

WRITE TO INFORMATION

Technology, Media, Telecommunication,
February 2023

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ABOUT US

TMT Law Practice is a boutique law firm providing a full suite of services in the TMT sectors. Over time, the firm's practice has expanded from a niche boutique IP practice, to include practice areas such as commercial disputes resolution & arbitration, regulatory litigation & advisory, corporate/commercial advisory and transactional support, and policy and legislative drafting across industry verticals. The Firm represents a broad range of clients including Fortune 500 companies, as well as MSMEs and Start-ups.

The firm engages in the practice of the conventional domains of law, and, is also heavily invested in the niche areas of emerging technology, including space technology and policy; healthcare and ICT; data privacy and protection; and, sports laws.

The Firm stresses on developing well-rounded, solution-oriented professionals, who specialize in client - focused service delivery.



A. TECHNOLOGY

1. Meta Launches A Paid Verification Service For Facebook And Instagram

Meta has launched a paid verification service -Meta Verified. Meta will begin testing Meta Verified, a subscription service that allows users of the social media platforms to pay to verify their account and get a blue badge. The company announced its subscription plan, which is set to be available for users in New Zealand and Australia. Upon subscribing to Meta Verified, one won't be able to change profile name, username, date of birth or photo. If any of the details have to be changed, then one will need to unsubscribe and apply again.

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2. WhatsApp May Soon Let You Edit Sent Messages:

According to a recent report by WABetaInfo, the WhatsApp platform, is testing a new feature that will let users edit messages up to 15 minutes after they are sent, similar to how the edit button works on Apple's iMessage app. The said feature is still under development.

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3. Lacoste Files for NFT & Metaverse-related Trademarks:

The popular French apparel brand Lacoste filed five NFT (non-fungible tokens) and Metaverse-related trademark applications for "CHAMPS-ELYSEES", at the United States Patent and Trademark Office (USPTO). According to one filing, Lacoste intends to launch animated designs, avatars, etc for use in the metaverse, and exchange services for the purchase and sale of NFTs registered on a blockchain network.

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4. Amazon To Board ONDC With Logistics, SmartCommerce Offerings:

Amazon has committed that it will integrate its logistics network (from pickup to delivery) and SmartCommerce services with the government-backed Open Network for Digital Commerce (ONDC). Amazon said the move aims to provide greater technology support to the seller community and further empower small businesses. SmartCommerce is an AWS-

powered suite of SaaS products that enables MSMEs to build and scale their businesses across digital mediums.

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5. Amazon Completes \$3.9bn One Medical Acquisition After FTC's Antitrust Challenge Times Out:

Amazon Inc. closed a deal worth \$3.9 billion to buy 1Life Healthcare Inc., an operator of primary-care clinics under the name "One Medical" to expand its reach in healthcare. The deal offers Amazon access to dozens of medical offices in over 20 US markets. The deal also gives the firm access to thousands of companies to provide health benefits to employees either in-person or virtual care. The Federal Trade Commission (FTC)'s investigation into the purchase timed out, however, it warned Amazon that it could send further notices to Amazon even after closing the deal.

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6. Google Does Not Exclude Third Party Browsers; CCI Levied ₹1,337 Crore Fine Without Analysis Or Reason:

Google To NCLAT: Google argued before the National Company Law Appellate Tribunal (NCLAT) that the Competition Commission of India (CCI) order imposing a fine of ₹1,337.76 crore on it for allegedly misusing its dominant position in the Android ecosystem is unreasoned and without any basis. It refuted the argument that Google poses any barriers on third party browsers being installed on the Android system and cited an example of UC browser, a third-party browser, wherein the application was downloaded multiple times from its play store, hence it was contended that there is no exclusion of any third-party browsers. NCLAT on January 30 announced it will hear Google's appeal against the CCI order holding that the tech company exploited its dominant position in the Indian market for Android on a day-to-day basis from February 15 to February 17.

