



Luthra and Luthra
LAW OFFICES INDIA

TMT LAW NEWSLETTER

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INSIDE

- The Digital Personal Data Protection Bill, 2022, was released by MeitY.
- MeitY released draft amendments to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.
- Reserve Bank of India commenced the Pilot Launch of the Central Bank Digital Currency - Wholesale (e₹-W) and Retail (e₹-R).

And Many More....



TELECOMMUNICATIONS

1. TRAI released recommendations on Regulatory Framework for Promoting Data Economy Through Establishment of Data Centres, Content Delivery Networks and Interconnect Exchanges in India.

The Telecom Regulatory Authority of India (“TRAI”) [vide](#) publication dated November 18, 2022 released the recommendations on “Regulatory Framework for Promoting Data Economy Through Establishment of Data Centres, Content Delivery Networks, and Interconnected Exchanges in India” which aims to establish trustworthy frameworks and policies to accelerate the development of 5G, the Internet of Things (IoT), edge computing, data analytics, digital platforms, and apps.

The recommendations further provide a comprehensive overview of the prospective demands of the said sectors as well as a detailed examination of the issues expressed in the consultation paper titled “Regulatory Framework for Promoting Data Economy Through Establishment of Data Centres, Content Delivery Networks, and Interconnected Exchanges in India”, released a year prior.

2. Amendments to the Regulatory Framework for Broadcasting and Cable Services released by the TRAI.

The TRAI [vide](#) notification dated

November 22, 2022 published The Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) (Fourth Amendment) Regulations, 2022, and the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff (Third Amendment) Order, 2022.

The key amendments concern the continuation of forbearance on TV channel MRPs, the ability of channels with MRPs of ₹ 19 or less to be included in bouquets, and a restriction on broadcasters' ability to offer discounts greater than 45% when pricing their pay channel lineup over the total of those lineup's pay channel MRPs. Further, by December 16, 2022, all broadcasters must disclose any changes in name, nature, language, MRP per month of channels, and composition and MRP of channel bundles to the TRAI, and immediately display this information on their websites. By January 1, 2023, all distributors of television channels must report the distributors retail price of pay channels and bundles of pay channels, as well as the composition of bundles of pay and Free to air channels, immediately publishing this information on their websites.

3. TRAI releases Recommendations on Use of Street Furniture for Small Cell and Aerial Fibre Deployment.

The TRAI [vide](#) press release dated



November 29, 2022, issued recommendations regarding the consultation paper titled "Use of Street Furniture for Small Cells and Aerial Fiber Deployment", that all central government entities designate spaces in their existing and planned structures for the installation of digital connectivity infrastructure, including small and macro cells. In addition, TRAI noted that street furniture should be shared among telecom companies and emphasized the need to amend the right of way ("**RoW**") regulations further.

The TRAI also reaffirmed its previous recommendations regarding the formation of the National Fiber Authority ("**NFA**") as a top priority and the expansion of the NFA's responsibilities to include above-ground devices, appliances, and equipment. To encourage service providers to share infrastructure, TRAI has suggested that charges paid by lessee telecom service provider ("**TSP**") to lessor TSP for use of shared infrastructure should be deducted from the gross revenues of the lessor TSP in order to determine applicable gross revenue ("**ApGR**") of such lessor TSP. Further, it is also recommended that the Department of Telecommunications ("**DoT**") issue advisory guidelines to States mandating that controlling administrative authorities, that own traffic lights, share these assets with telecom companies and infrastructure providers ("**IP-1**") for the deployment of small cells.

4. TRAI releases Recommendations on Licensing Framework for

Establishing and Operating Satellite Earth Station Gateway (SESG).

The TRAI *vide* publication dated November 29, 2022, issued recommendations regarding the "Licensing Framework for Establishing and Operating Satellite Earth Station Gateway ("**SESG**")". TRAI recommended that there be a separate SESG license under the Indian Telegraph Act, 1885, and that the SESG license not be included in the Unified License ("**UL**"), and that the license's service area be on a national scale. Further, it also recommended that the SESG licensee may establish, maintain, and operate SESGs anywhere within the territory of India for all types of satellite systems for which the government has granted permission, and that it may provide satellite-based resources to any entity that holds a license/permission granted by the DoT or the Ministry of Information and Broadcasting ("**MIB**") and is authorized to use satellite media for the provision of services under the SESG license.

According to the recommendations, the SESG licensee may establish SESGs for one or more government-approved satellite systems but shall not be permitted to provide any type of telecommunication service or broadcasting service directly to consumers for which a separate government license/authorization/permission is required.



5. TRAI releases Consultation Paper on Introduction of Calling Name Presentation in Telecommunication Networks.

The TRAI [vide](#) notification dated November 29, 2022, published a Consultation Paper titled "Introduction of Calling Name Presentation ("**CNAP**") in Telecommunication Networks."

The introduction of CNAP facility in telecommunication networks aims to empower subscribers to make an informed decision while receiving an incoming call, and to reduce the harassment of subscribers by unknown/spam callers; in order to facilitate CNAP feature to all telephone subscribers (smartphone and feature phone owners) in India, telecom network readiness and feasibility must be investigated so that CNAP can be implemented in multi-technology networks across telecommunication companies.

Additionally, DoT requested TRAI to conduct a consultation process to address a few pointers. First, a mechanism for inter-service provider subscriber name access. Second, call flow process modification to include the subscriber's name during call completion. Third, a requirement of storage and retrieval of calling party names at the terminating network along with a technology-neutral caller name display facility for telecommunication subscribers and an Internet-independent caller name display facility for telecommunication subscribers. Finally,

delivery of subscriber name to called party without compromising the existing call flow mechanism's latency was requested by the DoT to be addressed as well.

6. TRAI issues Telecom Tariff (69th Amendment) Order, 2022.

The TRAI [vide](#) notification dated December 6, 2022 issued the Telecom Tariff (69th Amendment) Order 2022 on "Tariff for SMS and Cell Broadcast alerts sent via Common Alerting Protocol ("**CAP**") platform during disasters/non-disasters." The DoT requested that TRAI establish pricing for SMS and Cell Broadcast alerts/messages to be delivered by TSPs using the CAP platform during disasters and non-disasters.

