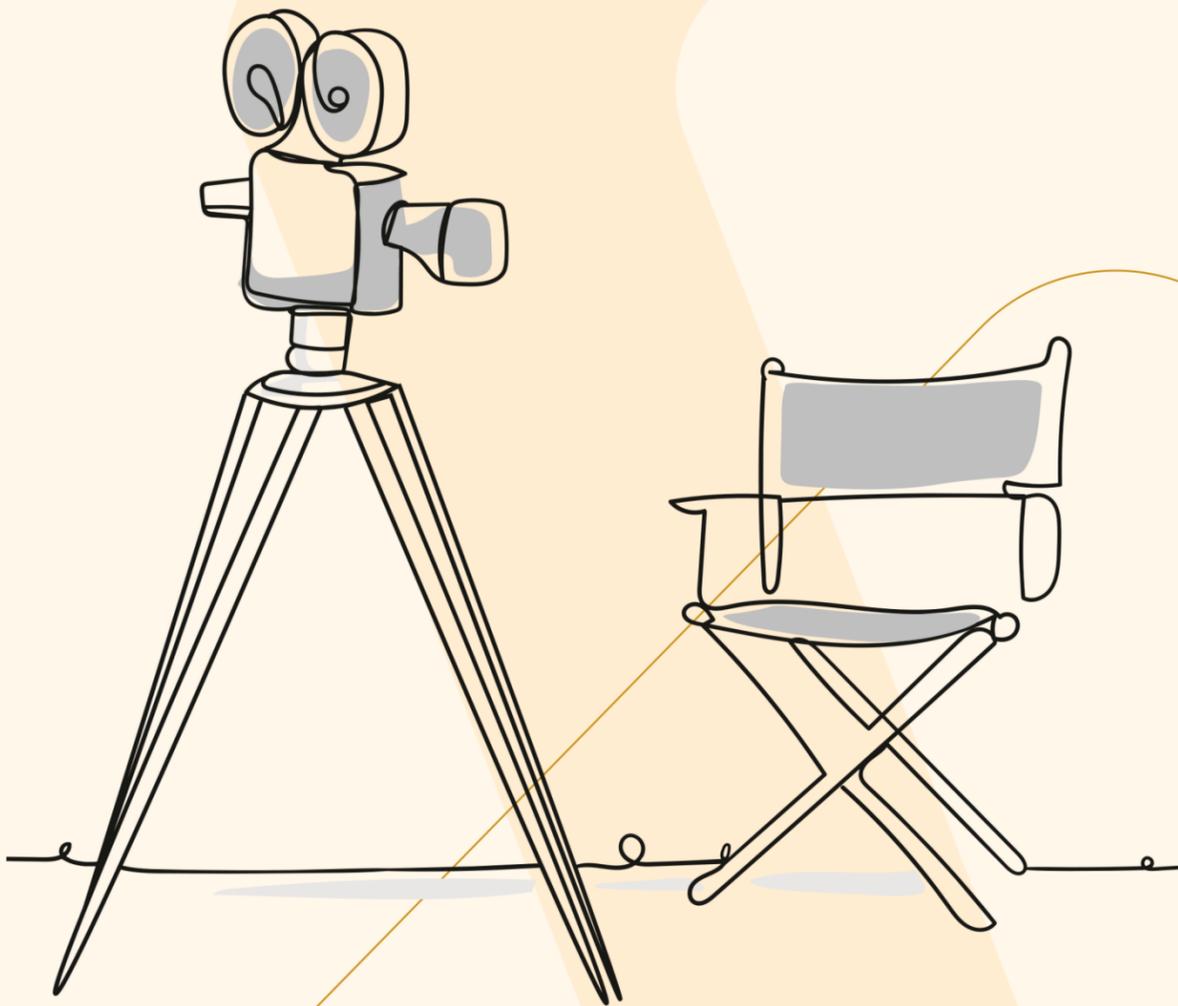


# WRITE TO INFORMATION

WHERE LAW MEETS INNOVATION

# MEDIA & ENTERTAINMENT

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## MEDIA & ENTERTAINMENT

### » Supreme Court Strengthens Child Protection Laws: Just Rights for Children Alliance v. S. Harish

In a landmark decision, the Supreme Court of India (“Court”) has reaffirmed the country’s commitment to child protection by addressing a complex and sensitive issue: the possession and storage of child pornographic material. The case, Just Rights for Children Alliance v. S. Harish & Ors., highlights the complexities surrounding child protection laws, in particular, the Protection of Children from Sexual Offences Act, 2012, (“POCSO Act”) and the Information Technology Act, 2000 (“IT Act”). The Court’s ruling clarifies that digital possession of child pornography, even without intent to share, constitutes a criminal offence. This decision strengthens legal frameworks aimed at deterring child exploitation and has significant implications for online privacy, social responsibility, and India’s adherence to international obligations under the United Nations Convention on the Rights of the Child (“UNCRC”).

### » Case Background:

The roots of this case lie in January 2020 when authorities in Chennai, Tamil Nadu, discovered child pornographic material on the mobile phone of S. Harish (“Respondent”). Acting on a report from the National Crime Records Bureau (“NCRB”), police seized Respondent’s phone, which contained several pornographic files, including videos depicting minors in explicit acts. The Respondent contested the charges, arguing that possession of such material, without intent to distribute or share, is not an offence. In 2023, the Madras High Court quashed the charges, agreeing with the Respondent’s argument. This decision raised significant concerns among child protection organizations, particularly the Just Rights for Children Alliance (“Appellant”), which advocates for the eradication of child exploitation.

Alarmed by the Madras High Court’s ruling, the Appellant escalated the matter to the Court, arguing that allowing private possession of child pornography without legal repercussions would undermine the spirit of the POCSO Act, designed to protect children from all forms of sexual abuse and exploitation. Their appeal highlighted critical provisions of the POCSO Act and the IT Act that penalize the storage and possession of child pornographic content.

### » Appellant’s Perspective and Arguments:

The Appellant contended that the Madras High Court’s narrow interpretation of child protection laws threatened to weaken the safeguards provided by the POCSO Act and IT Act. They asserted that India’s laws against child exploitation must be interpreted comprehensively to eliminate loopholes that allow for personal possession of child pornography.

