



**Luthra and Luthra**  
LAW OFFICES INDIA

## TMT LAW NEWSLETTER

---

APRIL-JUNE 2023

### INSIDE

- Indian Cabinet Committee on Security approves the Indian Space Policy 2023.
- RBI releases guidelines on default loss guarantee in digital lending.
- TRAI releases a consultation paper on 'Encouraging Innovative Technologies, Services, Use Cases, and Business Models through Regulatory Sandbox in Digital Communication Sector.'
- TRAI releases a consultation paper on the definition of international traffic.

And Many More....



## Telecommunications

### 1. Telecom Regulatory Authority of India ("TRAI"), on April 06, 2023, released a consultation paper on 'Assignment of Spectrum for Space-based Communication Services.'

TRAI [vide](#) press release dated April 06, 2023, released a consultation paper on 'Assignment of Spectrum for Space-based Communication Services'. This consultation paper came in response to the Department of Telecommunication's ("DoT") reference letter dated September 31, 2021, asking TRAI for recommendations on the auction of spectrum for space-based communication services. The DoT via its reference letter had asked TRAI for recommendations on the subject 'Auction of spectrum in the frequencies identified for International Mobile Telecommunications / 5G'. In the same letter, TRAI was also asked to provide recommendations on appropriate frequency bands, band plan, block size, applicable reserve price, quantum of spectrum to be auctioned and associated conditions for auction of spectrum for space-based communication services.

Following this, TRAI identified certain key issues for consultation which have been published as part of this consultation paper. A few of these issues are as indicated below:

- Determination of appropriate frequency bands and quantum of spectrum for gateway links and user links that should be considered for different types of licensed telecommunications and broadcasting services, in context of meeting demand for space-based communication services.
- Ascertaining provisions that should be made applicable on any new entrant or any entity that could not acquire spectrum in the auction process/ assignment cycle.
- Analysis of whether there is a requirement for permitting flexible use between CNPN and space-based communication services in the frequency range 28.5 - 29.5 GHz.
- Determination of whether space-based communication services should be categorized into different classes of services requiring different treatment for spectrum assignment.
- Evaluation of whether methodology for assignment of spectrum for gateway links for space-based communication services should be an auction based method, administrative method or any other method.
- Analysis of whether frequency spectrum in higher bands such as C band, Ku band and Ka band, should be assigned to licensees on an exclusive basis,



for space based communication services. In case the higher frequency bands are assigned on a non-exclusive basis, then evaluating (a) whether a broad framework for sharing of frequency spectrum among satellite communication service providers needs to be prescribed or left to mutual coordination and; (b) suggesting elements to be included in a broad framework in case broad framework is prescribed.

- Evaluation of whether the spectrum assignee should be permitted to utilize the frequency spectrum for IMT services as well as space-based communication services, in a flexible manner, in the frequency range 27.5-28.5 GHz and listing foreseeable challenges arising out of this flexible use along with appropriate solutions for overcoming the same.

Based on the inputs received on the above issues, TRAI may in due course make recommendations to the DoT.

## **2. TRAI, on April 17, 2023, released a consultation paper on 'Issues related to Low Power Small Range FM Radio Broadcasting.'**

TRAI, on April 17 2023, [released](#) a consultation paper on 'Issues related to low power small range FM Radio broadcasting'. This consultation paper came in response to the Ministry of Information and Broadcasting's ("MIB") reference letter dated March 07, 2022, seeking TRAI's recommendations on the subject of 'need and timing for introduction of new service provider for drive-in theatres application', under Section 11(1)(a)(i) of the TRAI Act 1997 ("**TRAI Act**").

The MIB in its reference letter had emphasised on absence of guidelines in the current law for a new kind of drive-in theatre services. The MIB further projected that there would be rise in demand of drive-in theatres, especially after Covid, and how this could potentially generate additional revenue for the Government. MIB's letter also stated the existence and beneficial usage of other similar services which also use low-power short range FM radio broadcasting which are intended for limited locations and reception area e.g., hospital radio services and amusement parks. The present consultation paper outlines the various issues related to this form of low-power FM radio broadcasting. Some of the issues for consultation are as listed below:

- Determination of whether the use of low power small range FM radio broadcasting by



various entities be licensed or unlicensed.