The DoT enables SMS/Cell Broadcast free of charge only for a limited time and for events in which a special request for free messaging is made by NEC/NCMC/SEC/Nodal Authorities. As a result, TRAI released a consultation paper on "Tariff problems connected to SMS and Cell Broadcast alerts sent over the Common Alerting Protocol ("**CAP**") platform during disasters/non-disasters". There are four types of alerts/messages that can be sent through CAP:

- Alerts/messages sent during non-disaster situations, which may be charged.
- Alerts/messages delivered in accordance with the Disaster Management Act, 2005, prior to the notification of a disaster, which may be charged for.



- Alerts/messages sent during a disaster situation in accordance with the Disaster Management Act, 2005 and existing Standard Operating Procedures which will be provided free of charge.
- Alerts/messages sent during a disaster situation that are not in accordance with the Disaster Management Act, 2005 which will incur a fee.

The TRAI has agreed to prescribe a tariff of Rs.0.02 for SMS Alerts/ messages sent during disaster and non-disaster situations, excluding those sent in accordance with the Disaster Management Act, 2005. During catastrophe and non-disaster periods, TSPs are required to broadcast messages to all subscribers via Cell broadcast free of charge.

7. TRAI releases consultation paper on Data Communication Services Between Aircraft and Ground Stations Provided by Organizations Other Than Airports Authority of India.

The TRAI [vide](#) notification dated December 10, 2022 issued a consultation paper titled "Data Communication Services between Aircraft and Ground Stations Provided by Organizations Other than Airports Authority of India."

According to a statement from the Ministry of Communications ("MoC"), the DoT stated in a letter dated April 12, 2022, that very high frequency ("VHF")

data link services include aircraft tracking data for flight safety. The MoC has assigned frequencies to Societe internationale de telecommunications aeronautique and bird consultancy services in order for them to operate a VHF data communication link between aircraft and ground stations.

In light of the fact that VHF data link services to provide aircraft communication addressing and reporting service can help track aircraft in real-time and aid investigations/search and rescue operations in the unfortunate event of an aviation disaster, the DoT has requested recommendations from TRAI under the terms of the TRAI Act, 1997, (as amended).

8. TRAI releases Consultation Paper on Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India.

The TRAI [vide](#) consultation paper dated December 23, 2022 titled "Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India" has requested recommendations on licensing framework and regulatory mechanisms for submarine cables landing in India under the existing Unified License-ILD/standalone ILD license.

TRAI is seeking the recommendations of interested parties regarding the necessity and viability of an Indian-flagged vessel for the efficient operation and



maintenance of submarine cables. In addition, domestic submarine cables can be considered to improve digital connectivity and infrastructure in Tier-I and Tier-II cities on the Indian coast, as the reliability and stability of submarine cable networks is greater than that of terrestrial optical fiber cable networks.

The consultation paper aims to examine deployment obstacles and solutions for promoting domestic submarine cables in India while exploring the benefits and challenges of laying stub-cables, which includes placing pre-laid open-ended dark fiber from the Cable Landing Stations (“**CLS**”) through Beach Manhole into the territorial waters for upcoming new cables. Consultation has also been requested regarding problems posed by establishing terrestrial connectivity between differently located CLS in India.

9. TRAI releases Recommendations on Renewal of Multi-System Operators Registration.

The TRAI [vide](#) notification dated December 29, 2022, issued recommendations regarding the “Renewal of Multi-System Operators (“**MSOs**”) Registration.” The Cable Television Networks Rules of 1994 do not currently include provisions for the renewal of MSO registrations.

As per the recommendations, the renewal of the MSO registration must be for a period of 10 years, and the processing fee for the renewal of the MSO registration should be maintained at ₹ 1 lakh. In addition, the renewal

application window cannot be opened earlier than 7 months prior to the expiration date or later than 2 months prior to the expiration date.

Further, the MIB must maintain a list of MSOs with expiration dates on its website and must send an automated communication at least seven months prior to the expiration date. If an MSO submits a renewal application within two months of the expiration date, the MIB may decide whether or not to accept the application. The MIB should not consider renewal applications submitted on or after the registration's expiration date.

The list of MSOs with pending renewal applications must be made accessible to the public via a publicly accessible portal. If the decision to renew the MSO is pending, the MSO must be granted a provisional extension until the final decision is made.

Additionally, it is recommended that the existing guidelines for the uplinking and downlinking of television channels must be modified so that broadcasters do not transmit signals to MSOs whose registration has expired. Finally, the entire registration renewal application process must be completed online, and all documents must be capable of being uploaded in digital format through the Broadcast Seva Portal (“**Seva Portal**”).



MEDIA

10. MIB released Policy guidelines for up-linking and downlinking of Television Channels.

The MIB [vide](#) order dated November 9, 2022 issued the Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022 (“**Uplinking/Downlinking Guidelines**”) to simplify regulatory requirements for Indian companies and LLPs uplinking and downlinking television channels, setting up teleports or teleport hubs, and purchasing/using Satellite News Gathering (“**SNG**”) systems or Digital Satellite News Gathering (“**DSNG**”) systems.

Few salient features of the Uplinking/Downlinking Guidelines are as follows:

- **Teleport/Teleport Hub Applications:** Sections 3 and 4 of the Uplinking/Downlinking Guidelines, allow any firm or LLP to apply on the Seva Portal for setting up a teleport/teleport hub. The MIB, may, after satisfying itself of the fact that the applicant meets the qualifying criteria, as mentioned in Section 3, issue a letter of intent, and request the applicant to submit a performance bank guarantee and security deposit accordingly. The MIB can however also choose to reject a particular application. The applicant, after commencing the operations of the
- teleport/teleport hub, must inform MIB of its operational status.
- **Purchase and hiring of SNG/DSNG Equipment:** A company/LLP with MIB permission to operate a teleport, uplink a news channel, or operate a news agency can purchase, hire and utilise SNG/DSNG equipment, provided it meets certain criteria as prescribed. Further, the permissible use of SNG/DSNG equipment has also been elaborated upon by the Uplinking/Downlinking Guidelines.
- **Requirement to air 30 minutes of socially relevant programming:** Under Rule 35, the MIB has mandated that the entities complying with the Uplinking/Downlinking Guidelines, have to show case 30 minutes of socially relevant content or content bearing national importance. The underlying reason being that since airwaves frequencies are public property, it should be used in the best interest of the society. Eight key areas have been identified on which these shows can be based upon, such as health, education, spread of literacy, empowerment of people from weaker sections of the society and environment.
- **Penal action:** The Uplinking /Downlinking Guidelines penalise content that violate the Programme Code and Advertising Code under the Cable Television Networks Regulation Act, 1995. Where a permission holder is found to be violating any of the terms and conditions of the permission or any other provisions of



the Uplinking/Downlinking Guidelines, the MIB shall have the right to take certain penal measures, as prescribed.