In particular, the Appellant pointed to Section 15 of the POCSO Act (Punishment for storage of pornographic material involving child), which penalizes the storage of child pornography without deletion or reporting to authorities. It criminalizes storage with the intent to share, but even when stored passively, it requires individuals to delete or report such content. They contended that viewing and storing child pornography, even without intent to distribute, contributes to a culture of demand that leads to child exploitation. This demand creates an environment in which children are continually abused and objectified to produce this content, creating long-term societal harm.

The Appellant also referred to Section 67B of the IT Act (Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form), a provision that goes beyond punishing the distribution of child pornography to include its possession and interaction, such as browsing, collecting, or facilitating access. The Appellant argued that these provisions illustrate legislative intent to penalize all forms of child exploitation, even if done privately, as they collectively endanger the welfare of children. The Appellant submitted that in view of Section 30 of the POCSO Act (Presumption of Culpable Mental State) the Madras High Court was legally obliged to presume the existence of a culpable mental state on the part of the accused for having committed any offence under the Act that requires such a mental state.

The Appellant further highlighted India's commitment to the UNCRC, which mandates that State parties undertake all appropriate legislative, administrative, and social measures to protect children from exploitation and abuse. India's ratification of the UNCRC necessitates a strong stance on curtailing all forms of child pornography, including private possession, to fulfil its international obligations and ensure a safe environment for minors.

Additionally, the Appellant highlighted the responsibilities of digital intermediaries and social media platforms in addressing child pornography. They argued that many platforms inadequately report or block exploitative content, despite having the technological capability to monitor and restrict inappropriate material. The Appellant argued that intermediaries are to be held accountable under Section 79 of the IT Act (Exemption from liability of intermediary in certain cases), which provides safe harbour protections to those who exercise due diligence in removing objectionable content. They emphasized the need for intermediaries to promptly report violations and proactively monitor content. By requiring these platforms to report to law enforcement agencies the Appellant highlighted the crucial role intermediaries play in safeguarding child welfare, as outlined in Section 19 of the POCSO Act (Reporting of offences).

### » **Respondent's Defense and Arguments:**

On the other hand, Defendant contended that his actions were strictly personal and devoid of intent to disseminate exploitative material. It was claimed that the files on his phone were automatically downloaded through WhatsApp, which saves media files by default. The Defendant asserted that he was unaware of their existence until the police confiscated his phone and argued that imposing a burden to delete files, that he had not consciously viewed was unreasonable.

The Defendant further claimed that penalizing mere possession without intent infringes on the constitutional right to privacy under Article 21 of the Indian Constitution. It was argued that amendments to Section 15 of the POCSO Act criminalizing storage with intent to share had not been adequately publicized, rendering the Defendant's alleged ignorance a viable defence. Additionally, it was also argued by the Defendant that the absence of distribution negated the applicability of Section 67B of the IT Act, which primarily targets the active transmission and circulation of exploitative material.

## » Court's Findings on Relevant Legal Provisions: The Court examined key provisions relevant to this case:

1. Section 15 of the POCSO Act: The Court clarified that this section applies regardless of whether there is direct evidence of sharing or transmitting child pornography. The mere failure to delete or report such material after its discovery constitutes an offence and the Madras High Court erred in neglecting this crucial aspect of the law.
2. Section 30 of the POCSO Act: The Court emphasized that Section 30 creates a statutory presumption of culpable mental state when an individual possesses child pornography. This means that once such material is found, it is presumed that the individual intended to commit the offence unless they can provide counter-evidence. The Madras High Court's failure to apply this presumption was seen as a significant oversight.
3. Interpretation of Section 67B of the IT Act: The Court affirmed that Section 67B penalizes not only the distribution or transmission of child pornography but also the possession, downloading, and browsing of such material. The Court rejected the Madras High Court's narrow interpretation that limited the offence solely to active sharing or publication.

## » Court's Decision:

The Court's reasoning was anchored in the legislative intent behind both the POCSO Act and the IT Act, which are designed to protect children from exploitation, especially in the digital realm. The Court emphasized that child pornography represents a grave violation of children's rights, necessitating stringent legal measures. The Court criticized the Madras High Court's interpretation as overly restrictive and inconsistent with the objectives of the POCSO Act. It stressed the importance of recognizing Section 15 of POCSO Act, which criminalizes the storage of child pornography, and the presumption of culpable mental state under Section 30 of the POCSO Act. Ignoring these provisions undermines the effectiveness of the legislation, which aims to comprehensively address child exploitation, including in digital contexts.

The Court asserted that the legislative intent was to create a robust framework that criminalizes not only the active distribution of child pornography but also its passive consumption or storage. The Court noted that viewing, downloading, or storing child pornography contributes to a wider ecosystem of exploitation, necessitating penalties for all forms of participation. It clarified that possession or storage of child pornography, even without intent to distribute, is punishable if the material is not deleted or reported. The individuals who encounter such content need to take active steps to eliminate it or notify authorities.

The Court reinstated charges against the Defendant under Section 15 of the POCSO Act and Section 67B of the IT Act, directing the trial to proceed in accordance with the law. The Court held that the Defendant's possession and storage of child pornographic material were sufficient grounds for prosecution under these provisions. Furthermore, it mandated that the trial court apply the presumption of culpable mental state as stipulated in Section 30 of the POCSO Act. The Court reiterated that the presumption of culpable mental state under Section 30 of the POCSO Act must be applied in cases involving child pornography shifting the burden of proof to the accused, who must demonstrate that they lacked the intent to commit the offense. This presumption reinforces the protective nature of the legislation and serves as a deterrent against engagement with or support for child pornography.

## » Guidelines and Directions Issued by Court:

The Court issued several critical guidelines to ensure stricter enforcement of laws preventing child pornography:

1. **Mandatory Reporting by Intermediaries:** The Court clarified that intermediaries, such as social media platforms and internet service providers, must report instances of child pornography directly to Indian law enforcement agencies, like the Special Juvenile Police Unit or designated authorities under the POCSO Act. This obligation is outlined in Section 19 of the POCSO Act, with non-compliance resulting in legal consequences under Section 21 of the POCSO Act (Punishment for failure to report or record a case). The Court emphasized that intermediaries cannot escape liability by merely forwarding information to third parties. They are responsible for promptly reporting all instances of child exploitation to Indian authorities. This responsibility is essential to ensure a timely and effective response to prevent the proliferation of child pornographic material. The Court highlighted the necessity for intermediaries to fulfil both international and domestic obligations to protect children in the digital space.
2. The Union of India's Ministry of Women and Child Development to consider the following: Firstly amend the POCSO Act to replace "child pornography" with "child sexual exploitation and abuse material" ("CSEAM"). It was also directed to implement comprehensive sex education programs that clarify the legal and ethical implications of child exploitation, emphasizing consent and the impact of exploitation. Further, providing essential support services and rehabilitation programs for victims and offenders, including psychological counselling and cognitive-behavioural therapy to promote empathy, address harmful thought patterns and launch public awareness. Establishment of identification and intervention strategies for youth exhibiting problematic sexual behaviours involving coordinated efforts among educators, healthcare providers, law enforcement, and child welfare services, with appropriate training for professionals. Finally, amending Section 15(1) of POCSO to facilitate online reporting of CSEAM incidents, making it easier for the public to report such offences.

