Luthra *and* Luthra

LAW OFFICES INDIA

TECH LITIGATION

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INSIDE

1. Regulatory and Privacy Implications of the Sanchar Saathi App

The **Sanchar Saathi** app is a government-managed mobile app by India's Department of Telecommunications (**"DoT"**). It was designed to help users with cybersecurity services like reporting fraud, tracking or blocking lost phones, and verifying mobile SIM connections.

The controversy began when the DoT issued an order dated November 28, 2025 directing smartphone makers to pre-install the Sanchar Saathi app on all new phones sold in India. This meant users would receive devices with the app already installed.

The Sanchar Saathi app was positioned by the government as a public-interest digital initiative aimed at combating telecom fraud, enabling users to trace or block lost or stolen mobile phones, and strengthening overall telecom security. However, the proposal to mandate pre-installation of a state-operated app on personal devices triggered significant privacy concerns, even though uninstall options are technically available. Critics argued that default installation undermines meaningful and informed consent.. These concerns were further amplified by the possibility of state surveillance and, given the app's link to telecom identifiers such as SIM and IMEI data, alongside limited public clarity on policies relating to data collection, retention, sharing, and oversight safeguards. Importantly, reported resistance from manufacturers such as Apple Inc., which is known for its global privacy-by-design commitments, raises apprehensions about government intrusion into device ecosystems and the precedent of compelling OEMs to distribute state software. From a constitutional standpoint, the mandatory pre-installation of such an app could arguably fail the proportionality test under the right to privacy, as the same objectives could be achieved through less intrusive, opt-in mechanisms.

Following privacy backlash and resistance from device manufacturers, the DoTas withdrawn the requirement for mandatory pre installation of the app on smartphones. DoT further clarified that users are free to download, use, or uninstall the app at their discretion, and that no coercive deployment will be undertaken through Original Equipment Manufacturers (**"OEM"**). While the app remains actively promoted as a fraud-prevention and consumer protection measure and has seen increased downloads, the episode has prompted greater scrutiny of transparency, consent, and proportionality in state-led digital initiatives.

2. India Presses Pause on AI Legislation

India has, for the present, consciously decided **not to introduce a standalone law to regulate artificial intelligence**, signalling a calibrated and innovation-first approach to AI governance. This position was articulated on **16 December 2025** by **S. Krishnan, Secretary, Ministry of Electronics and Information Technology ("MeitY")**, who stated at an industry forum that the government is *"not in the mood to create new AI laws right now"* and would instead rely on **existing legal frameworks**, including the **Information Technology Act, 2000, ("IT Act")** the **Digital Personal Data Protection Act, 2023 ("DPDP Act")** and sector-specific regulations to address AI-related risks. The rationale, according to MeitY, is that premature

or overly prescriptive regulation could **stifle innovation, deter startups, and slow India's AI ambitions**, particularly at a time when domestic capacity building and adoption are key policy priorities.

This regulatory stance has been reinforced through policy actions rather than legislation. On **5 November 2025**, MeitY released the **"India AI Governance Guidelines" under the IndiaAI Mission**, adopting a **principles-based, non-binding framework** focused on responsible AI development. The guidelines emphasize core governance values such as **fairness, transparency, accountability, safety, and human oversight**, while encouraging developers and deployers, especially of high-impact or public-facing AI systems, to adopt internal risk-management and ethical safeguards.

Notably, the guidelines do not impose enforceable obligations, reflecting the government's preference for **voluntary compliance, and sector-led oversight** at this stage. While this approach offers flexibility and regulatory agility, it has also sparked debate around legal certainty, accountability for algorithmic harms, and protection of fundamental rights. The government, however, has maintained that it will continue to monitor global developments and domestic risks, keeping the option of formal AI legislation open should the technology's societal impact warrant a more robust regulatory response in the future.

