

WRITE TO INFORMATION

TECHNOLOGY MEDIA AND TELECOMMUNICATION, AUGUST 2023

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A. TECHNOLOGY

Ensuring Data Privacy in the Digital Age: India's DPDPA 2023

India's Digital Personal Data Protection Act (DPDPA) 2023 was signed into law, effective from August 11, 2023, to address the escalating significance of digital personal data in the economy. It aligns with OECD and UNCTAD guidelines, encompassing stakeholders like Data Principals (owners), Data Fiduciaries (collectors), Data Processors, and a Data Protection Board. The act mandates consent-based data processing, cross-border data flow regulations, and substantial penalties for non-compliance. By prioritizing individual consent and global privacy standards, DPDPA sets the stage for responsible and secure data management in the digital landscape.

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Digital Services Act is enforceable now.

EU Digital Services Act regulations governing the obligations of "very large online platforms" and "very large online search engines" are in effect as of 25 Aug. Platforms and search engines with more than 45 million active EU users, must now submit risk assessments to the European Commission. The full DSA for smaller websites goes into effect in early 2024. [READMORE:](#)



Andhra Pradesh Government's Appeal to Online Gaming Ban Reaches Supreme Court

The Hon'ble Supreme Court, led by Justices JK Maheswari and KV Vishwanathan, is set to hear an appeal from the Andhra Pradesh government against a High Court ruling from January 31, 2023. The appeal challenges the constitutionality of the state's online gaming ban and the subsequent order to establish a committee to assess whether online rummy involves skill or chance. This case marks the fourth instance of such legal disputes surrounding online gaming, following similar cases in Tamil Nadu, Karnataka, and Telangana. The High Court acknowledged the distinction between skill and chance in games, allowing commerce rights, but called for scrutiny of online rummy's fairness. [READMORE:](#)



Ministry's Publishes its Fourth Advisory Targeting Illegal Betting Advertisements

The Ministry of Information and Broadcasting (MIB) has issued a fourth advisory cautioning against promoting illegal online betting websites and their surrogate brands via print, digital, and TV ads. Despite prior advisories, platforms continue to associate with these unauthorized betting sites. The advisory highlights that gambling is illegal in India and any related ads violate the Consumer Protection Act and Press Council Act. It cites the Information Technology Rules, 2021, stressing intermediaries' responsibility not to display non-permissible game information. The MIB warns against ads on social media during events like cricket tournaments, urging compliance to avoid legal actions. [READMORE:](#)



India to Extend Digital Payments with Voice and Offline Options

India plans to introduce voice-based and offline digital payment methods to bridge the urban-rural digital divide. The expansion of Universal Payments Interface (UPI) aligns with Prime Minister Narendra Modi's digital infrastructure goals. Despite UPI's success since its 2016 launch, rural adoption is limited due to internet access challenges. The Reserve Bank of India (RBI) aims to address this through conversational payments, allowing users to instruct AI-powered systems for transactions. Additionally, near field communication technology will enable offline transactions. These measures, set to launch in coming months, seek to enhance digital payment accessibility beyond major cities. [READMORE:](#)

FTC fines consumer credit company \$650K for not offering email opt-out.

Under a proposed order with the U.S. Federal Trade Commission, consumer credit reporting company Experian Consumer Services will pay USD 650,000 and ensure consumers are offered a way to opt-out of marketing messages. A complaint filed by the U.S. Department of Justice, on behalf of the FTC, claims Experian spammed consumers with unsolicited emails after they registered for an account to manage their credit information. Consumers who wish to freeze or take other steps to manage their Experian credit information online must create an account with ECS. The complaint charges that consumers who signed up for a free membership account with ECS were then sent emails promoting Experian's products and services such as one touting Experian Boost, which promotes ways for consumers to boost their credit scores, and another that offers a free "Dark Web" scan, without any unsubscribe link consumers could use to keep from receiving even more marketing emails. [READMORE:](#)



Delhi High Court Dismisses PILs Against Google Pay's Operations

The Hon'ble Delhi High Court has rejected two public interest litigations (PILs) aiming to halt Google Pay's operations in India, alleging violations of payment system regulations and privacy norms. The petitioner claimed Google Pay operated without authorization and raised concerns about Aadhar data usage. The court dismissed the injunction by establishing that Google Pay functions as a third-party app provider, with the National Payments Corporation of India (NPCI) overseeing the UPI system. It clarified that Google Pay doesn't fall under the PSS Act, 2007, and highlighted UPI guidelines for data storage.

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Supreme Court upholds judgment to pronounce individuals are liable who forward a social media messages for its contents.