## » Implications of the Ruling: The Privacy vs. Protection Dilemma:

The Court's decision emphasizes that the safety of children takes precedence over individual privacy rights in cases involving child pornography. The Court asserted that even privately held child pornography is a societal and moral violation that perpetuates a cycle of exploitation and abuse. The demand for such material fuels its creation, putting vulnerable minors at risk. By holding individuals accountable for mere possession, the ruling underscores that India's legal framework aims to prevent harm at its source, disallowing passive complicity in crimes against children.

However, the ruling raises practical considerations regarding enforcement in the digital age. While privacy advocates may argue that strict surveillance could infringe on personal freedoms, the ruling highlights the necessity of clear ethical boundaries in child protection efforts. This decision may pave the way for enhanced monitoring protocols, cyber-investigation techniques, and public awareness initiatives aimed at preventing digital crimes against children. [Read More](#)

# TECHNOLOGY & PRIVACY

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## TECHNOLOGY & PRIVACY

### ▶ Indian Government Considers Artificial Intelligence Safety Institute

The Ministry of Electronics and Information Technology (MeitY) hosted a consultation on October 7, 2024 to discuss the establishment of the India AI Safety Institute (AISI), under the Safe and Trusted pillar of the India AI Mission. This initiative aims to promote responsible AI development and deployment in India. The consultation brought together experts from academia, industry, and government to deliberate on the institute's objectives, structure, and operational framework. The primary objective of the consultation was to ensure that AISI aligns with national priorities while incorporating international best practices. Participants highlighted the essential role of such an institute, especially as India aims to establish itself as a leader in the global AI landscape. The fast-paced developments in AI technology call for a strong governance framework to promote safe, responsible, and trustworthy AI advancement. This move aligns with India's broader strategy to become a global leader in AI while safeguarding societal interests. [Read More](#)

### ▶ Google Offers to Settle Smart TV Antitrust Case with Competition Commission of India (CCI)

The CCI's investigation, initiated in 2020, examined Google's agreements with smart TV manufacturers like Xiaomi and TCL. The probe focused on claims that Google mandated the pre-installation of its Android TV operating system and Play Store, restricted manufacturers from using alternative operating systems, and required the installation of the entire suite of Google apps. These practices were alleged to limit competition and innovation in the smart TV sector. In response, Google highlighted that its Android Open Source Project (AOSP) license is available to third-party developers without obligating them to install proprietary Google apps or services. However, the CCI noted that while AOSP is accessible, it does not grant rights to distribute Google's proprietary apps or use Android-related trademarks, which require separate agreements. Google has proposed a settlement with the Competition Commission of India (CCI) regarding allegations of anti-competitive practices in the smart TV market. This marks the first instance of a company utilizing the CCI's Settlement Regulations introduced in March 2023, which allow for a potential reduction of up to 15% in penalties for cooperative entities. The Commission may, considering the level of cooperation, the nature of the information disclosed, and the settlement proposal, apply a settlement discount and reduce the penalty by up to fifteen (15) percent. [Read More](#)

### ▶ BharatGen Launched to Revolutionize Public Services with Multilingual Generative AI

The BharatGen initiative, India's first government-funded multimodal large language model project, was launched to drive public service innovation and boost citizen engagement by developing AI models in Indian languages. Led by IIT Bombay and supported by the Department of Science and Technology, BharatGen aims to create open-source generative AI solutions prioritizing India's linguistic diversity. This initiative supports the Atmanirbhar Bharat vision by reducing reliance on foreign technologies, fostering domestic AI development, and ensuring data sovereignty. BharatGen's roadmap outlines key milestones including AI model creation, industry adoption, and community-building efforts, up to July 2026. [Read More](#)