In a statement presented to the Rajya Sabha on 19 December 2025, the Government of India elaborated on its decision to adopt a measured, innovation-friendly approach to artificial intelligence regulation, reiterating that a standalone AI law is not being pursued at this stage. Instead, the government is relying on the India AI Governance Guidelines, released on 5 November 2025 under the IndiaAI Mission, as the cornerstone of India's national AI oversight framework. The guidelines articulate a techno-legal governance model that combines legal safeguards, policy direction, and technological solutions to address emerging AI risks, while avoiding the rigidity of prescriptive legislation that could hinder innovation and early-stage adoption.

The framework acknowledges the dual nature of AI, its capacity to drive economic growth, improve public service delivery, and enhance efficiency across sectors, alongside risks such as algorithmic bias, discrimination, lack of transparency, exclusion, and misuse of high-impact systems. To address these concerns, the guidelines adopt a risk-based, evidence-led, and proportionate approach, under which AI systems that pose higher risks are expected to be subject to stronger safeguards, testing, and oversight. Importantly, the government has clarified that high-risk AI applications will not be allowed to operate without appropriate protections, even in the absence of binding legislation.

Rather than creating new statutory authorities or compliance regimes, the guidelines emphasise governance through existing legal frameworks, including the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, and sector-specific regulations, with enforcement continuing to rest with relevant regulators. The approach is intentionally principles-based and non-prescriptive, designed to remain agile as AI technologies evolve and to support innovation, particularly within India's startup ecosystem. The government has also highlighted ongoing investments in research and technical tools such as deepfake detection, privacy-enhancing technologies, and cybersecurity measures to complement governance efforts.

Overall, the government's position signals a clear policy choice: to prioritise capacity building, responsible adoption, and trust-based oversight over immediate legislation, while keeping the option of a comprehensive AI law open for the future as risks mature and the technology landscape stabilises.

3. Judicial Reform in the AI Era: eCourts Project Gets a Technology Boost

Through a **Press Information Bureau ("PIB") notification dated 18 December 2025**, the **Ministry of Law and Justice** detailed the expanding role of **artificial intelligence and allied digital technologies in India's judicial reform programme under the eCourts Project**, marking another step in the modernisation of the justice delivery system. The government highlighted that AI and machine-learning tools are being deployed primarily as **assistive technologies** to address long-standing challenges such as case backlogs, procedural delays, and limited access to court services, while ensuring that **judicial decision-making remains firmly human-led**. Advanced applications of **Machine Learning (ML), Natural Language Processing (NLP), and Optical Character Recognition (OCR)** are being integrated into court platforms to enable digitisation and translation of records, automated scrutiny of filings, intelligent case scheduling, predictive analytics for administrative planning, and improved communication with litigants.

The notification also drew attention to a suite of **judge-centric AI tools**, including the **Legal Research Analysis Assistant (LegRAA)** and Supreme Court Portal for Assistance in Court's Efficiency (**"SUPACE"**), which are designed to support judges in legal research, precedent mapping, and analysis of complex factual matrices, thereby reducing time spent on repetitive tasks and enhancing judicial efficiency. Under the **Digital Courts 2.1** initiative, AI-enabled features such as **voice-to-text transcription (ASR-SHRUTI), multilingual translation (PANINI)**, document annotation, and integrated judgment databases are being rolled out to streamline courtroom and chamber workflows. In collaboration with academic institutions such as **IIT, Madras**, specialised AI modules are also being piloted to identify filing defects, extract metadata, and integrate seamlessly with core case-management systems like **ICMIS.**

Importantly, the PIB's notification highlights that these AI deployments remain in **controlled, experimental, and pilot phases**, governed by existing court rules and High Court policies, reflecting a **cautious and responsible approach to judicial AI adoption**. The emphasis, as reiterated in the notification, is on improving efficiency, transparency, and access to justice without compromising judicial independence or due process.

Collectively, these initiatives signal India's evolving strategy of leveraging AI as an **enabler of judicial reform**, using technology to strengthen institutional capacity and public trust in the justice system rather than replacing judicial discretion with automated decision-making.