- **Miscellaneous:** The Uplinking/Downlinking Guidelines also prescribe the conditions of uplinking as well as downlinking satellite TV channels.

11. MIB issued guidelines for Platform Services offered by Multi System Operators.

The MIB [vide](#) order dated November 30, 2022, issued Guidelines for platform services offered by MSOs. Platform services in this context, are defined as programs transmitted by distribution platform operators to their own subscribers and does not include Doordarshan channels and registered TV channels. The guidelines also lay down scope of non-news and current affairs-based content. As per the guidelines, only MSOs, registered as companies under the Companies Act, 2013, are allowed to provide local news and current affairs as platform services. The guidelines also elaborate upon other eligibility criteria of MSOs, such as registration requirement as prescribed, security clearance requirement for MSOs, requirement to comply with the Advertising Code and the Program code under the Cable Network Rules, 1994.

It is mandated that MSOs are required to comply with the prescribed framework, within 12 months of issuance of these guidelines. Additionally, all MSOs

providing platform services, must maintain a log of all their platform service channel programs for a period of 90 days. Furthermore, conditions regarding exclusivity of platform service channels and categorization of platform service channels has also been elaborated upon in detail.

Violation of guidelines shall lead to prohibition on transmission for a period of up to 30 days in the first instance, 90 days in the second instance and revocation of registration of the PS on the third violation. MSOs are required to comply with the guidelines within 12 months.

12. The MIB issued an Advisory to Private Satellite TV Channels on advertisements of online betting platforms.

The MIB [vide](#) notification dated October 3, 2022 issued an advisory to the private satellite television channels, in accordance with Paragraph 9 of the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022 ("**Consumer Guidelines**"), under the Consumer Protection Act, 2019, stating that since betting and gambling are illegal in most states of India, advertisements of online offshore betting and gambling platforms would also be deemed to be illegal.

Further, the advisory mentions that on a constructive reading of the, Consumer guidelines, 2022 along with the



Advertising Code under the Cable Network Act, 1995, the advertisement of such news websites which are in fact surrogate advertisements of online offshore betting platforms, will be violative of the law.

It is noteworthy that the MIB issued a similar advisory on June 13, 2022, for private television channels, digital news publishers, and over the top (“OTT”) platforms, asking them to refrain from promoting online/offline betting/gambling by way of advertisements, including surrogate advertisements, calling them a significant financial and socio-economic risk for consumers, as such activities can pose significant financial and socio-economic risk to youth and children.

Thus, in light of the abovementioned laws, and the advisory released on June 13, 2022, the private satellite channels are advised to refrain from advertising online offshore betting platforms and/or surrogate news websites, and/or any products/services depicting these products in a surrogate manner. Any violation of these provisions may lead to penal action as per the applicable laws.

13. MIB issued an advisory to OTT platforms on advertisements of online betting platforms.

The MIB [vide](#) notification dated October 3, 2022 issued an advisory to publishers of news and current affairs content on digital media and publishers of OTT to refrain from publishing advertisements for online betting platforms, stating

that since betting and gambling are illegal in most states of India, advertisements of online offshore betting and gambling platforms, on digital media, would also be deemed to be illegal, in accordance with the provisions of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Guidelines, 2022 (“**Intermediary Guidelines**”).

Further, the advisory mentions that on a constructive reading of the Consumer Guidelines 2022, along with the Intermediary Guidelines, the advertisement of such news websites which are in fact surrogate advertisements of online offshore betting platforms, will be violative of the law.

It is noteworthy that the MIB issued a similar advisory on June 13, 2022, for private television channels, digital news publishers, and OTT platforms, asking them to refrain from promoting online/offline betting/gambling by way of advertisements, including surrogate ads, calling them a significant financial and socio-economic risk for consumers, as such activities can pose significant financial and socio-economic risk to youth and children.

Thus, in light of the abovementioned laws, and the advisory released on June 13, 2022, online news websites and OTT platforms, are advised to refrain from advertising online offshore betting platforms and/or surrogate news websites, and/or any products/services depicting these products in a surrogate manner, as well as to not target such



advertisements towards an Indian audience.

IT & DATA PROTECTION

14. The Ministry of Electronics & Information Technology issued Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2022.

The Ministry of Electronics & Information Technology ("**MeitY**") *vide* notification dated October 28, 2022 published the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2022 ("**Amendment Rules**"). The significant amendments are as follows: -

- The amendment clarifies the languages in which the intermediaries must notify their users. It is now mandated that the intermediary shall periodically, and at least once in a year, inform its users of its rules and regulations, privacy policy or user agreement or any change in the rules and regulations, privacy policy or user agreement, as the case may be, in English or any language specified in the Eighth Schedule to the Constitution in the language of his choice.
- Further, now it is prescribed for an intermediary, to not only prominently publish on its website, mobile based application or both, the rules and

regulations, privacy policy and user agreement in English or any language specified in the Eighth Schedule to the Constitution, for access or usage of its computer resource by any person in the language of his choice, but also ensure compliance of the same. This is an additional requirement on intermediaries to not only notify the users regarding their privacy policy and other rules & regulations, but to also ensure the compliance of the same.