- In case use of low power small range FM radio is licensed, evaluating whether there is a need for the introduction of a new category of service provider for using low power small range FM Radio broadcasting.
- Determination of whether low power Radio equipment should still be subjected to type approval.
- Terms and conditions of the low power broadcasting licence and eligibility criteria to hold such a licence.
- Determination of the appropriate license period in case licensing for low power small range FM broadcasting is considered.

Based on the inputs received on the above issues, TRAI may in due course make recommendations to the DoT.

### **3. TRAI, on May 02, 2023, released a consultation paper on 'Definition of International Traffic.'**

TRAI [vide](#) press release dated May 02, 2023, released a consultation paper on the 'Definition of International Traffic'. This consultation paper is issued in light of a representation received by

TRAI regarding classification of SMSs as domestic/ international or on clarification of the definition of domestic/ international SMS. To clarify said definitions TRAI requested DoT to investigate and determine the nature of the SMSs presented in the aforementioned representations. To settle this issue, through a letter dated August 30, 2022, DoT finally sought TRAI's recommendations under Section 11(1)(a) of TRAI Act on the 'Definition of International SMS and Domestic SMS'. TRAI through this consultation paper presents the following key contentions:

- Whether 'International traffic' could be prospectively determined as 'the international long-distance traffic originating in one country and terminating in another country, where one of the countries is India.'
- Whether the pre-existing terms 'Inter circle traffic' and 'Intra circle traffic' adequately cover domestic traffic or a distinct definition is necessary.

Based on the inputs received on the above issues, TRAI may in due course make recommendations to the DoT.

### **4. TRAI, on May 02, 2023, released recommendations on 'Ease of Doing Business in**



## Telecom and Broadcasting Sector.'

TRAI [vide](#) press release dated May 02, 2023, issued recommendations on Ease of Doing Business in Telecom and Broadcasting Sector ("**Recommendations on Ease of Doing Business**"). The Recommendations on Ease of Doing Business come as a comprehensive review of the functional aspects of several departments/ministries to give a 'Whole of the Government' approach. This means that all inter-ministerial approvals in the telecom and broadcasting sector are to go through one application or one window.

The Recommendations on Ease of Doing Business present a comprehensive review of application process, compliance process, information submission and payment process applicable throughout the lifecycle of a license. A few salient features of these Recommendations on Ease of Doing Business are detailed below:

- Establishment of a user-friendly, transparent and responsive digital single window system-based portal which should be enabled with new digital technologies.
- Establishment of a standing committee for each Ministry, to regularly review the existing processes and ensure ease of

doing business as a continuous activity.

- Specification of stage wise timelines by MIB, DoT, Ministry of Electronics and Information Technology ("**MeitY**") and other agencies for all processes and permissions as envisaged under the consultation paper.
- Consideration of granting 'Infrastructure Status' to the 'Broadcasting and Cable Services Sector'.
- Discussion on charging of spectrum royalty fee.
- Modification to terms and conditions of DoT license agreement for unified license.
- Measures to reduce compliance burden on internet service providers ("**ISPs**") and repairing submarine cables.
- Replacement of 100% verification of license fee and spectrum usage charge with sample based deduction verification.
- Proposal for modification of process of getting scrutiny-based equipment type approval to be made online and time-bound.
- Replacing requirement of additional clearance for same mobile network site/ tower location with intimation on the saral sanchar portal.

## 5. TRAI, vide press release dated June 02, 2023, issued



## directions regarding implementation of Digital Consent Acquisition (“DCA”) under TCCCPR, 2018

The TRAI, [vide](#) press release dated June 02, 2023, issued directions (“**DCA Directions**”) under the TRAI Act, regarding the implementation of digital consent acquisition as per the Telecom Commercial Communications Customer Preference Regulations, 2018 (“**TCCCPR**”).