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7. Google Disobeying CCI Orders Blatantly: Digital Start-Up Thinktank:

The Alliance of Digital India Foundation (ADIF), the think tank of Indian digital start-ups, has accused Google of violating the directives of the Competition Commission of India (CCI) by charging unreasonable service fees from developers who use alternative billing systems. CCI ordered Google to allow app developers to use any third-party billing or payment processing services for purchasing apps, as well as in-app purchases. The revised policies of Play Store allowed app developers to offer alternative billing systems, apart from Google Play's billing system. However, the app store continued to charge a service fee on the transactions with a discount of 4 per cent, compared to previous charges. Therefore, the current effective service fees on payments through an alternative billing system stand at 11 per cent for the first \$1 million earned by the developer in revenue each year and 26 per cent for earnings above it.

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8. Gaming Giant Epic Brings Its Fight With Google In US To India:

According to reports, Global gaming giant Epic Games has moved the National Company Law Appellate Tribunal (NCLAT) alleging that Google Inc. had failed to comply with several directions issued by Competition Commission of India (CCI). According to sources, Epic Games is seeking to join Indian developers in court to support the CCI's order that requires Google to allow competing third-party app stores on the Google Play Store. Epic Games' director said that "Consumers should be able to choose how they access apps on their mobile devices and developers should be able to compete fairly in the mobile app ecosystem."

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B. MEDIA AND INTELLECTUAL PROPERTY

9. Netflix Reveals Anti-Password Sharing Measures:

Netflix has unveiled the details of its new anti-password-sharing policy which states that anyone who lives outside of the household needs their own account. It's a departure from

the earlier password sharing model where Netflix would charge a certain amount for each user accessing an account from outside the household.

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10. Zee Entertainment Gets Interim Relief As NCLAT Stays Insolvency Order:

The National Company Law Appellate Tribunal (NCLAT) stayed the insolvency proceedings against Zee Entertainment initiated by the National Company Law Tribunal (NCLT). The Company in its statement stated that "The appeal was heard today wherein, NCLAT has issued notice – directed IndusInd Bank Ltd to file its reply in two weeks and the company to file rejoinder in two weeks thereafter. The appeal is now listed for final disposal on March 29, 2023 and till that time the order dated February 22, 2023 passed by NCLT is stayed".

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11. IAMAI Comments On The Draft IT Rules On Online Gaming:

The Internet and Mobile Association of India (IAMAI) said the draft IT Rules on online gaming are "right on intention but poor on scoping". It stated that it is a positive development as it will create a legal framework for orderly and accelerated development of the industry, however, the definition of online gaming is too broad and vague and would unnecessarily bring under regulation and expensive compliance, a set of firms that do not need to be regulated or need to be very lightly regulated. Further, it said certain provisions of the draft also seem to imply that service providers or partners that advertise, publish or host online games will have to comply with the rules by verifying each game with the self-regulatory body on an ongoing basis "making it impractical".

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12. Centre Says Media Council May Not Be Desirable:

The Parliamentary Standing Committee on Communications and Information Technology had suggested to the Ministry of Information and Broadcasting to have a media council, contending that there were limitations in

enforcement of advisories issued by the Press Council of India and News Broadcasting Standards Authority. The government has told a parliamentary committee that it “may not be desirable” to set up a unified media council as each media platform was unique and distinctive in its own way with a self-regulatory mechanism, prompting the panel to make a fresh push for such a framework with statutory powers to enforce advisories.

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13. WhatsApp Tells Supreme Court That It Does Not Have Any User Data Except Name & Phone Number:

WhatsApp informed the Hon’ble Supreme Court that by policy it does not process sensitive personal data of its users. The Court was hearing the petitions which were filed challenging the 2016 privacy policy of WhatsApp. WhatsApp submitted to the Apex Court that it has already given an undertaking that the functionality of WhatsApp will not be affected for users who have not accepted its privacy policy and the position would continue till the data protection bill comes into existence. The Hon’ble Court directed WhatsApp to give wide publicity to the undertaking so that the users are aware of their stand. The matter is now listed for directions on 11th April, 2023.

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14. Supreme Court Dismisses Plea Seeking Ban On BBC After PM Modi Documentary:

The Hon’ble Supreme Court dismissed a petition seeking a total ban on the British Broadcasting Corporation (BBC) and BBC India from operating from Indian territory in the aftermath of the documentary ‘India: The Modi Question,’ which was aired in the wake of the 2002 Gujarat riots. Vishnu Gupta, head of the Hindu Sena, and Beerendra Kumar Singh, a farmer, filed a public interest litigation (PIL) demanding ban of the documentary. The Apex Court ruled that the petition was misconceived and that the Court could not impose censorship.