- Furthermore, an intermediary is now mandated, in addition to informing its rules and regulations, privacy policy and user agreement to the user in English or any language specified in the Eighth Schedule to the Constitution in the language of his choice, to also make reasonable efforts, to cause the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share certain sets of information as prescribed. This also puts an obligation on the intermediaries in question, to not only notify users of the do's and don'ts in the privacy policy but also to take reasonable efforts to make sure that the users adhere to such restrictions prescribed. This provision is further amended where intermediaries are no longer mandated to inform users to not host, display, upload, modify, publish such content that is patently false and untrue, and is written or published in any form, with the intent to mislead or harass a person, entity or agency for



financial gain or to cause any injury to any person.

- Additionally, it is prescribed that an intermediary shall take all reasonable measures to ensure accessibility of its services to users, along with reasonable expectation of due diligence, privacy and transparency.
- Also, the intermediaries are now obligated to respect all the rights accorded to the citizens under the Indian Constitution, including in the Articles 14, 19 and 21.
- Moreover, the Grievance Officer appointed under the Intermediary Guidelines, is now mandated to resolve any complaint in the nature of request for removal of information or communication link relating to Rules 3(1)(b), except sub-clauses (i), (iv) and (ix), as expeditiously as possible, and within seventy-two hours of such reporting, in contrast to other complaints which are mandated to be resolved within 15 days of receipt of the complaint.
- Lastly, in line with the draft amendments proposed by MeitY earlier this year, one or more grievance appellate committees ("**Grievance Appellate Committee**") will be established within three months of the amendment coming into force. Each Grievance Appellate Committee shall consist of a chairperson and two whole time members appointed by the Central Government, of which one shall be a

member ex-officio and two shall be independent members. Any person aggrieved by a decision of the Grievance Officer may prefer an appeal to the Grievance Appellate Committee within a period of thirty days from the date of receipt of communication from the Grievance Officer. While dealing with the appeal if the Grievance Appellate Committee feels necessary, it may seek assistance from any person having requisite qualification, experience and expertise in the subject matter, and will aim at resolving the appeal within 30 calendar days. Moreover, the Grievance Appellate Committee shall adopt an online dispute resolution mechanism wherein the entire appeal process, from filing of appeal to the decision thereof, shall be conducted through digital mode. It is also prescribed that every order passed by the Grievance Appellate Committee shall be complied with by the intermediary concerned and a report to that effect shall be uploaded on its website.

15. The Digital Personal Data Protection Bill, 2022.

The MeitY [*vide*](#) notification dated November 18, 2022, published the Digital Personal Data Protection Bill, 2022 ("**Bill**"), that elucidates upon the framework to protect the digital personal data within the Indian territory. The significant features of the Bill are as follows:



- **Applicability:** The Bill aims to regulate the processing of digital personal data within the territory of India where such personal data is (a) collected online; and (b) collected offline but digitised. Further, it also aims to regulate the processing of digital personal data outside the territory of India, where such processing is in connection with any profiling of data principals in India, or activity of offering goods or services to data principals in India.
- **Establishment of Data Protection Board of India:** The Bill provides for the establishment of an independent body known as the Data Protection Board of India ("**Board**"), which is to be constituted by the Government of India. The Board is empowered to determine non-compliance with the provisions of Bill, impose financial penalties and perform such functions, which would be prescribed by the Government.
- **Cross-border transfer of personal data:** The Bill provides for the transfer of personal data to such countries or territories outside India, and on such terms and conditions as assessed and notified by the Government subsequently.
- **Obligations of significant data fiduciary:** The significant data fiduciary are required to appoint a data protection officer who shall represent the significant data fiduciary and be based in India. The data protection officer shall be an individual responsible to the board of directors or similar governing body of the concerned significant data fiduciary and will act as the point of contact for the grievance redressal mechanism under the provisions of the Bill.
- **Duties of data principal:** The Bill casts certain duties upon the data principal, which among others, includes requirement of complying with the provisions of the Bill while exercising its rights, not registering false or frivolous grievance or complaint with a data fiduciary or the Board, not furnishing false particulars or suppress any material information or impersonate another person under any circumstances.
- **Rights of data principal:** In addition to the right to obtain information about personal data being processed by the Data Fiduciary, the Bill, prescribes that the data principals will have the right to seek correction and erasure of their personal data. Additionally, data principals can also nominate another individual to exercise their rights on their behalf in the event of the data principal's death or incapacity.
- **Reporting of data breaches:** The data fiduciaries or data processors are required to notify the Board and each affected data principal of the personal data breach, in the form and manner as prescribed by the Government.



- **Penalties & Liability provisions:** The Bill prescribes penalties in accordance with the subject matter of the non-compliance i.e., for a penalty for the failure to take reasonable security safeguards to prevent personal data breach (up to ₹250 crores), the failure to notify the Board and affected data principals of a personal data breach (up to ₹200 crores), non-fulfilment of additional obligations in relation to processing data of children (up to ₹200 crores), non-fulfilment of additional obligations of significant data fiduciary (up to ₹150 crores); and for all other non-compliances under the Bill (up to ₹50 crores).

16. NITI Aayog released a Discussion Paper: Responsible AI for All.

The National Institution for Transforming India (“NITI”) Aayog [vide](#) publication dated November 2022 released a discussion paper titled, “Responsible AI for All: Adopting the Framework – A Use Case Approach on Facial Recognition Technology (“FRT”)” (“**Discussion Paper**”). The Discussion Paper discusses about the case study of the Digi Yatra model as a flagship for testing practical implications and incidental consequences of applying AI in a real-world use case.

Further, it lays down general recommendations for ensuring responsible use of FRT for future applications. The key recommendations are as follows:

- The Recommendations for governing legislation and policy emphasizes on the need for an underlying data protection regime to address the increased data collection resultant from the rapid increase in the amount of data being collected for AI.
- Further, it also suggests the formation of an ethics committee to assess ethical implications and suggest mitigation measures. Among other things, the ethics committee would be responsible for (a) drafting guidelines for explainable and transparent FRT within the proposed use case; (b) drafting standards for training database representativeness, public audits for fairness and acceptable error rates for the FRT; (c) serving as the first layer of oversight regarding the use of FRT, to ensure compliance with the proposed SOPs.
- The Recommendations for developers and vendors of FRT systems are implemented to help create a ground up system of mitigating design and systemic biases. Among other things, it provides that the developers must build FRT systems that are explainable. The standard for “explainable” has been determined as an AI system that is self-explainable, meaningful and bears explanation accuracy.
- The Recommendations for procurement include that the procurement for FRT must be carried out in a transparent manner with public disclosure of criteria used and procedures followed. Further, the procuring entity must ensure that the



RFP and the AI system being deployed under this project is in line with the National Strategy for Artificial Intelligence, and the Responsible AI 2021 approach papers.