## » **IndiaAI Datasets Platform to Launch by January 2025, Supporting Collaborative AI Development**

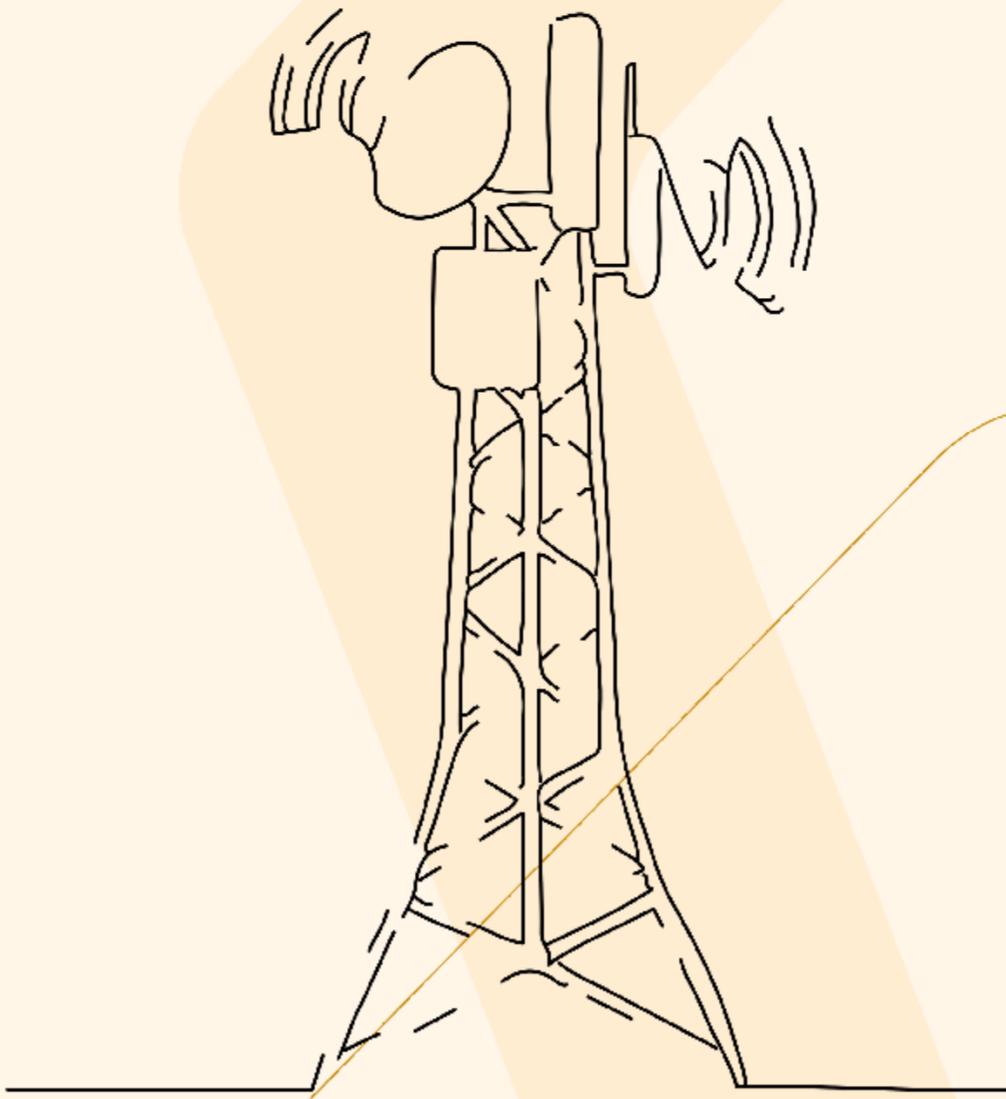
The Indian government is set to launch the IndiaAI Datasets Platform by January 2025, as part of its ₹10,000 crore IndiaAI Mission. This initiative aims to establish a collaborative environment for developers to access and utilize datasets and AI models, similar to platforms like HuggingFace. The platform will aggregate data from central and state governments, as well as private sector organizations, to facilitate the creation, training, and deployment of AI models. Nand Kumarum, CEO of the National eGovernance Division (NeGD), highlighted that while integrating thousands of datasets and models is a complex task, the foundational framework is expected to be operational by the end of January, 2025. [Read More](#)

## » **European Commission Seeks Information on Recommender Systems from YouTube, Snapchat, and TikTok Under Digital Services Act**

The European Commission has requested information from YouTube, Snapchat, and TikTok about their content recommendation algorithms under the Digital Services Act. The inquiry focuses on how these algorithms influence user engagement and address systemic risks like election interference, mental health issues, and child safety. Platforms must submit details on algorithm parameters, mitigation measures for illegal content, and safeguards against manipulation by November 15, 2024. Non-compliance could lead to fines, part of the EU's push for transparent, responsible practices from large online platforms. [Read More](#)

# TELECOMMUNICATIONS

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# TELECOMMUNICATIONS

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## » TRAI Issues Consultation Paper on Network Authorisations Under Telecommunications Act, 2023

The Telecom Regulatory Authority of India (TRAI) released a consultation paper regarding the terms and conditions for network authorisations under the Telecommunications Act, 2023. This initiative follows a request from the Department of Telecommunications (DoT) in a letter dated July 26, 2024, which sought TRAI's recommendations on terms and conditions, including fees or charges, for authorisation to establish, operate, maintain or expand telecommunication network as per the provisions of the Telecommunications Act, 2023. Under Section 3(1)(b) of the Telecommunications Act, 2023, entities must obtain authorisation to establish, operate, maintain, or expand telecommunications networks. The consultation paper invites stakeholders to provide input on the specific terms governing these authorisations, the fee structures involved, and considerations related to authorising satellite communication networks. [Read More](#)

## » TRAI Seeks Comments on Regulatory Framework for Ground-Based Broadcasters

The TRAI has issued a consultation paper to gather stakeholder feedback on the proposed regulatory framework for ground-based broadcasters. This initiative comes in light of advancements in technology that enable broadcasters to deliver television channels using ground-based methods, in addition to the traditional satellite uplinking and downlinking systems mandate by the Ministry of Information and Broadcasting (MIB). In light of these changes, the MIB has reviewed TRAI's previous recommendations from November 2014 concerning ground-based broadcasting and acknowledged that the circumstances have evolved. Consequently, the MIB has requested TRAI to conduct a fresh review and provide updated recommendations on the regulatory framework in line with Section 11(1)(a) of the TRAI Act, 1997. [Read More](#)

## » TRAI Introduces "Rating of Properties for Digital Connectivity Regulations, 2024" to Enhance Indoor Digital Connectivity

The TRAI has introduced the "Rating of Properties for Digital Connectivity Regulations, 2024" to improve indoor digital connectivity. Effective October 25, 2024, the regulations establish a rating platform managed by empanelled Digital Connectivity Rating Agencies (DCRAs), who will evaluate properties on their digital infrastructure. Categories include residential, commercial, and public spaces. The rating system aims to attract investments and enhance user experiences by encouraging property managers to prioritize digital connectivity. This initiative aligns with the Model Building Bye Laws, addressing indoor connectivity issues as data consumption rises with 5G expansion. [Read More](#)

### » TRAI Extends Traceability Mandate Deadline to December 1, 2024

The TRAI has extended the deadline for telecom operators to comply with the traceability mandate. As per the revised deadline, messages not conforming to the traceability mandate will be blocked from December 1, as against the earlier deadline of November 1. This mandate, aimed at enhancing communication transparency and preventing fraud, requires telecom operators to implement traceability systems for better monitoring and accountability. The extension allows telecom companies more time to address technical challenges and integrate necessary systems to meet TRAI's standards. TRAI's decision follows industry feedback, recognizing the complexities involved in deploying new infrastructure. Telecom providers are encouraged to leverage this additional time to prioritize infrastructure upgrades and ensure compliance by the new deadline. [Read More](#)

