays online sale of cinema tickets on Govt Platforms

The Hon'ble Andhra Pradesh High Court has imposed a temporary injunction upon the online sale of cinema tickets on government platforms and, further restrained the State government from going ahead with the sale of cinema tickets through a proposed exclusive portal, set for launch on July 27. Bigtree Entertainment Private Limited (the petitioners) had sought a declaration that Section 5A of the Andhra Pradesh Cinemas (Regulation) Act, 1955 was arbitrary, unconstitutional, and to declare any actions taken pursuant thereto against private online ticket booking platforms as arbitrary and unconstitutional [Bigtree Entertainment Private Limited v. State of Andhra Pradesh].

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16. Delhi High Court Decrees Copyright Ownership Suit Filed By TV Music Composer Abhishek Ray Against Showtime Events:

The Hon'ble Delhi High Court granted a decree of permanent injunction in favor of TV music composer Abhishek Ray, and further held that the original producer, lyricist and composer of a music album is entitled to a decree of declaration to that effect. The Hon'ble Court, while adjudicating upon the proceedings to determine the rightful owner of the underlying works and sound recordings in a music album, further held that the defendant is solely liable to claim partial rights to the promotional videos created for the release of the album. [Abhishek Ray v. R. Paul And Ors].

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17. Epidemic Sound Files Copyright Infringement Suit Against Facebook Parent: 'Meta is Stealing Thousands of Epidemic's Songs At Any Given Moment'

Epidemic Sound has sued Meta, the parent company of social media platforms Facebook and Instagram, for storing, curating, reproducing, and distributing its music catalogue without authorization, adding up to 80,000 incidents of infractions per day. The company says that as a result of Meta's illegal actions, Epidemic's music is now available across videos on Facebook and Instagram, that have been viewed billions of times, thus leading to irreparable harm to Epidemic Sound. Further, the Swedish music company claims that Meta has "ignored Epidemic's repeated notices of infringement and requests

for access to the tools that would help stop the infringement”. The music company is demanding maximum statutory damages of \$150,000 for each of the works it believes have been infringed, with the total damages sought adding up to “no less” than \$142 million.

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18. Delhi High Court issues summons to filmmaker Leena Manimekalai over the Goddess Kaali’s smoking poster

The Hon’ble Delhi High Court has summoned filmmaker Leena Manimekalai, in furtherance of a suit seeking injunction against the depiction of Hindu Goddess Kaali smoking a cigarette. Ms Manimekalai’s tweet on 3 July had generated thousands of responses from angry Hindus, who accused her of offending their religious sentiments. The filmmaker, who is currently studying in Canada, earlier claimed that the goddess in her film “champions humanity and embraces diversity”.

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C. TELECOM

19. Eutelsat close to deal for UK satellite operator OneWeb.

French satellite company Eutelsat is poised to buy British rival OneWeb in a deal which would strengthen their position in the race to build a constellation of low-orbit satellites, challenging the likes of Elon Musk's Starlink. The proposed takeover will ensure that the British government will have a minority stake in the business it rescued from bankruptcy in partnership with India's Bharti Global in July 2020.

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20. CloudConnect gets license for VNO services in Mumbai, Ahmedabad

B2B virtual network operator (VNO), CloudConnect Communications has secured a license for Mumbai and Ahmedabad to offer VNO services in these areas.. The company offers its clients a fully operated and managed cloud-based mobile-first platform. The company will be offering business call management platform with a Unified Cloud-based Communication solutions, Customer Relationship Management Integration with telephony using programmable APIs and calls and administration access to the platform in the domestic as well as international market.

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21. Department of Telecommunication floats consultation paper on need for new legal framework for sector

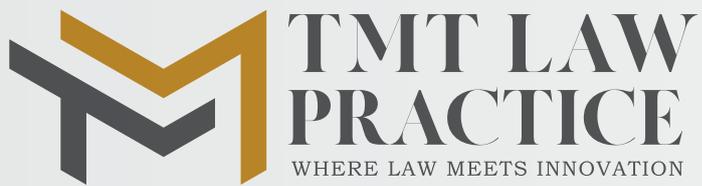
The Department of Telecommunications has sought views on the need for overhauling laws governing the telecom sector, stressing on the need for a new legal framework which was clear, precise, and in tune with the changing times and technologies. It called for changes to regulations on spectrum management, M&A, provisions pertaining to insolvency, and those related to national security, among other things.

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22. Telecom ministry cautions E-Com companies, public from selling mobile signal boosters.

The Department of Telecommunications (DoT) has warned e-commerce platforms of illegal facilitation and sale of wireless jammers and signal boosters. On July 1, 2022, issued an advisory to the general public and informed them that the use of cellular signal jammer, GPS blocker or other signal jamming device is generally illegal, except it is specifically permitted by the government.

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Established in 2008, headquartered in New Delhi, with branch office in Bengaluru, Mumbai and Bhubneshwar, 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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