- The Recommendations for Impacted consumers cater to dispute resolution and provide for a grievance redressal framework and introduction of feedback loops which would help determine the public outlook of the FRT system.

FINTECH

17. Reserve Bank India released a Concept Note on a Central Bank Digital Currency for India.

The Reserve Bank of India (“RBI”) [vide](#) press release dated October 7, 2022, issued a concept note on Central Bank Digital Currency (“CBDC”), also known as e₹ (“digital rupee”). The note identifies CBDC as a digital form of Reserve Bank-issued currency notes and outlines key considerations such as technology, choice of design, issue mechanism and further looks into stakeholder implications such as effect of the banking system, change in monetary policy, liquidity management, financial stability along with allied aspects such as privacy issues and anti-money laundering regulations.

CBDC is proposed as a legal tender issued in digital form by a central bank. It resembles paper currency but exists in

digital form. The new currency will be interchangeable with the existing currency and will be accepted as payment and legal tender.

The primary incentives for the issuance of a CBDC in India are the reduction of operational costs associated with physical cash management, the promotion of innovation in the payments and settlement systems and the promotion of innovation in the cross-border payments space.

Additionally, the RBI has proposed two models for the issuance and management of CBDCs. The first is a single-tiered (direct) model in which the central bank manages all aspects of the CBDC system directly, and the second is a multi-tiered model in which the central bank and other intermediaries manage the CBDC system. The multi-tiered (indirect) model is similar to the current system in which banks and intermediaries are responsible for activities such as currency distribution, transaction verification, etc.

CBDC promises to introduce transparency and inclusion in the existing payment systems framework with an objective of addressing a wider audience.

18. RBI commenced the Pilot Launch of the CBDC - Retail from December 01, 2022.

The RBI [vide](#) press release dated November 29, 2022 announced the launch of the first pilot for retail digital



Rupee (“e₹-R”) on December 01, 2022. The pilot would cover select locations in closed user group comprising participating customers and merchants. The e₹-R would be in the form of a digital token that represents legal tender and be issued in the same denominations that paper currency and coins are currently issued. It would be distributed through intermediaries, i.e., banks. Further, the users will be able to transact with e₹-R through a digital wallet offered by the participating banks and stored on mobile phones / devices. Transactions can be both Person to Person (“P2P”) and Person to Merchant (“P2M”). Payments to merchants can be made using QR codes displayed at merchant locations. While the e₹-R would offer features of physical cash like trust, safety and settlement finality, however, as in the case of cash, it will not earn any interest and can be converted to other forms of money, like deposits with banks.

19. RBI commenced the Pilot Launch of the Central Bank Digital Currency - Wholesale (e₹-W) from November 01, 2022.

The RBI [vide](#) a Press Release dated October 31, 2022, announced the pilot launch for Digital Rupee – Wholesale Segment (“e₹-W”) on November 01, 2022. The primary use case for the current pilot of the Wholesale Segment of Digital Rupee “is settlement of secondary market transactions in government securities”. The use of e₹-W is expected to make the inter-bank market more efficient and is also

expected to reduce transaction costs. The RBI plans to lay focus on other wholesale transactions and cross-border payments, in future pilots. The banks identified to participate in the pilot included the State Bank of India, Bank of Baroda, Union Bank of India, HDFC Bank, ICICI Bank, Kotak Mahindra Bank, Yes Bank, IDFC First Bank and HSBC. More details regarding the launch including the select locations and user groups are due to be communicated.

20. RBI released the Standard Operating Procedure for the Inter-operable Regulatory Sandbox.

The RBI [vide](#) press release dated October 12, 2022, released the Standard Operating Procedure on an Inter-operable Regulatory Sandbox (“IoRS”). The IoRS has been proposed by an Inter-Regulatory Technical Group on FinTech (“IRTG on FinTech”) constituted under the Financial Stability and Development Council - Sub Committee (“FSDC-SC”) of RBI.

The IRTG on Fintech is chaired by Chief General Manager of the FinTech Department, RBI with representation from other financial sector regulators, viz., SEBI, IRDAI, IFSCA and PFRDA, and these entities have consented to participate in the IoRS ecosystem.

The IoRS is meant to facilitate testing of innovative products and services across financial sectors. In order to enable the same, a standard operating procedure



("SOP") has been adopted.

The SOP designates the FinTech Department at RBI as the nodal point for receiving applications, coordinating the process, and providing secretarial support. The application to be a part of the IoRS need to be made in the prescribed form on 'on-tap' basis. The SOP also provides for an important distinction, designating one regulator as a 'Principal Regulator ("PR")' (under whose remit the 'dominant feature' of the product falls) and one or more other regulator(s) as the 'Associate Regulator(s) ("ARs")' (under whose remit the other features apart from the dominant feature of the product fall). This is crucial as it further assists in deciding the eligibility criteria and net worth criteria and leads to an initial detailed scrutiny of the application by the PR based on its own framework.

The test design will then be finalized in consultation with all involved regulators and the evaluation of product will be done as per the framework of the PR. Post the exit of an entity from the IoRS, they need to seek authorization from the PR and all concerned ARs before launch of the product in the market. Hence, the main focus of the SOP is to provide for smooth and effective procedural guidelines which are based on the principles of cooperation between the PR and the ARs for facilitating the launch of innovative financial products.

21. RBI released Draft Master Direction on Information

Technology Governance, Risk, Controls and Assurance Practices.