The Hon'ble Supreme Court in the matter of S. Ve. Shekhar v. Al Gopalsamy, refused to quash the batch of criminal proceedings initiated against actor and BJP politician Mr. S. V. Shekhar before the Madras High Court, thereby upholding the Madras High Court's verdict that a person forwarding any messages on social media is liable for its contents. The proceedings were initiated against Mr. Shekhar in respect of the derogatory messages circulated by him on his Facebook account against woman journalists. While Mr. Shekhar did take down the posts shortly thereafter, and issued an apology for his acts/remarks, the Courts held that such an apology could not be grounds for quashing the criminal proceedings and held that a person forwarding a message must be construed to have acknowledged its contents and must be held liable for the consequences for forwarding such message, especially if its contents are derogatory. [READMORE:](#)



Protecting Cognitive Liberty in AI-driven Platforms

TikTok's move to allow users in the EU to disable its content-selection algorithm aligns with the region's Digital Services Act, aiming to safeguard cognitive liberty and human rights in the digital realm. Regulations must ensure transparent algorithms and user engagement models. Legal safeguards should prevent mental manipulation. Tax incentives could foster AI safety programs. Design principles focusing on user control, like adjustable settings, are crucial. TikTok's change is a step, but global action is required to prioritize cognitive liberty amid AI's influence. [READMORE:](#)

B. MEDIA

प्रतिभूति अपीलीय न्यायाधिकरण - मुंबई
SECURITIES APPELLATE TRIBUNAL - MUMBAI

Securities Appellate Tribunal Upholds Sebi's Interim Order Against Eros International

The Securities Appellate Tribunal (SAT) has upheld the Securities and Exchange Board of India's (SEBI) interim order, refusing immediate relief to Eros International Media and four others. Sebi's order barred them from the securities market due to alleged fund misappropriation of Rs 687 crore and financial misreporting for 2019-2020. The investigation revealed potential fund diversion and siphoning to various entities. SAT granted a three-week window for entities to respond to Sebi's allegations, followed by a hearing and final order issuance. [READMORE:](#)



Disney Bets on Free Cricket to Revive Streaming Business in India

Walt Disney is offering free cricket on smartphones in India as a strategy to revive its struggling streaming business. The company suffered a loss of \$41.5 million on revenue of \$390 million for the year ending March 2022. After losing streaming rights for the Indian Premier League (IPL) to Indian billionaire Mukesh Ambani, Disney saw a significant decline in user base. Now, Disney plans to stream live matches of the Asia Cup and the World Cup for free, targeting advertising revenues and attracting new subscribers for its Hotstar TV app. [READMORE:](#)



Delhi High Court Issues 'Dynamic+ Injunction' Against Rogue Streaming Sites

In the case of Universal City Studios LLC & Ors v. DotMovies.Baby and Ors, the Hon'ble Delhi High Court has issued a unique 'dynamic+ injunction' to restrain 16 rogue websites and their variants from illegally streaming or providing access to existing and future content from six major American studios, including Netflix, Disney, and Warner Bros. Justice Prathiba M Singh highlighted the necessity of this approach due to the constantly evolving nature of infringement carried out by these websites. The court stressed the need for a global consensus to protect copyright owners, considering challenges posed by VPN servers and other methods to evade restrictions. [READMORE:](#)



Delhi High Court Rejects ChatGPT in IPR Suit, Emphasizes AI Limitations

The Hon'ble Delhi High Court dismissed the use of ChatGPT responses in an Intellectual Property Rights (IPR) suit involving Christian Louboutin's "red sole" shoes design. The court highlighted that artificial intelligence cannot replace human intelligence or the humane aspect of the adjudicatory process. The plaintiff had submitted ChatGPT responses to support its case. The court settled the matter with the defendant agreeing not to copy the complainant's designs and bearing liabilities for any breach. The court ruled against using AI like ChatGPT as the basis for legal or factual adjudication due to potential inaccuracies, fictional data, and variable responses generated by AI models. [READMORE:](#)



Rajinikanth's "Jailer" Agrees to Edit Film Scene Depicting Derogatory Use of RCB Jersey

The producers of Rajinikanth's upcoming film "Jailer" have settled a dispute with Royal Challengers Sports Private Limited, the owners of Royal Challengers Bangalore cricket team over a scene in the movie depicting a contract killer wearing an RCB jersey and making offensive remarks. RCB filed a suit claiming unauthorized use and potential damage to its brand reputation. The resolution involves editing the scene before the film's release on various platforms, starting September 1, 2023, highlighting the balance between artistic expression and brand protection while safeguarding intellectual property rights in creative works. [READMORE:](#)