4. Madras High Court recognizes Cryptocurrency as Property under Indian law

In a **landmark ruling dated**, the Hon'ble **Madras High Court ("Court")** in *Rhutikumari v. Zanmai Labs Pvt. Ltd.* (O.A. No. 194 of 2025) delivered India's **first clear judicial declaration recognising cryptocurrencies as "property" under the Indian law, drawing parallels from Transfer of Property**

Act 1882, Indian Trusts Act 1882 and Income Tax Act, 1961. The Court unequivocally held that although cryptocurrencies are neither tangible assets nor legal tender, they constitute property that can be **owned, possessed, enjoyed, and held in trust**, thereby conferring legally enforceable proprietary rights on crypto holders.

The ruling arose from the aftermath of the **July 2024 WazirX cyberattack**, which led to losses exceeding **USD 230 million** and prompted the exchange to freeze user assets and propose a pro-rata restructuring scheme. The petitioner, an XRP cryptocurrency holder, challenged the freezing of her assets and sought interim protection pending arbitration. In granting relief, the Court conducted an extensive analysis of the concept of "property" under Indian law and concluded that cryptocurrencies fall squarely within its broad and inclusive definition, given their **identifiable ownership, exclusive control through private keys, and measurable economic value**. The Court expressly observed that crypto assets, while intangible, are **capable of beneficial enjoyment and trust ownership**.

Significantly, the Court also reaffirmed that cryptocurrencies qualify as **"virtual digital assets" under Section 2(47A) of the Income-tax Act, 1961**, rejecting the notion that they are merely speculative instruments. Building on this classification, the judgment imposed **fiduciary obligations on crypto exchanges and intermediaries**, holding that digital assets held by platforms are **trust-held assets belonging to users**, and cannot be unilaterally redistributed or diminished. T Court emphasised that exchanges function as custodians with enforceable duties of care, loyalty, and asset protection.

The Court further highlighted the power of Indian courts to grant **interim protective relief under Section 9 of the Arbitration and Conciliation Act, 1996**, even where arbitration is seated abroad, so long as the crypto assets are located in India and require safeguarding. By directing the exchange to maintain the status quo over the petitioner's holdings, the Court strengthened investor protections in cross-border crypto disputes.

By unequivocally recognising cryptocurrencies as "property," the Hon'ble Court has confirmed that crypto holders enjoy legally enforceable ownership rights, similar to other intangible assets. This enables investors to seek traditional property-law remedies, such as injunctions, asset-preservation orders, tracing, recovery, and enforcement, rather than being limited to contractual or consumer claims. This recognition significantly strengthens the legal position of crypto investors in disputes involving exchanges, custodians, or third parties.

The ruling clarifies that Indian courts can grant interim protective relief, including status quo and asset-freezing orders, even where disputes are subject to foreign-seated arbitration. This is particularly significant for crypto disputes, which often involve cross-border platforms and offshore arbitration clauses. Investors are no longer left without effective recourse during prolonged arbitration or restructuring processes.

The ruling brings India in line with leading international jurisdictions—such as the UK, Singapore, Hong Kong, and New Zealand—that recognise cryptocurrencies as property capable of ownership and trust protection. This convergence enhances India's credibility in cross-border digital asset disputes and global fintech discussions.

Although territorially binding only within Tamil Nadu, the judgment is likely to have strong persuasive value for other High Courts and potentially the Supreme Court. It may also inform future regulatory and legislative initiatives, providing policymakers with a judicially tested framework for recognising rights and obligations in the crypto ecosystem

Overall, this judgment marks a **turning point in India's digital asset jurisprudence**, aligning Indian courts with global legal trends that recognise cryptocurrencies as property capable of ownership and trust protection. In the absence of comprehensive crypto legislation, the ruling provides critical doctrinal clarity, enhances investor confidence, and lays a judicial foundation likely to shape future developments in regulation, taxation, insolvency, and enforcement relating to virtual digital assets in India.