The RBI [vide](#) press release dated October 20, 2022, released Draft Master direction on Information Technology Governance, Risk, Controls and Assurance Practices ("**Master direction**"). The Master direction aims to address and mitigate the "significant financial, operational and reputational risks" posed by IT services. The Master direction incorporates consolidated and updated guidelines/ instructions/ circulars on IT Governance, Risk, Controls, Assurance Practices and Business Continuity/ Disaster Recovery Management, and are applicable to Regulated Entities including (i) Scheduled Commercial Banks (excluding Regional Rural Banks); (ii) Small Finance Banks; (iii) Payments Banks; (iv) NBFCs in Top, Upper and Middle Layers; (v) All India Financial Institutions; and (vi) Credit Information Companies.

The Master direction is set to regulate aspects relating to IT governance, IT Infrastructure and Management, IT Risk and Information Security, Business Continuity and Disaster Recovery Management and Information Systems Audit.

Lastly, Master directions also propose to repeal several earlier directions in this regard, as it aims to consolidate all policies in a single framework. Comments/feedback were invited on these Draft Directions from REs and other stakeholders by November 20, 2022, post which, the RBI will release final version of the Master direction, taking into



consideration the comments received.

22. Ministry of Finance announced the setting up of e-KYC Setu Platform for KYC Process under the Aadhar Act.

The Ministry of Finance (“MoF”) [vide](#) notification dated December 6, 2022, notified that entities onboarded to perform authentication under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (“Aadhar Act”) for the purposes of Section 11A of the Prevention of Money-Laundering Act, 2002 using the e-KYC setu system be permitted to do so, after being satisfied that the e-KYC setu system complies with the standards of privacy and security under the Aadhaar Act. The key aspects of the notification are as follows:

- **National Payments Corporation of India (“NPCI”) to put in place an e-KYC setu system:** The NPCI shall put in place a system to enable verification of identity of a client or its beneficial owner by a reporting entity through authentication under the Aadhaar Act without disclosing the Aadhaar number of the individual to the reporting entity.
- **Data sets permitted to be shared by NPCI:** The NPCI is permitted to share only the last four digits of the Aadhaar number of the client, along with his demographic details made available to it by UIDAI, digitally signed by it, with the reporting entity and the

reporting entity must carry out identification of the client based on the details provided by the client and NPCI.

- **Conditions for on-boarding entities on the e-KYC setu system:** The NPCI is required to ensure that the entity (a) satisfies all the requirements for carrying out authentication through the e-KYC setu; and (b) has requisite regulatory clearance, if required, to carry out the financial business for which it intends to authenticate identity of its clients.
- **Scenarios in which the access to e-KYC system can be discontinued by the NPCI:** The scenarios are as follows: (a) entity is no longer desirous of carrying out authentication of its clients using e-KYC setu; (b) entity is found to be in breach of the requirements laid down by NPCI or UIDAI for verification of its clients using e-KYC setu; (c) entity is no longer allowed to carry out the financial business by the appropriate regulator; or (d) entity does not carry out verification of any client for a period of six months.

23. NPCI released an Amended Operating Circular on RuPay Credit Cards linked to UPI.

The NPCI [vide](#) circular dated December 7, 2022 informed that the RBI has approved the linking of RuPay Credit Cards to UPI, which would provide a seamless, digitally enabled credit card lifecycle experience for the customers. Customers would be



benefitting from the ease and the increased opportunity to use their credit cards and the merchants would benefit from the increase in consumption by being part of the credit ecosystem with acceptance of credit cards using asset lite QR codes. Credit cards can now be linked to a Virtual Payment Address (“VPA”) i.e., UPI ID (credit card number cannot be part of this), thus directly enabling safe, and secure payment transactions. The circular has also advised them to ensure complete transparency on transactions made by customers using credit cards, by means of easily accessible transaction history and clearly visible user interface, while making the payment.

24. RBI announced Expansion in the Scope of Bharat Bill Payment System to include all Payments and Collections.

The RBI [vide](#) press release dated December 07, 2022, in its ‘Statement on Developmental and Regulatory Policies’, informed that it has been decided to expand the scope of Bharat Bill Payment System (“BBPS”) to include all categories of payments and collections, both recurring and non-recurring in nature. It is important to note that, currently, the BBPS doesn’t enable non-recurring payments or collection requirements of individuals even if they are recurring in nature. As a result, certain categories of payments/ collections remain outside the scope of the BBPS illustratively, professional service fee payments, education fees, tax payments, rent collections, etc. This is a welcoming step as it would make the platform accessible

to a wider set of individuals and businesses who can benefit from the transparent and uniform payments experience, faster access to funds and improved efficiency.

25. NPCI extended the 30% UPI Market Cap Deadline by Two Years till December 31, 2024.

The NPCI [vide](#) circular dated November 2, 2022 has extended the compliance deadline of imposing a 30% market cap limit for third-party app providers (“TPAPs”) to December 31, 2024. This is the third extension granted by the NPCI. The NPCI in 2020 came up with a directive to cap the share of transactions a TPAP could process at 30% of the volume of transactions handled on UPI, effective January 1, 2021, which is to be calculated on the basis of the volume of transactions processed during the preceding three months. However, there was another extension granted. The NPCI through the circular has further stated that the existing and new players need to scale up their customer outreach for the growth of UPI and to achieve overall market penetration, because of the significant potential of digital payments and the need for multi-fold penetration from its current state.

E-COMMERCE

26. Department of Consumer Affairs launched ‘Framework for safeguarding and protecting consumer interest from fake and



deceptive reviews in e-commerce’.

The Department of Consumer Affairs (“DoCA”) [vide](#) press release dated November 21, 2022, launched the framework for safeguarding and protecting consumers from fake and deceptive reviews in the e-commerce sector.

With the rapid increase in the user base of the e-commerce sector in India, there is a heavy reliance by the consumers on the reviews of the products/services that are posted by the previous consumers, online. Thus, for keeping a check on fake and deceptive reviews, the Department of Consumer Affairs constituted a committee, to look into the matter and develop the relevant framework accordingly, on June 10, 2022. The committee included various stakeholders including e-commerce companies, industry associations, consumer organizations etc.