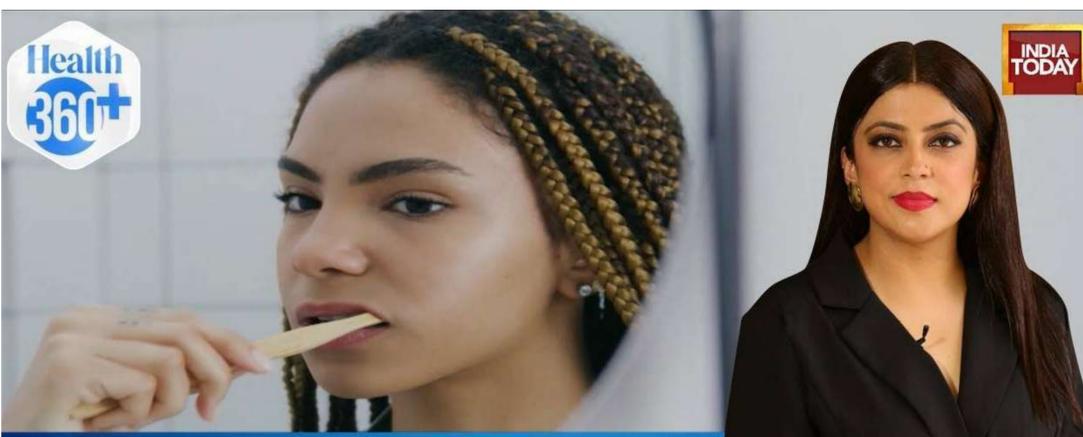


New York Times Contemplates Legal Action Against OpenAI Over Copyright Concerns

The New York Times is reportedly considering legal action against OpenAI due to copyright disputes related to its journalistic content being used in AI models like ChatGPT. Negotiations between the two parties for a licensing agreement have become tense, prompting The Times to explore legal options. The clash highlights copyright issues in generative AI, with concerns about data collection without explicit permission. [READMORE:](#)

Hope Arises as WGA-AMPTP Talks Resume Amid Impending Scripted Series Delays

Negotiations between the Writers Guild of America and the major studios remained in limbo on Monday, after a week of public sparring failed to result in forward movement. The sides have not formally met since Aug. 18, when the Alliance of Motion Picture and Television Producers rejected the WGA's Aug. 15 counter offer. Four CEOs did meet with a handful of WGA leaders on Aug. 22 to urge them to accept the studios' counter, which was made on Aug. 11. But since then, there has been no move to get back to the negotiating table. As it stands, both sides seem to feel that the other owes them a response. [READMORE:](#)



New Guidelines for Health and Wellness Celebrities and Influencers

The Department of Consumer Affairs has released additional guidelines for health and wellness celebrities, influencers, and virtual influencers, building upon the existing Guidelines for Prevention of Misleading Advertisements and Endorsements. Developed in consultation with relevant ministries and authorities, the guidelines aim to combat misleading health advertisements and ensure transparency. Certified medical practitioners and experts must disclose their credentials, and those presenting as health experts must provide clear disclaimers. General health advice not tied to specific products or services is exempt. [READMORE:](#)

C. TELECOMMUNICATION



TRAI and C-DoT Sign MOU to Foster Cooperation in Telecom Technology Research

The Telecom Regulatory Authority of India (TRAI) and the Centre for Development of Telematics (C-DoT) have signed a Memorandum of Understanding (MOU) to promote technical and institutional cooperation in the field of telecommunications. The MOU aims to explore emerging technologies, bridge regulatory gaps, and facilitate knowledge sharing. TRAI Centre of Studies and Research (TRAICSR) will spearhead the collaboration, focusing on regulatory practices and policy research. The partnership envisions conducting technical sessions, seminars, and conferences to foster capacity building and understanding of new technologies. [READMORE:](#)



Telecom Regulatory Authority of India

TRAI releases Telecom Regulatory Authority of India Repealing Regulations, 2023

TRAI has issued Telecom Regulatory Authority of India Repealing Regulations, 2023 to repeal the Regulation on quality of service of dial-up and leased line internet access service, 2001 with effect from date of its notification in Official Gazette. Based on the comments of the stakeholders and considering the aspect of Ease of Doing Business (EoDB), Authority has decided to repeal the regulations on quality of service of dial-up and leased line internet access service. With the passage of time, the telecommunication networks, both wireline as well as wireless, have evolved to offer high speed broadband service on xDSL, FTTH, LTE and 5G etc, technologies. Whereas the leased line access services are generally offered by Internet Gateway Service Providers (IGSPs) holding an ISP licence to enterprises, is a Service Level Agreement (SLA) based service. Being SLA based service, the agreement among the contracting parties has sufficient provisions to safeguard concerns regarding service quality, thereby reducing the relevance of the regulations on quality of service for dial-up networks. [READMORE:](#)