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15. The Supreme Court Stayed The Bail Condition Imposed By The Kerala High Court, Prohibiting The Playing Of The Song “Varaha Roopam” In The Movie Kantara:

The Hon’ble Supreme Court has stayed the condition imposed by Kerala High Court directing the producer and director of the Kannada superhit movie Kantara to not exhibit the film with the song “Varaha Roopam” for the time being. The Court criticised the Kerala High Court for imposing its condition on playing of song, saying copyright issues cannot be decided in an anticipatory bail application.

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16. Delhi High Court Refuses To Stay Release Of Hansal Mehta’s Film Faraaz:

The Hon’ble Delhi High Court on 02.02.2023 refused to stay release of ‘Faraaz’, a film based on a terror attack in Dhaka in 2016, but has ordered that the filmmakers should “scrupulously adhere to the disclaimer which states that the film is inspired by the attack and elements contained in it are pure works of fiction”. The order came while hearing a plea by family members of two girls, who were killed in the terror attack, seeking stay on film’s release. The Hon’ble Court also took note of the submission made on behalf of the filmmakers that the pictures or images relating to the daughters do not feature in the film.

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17. Delhi High Court Grants Interim Injunction In Favour Of Casio Musical Keyboard:

The Hon’ble Delhi High Court recently passed a permanent injunction order in favour of Japanese electronics company Casio in relation to its musical keyboards named ‘Electronic Keyboard’. The Hon’ble Court restrained an Indian firm - Riddhi Siddhi Retail Venture from manufacturing or selling the keyboard whose design was deceptively similar to Casio’s keyboard.

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18. Delhi High Court Grants Interim Protection To Oreo, Restrains Parle From Using 'Fab!O':

The Hon'ble Delhi High Court, while granting interim protection to 'OREO' in a suit filed by its owner Intercontinental Great Brands, stated that the brand names for biscuits and cookies, ending in 'IO' or 'EO' are rare in market and a customer of average intelligence is likely to presume an association between OREO cookies and Parle's 'FAB!O' biscuits. Therefore, the Delhi High Court restrained Parle from using the FAB!O or FAB!O mark, and barred it from manufacturing, packing or selling its vanilla cream filled chocolate sandwich biscuits in the offending trade dress/pack.

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19. Maharashtra Court Rejects Petition To Restrain 'Besharam Rang' Song And Pathaan Teaser On Youtube:

A court in Ahmednagar district of Maharashtra has rejected a petition seeking temporary injunction to restrain streaming of the teaser of the film - Pathaan and its song Besharam Rang on YouTube without showing U/A censor certificate. The Court rejected the petition against the producer of the film - Yash Raj Films Private Limited stating that the plaintiff - Suresh Patil must produce something to show the foundation for his claim.

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20. Delhi High Court Rejects Sci-Hub Founder's Plea Seeking Rejection Of Copyright Infringement Lawsuit Of Publishing Houses:

The Hon'ble Delhi High Court has dismissed the application of Alexandra Elbakyan, founder of shadow library website Sci Hub, seeking rejection of plaint filed by publishing houses Elsevier, Wiley and American Chemical Society in a copyright infringement suit against her. The publishers have alleged that the websites indulge in online piracy by making their literary work available to the public for free. The Hon'ble Court dismissed the application as not maintainable and noted that Elbakyan has categorically admitted copyright ownership of publishing houses in her written statement.

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21. Delhi High Court Declares Hermes International's 'H' Mark As Well-Known Trademark:

The Hon'ble Delhi High Court has declared the stylized mark - "H" - of Hermes International, a french luxury brand, as a well-known trademark within the meaning of section 2(1)(zg) of the Trade Marks Act, 1999. The Hon'ble Court was hearing a suit filed by Hermes International against Crimzon Fashion Accessories Private Limited alleging infringement of its mark, which is used by it for a range of luxury footwear. In support of its contention for well-known trademark, the luxury brand stated that it has been granted international registration of the mark which has become a style icon and is treated as a fashion classic since the year 1997.