### » DoT Amends Procurement Policy to Boost Local 5G Equipment Manufacturing

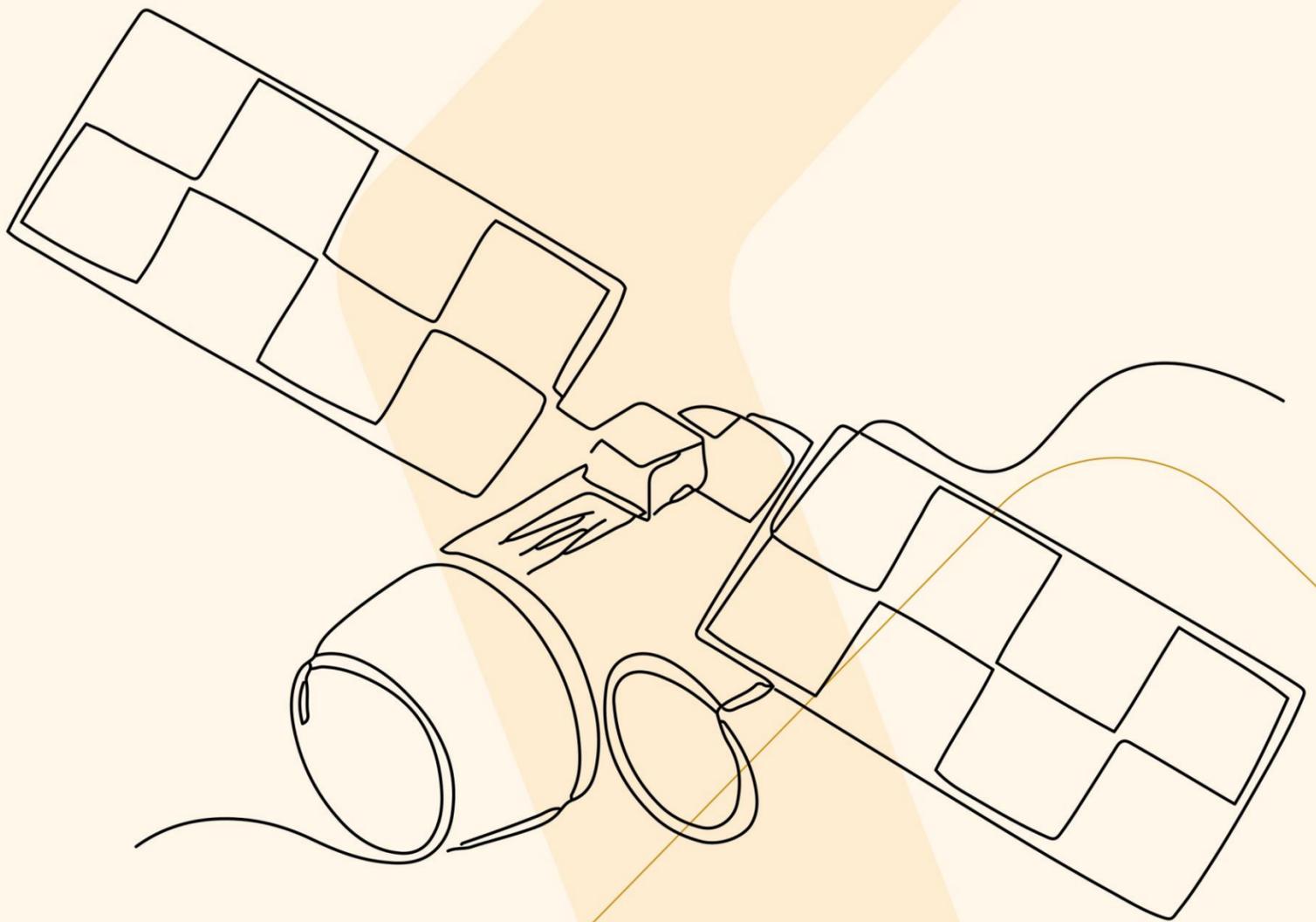
The DoT has revised its procurement policy to give a significant boost to the production of 5G telecommunications equipment within India. This policy shift is aimed at promoting local manufacturing as part of the 'Make in India' initiative, which strives to reduce dependency on foreign technology and drive the growth of India's telecom infrastructure sector. Initially, the draft public procurement guidelines listed 36 products requiring over 50% local content for government procurement eligibility, but 5G technology products were omitted. The final guidelines now include provisions for 5G products, acknowledging ongoing domestic testing of these technologies. The DoT's notification indicates that the product list will undergo periodic reviews to potentially add 5G items and virtual routers based on manufacturing capacity. Domestic manufacturers are encouraged to provide evidence of their production capabilities to support the inclusion of additional products. [Read More](#)

### » Union Cabinet approves establishment of Rs.1,000 crore Venture Capital Fund for Space Sector under aegis of IN-SPACe

The Union Cabinet led by the Prime Minister approved the ₹1,000 Crore Venture Capital Fund (Fund) under IN-SPACe, aligning with the national strategy to boost India's space ecosystem. The Fund was promised in the 2024 Union Budget to expand the space economy by 5 times in the next 10 years. In line with the promise, the approved Fund will deploy ₹150-250 Crore per year starting from 2025-26 until 2029-30. Furthermore, the Fund aims to support around 40 startups, offering investments from ₹10-60 Crore depending on the growth stage and potential impact on national space capabilities, and thereby encouraging development in satellite tech, launch services, and more. By fostering private sector participation, the Fund aligns with the Indian Space Policy-2023, promoting self-reliance, competitive growth, and adherence to national security guidelines. This move complements India's progressive FDI policy in the space sector, which allows up to 100% foreign equity under IN-SPACe authorization. [Read More](#)

# COMMERCIAL SPACE & DEFENSE

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## COMMERCIAL SPACE & DEFENSE

### » **Consultation Paper on Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication**

The Union Communications Minister Jyotiraditya Scindia recently clarified that spectrum for satellite communication will be allocated administratively rather than through auctions, a significant departure from the auction-based approach used for terrestrial services. Satcom spectrum, being shared rather than exclusive, will be assigned as per Schedule 1 of the Telecommunications Act 2023. On September 27, 2024, TRAI issued a consultation paper on the 'Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services,' inviting stakeholder feedback on key issues such as spectrum pricing, frequency allocation for NGSO-based Fixed Satellite Services, and Mobile Satellite Services. [Read More](#)

### » **DoT Issues Guidelines for In-Flight Wi-Fi Access with Safety Conditions**

The DoT has introduced Flight and Maritime Connectivity (Amendment) Rules, 2024 permitting in-flight Wi-Fi services under specific conditions. According to the amendment, passengers can access Wi-Fi only when electronic devices are permitted for use, even after the aircraft reaches 3,000 meters altitude. This measure ensures that in-flight connectivity does not interfere with critical aircraft operations. Additionally, airlines offering Wi-Fi services must collaborate with licensed service providers to ensure secure and reliable connectivity. This development aligns with current safety protocols that restrict device use during critical phases of flight, such as takeoff and landing. [Read More](#)