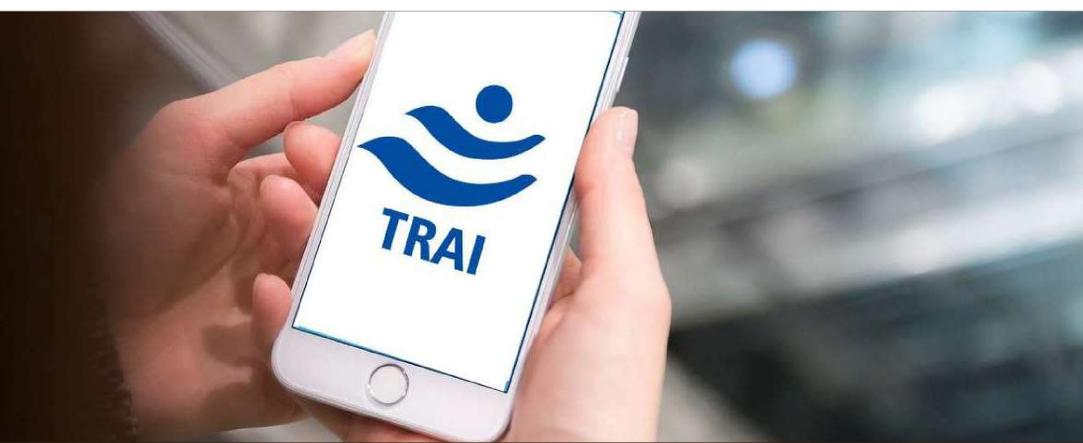


TRAI Consultation on Broadcasting and Cable Regulatory Framework

TRAI has released a Consultation Paper addressing concerns arising from the amended Regulatory Framework for Broadcasting and Cable services. Introduced in 2017 and refined in 2020, the framework aimed to streamline cable TV and digitize the sector. However, challenges arose during implementation, leading to a committee's formation including stakeholders from the broadcasting and digital sectors. Critical issues were identified, prompting TRAI to release the consultation paper seeking solutions for smooth framework execution. [READMORE:](#)

TRAI Mandates Certified CAS and SMS Deployment by DPOs

The Telecom Regulatory Authority of India (TRAI) issued an order to Distribution Platform Operators (DPOs) to deploy only certified Conditional Access System (CAS) and Subscriber Management System (SMS) tested by TEC-accredited labs. The directive aims to standardize CAS and SMS, ensuring access to subscribed TV channels for viewers, combating piracy, and enhancing broadcasters' revenue share. New CAS/SMS deployments from March 1, 2024, must be certified, and existing systems upgraded to comply with Schedule IX of the Interconnection Regulations, 2017 by March 1, 2025, as per the TRAI's latest announcement on August 9, 2023.



TRAI's Recommendations for Digital Connectivity Infrastructure Provider Authorization

The Telecom Regulatory Authority of India (TRAI) has issued recommendations for the "Introduction of Digital Connectivity Infrastructure Provider Authorization under Unified License (UL)." These guidelines address the need for robust digital infrastructure, emphasizing its role in economic growth, quality of life, and government initiatives like Digital India and Smart Cities. The recommendations propose a new 'Digital Connectivity Infrastructure Provider (DCIP) License' allowing creation of both active and passive digital infrastructure, fostering collaboration among stakeholders. [READMORE:](#)



TRAI Consults on Reviewing Broadcasting and Cable Services Framework

The Telecom Regulatory Authority of India (TRAI) has issued a Consultation Paper on "Review of Regulatory Framework for Broadcasting and Cable services" to address issues arising from the amended framework of 2020. After legal scrutiny, the framework was implemented in December 2018, but challenges emerged regarding Network Capacity Fee (NCF), multi-TV homes, and tariffs. TRAI formed a committee comprising stakeholders from industry associations and initiated consultations. Amendments were made in November 2022, including MRP ceilings and bouquet discounts. [READMORE:](#)

Indian Telecom Sector's Hiring Surge Fueled by 5G Demand

India's top three telecom giants - Reliance Jio, Vodafone Idea, and Bharti Airtel - are set to expand their workforce by up to 25% in FY 2024, driven by the growing demand for telecommunications jobs due to 5G technology. Following a pandemic-induced slowdown, hiring activity in the sector rebounded in FY 2023. Emerging segments like 5G, network security, IoT, and cloud are expected to fuel the demand. [READMORE:](#)