The Directions aim to regulate Unsolicited Commercial Communications (“**UCC**”) and protect consumer interests in telecommunication services. A few salient features of the DCA Directions are:

- All access providers are directed to ensure that no promotional messages are sent without scrubbing on the basis of consent and preference of the customers.
- Further, the access providers must ensure that no promotional messages are sent in the service message category.
- Furthermore, all access providers, within two months of issuance of these directions, must develop and deploy a DCA mechanism, amongst others to enable the subscribers to record their consents and revoke the same as given in the

regulations, and seek consent as specified therein.

## 6. TRAI, [vide](#) press release dated June 13, 2023, issued directions for deploying Artificial Intelligence and Machine Learning based UCC Detect System under TCCCPR, 2018

The TRAI, [vide](#) press release dated June 13, 2023 issued directions (“**UCC Directions**”) under the TRAI Act, to implement the UCC Detect System under the TCCCPR.

TRAI has observed an increase in unsolicited calls and SMS from unregistered telemarketers that are engaged in fraudulent activities. By the implementation of the UCC Detect System, TRAI aims to enhance the effectiveness of the TCCCPR, improve consumer protection, and facilitate collaboration among Access Providers in combating UCC.

Requirements: To comply with the UCC Detect System, access providers must fulfil the following requirements:

- **Artificial intelligence (“AI”) and machine learning (“ML”)-based UCC Detect System:** The Access Providers are asked to deploy an AI and ML technologies based UCC Detect System, which is capable of adapting to new UCC signatures, patterns, and techniques used by



Unregistered Telemarketers (“UTMs”). The access providers must ensure that the UCC Detect System should effectively identify senders engaging in bulk UCC and violating regulations.

- **Sender Reputation Analysis:** The Access Providers additionally must ensure that the UCC Detect System is capable of conducting reputation based analysis of the senders, considering factors such as subscription age, authentication, address verification, and SMS/calling patterns. This analysis aims to minimize false positives and ensure accurate identification of UCC senders.
- **Utilization of Distributed Ledger Technology (DLT) Platform:** The Access Providers also need to make sure that the UCC Detect System has the capability to share intelligence with other Access Providers, using Digital Ledger Technology or DLT platform.

## 7. TRAI, *vide* press release dated June 19, 2023, released recommendations on ‘Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India.’

TRAI *vide* press release dated June 19, 2023, released recommendations on ‘Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India’ (“**SLC Recommendations**”). The SLC Recommendations are focused on the licensing associated with submarine cable landing by Indian telecom operators. Submarine cables are critical communication infrastructure that are used for transmitting international internet traffic across the ocean. The SLC Recommendations came about as a result of a re-examination of the licensing framework regarding regulation of submarine cable landing in India by Indian International long-distance operators (“**ILDOS**”). A few salient features of the SLC Recommendations are as follows:

- **ILD / ISP Category ‘A’ authorization** (with International Internet Gateway) license should be amended to include two categories of Cable Landing Station (“**CLS**”) locations – (a) Main CLS and (b) CLS Point of Presence (CLS-PoPs). The Owner of the Main CLS would be required to seek all the permissions/clearances related to the SMC landing in their CLS in India. They will also be required to inform Licensor/TRAI about all CLS-PoP locations and their owners.
- Further, any ILDO who is applying to establish a main CLS needs to submit an undertaking

establishing that they own and control the asset. This undertaking should be backed by proof of ownership of the submarine cable assets as well as the assets at CLS or a signed agreement with the consortium owning the submarine cable to this effect.

- TRAI also recommends that given the critical nature of the submarine cables for connectivity and security of the country, CLS operations as well as associated activities like its maintenance and repair should be accorded 'Essential Services' status.

## **8. TRAI, vide press release dated June 19, 2023, released a consultation paper on 'Encouraging Innovative Technologies, Services, Use Cases, and Business Models through Regulatory Sandbox in Digital Communication Sector.'**

TRAI [vide](#) press release dated June 19, 2023, released a consultation paper on the 'Encouraging Innovative Technologies, Services, Use Cases, and Business Models through Regulatory Sandbox in Digital Communication Sector'. This consultation paper is issued in light of the grey areas in regulating innovative technologies and business models in the

communications sector. TRAI proposes the creation of a sandbox as a robust mechanism to test new ideas from a regulatory perspective by striking a balance between providing businesses with a large customer base in real time conditions while mitigating risks for the customer. Taking cues from the sandbox approach in the banking and fintech sector, TRAI has proposed the following framework for consultation:

- The framework envisages participants such as Applicant and Principal Applicants as stakeholders and places certain essential conditions that needs to be fulfilled by them. These inter alia include, the entity being incorporated in India, financial and technological capability, genuineness of innovation, genuine need to test, limited prior testing, direct benefit of user, risk mitigation, scope of testing, transparency, the scope of regulatory compliance applicable and exemptions sought, consumer protection, testing readiness of the product/service/application, exit strategy etc.
- The framework also suggests that merely fulfilling all essential conditions mentioned above does not automatically qualify the Applicant/Principal Applicant for testing. These applications can also be rejected at the evaluation stage.





- The evaluation stage entails a consultation with the Applicant/Principal Applicant to determine the regulatory requirements and conditions to be applied to the proposed product/service/application, the scope of exemptions granted (if any), the requirement of user acknowledgement and consent for risks associated with using the product/service/application.
- An application for inclusion into the framework can be made to DoT/TRAI or any other entity appointed by them accompanied with a non-refundable fee of ten thousand rupees. Once an application is submitted, the relevant entity is mandated to revert within thirty days from the submission of the completed application. The maximum validity of testing period within the sandbox is capped at twelve months.

Based on the inputs received on the above issues, TRAI may in due course make recommendations to the DoT.

## 9. Indian Cabinet Committee on Security has recently approved the Indian Space Policy 2023

The Indian Cabinet Committee on Security has, on April 06, 2023, [released](#) the Indian Space Policy 2023 ("**Space Policy**"), details of which have been made available on April 20, 2023. The

Space Policy comes with a vision to augment space capabilities, encourage and develop a flourishing commercial presence in space; pursue international relations; maintain nation's socio-economic development and security; and for stimulating public awareness and scientific quest. In pursuance of the vision set out for the space sector, Government seeks to pursue a holistic approach by encouraging and promoting greater private sector participation in the entire value chain of the space economy, including in the creation of space and ground-based assets.

Few salient features of the Space Policy are as follows:

- **Applicability of Space Policy:** The Space Policy is applicable to any space activity to or from Indian Territory or within the jurisdiction of India including the area to the limit of its exclusive economic zone.
- **Powers to non-government entities:** non-government entities ("**NGEs**") shall now be allowed to undertake end-to-end activities in space sector through establishment and operation of space objects, ground-based assets and related services, such as communication, remote sensing, navigation, etc. This would be subject to such guidelines/regulations as prescribed by IN-SPACE. NGEs



would be encouraged, among other things, to use Indian orbital resources and/or non-Indian orbital resources to establish space objects for communication services, over and outside India.

- **Indian National Space Promotion and Authorization Centre ("IN-SPACE"):** IN-SPACE shall act as the single window agency for the authorization of space activities by government entities as well as NGEs, subject to relevant Government directives, keeping in mind safety, national security, international obligations and /or foreign policy considerations. It shall accord authorizations, inter-alia, for establishment and operation of space objects, launch and operation of launch vehicles, establishment and operation of launch pads and in-orbit sale, purchase, transfer of space objects. IN-SPACE shall also authorize the use of space objects for communication and broadcasting to and from Indian territory.
- **Role of ISRO:** Indian Space Research Organization ("ISRO"), as the National Space Agency, will focus primarily on research and development of new space technologies and applications, and for expanding the human understanding of outer space.
- **Functions of Department of Space ("DoS"):** Department of Space ("DoS") shall oversee the distribution of responsibilities outlined in this policy and ensure that the different stakeholders are suitably empowered to discharge their respective functions, as well as act as the nodal department for implementation of the Indian Space Policy-2023. DoS has also been entrusted with a very important role to create an appropriate mechanism to resolve any dispute arising out of space activity, as per the extant laws.
- **Duties of NewSpace India Limited:** NewSpace India Limited, as the public sector undertaking under DoS, shall be responsible for commercializing space technologies and platforms created through public expenditure, manufacture, lease, or procure space components, technologies, platforms and other assets from private or public sector, and service the space-based needs of users, whether Government entities or NGEs, on sound commercial principles.