### » **DoT Demands Security Compliance Reports from Starlink, Amazon's Project Kuiper for Satellite Internet Services**

The DoT has directed satellite communication companies, including Elon Musk's Starlink and Amazon's Project Kuiper, to submit detailed security compliance reports. This aims to ensure that these companies adhere to India's national security protocols before commencing operations. Both the companies have also applied to space regulator Indian National Space Promotion and Authorization Centre (IN-SPACe) - in addition to the global mobile personal communication by satellite services (GMPC) license - to get the necessary approvals for starting satcom services in India. Companies are required to provide comprehensive information on their network architecture, data storage practices, and measures to prevent unauthorized access. This aligns with India's broader strategy to regulate emerging technologies while promoting innovation and connectivity. [Read More](#)

## » HAL Achieves Maharatna Status

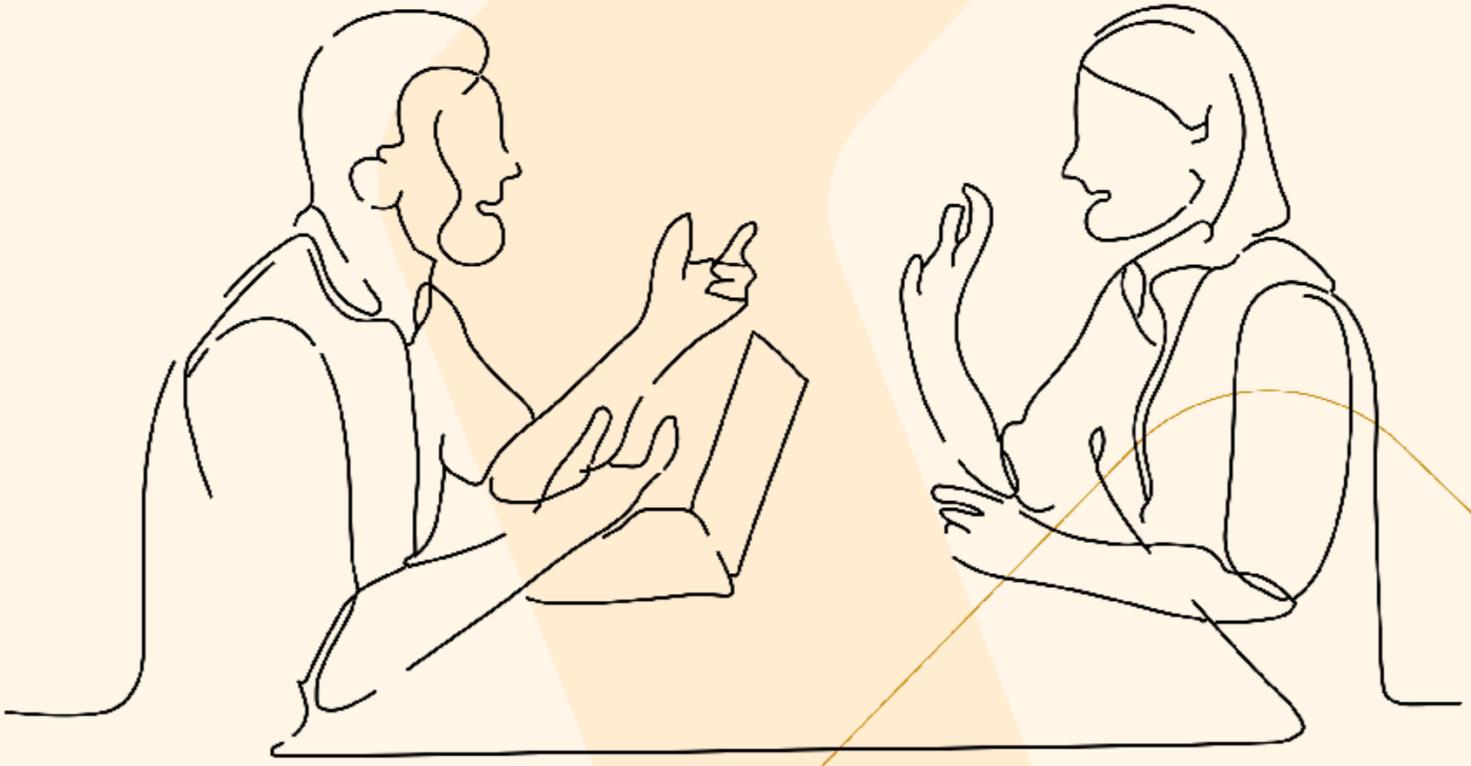
Hindustan Aeronautics Limited (HAL) has been awarded Maharatna status, joining the elite group of India's top Central Public Sector Enterprises (CPSEs). This recognition, granted by the Ministry of Finance, empowers HAL with enhanced financial autonomy, allowing significant investment decisions without prior government approval. The status acknowledges HAL's robust financial performance, with a turnover of ₹28,162 crore and net profits of ₹7,595 crore for FY 2023-24, positioning it as a key player in India's self-reliant defense manufacturing initiative, especially in indigenous aero engine production. This milestone highlights HAL's strategic role in modernizing India's defense capabilities and strengthens its position on a global scale. [Read More](#)

## » IN-SPACe releases white paper titled "Ground Stations as a Service (GSaaS) in India"

IN-SPACe has released a comprehensive paper on GSaaS, detailing the scope, regulatory framework, and emerging market opportunities for ground station operators in India. Ground stations play a critical role in facilitating communication between space objects and their Earth-based operators, but traditionally, establishing and maintaining these stations has required substantial capital investment and technical expertise. The industry is now witnessing a paradigm shift with the advent of the GSaaS model, which enables satellite operators and other stakeholders to access ground station services on a pay-per-use or subscription basis. This approach removes the need for significant upfront infrastructure costs and ongoing maintenance commitments. Several Non-Government Entities (NGEs) have already applied to IN-SPACe to establish ground stations for both captive use and GSaaS, with some receiving the necessary authorizations. [Read More](#)

# COMMERCIAL DISPUTE

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## COMMERCIAL DISPUTE

### » Supreme Court clarifies on scope of referral court vis-a-vis non-signatories to an arbitration

Recently, in a case seeking appointment of a sole arbitrator, the Supreme Court has further clarified the scope of the referral court vis-a-vis non-signatories under Section 11 (6) of the Arbitration and Conciliation Act, 1996, in the aftermath of the Cox & Kings v. SAP India Pvt. Ltd. (Cox Kings Judgment).