5. The Central Government Notifies SEBI as an authorized agency under the IT Rules

The Central Government, *vide* a notification dated December 8, 2025, has designated the Securities and Exchange Board of India (**"SEBI"**) as an authorised agency under the Information Technology Act, 2000, read with the Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021 (**"IT Rules"**). Through this notification, SEBI is empowered, for the purposes of Rule 3(1)(d) of the IT Rules, to issue directions to intermediaries for the removal or disabling of access to unlawful or prohibited online content relating to securities markets and investor interests. The designation operates in conjunction with SEBI's statutory mandate under Section 11 of the SEBI Act, 1992, which obligates the regulator to protect investors and regulate the securities market.

Under the IT Act framework, intermediaries are granted conditional safe harbour protection for third-party content hosted on their platforms, subject to compliance with due diligence requirements. One such requirement mandates intermediaries to act expeditiously within thirty-six hours upon receiving actual knowledge of unlawful content through a court order or a direction issued by an authorised agency.

By notifying SEBI as an authorised agency for securities-related content, the regulatory framework now formally enables SEBI to trigger takedown obligations against misleading, deceptive, or unlawful financial content disseminated through digital platforms, including social media and influencer-driven channels.

This notification reflects a broader regulatory response to the increasing circulation of unverified investment-related information online and strengthens the enforcement interface between securities regulation and digital intermediary governance.

6. DPIIT releases working paper on Copyright and Generative Artificial Intelligence

The Department for Promotion of Industry and Internal Trade (**"DPIIT"**) has released a Working Paper titled "One Nation, One License, One Payment – Balancing AI Innovation and Copyright" (**"Working Paper"**), examining the interface between copyright law and generative artificial intelligence (**"GenAI"**). The Working Paper forms Part I of a two-part consultation exercise and focuses specifically on copyright issues arising from the use of copyrighted works as training data for AI systems.

The Working Paper has been prepared pursuant to the constitution of a Committee by DPIIT on April 28, 2025, tasked with examining copyright-related issues raised by AI technologies, evaluating the adequacy of the existing legal framework, studying international approaches, and recommending an appropriate policy framework for India.

EXISTING LEGAL FRAMEWORK

The Working Paper analyses the Copyright Act, 1957 (**"Copyright Act"**), noting that copyright owners are granted exclusive rights under Section 14, of the Copyright Act and that unauthorised use of copyrighted works constitutes infringement under Section 51 of the Copyright Act, unless such use falls within the exceptions provided under the Act.

The Committee observed that Indian copyright law does not expressly provide an exception for text and data mining (**"TDM"**). TDM refers to the use of automated techniques to **analyze large volumes of text and data** to discover patterns, trends, and useful information. While Section 52(1)(a) of the Copyright Act contains a fair dealing exception, it is limited to specific purposes such as private or personal use, criticism or review, and reporting of current events. The applicability of fair dealing to AI training remains unsettled and is currently under judicial consideration, including before the Hon'ble Delhi High Court in *ANI Media Pvt. Ltd. v. OpenAI Inc. Stakeholder Consultations* The Committee undertook consultations with stakeholders across the AI technology ecosystem and the content and creative industries.

Stakeholders from the AI and technology sector advocated for the introduction of a blanket TDM exception, with some proposing an opt-out mechanism for copyright holders. In contrast, stakeholders from the content and creative industries unanimously supported a voluntary licensing framework, emphasising the need for consent and remuneration for the use of copyrighted works in AI training.

COMPARATIVE INTERNATIONAL PRACTICES

The Working Paper examines approaches adopted or proposed in several jurisdictions, including the United States, Japan, the United Kingdom, the European Union, and Singapore. The Committee also took note of ongoing litigation and policy debates globally and observed that awaiting judicial finality across jurisdictions may not be conducive to timely policy formulation in India.

ASSESSMENT OF REGULATORY MODELS

The Committee evaluated multiple regulatory models, including:

i. voluntary licensing;
ii. extended collective licensing;
iii. statutory licensing;
iv. a blanket TDM exception; and
v. a TDM exception with opt-out rights

After assessing these models, the Committee concluded that none of the existing approaches, in their conventional form, sufficiently balance the interests of AI developers and copyright holders in the Indian context.