## Fintech

### 10. Reserve Bank of India ("RBI"), on April 10, 2023, released



## master direction on Outsourcing of Information Technology Services.

The RBI [vide](#) circular dated April 10, 2023, published the Master Direction on Outsourcing of Information Technology Services (“**Outsourcing Directions**”) which aims to ensure that outsourcing arrangements neither diminish regulated entity’s (“**REs**”) ability to fulfil its obligations to customers nor impede effective supervision by the RBI. These Outsourcing Directions shall come into effect from October 01, 2023.

The key obligations of the REs under the Outsourcing Directions are as follows:

- Take steps to ensure that the service provider employs the same standard of care in performing the services as would have been employed by the RE, if the same activity was not outsourced.
- Evaluate the need for outsourcing of IT services based on comprehensive assessment of attendant benefits, risks and availability of commensurate processes to manage those risks.
- Put in place a comprehensive board approved IT outsourcing policy.
- Have a robust grievance redressal mechanism that shall not be compromised in any

manner on account of outsourcing, i.e., responsibility for redressal of customers’ grievances related to outsourced services shall rest with the RE.

- Put in place a risk management framework for outsourcing of IT Services that shall comprehensively deal with the processes and responsibilities for identification, measurement, mitigation, management, and reporting of risks associated with outsourcing of IT Services arrangements.
- Put in place a management structure to monitor and control its outsourced IT activities which would include monitoring the performance, uptime of the systems and resources, service availability, adherence to SLA requirements, incident response mechanism, etc.

## 11. RBI, on June 08, 2023, expanded the scope and reach of e-RUPI vouchers.

The RBI [vide](#) its statement on developmental and regulatory policies dated June 08, 2023 expanded the scope of e-RUPI vouchers. The e-RUPI voucher was launched in August 2021 as a contactless cashless voucher in the form of an SMS or a QR code that the user can use for making payments. The RBI has expanded the scope and reach



of e-RUPI vouchers on two fronts. (a) RBI has now permitted existing non-bank Prepaid Payment Instrument issuers to issue e-RUPI vouchers (b) RBI has further enabled issuance of e-RUPI vouchers on behalf of individuals. Lastly, the RBI has indicated that a separate instruction modifying aspects like reloading of vouchers, authentication process, issuance limits, etc., will also be issued to facilitate use of e-RUPI voucher.

## 12. RBI, on June 08, 2023, released Guidelines on Default Loss Guarantee (DLG) in Digital Lending.

The RBI [vide](#) circular dated June 08, 2023, released the guidelines on Default Loss Guarantee (“DLG”) arrangements in digital lending, commonly known as first loan default guarantee (“FLDG Guidelines”). It was clarified by the RBI that the arrangements conforming to FLDG Guidelines would not be treated as ‘synthetic securitization’.

**Most importantly the FLDG Guidelines provide that** the total amount of DLG cover on any outstanding portfolio should not exceed five percent of the loan portfolio amount. In the case of implicit guarantee arrangements, the DLG provider's performance risk should not exceed five percent of the underlying loan portfolio.

The other FLDG Guidelines provide:

- **Scope of Application:** It is applicable to DLG arrangements in digital lending operations undertaken by (a) Commercial Banks (including Small Finance Banks); (b) Primary (Urban) Co-operative Banks, State Co-operative Banks, Central Co-operative Banks; and (c) Non-Banking Financial Companies (including Housing Finance Companies) engaged in digital lending operations.
- **Eligibility criteria:** DLG arrangements can only be entered into with a lending service provider (“LSP”) or another RE with whom the RE has an outsourcing arrangement. The LSP providing DLG must be incorporated as a company under the Companies Act, 2013.
- **Structure of DLG Arrangements:** DLG arrangements must be supported by an explicit legally enforceable contract between the RE and the DLG provider. The contract should specify the extent of DLG cover, the form in which DLG cover is maintained, the timeline for DLG invocation, and disclosure requirements.
- **Forms of DLG:** REs can accept DLG in the form of cash deposited with the RE, fixed deposits maintained with a Scheduled Commercial Bank



with a lien marked in favor of the RE, or a bank guarantee in favour of the RE.