#### *Key Takeaways*

The Court referenced several judgments, including the notable judgment of Cox Kings Judgment, to delineate the scope of inquiry under Section 11 regarding the impleading non-signatories in arbitration proceedings. It emphasized that while the referral court must prima facie assess the existence of the arbitration agreement and determine whether the non-signatory is a bona fide party to that agreement, the complexity of such determinations warrants resolution by the arbitral tribunal instead.

Furthermore, the Court highlighted that the question of which parties are bound by an arbitration agreement is foundational to the jurisdictional competence of the arbitral tribunal and can appropriately be addressed under Section 16. The Court also noted that when a non-signatory's conduct aligns with that of the other parties, it may lead to a legitimate belief that the non-signatory was a veritable party to the contract containing the arbitration agreement. However, in order to infer consent of the non-signatory party, their involvement in the negotiation or performance of the contract must be positive, direct and substantial and not be merely incidental.

Consequently, the Court appointed the Sole Arbitrator, leaving open the question of impleadment of non-signatories to be decided by the arbitral tribunal.

[\[Ajay Madhusudan Patel & Ors. v. Jyotirindra S. Patel & Ors. 2024 INSC 710\]](#)

## » Delhi High Court sets aside Arbitral Award for breach of disclosure obligations and violation of principles of natural justice

In a recent case before Delhi High Court, FLFL Travel Retail Lucknow Private Limited (FLFL) questioned the arbitral award granted in the favour of Airports Authority of India (AAI) on two specific grounds: (a) arbitrator's failure to adhere to Section 12(2) of the Act as arbitrator failed to disclose his prior appointment by AAI in a separate arbitration case during the pendency of the present proceedings; (b) Violation of Section 24 of the Act on account of the arbitrator accepting documents and clarifications from AAI after the order had been reserved, without supplying the same in advance to FLFL, thus, disallowing FLFL an opportunity to respond.

### *Key Takeaways*

Aligning with FLFL, the Court held that the obligation of disclosure extends to any appointments made by an affiliate of one of the parties involved. The Court emphasized that arbitrators must provide thorough and transparent disclosures regarding any factors that could raise questions about their independence or impartiality. This is essential for ensuring that parties can give informed consent when submitting disputes to private tribunals. According to Section 12(2), this obligation is continuous and remains in effect throughout the arbitral proceedings. Consequently, the Court determined that the arbitrator was required to inform the Petitioner about his subsequent appointment by the Respondent in another case.

The Court also concurred with the second aspect of the Petitioner's argument, observing that Section 24(3) of the Act embodies a principle of natural justice. It emphasized that each party must receive the documents submitted by the opposing party to the arbitral tribunal and be afforded the opportunity to respond. Furthermore, the Court also opined that Section 18 of the Act mandates that all parties be granted a fair opportunity to present their cases effectively.

Consequently, the Court allowed the Petitioner and set aside the arbitral award.

[\[FLFL Travel Retail Lucknow Pvt. Ltd. v. Airports Authority of India & Anr.\]](#)

## » Supreme court disapproves the deferment of CIRP under extraordinary jurisdiction of High Court

The Supreme Court of India has set aside a Telangana High Court order which deferred the ongoing Corporate Insolvency Resolution Process (CIRP) of KSK Mahanadi Power Company Limited. The High Court had initially denied a request for the consolidation of the CIRP with two other companies but then deferred the insolvency process until further notice—a decision challenged by the Committee of Creditors (CoC) of KSK Mahanadi. The CoC argued that the deferment was unjustified, made without notice to relevant parties, and violated key legal principles.

### *Key Takeaways*

The Supreme Court observed that the High Court had overstepped its jurisdiction in ordering the deferment after refusing the consolidation request. It noted that the High Court's direction breached the principles entrenched in the Insolvency and Bankruptcy Code (Code), which is designed to resolve corporate insolvency in a timely and efficient manner. The deferment order, the Supreme Court held, would have obstructed the timely resolution of distressed assets, affecting the interests of all stakeholders involved in the insolvency process.

Additionally, the Supreme Court criticized the High Court for deferring the CIRP without providing the CoC an opportunity to be heard, thereby infracting the principle of natural justice. The CoC, the Court noted, should have been notified of such an order. The apex court emphasized that since the High Court had declined to grant the main relief sought in the petition - consolidation of the CIRP - there was no justification for exercising its jurisdiction under Article 226 by deferring the ongoing process. Such a direction breached the discipline laid down in the Code.

[\[Committee of Creditors of KSK Mahanadi Power Company Limited Versus M/s Uttar Pradesh Power Corporation Limited and Others - Civil Appeal No. 11086 of 2024 \(Arising out of SLP \(C\) No. 23339 of 2024\]](#)

» **NCLAT clarifies that breach of repayment by personal guarantor triggers legal consequences under Section 118 of the IBC.**

The case involves appeals filed by personal guarantors of Chadalvada Infratech Limited, who defaulted on their financial obligations. These guarantors challenged the orders of the National Company Law Tribunal (NCLT), which had determined that the repayment plan approved for them had not been fully implemented. As a result, the financial creditor, State Bank of India, was permitted to initiate bankruptcy proceedings against them. The appellants argued that the insolvency resolution process was flawed, contending they were not given sufficient time or opportunities to fulfill the repayment obligations. However, the NCLT ruled that the guarantors had failed to comply with the agreed repayment schedule.

### *Key Takeaways*

The Hon'ble National Company Law Appellate Tribunal (NCLAT) upheld the NCLT's decision. The NCLAT emphasized that repayment plans under the Insolvency and Bankruptcy Code (Code) must be strictly adhered to, both in terms of timelines and conditions. Under Section 118 of the Code, when a guarantor defaults and the repayment plan is not fully implemented within the stipulated period, the plan is automatically deemed to have ended. This allows the financial creditor to initiate bankruptcy proceedings.

Further, the NCLAT emphasised that when a guarantor defaults, the resolution professional is required to submit a report under Section 118(2), after which the adjudicating authority can declare the repayment plan a failure. This declaration then paves the way for bankruptcy proceedings under Section 121. In this case, the appellants' attempts to file recall applications – citing procedural lapses and claims of unequal treatment – were rejected. The NCLAT clarified that recall applications cannot be used to challenge legally settled matters unless a clear legal error is identified, which was not found here.

Consequently, the NCLAT upheld the creditor's right to initiate bankruptcy proceedings against the guarantors, reaffirming that failure to strictly comply with the repayment plan triggers automatic legal consequences under the Code.