REJECTION OF A TDM EXCEPTION MODEL

The Committee did not recommend a blanket TDM exception for commercial AI training. The Working Paper notes that such an approach could undermine copyright protection, deprive creators of compensation, and disproportionately disadvantage small and individual copyright holders. The Committee further observed that opt-out mechanisms would require extensive transparency obligations, which could impose additional compliance burdens and potentially hinder AI innovation.

PROPOSED HYBRID LICENSING FRAMEWORK

The Committee recommended a hybrid framework aimed at balancing innovation with copyright protection. The key elements of the proposed framework include:

i. a mandatory blanket licence permitting AI developers to use all lawfully accessible copyrighted works for AI training;
ii. a statutory right to remuneration for copyright holders;
iii. the establishment of a centralised, non-profit collecting entity designated by the Central Government;
iv. participation of copyright societies and collective management organisations in the collecting entity
v. eligibility for both members and non-members to receive royalties upon registration;
vi. government-appointed mechanisms for fixation of royalty rates, subject to judicial oversight; and

DISSENTING VIEW

The Working Paper records a dissenting note submitted by National Association of Software and Service Companies (**"NASSCOM"**), which supported a TDM exception-based approach with safeguards and opt-out mechanisms. However, the majority of the Committee endorsed the hybrid licensing and remuneration model as being more suitable for India's legal and economic landscape.

7. WhastApp v CCI: User choice and Data Sharing in the Digital Economy

The National Company Law Appellate Tribunal's judgment dated 4 November 2025, followed by a clarification order dated 15 December 2025, in WhatsApp LLC v. Competition Commission of India & Ors., constitutes a significant development in Indian tech litigation, particularly in matters concerning data-driven dominance and platform conduct.

Through its clarification, the Hon'ble Tribunal expressly settled the scope of remedies applicable to WhatsApp's 2021 Privacy Policy, especially in relation to non-WhatsApp purposes such as advertising. The dispute arose from the Competition Commission of India's finding that WhatsApp had abused its dominant position under Section 4 of the Competition Act, 2002 **("Competition Act")** by compelling users to accept expanded data-sharing terms as a condition for continued use of its messaging service. Upholding this finding, the Hon'ble Tribunal recorded that "*WhatsApp forced users into accepting expansive data sharing as a condition to using WhatsApp, without offering an effective opt-out*," and that "*mandatory acceptance of broad and vague data sharing terms amounted to coercion and unfair condition on users*." This conduct was held to violate Section 4(2)(a)(i) of the Competition Act.

A central theme of the judgment is the emphasis on user choice as a corrective mechanism in digital markets. The Hon'ble Tribunal observed that "*the core principle is to remove exploitation by restoring user choice*," and that users must retain control over "*what data is collected, for which purposes, and for how long*.". Crucially, it held that "*any non-essential collection or cross-use (like advertising etc.) can occur only with the concerned user's express and revocable consent*."

While examining the remedies imposed by the CCI, the Hon'ble Tribunal set aside the direction imposing a five-year ban on sharing WhatsApp user data for advertising purposes, noting that "*the rationale for the duration of 5 years ban was missing altogether in the Impugned Order*."

It further observed that "*once users have been given option to freely decide to opt in or opt out, as in other reliefs, this direction becomes redundant*." However, the Hon'ble Tribunal did not disturb the broader remedial framework requiring transparency, separation of service usage from consent for non-WhatsApp purposes, and opt-out mechanisms.

The clarification proceedings, culminating in the order dated 15 December 2025, arose because of a mismatch between the Hon'ble Tribunal's findings and the operative portion of its earlier judgment. Acknowledging this, the Hon'ble Tribunal stated that "*there is a mismatch between findings in our judgment and the conclusions/orders which is the operative part*." Invoking its powers under Section 53(O)(2)(f) of the Competition Act, it reiterated that "*no party should suffer due to mistake of the Court*," and clarified that the user-choice-based remedies apply to all non-WhatsApp purposes, including advertising.