- **Invocation of DLG:** The RE must invoke DLG within a maximum overdue period of 120 days unless the borrower rectifies the default before that.
- **Tenor of DLG:** The period for which the DLG agreement remains in force should not be less than the longest tenor of the loan in the underlying loan portfolio.

It is important to note that guarantees covered under specific schemes/entities such as credit guarantee fund trust for micro and small enterprises and credit risk guarantee fund trust for low-income housing, shall not be covered within the definition of DLG.

### 13. RBI, on April 28, 2023, introduced amendments to the Master Directions - Know Your Customer (KYC) Direction, 2016

RBI [vide](#) circular dated April 28, 2023, introduced amendments to the Master Directions - Know Your Customer (KYC) Directions, 2016 ("**RBI Master Direction**"). The key highlights of the amendments are as follows:

- In respect of identification of beneficial owner, the RBI Master Direction provides that where the customer or the owner of

the controlling interest is (a) an entity listed on a stock exchange in India, or (b) it is an entity resident in jurisdictions notified by the Central Government and listed on stock exchanges in such jurisdictions, or (c) it is a subsidiary of such listed entities; it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such entities.

- For ongoing due diligence, REs may consider adopting appropriate innovations including AI & ML technologies to support effective monitoring.
- In respect of record management, RBI clarified that 'records pertaining to the identification', 'identification records', etc., shall include updated records of the identification data, account files, business correspondence and results of any analysis undertaken.
- In respect of enhanced due diligence, for non-face -to-face customer onboarding, the REs are required to take measures such as:
  - In case RE has introduced the process of Video based Customer Identification Process ("**V-CIP**"), the same shall be provided as the first



- option to the customer for remote onboarding.
- Apart from obtaining the current address proof, RE must verify the current address through positive confirmation before allowing operations in the account. Positive confirmation may be carried out by means such as address verification letter, contact point verification, deliverables, etc.
  - RE must obtain PAN from the customer and the PAN shall be verified from the verification facility of the issuing authority.
  - Such customers shall be categorized as high-risk customers and accounts opened in non-face to face mode shall be subjected to enhanced monitoring until the identity of the customer is verified in face-to-face manner or through V-CIP.

## Media

### 14. MIB, on June 01, 2023, released National Commission for Protection of Child Rights (“NCPCR”) ‘Guidelines for

### Child and Adolescent Participation in the Entertainment Industry and Any Commercial Entertainment Activity.’

MIB on June 01, 2023, [released](#) NCPCR ‘Guidelines on Child and Adolescent Participation in the entertainment industry’ (“**NCPCR Guidelines**”). These guidelines have been formulated by NCPCR, under Section 13 of the Commissions for Protection of Child Rights Act, 2005, with a view to maintain the welfare of children employed in any kind of commercial entertainment activity. The issues flagged in these guidelines primarily focus on unnecessary exploitation of children who are exposed to potentially harmful behaviour in the largely adult dominated entertainment industry.

NCPCR Guidelines specify that fundamental principles as enshrined under the Juvenile Justice Act, 2015 need to be followed by any individual/institution employing child artists. Further, the guidelines propose certain general safeguards applicable on child artists for content on any platform except for content being created for social media platform by parent/ guardian of the child/ adolescent. Some of the salient safeguards are delineated below:

- Registration of child artist with the district magistrate before involving the child in any audio–



visual media production or commercial event.

- Restrictions on content hosted involving child artist.
- Presence of at least one parent or legal guardian if child is below 6 years of age.
- Measures regarding physical conditions and safety of child/adolescent in working environment.
- Restrictions on working hours and grant of holidays
- Steps regarding discharging wages and ensuring that school education of the child artist is not hampered.

Further, the NCPCR Guidelines also talk about different categories of content created on a) social media platforms; b) news and media platforms, and c) targeted advertisements involving a child artist, The NCPCR Guidelines also dedicate specific sections discussing each of the aforementioned categories. It also mentions the need and proper procedure for periodic inspections, filing of complaints, sensitization and awareness training norms and duties of the monitoring authorities. Lastly, it speaks about the penalties and offences applicable in event of breach of any provision of these guidelines or any other Juvenile Justice acts including related acts for welfare of children in this regard.