While the compliance with the said framework will initially be voluntary by all the e-commerce platform, the Bureau of Indian Standards will develop a conformity assessment scheme for the said framework, to assess compliance. Once made mandatory, the violation of the standards by any entity may be considered as an unfair trade practice or violation of consumer rights and a consumer may submit such grievances to the National Consumer Helpline, Consumer Commissions or the Central Consumer Protection Authority.

The framework provides for responsibilities of organization including developing a code of practice and

necessary stipulations for terms and conditions like accessibility criteria and ensuring content does not contain financial information etc. It also provides for methods for verifying author of a review through email address, identification by telephone call or SMS, confirming registration by clicking on a link, using captcha system etc. to check traceability and authenticity of the author of the review.

The framework also provides for both automated and manual moderation and provides checks for analyzing the content of the review thus posted. The framework is expected to have far reaching impact and benefit all stakeholders in the e-commerce ecosystem, i.e. consumers, e-commerce platforms, sellers etc. as ensuring genuine reviews on platforms will instill trust in the consumer base towards the e-commerce sector in India.

27. Advertising Standards Council of India released Discussion Paper on Dark Patterns used by Digital Platforms.

The Advertising Standards Council of India (“ASCI”) the self-regulatory body of the Indian advertising sector, [vide](#) discussion paper dated November 10, 2022 has discusses and reveals certain harmful patterns used by digital platforms that can cause harm to the general consumers.

According to the discussion paper in question, UI/UX deployed by digital platforms have the potential to manipulate consumer choices and consumption patterns. Practices like drip



pricing, trick questions, nagging, disguised advertisements, bait and switch, are some of the dark patterns on the internet. Taking note of the growing global concerns around such practices, ASCI formed a 12-member task force, consisting of stakeholders from different tech platforms, legal experts, civil society and domain experts. The main purpose of the task force is to identify such dark patterns deployed on the tech platforms that could potentially violate the provision of ASCI Code that inter-alia states that advertisements shall not be framed so as to abuse the trust of consumers or exploit their lack of experience or knowledge.

The paper also acknowledges that not all of these dark patterns could qualify to be unfair trade practice, but ASCI has outlined four key practices that it intends to address through expanding its code, namely drip pricing, bait & switch, false urgency and disguised advertising.

HEALTHTECH

28. Draft Ethical Guidelines for Application of Artificial Intelligence in Biomedical Research and Healthcare.

The Indian Council of Medical Research (“ICMR”) [vide](#) paper dated October 22, 2022 released draft ethical guidelines for application of artificial intelligence (“AI”) in biomedical research and healthcare. (“**Draft Guidelines**”).

The Draft Guidelines formulated by ICMR’s Expert Group aims to guide

effective yet safe development, deployment and adoption of AI based technologies in biomedical research and healthcare delivery. These guidelines are to be used by experts and ethics committees reviewing research proposals involving use of AI based tools and technologies.

The Draft Guidelines envisage that the induction of AI into healthcare has the potential to be the solution for significant challenges faced in the field of health care like diagnosis and screening, therapeutics, preventive treatments, clinical decision-making, public health surveillance, complex data analysis, and predicting disease outcomes. Further, it is argued that AI can find application in sectors like diagnostics and screening, therapeutics/drug discovery/drug development, clinical care, epidemiology and prevention of disease, behavioral and mental healthcare, as well as in developing health management systems with specific use case, using AI as the foundation.

The Draft Guidelines also elaborate upon certain aspects that need to be ensured, for the purposes of implementation of AI into the healthcare system, like the AI needs to be a responsible use case, safety and minimum risk must be ensured with respect to the implementation of AI. Moreover, the Draft Guidelines prescribe that it is vital to ensure that the AI is trustworthy, can be used in an autonomous manner, as well as certain ethical principles of healthcare are ensured, even when the AI is implemented in the healthcare system.



Further, emphasis is laid upon certain principles of data privacy that should be adhered to, while implementing AI to the healthcare sector, considering the sensitive and personal nature of the data sets involved.

The Draft Guidelines also lays down principles for ascertaining the accountability and liability of the AI system, as well as the guidelines for validating a certain AI system and its implementation to the healthcare system.

29. Consultation Paper on unified Health Interface released by National Health Authority of India.

The National Health Authority of India (“NHAI”) [vide](#) press release dated December 15, 2022, released a consultation paper on operationalizing the Unified Health Interface (“UHI”). Since in the present healthcare ecosystem, information exists in a fragmented manner across different apps, there is a high likelihood of patients and healthcare providers to not have a seamless access to each other, the consultation paper envisages that in the current infrastructure, doctors and patients need to use the same application for a good digital experience. Hence, the UHI seeks to break this siloed infrastructure by creating an open interoperable network that connects the various End User Applications (“EUAs”) and Health Service Provider Applications (“HSPAs”), in a seamless manner which can improve the matching and lead to better outcomes for all the parties

involved. The consultation paper defines the scope of users to be the patients availing the services of UHI, and the health service providers to include doctors, hospital beds, laboratories etc. Further, the consultation paper gives detailed overview of various fronts on which the UHI is envisaged to function like search & discovery, service booking, service fulfillment, grievance redressal mechanism, payment & settlement mechanism etc. The consultation paper is open for stakeholders’ feedback till January 17, 2023.

ONLINE GAMING

30. MeitY released draft amendments to the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 in relation to online gaming.

The MeitY [vide](#) notification dated January 2, 2023, released draft amendments to the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 in relation to online gaming (“**Online Gaming Amendment**”). The Online Gaming Amendment introduces the concept of “online gaming intermediary” as a new kind of intermediary and defines an “online game” as a game that is offered on the Internet and is accessible by a user through a computer resource if he makes a deposit with the expectation of earning winnings.