From a tech litigation perspective, the decision reinforces an important limitation on dominant digital platforms. The Hon'ble Tribunal categorically held that "*the Appellant cannot assert unilateral or open-ended rights over user data*". By anchoring competition law enforcement in consent, transparency and user autonomy, the judgment and the subsequent clarification together contribute to the evolving jurisprudence on data-driven dominance and platform accountability in India's digital economy.

8. Deepfake Video of Political Leader Triggers Criminal Action: Signals on AI Misuse in India

In December 2025, Indian authorities registered a criminal case following the circulation of an allegedly AI-generated deepfake video depicting former Uttarakhand Chief Minister Harish Rawat in an objectionable and misleading manner. The video, which was widely shared on social media platforms, was alleged to have been synthetically created using artificial intelligence tools to falsely portray the political leader, raising concerns around impersonation, defamation, and electoral misinformation. The complaint prompted police action under provisions of the Information Technology Act, 2000, along with relevant sections of the Bharatiya Nyaya Sanhita 2023 dealing with impersonation, reputation harm, and the dissemination of false information.

Significantly, the case does not rely on any AI-specific legislation, since India currently lacks one but instead applies existing cybercrime and criminal law provisions to address AI-enabled harm. This reflects an emerging enforcement approach in India, where authorities are seeking to curb the misuse of generative

technologies by extending traditional legal concepts such as identity theft, forgery, and deception to synthetic media. While the investigation is still at a preliminary stage, the case is being closely watched for how courts and law enforcement interpret liability in situations involving AI-generated content, including questions around the intent of creators, the responsibility of individuals who circulate such content, and the role of digital platforms in enabling or amplifying its spread.

From a broader perspective, this incident highlights the growing legal risks associated with deepfakes in India, particularly in politically sensitive contexts. It also highlights a likely rise in criminal complaints and enforcement actions targeting AI-driven misinformation and reputational harm, even in the absence of detailed statutory guidance. For technology companies, platforms, and political stakeholders, the case signals that misuse of generative AI is no longer viewed merely as an ethical or policy concern, but increasingly as a matter of enforceable criminal liability under existing Indian law.

9. MeitY Tightens Rules for Social Media Platforms

In its advisory dated 29 December 2025, MeitY relied on Section 79 of the IT Act with Rules 3 and 4 of the IT Rules, 2021, to reiterate that intermediaries can retain "safe harbour" immunity only if they strictly observe due diligence obligations advisory.

The Ministry highlighted Rule 3(1)(b) of the IT Rules, which mandates platforms to make reasonable efforts to ensure that users do not host, upload, publish or share content that is obscene, pornographic, paedophilic, harmful to children or otherwise unlawful. Further, under Rule 3(1)(d) of the IT Rules, intermediaries are legally required to expeditiously remove or disable access to unlawful content upon receiving actual knowledge through court orders or reasoned government directions, and to act strictly within prescribed timelines. MeitY also drew attention to Rule 3(2)(b) of the IT Rules, which imposes a strict 24-hour takedown obligation for intimate or sexual content upon receipt of a complaint from the affected individual.

The advisory warns that failure to comply will result in the loss of safe harbour protection under Section 79 of the IT Act, exposing platforms to penal consequences under Sections 67, 67A and 67B of the IT Act, which criminalize publication and transmission of obscene and sexually explicit material. In addition, MeitY flagged exposure to prosecution under allied laws such as the Protection of Children from Sexual Offences (**POCSO**) Act, 2012, the Indecent Representation of Women (Prohibition) Act, 1986, the Young Persons (Harmful Publications) Act, 1956, and the Bharatiya Nyaya Sanhita, 2023. The MeitY also directed intermediaries to strengthen grievance redressal mechanisms and deploy automated tools for proactive detection, signalling a clear shift towards stricter statutory enforcement and platform accountability.

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This newsletter is only for general informational purposes, and nothing in this edition of the newsletter could possibly constitute legal advice (which can only be given after being formally engaged and familiarizing ourselves with all the relevant facts). However, should you have any queries, require any assistance, or clarifications with regard to anything contained in this newsletter, please feel free to contact Sanjay Kumar / Abhishek Kumar Singh, at the below mentioned coordinates.

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