## 15. Advertising Standards Council of India ("ASCI"), vide circular

### dated June 15, 2023, released Guidelines for Online Deceptive Design Patterns in Advertising.

The ASCI [vide](#) circular dated June 15, 2023, released the Guidelines for Online Deceptive Design Patterns in Advertising ("**Deceptive Pattern Guidelines**") to address the problem of usage of dark patterns by the businesses for increasing their revenue. The examples of dark patterns employed by the businesses include - spending more money on a purchase or time on a service than desired; or giving up more personal data than desired; or purchasing more or lesser quantity of goods or services that they would otherwise not purchase. The Deceptive Pattern Guideline covers advertising in digital media including e-commerce, airline, food delivery etc. apps and websites and are applicable from September 01, 2023.

The key aspects of the Deceptive Pattern Guidelines are as follows:

- Quoted prices in advertisements and e-commerce sites must include non-optional taxes, duties, fees and charges that apply to all or most buyers so as to prevent drip pricing, which is a practice whereby elements of the prices are not revealed upfront, and the total price is only revealed at the very end of the buying



process or post-confirmation of purchase.

- The practice of bait and switch is considered as misleading where an ad or an element in the ad directly or indirectly implies one outcome based on the consumer's action, but instead serves an alternative outcome. For example - offering an attractive product to the customer and later revealing that it is out of stock and later offering an alternative product.
- Creating false urgency is considered as misleading. For example – advertisers stating or implying that quantities of a particular product or service are (e.g., airline seats available at a certain price) more limited than they actually would amount to misleading consumers.
- Disguised Advertisements i.e., showing advertisements in a format which is similar to editorial or organic content such as influencer posts, paid reviews etc. – is considered as misleading. Such advertisements must clearly disclose that it is an advertisement.

## IT & Data Protection

### 16. MeitY on April 21, 2023, released Draft amendments to the Aadhaar Authentication for Good Governance Rules,

### 2020 to enable performance of Aadhaar authentication by entities other than Ministries and Departments of the Central Government and State Governments.

The MeitY [vide](#) notification dated April 21, 2023, released the draft amendments (“**Amendment**”) to the Aadhaar Authentication for Good Governance (Social Welfare, Innovation, Knowledge) Rules, 2020 (“**Aadhaar Rules**”) for public consultation. The Aadhaar Rules were primarily introduced for the purposes such as preventing leakage of public funds, promoting ease of living of residents, and enabling better access to services for them, usage of digital platforms to ensure good governance, prevention of dissipation of social welfare benefits, enabling innovation and spreading knowledge.

The Amendment proposes to include promotion of ease of living of residents and enabling better access to services for them as one of the prescribed purposes. Further, it proposes to expand the ambit of entities who can do Aadhaar authentication from ministries and departments in the Centre and States to ‘any entities.’ Currently, government ministries and departments are allowed to undertake Aadhaar authentication under the Aadhaar Rules in the interest of good governance.





## 17. MeitY on May 09, 2023, released an advisory on 'Security implications of AI language-based applications.'

The Indian Computer Emergency Response Team ("CERT-IN") under MeitY on May 09, 2023, [released](#) an advisory on 'Security implications of AI language-based applications' mentioning the safety measures that must be followed to minimize the adversarial threats arising from AI based applications.

## 18. CERT-IN vide press release dated June 30, 2023, released 'Guidelines on Information Security Practices for Government Entities for Safe & Trusted Internet.'

CERT-IN [vide](#) press release dated June 30, 2023, released "Guidelines on Information Security Practices for Government Entities for Safe & Trusted Internet" ("**Security Guidelines**"). These guidelines are issued by the National informatics center and are mandated to be followed by all government employees, including outsourced/ contractual / temporary employees, who work for any government Ministry/ Department.

The Security Guidelines cover aspects such as network security, identity and access management, application security, data security, third-party

outsourcing, hardening procedures, security monitoring, incident management, data backup policy, password policy and security auditing.