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22. Google's Warning For Third-Party APK Files An Industry Practice, Doesn't Infringe Trademark: Delhi High Court:

The Hon'ble Delhi High Court has observed that the warning displayed by Google to users before they download WinZo's APK file is in the nature of disclaimer to caution them and does not result in trademark infringement of gaming platform. The court dismissed an application moved by Winzo Games Private Limited seeking to restrain Google from displaying the warning "against" use of its gaming application "WinZO Games" on the Android Operating System.

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23. Delhi High Court Restrains Journalist From Publishing News Under 'Kesari TV' Mark As Punjab Kesari Alleges Trademark Infringement:

The Hon'ble Delhi High Court has restrained a freelance reporter from using 'Kesari TV' mark and related logo for providing news services in print or electronic mode till further orders. The Hon'ble Court also ordered suspension of the domain name 'www.kesaritv.com'. The order has been passed in a suit filed by the owners of Punjab Kesari newspaper who alleged that the defendant had got the domain name registered in his favour and concretised an internet presence under the name 'Kesari

TV’ with a logo deceptively similar to its unregistered mark for ‘Punjab Kesari TV’.

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24. Bangladesh’s High Court Bans The Release Of Hansal Mehta’s Hostage Drama ‘Faraaz’ In The Country:

While hearing a writ petition, the Bangladesh High Court, prohibited promotion and showing of Hansal Mehta’s film “Faraaz,” in Bangladeshi theatres and online platforms. Under the petition, it is alleged that the film depicts the failure of law enforcement officers, raising serious concerns about Bangladesh’s sovereignty. For these reasons, this film should not be shown in Bangladesh on any platform.

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C. TELECOM

25. TRAI Directs Telecom Operators To Submit State-wise Service Quality Report:

The Telecom Regulatory Authority of India (TRAI) directed the telecom service providers to submit service quality reports on a quarterly basis for each state and union territory. The regulator said that the report for QoS (quality of service) parameters is essential for the optimum analysis of service quality being provided by telecom companies.

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26. TRAI Releases Consultation Paper On The ‘Introduction Of Digital Connectivity Infrastructure Provider Authorization Under Unified License’:

The Telecom Regulatory Authority of India (TRAI) released a consultation paper on the

regulation of convergence between telecom and broadcast technologies. The paper raises questions regarding the need for a unified licensing regime for both telecom and broadcast services and seeks stakeholder views on the present regulatory framework.

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27. Label Cable Laying And Repair Critical And Essential Service:

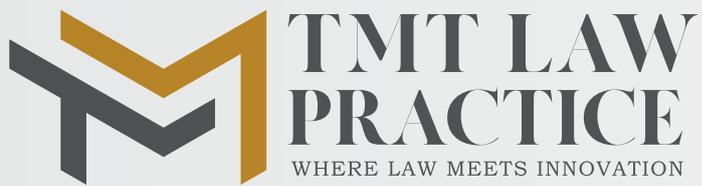
Telcos: In response to the consultation paper released by Telecom Regulatory Authority of India (TRAI) on the licensing framework and regulatory mechanism for submarine cables landing in India, telecom companies have asked for cable laying and repair to be designated under the critical and essential services and that these have priority for permits- in-principle and clearances - from government agencies. The telecom companies also suggested that the framework for setting up cable landing stations (CLS) be amended to streamline the process of approvals make it a fast track with time-bound approval process.

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28. Kerala High Court Was Informed That Cable Operators Have Made Interim Arrangement With Broadcasters:

The All India Digital Cable Federation (AIDCF) informed the Kerala High Court that an interim arrangement has been worked out with the broadcasters. AIDCF requested an urgent hearing for an interim application in the case filed challenging TRAI’s new Tariff Order, under which broadcasters have increased channel prices for cable TV operators.

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Established in 2008, headquartered in New Delhi, with branch office in Bengaluru, Mumbai and Bhubneshwar, TMT Law Practice is India's premiere Law Firm in segment of Technology, Media and Telecom, behind India's iconic clients and judgements, often cited for "Where Law Meets Innovation"...

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