A few other changes brought in by the Online Gaming Amendments are:



- Online gaming companies would be required to register themselves with self-regulatory body and only those approved upon registration would be allowed to operate. The body will consist of a board of directors with five members each from a different field. Multiple self-regulatory bodies may exist, but they would have to inform the Centre about the companies registered along with a report.
- Every online game shall be offered by an intermediary which is registered with the self-regulatory body and shall not contain anything which is not in the interest of sovereignty and integrity of India, defense of India, security of the State, friendly relations with foreign States or public order, or incites the commission of any cognizable offence relating to the above-mentioned. The game has to be in accordance with Indian laws including those relating to gambling or betting.
- The online gaming intermediary shall undertake additional due diligence as per Rule 4A including:
 - It shall display a demonstrable mark of registration on the online games registered with the respective body.
 - It shall have to publish a random number generation certificate and no bot certificate.
 - The intermediary has to have physical contact address within in India and publish it on its website.
- The MeitY is also empowered to notify any other game made as an online game if the Ministry is satisfied that such game may create a risk of harm to the sovereignty and integrity of India or security of the State or friendly relations with foreign states or public order, on account of causing addiction or other harm among children.

The draft amendments are currently open for comments to be submitted by stakeholders and industry bodies till January 17, 2023.

DRONES

31. Ministry of Civil Aviation issues guidelines for PLI incentive scheme.

The Ministry of Civil Aviation (“**MoCA**”) [vide](#) press release dated November 29, 2022, notified the operational guidelines of the Production Linked Incentive (“**PLI**”) scheme for drones and drone components (“**PLI Guidelines**”).

The PLI Guidelines are to be read together with PLI scheme document and in cases of conflict the provision of the PLI scheme document shall prevail. The PLI guidelines are in furtherance of the Central Government’s intent towards



promoting India's upcoming drone industry. This can be traced through the formation of a variety of measures such as the liberalized Drone Rules, 2021 and the first ever UAS Traffic Management ("UTM") Policy Framework, 2021.

The PLI Guidelines are notified to ensure effective operation and smooth implementation of PLI and discuss aspects such as eligibility criteria, process of application, stakeholders, approval process, and disbursement of incentives. The PLI Guidelines govern drone and component manufacturers meeting the eligibility criteria of minimum annual sales turnover of: (i) for Indian MSMEs and Start-ups, ₹ 2 crore for drones and ₹ 0.5 crore for drone components; (ii) for Indian non-MSMEs, ₹ 4 crore for drones and ₹ 1 crore for drone components. The PLI guidelines also lay down the procedure for application in the prescribed format, during the window opened by MoCA, to the Project Management Agency ("PMA") or MoCA through a dedicated online portal. And lastly, the PLI Guidelines specify a mechanism for calculation of incentive and approval of disbursement.

The PLI guidelines will ensure effective implementation of the scheme and can play a major role in encouraging innovation and increasing production in the rapidly evolving drone industry in India.

DIGITAL MAPS

32. Ministry of Science and Technology released National Geospatial Policy, 2022.

The Union cabinet [vide](#) gazette notification dated December 28, 2022 notified the National Geospatial Policy ("Policy"). This policy was formulated by the Department of Science and Technology ("DST"), Ministry of Science and Technology.

Following are few salient features of the Policy:

- **Goals:** The Policy lays down the goals to be achieved by the year 2025, 2030 and 2035, in the geospatial sector of the country.
- **Institutional framework:** The Government shall constitute a Geospatial Data Promotion and Development Committee ("GDPDC"), at the national level as the apex body for formulating and implementing appropriate guidelines, strategies and programs for promotion of activities related to Geospatial sector. GDPDC shall drive the overall development of the Geospatial ecosystem. GDPDC would replace and subsume the functions and powers of National Spatial Data Committee or NSDC constituted through Government of India. DST shall continue to be the nodal Department of the Government.
- **Geospatial data infrastructure:** GDPDC will adopt and develop Global Fundamental Geospatial Data Themes



as National Fundamental Geospatial Data Themes in line with national priorities. It will also develop Sectoral Geospatial Data Themes for various sectors like environment, forest, disaster management, mines & minerals, oceanography, coastal & marine, agriculture, health & diseases etc. It will designate one or more Central or State Level Partnering Agencies as Lead Agencies for each identified fundamental or Sectoral Geospatial Data Theme.

- **Mapping infrastructure:** The Policy shall replace the National Map Policy, 2005. Rules & regulations for operating aircrafts and drones for the purposes of surveying would be further simplified.
- **Role & organization of Survey of India ("Sol"):** Sol will act as facilitator in harmonization of the data sets created using public money to ensure that data generated from various mapping activities by various stakeholders get seamlessly integrated into Geodetic Reference Framework and develop a mechanism to facilitate consolidation of the data sets into the national topographic template to meet the demand of periodically updated, high-resolution and accurate topographic data for the country. The organizational structure of Sol would be aligned with the changed geospatial data regime, with focus on facilitating and nurturing a vibrant domestic geospatial services industry.
- **Role of private sector:** While there are nodal Ministries/Departments for each of the National Fundamental Geospatial Data Themes, actual collection and collation of data and development of Data Themes would be increasingly done with private sector participation consistent with the Guidelines on Acquiring and Producing Geospatial Data, released in February 2021.
- **National digital twin:** National Digital Twin strategy would be devised by GDPDC to provide for reliable, accessible, usable, interoperable, continuously updated datasets for both 'above the surface' and 'subsurface' environments as per the required attributes and precise positioning data from Global Navigation Satellite System (GNSS) systems, or resilient Positioning, Navigation and Timing (PNT) systems and Internet of Things (IoT) sensors.
- **Surveyors' registration and certification:** To maintain the quality of survey professionals, surveyors' registration and certification will be developed through industry driven benchmarks and standards, in line with global best practices.
- **Geospatial enterprise:** Proactive steps will be taken for stimulating geospatial technological innovations and supporting the growth and development of the Geospatial industry in the country and to promote the use of state-of-the-art drone/aircraft/land-



vehicle/ship/satellite borne sensors like Light Detection and Ranging (LIDAR) including Hydrographic LIDAR, Synthetic Aperture Radar (SAR), Ground Penetrating Radar, Electromagnetic Locator, digital camera etc. for survey and mapping activities in the country. An advisory body named as Geospatial Industrial Development Board or GIDB headed by an eminent industrialist, will be

constituted by DST, under the aegis of GDPDC, with representation from Ministry of Commerce and Industry, DST and Department of Revenue among others.

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).



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