The Security Guidelines also include a security compliance checklist for domains such as LAN, wireless LAN, desktop/laptop/printer, logging, server security etc. Any failure to comply with the Security Guidelines by government employees can be acted upon by their respective CISOs/Ministry/Department heads.

## 19. Technologies Wing of Information Technology, Electronics Communications (ITE&C), Department of the Government of Telangana on May 10, 2023, released a framework around robotics.

The emerging technologies wing of Information Technology, Electronics Communications (ITE&C), Department of the Government of Telangana on May 10, 2023, [released](#) the Robotics Framework ("**Framework**") which aims to create a sustainable robotics ecosystem in Telangana.

The key highlights of the Framework are as follows: -

- **Objectives:** Includes establishing Telangana as a global robotics R&D hub, making India and Telangana a global hub for robotics



manufacturing, creating the best path for robotics exports and imports, promoting the idea that, Robotics is beyond technology, it is a science to create skilled robotics engineers and technicians for the industry, aligning the ongoing efforts of private and government bodies to encourage participation in robotics from both the players and setting benchmarks in producing world-class robotics technology in Telangana.

- **Focus areas:** Identifies four focus areas to leverage robotics technology which are agriculture, healthcare, industrial automation and consumer robotics.
- **Five key pillars:** To achieve the vision and the objectives, the Government has identified five key pillars which are infrastructure access, business enablement, fostering research & innovation, human capital enhancement and responsible deployment.
- **Telangana Robotics Innovation Center ("TRIC"):** TRIC to be the nodal body to spearhead all initiatives, implement the key pillars of the framework and be responsible for overall implementation of the framework.

## E-Commerce

### 20. National Payments Corporation of India ("NPCI"), on April 27, 2023, executes an agreement to offer Indian consumers hassle-free e-commerce payments globally.

The NPCI International Payments limited ("NIPL") a wholly owned subsidiary of NPCI [vide](#) a press release dated April 27, 2023, announced their agreement with PPRO group, a leading digital payments infrastructure provider.

The objective of the agreement is to enhance the acceptance of RuPay card and UPI among PPRO's clients worldwide, including payment service providers and global merchant acquirers. This collaboration will facilitate NIPL's ongoing expansion into international markets and will incorporate India into PPRO's coverage map for local payment methods. The partnership between NIPL and PPRO will empower global PSPs, banks, payment gateways, and enterprises with payment platforms to expand globally, granting international e-commerce merchants the access to Indian consumers. As a result, consumers will be able to effortlessly make cross-border purchases in Indian Rupees using their preferred payment method.



## Health tech

### 21. The Indian Council of Medical Research (“ICMR”) recently released ethical guidelines for application of artificial intelligence in biomedical research and healthcare.

The ICMR [vide](#) press release dated March 24, 2023, released ethical guidelines for application of artificial intelligence in biomedical research and healthcare (“**AI in Biomedical Research Guidelines**”). The scope of the AI in Biomedical Research Guidelines extends to AI based tools created for all biomedical and health research and applications involving human participants and/or their biological data; health professionals, technology developers, researchers, entrepreneurs, hospitals, research institutions, organization(s), and laypersons who want to utilize health

data for biomedical research and healthcare delivery using AI technology and techniques.

The ethical principles laid out in the AI in Biomedical Research Guidelines are: (a) autonomy; (b) safety and risk minimization; (c) trustworthiness; (d) data privacy; (e) Accountability & liability; (f) optimization of data quality; (g) accessibility, equity & inclusiveness; (h) collaboration; (i) non-discrimination and fairness principle; and (j) validity.

Further, it also provides guiding principles for stakeholders involved in development, validation and deployment phase of AI-based solutions for healthcare and lays down the informed consent process. Additionally, the AI in Biomedical Research Guidelines require the researcher to obtain written informed consent from the study participant for any health research involving human participants and their data.

*This newsletter is only for general informational purposes, and nothing in this edition of newsletter could possibly constitute legal advice (which can only be given after being formally engaged and familiarizing ourselves with all the relevant facts).*



## Key Contacts



ASIM ABBAS



AVISHA GUPTA



VIKASH KUKRETI



ADVAIT LUTHRA