[\[Tummala Sri Ganesh Versus Maligi Madhusudhana Reddy - Company Appeal \(AT\) \(CH\) \(Ins\) No.315/2024\]](#)

# GAMING AND SPORTS

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## GAMING

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### » Money Laundering: Major Threat to India's Online Gaming Sector

A recent report by the Digital India Foundation (DIF) identifies money laundering to be a significant threat to India's online gaming sector. The report states that the use of international online betting sites both for the purpose of money laundering and terror financing has become a key trend in cybercrime. The report recommends that the government establish a 'whitelist' of compliant gaming companies, ensuring that payment gateways and Internet Service Providers serve only these approved operators. This measure aims to combat the misuse of in-game assets and cryptocurrencies, as well as the operation of illegal offshore betting platforms. The DIF also suggests forming a dedicated task force to clamp down on illegal operators, implementing stringent Know Your Customer (KYC) practices, and taking action against misleading advertisements. These steps are crucial to safeguard the sector's integrity and support its projected growth, with revenues expected to reach \$7.5 billion within the next five years. [Read More](#)

### » SEBI Warns Investors Against Unauthorized Virtual Trading and Gaming Platform

SEBI has warned investors against using unauthorized virtual trading and gaming platforms that mimic stock market activities with real-time data. These platforms, which offer incentives based on virtual portfolios, breach SEBI regulations. SEBI urges investors to trade only through registered intermediaries to avoid risks like data misuse and to stay alert against schemes promising high returns. This follows SEBI's recent move to restrict stock exchanges from sharing real-time data with third parties for gaming purposes. [Read More](#)

### » Compliance Challenges for Online Gaming Industry Under DPDP Act, 2023

On October 1, the All-India Game Developers' Forum (AIGDF), in partnership with the Indian Governance and Policy Project (IGAP), released a report titled "Anticipated Impact of the Digital Personal Data Protection Act, 2023 on the Online Gaming Sector." The report addresses the need for clearer guidelines under the DPDP Act for the online gaming industry, focusing on parental consent, children's data protection, and compliance timelines across different game categories, including 'Free-to-Play', 'Real-Money', and 'Web3' gaming. Key recommendations call for specific exemptions for the gaming sector due to the Act's mandates on parental consent and restrictions on tracking and targeted advertising for minors, which could impact revenue models. Legal experts highlighted that in-game data, such as chat and voice interactions, poses privacy risks for minors. The report also points out challenges in implementing these rules, such as age verification and securing actual parental consent, as discussed by experts. Additionally, gaming companies will need to adopt rigorous data consent mechanisms, which, although necessary for compliance, may pose operational burdens. [Read More](#)

## » Draft Bill to Establish Comprehensive Framework for Sportspersons Development and Welfare

The Draft National Sports Governance Bill 2024, introduced by the Ministry of Youth Affairs and Sports, aims to strengthen sports governance in India through a comprehensive framework centered on ethical standards, athlete welfare, and streamlined dispute resolution. The Bill also emphasizes transparency, ethical governance, and gender representation within sports organizations. Key provisions include establishing a Sports Regulatory Board of India to oversee National Sports Federations (NSFs), mandating Athlete Commissions for athlete representation, and forming an Appellate Sports Tribunal to address sports-related disputes. The Tribunal would primarily handle issues concerning athlete selection and sports administration, reducing the need for court intervention and allowing appeals to the Supreme Court.

[Read More](#)

## » Supreme Court Overturns NCLAT's Approval of ₹158 Crore Byju's-BCCI Settlement

The Supreme Court of India has set aside the NCLAT's order that halted insolvency proceedings against Byju's following a ₹158 crore settlement with the BCCI. Byju's had defaulted on payments to the BCCI under a sponsorship agreement, leading the BCCI to initiate insolvency proceedings. The Court criticized NCLAT's failure to follow proper procedures under insolvency law, emphasizing that such withdrawals require adherence to established protocols and formal applications. The ₹158 crore, initially held in escrow by BCCI, will now be transferred to the Committee of Creditors.

[Read More](#)

[Glas Trust Co. LLC v. Byju Raveendran](#), 2024 SCC OnLine SC 3032

## SPORTS

### » Public comments invited on Draft National Sports Governance Bill, 2024

On 10 October 2024, the Ministry of Youth Affairs & Sports released the Draft National Sports Governance Bill, 2024 for public and stakeholder feedback. The Bill aims to reform sports governance, enhance athlete welfare, and promote transparency and ethical practices.

#### Key provisions include:

- National Sports Regulatory Body: A body to oversee and regulate National Sports Federations (NSFs), ensuring one federation per sport and operating under their supervision.
- Athlete Representation: 10% of voting members in sports bodies must be top athletes, with equal male and female representation on executive committees.
- Good Governance & Ethics: The Bill aligns with the Olympic and Paralympic Charters, international best practices, and legal standards for governance and fair play.
- National Sports Appellate Tribunal: A tribunal to resolve disputes from major international sporting events and issues typically under the jurisdiction of the Court of Arbitration for Sport (CAS).
- Transparency in Elections & RTI: The Bill enhances election transparency for office bearers in sports federations and subjects national sports bodies to the Right to Information (RTI) Act for greater accountability.

[The Draft National Sports Governance Bill, 2024 is now open for public feedback.](#)

### » FIFA Seeks Stakeholder Input on Article 17 of its Regulations on the Status and Transfer of Players Following EU Court Judgment

Following a landmark ruling by the Court of Justice of the European Union (CJEU) in the Lassana Diarra case – concerning the former French footballer – FIFA has initiated a comprehensive review of Article 17 of its Regulations on the Status and Transfer of Players (RSTP). Article 17 outlines the consequences of a player unilaterally terminating a contract with a club "without just cause," requiring the player to financially compensate the club. In its judgment, the CJEU raised concerns that the current provisions under Article 17 may impede the free movement of professional footballers, particularly those seeking to develop their careers by transferring to new clubs. The court suggested that the existing rules could unfairly restrict players' employment opportunities and limit their mobility within the football market.

In light of these concerns, FIFA has decided to revisit the provisions of Article 17. As part of this process, FIFA is actively inviting comments and suggestions from stakeholders across the football industry, including clubs, players, agents, and legal experts, to ensure that any revisions to the regulation will better align with both European Union law and the evolving landscape of professional football. This initiative underscores FIFA's commitment to balancing the interests of clubs and players while maintaining fairness and integrity in player transfers.

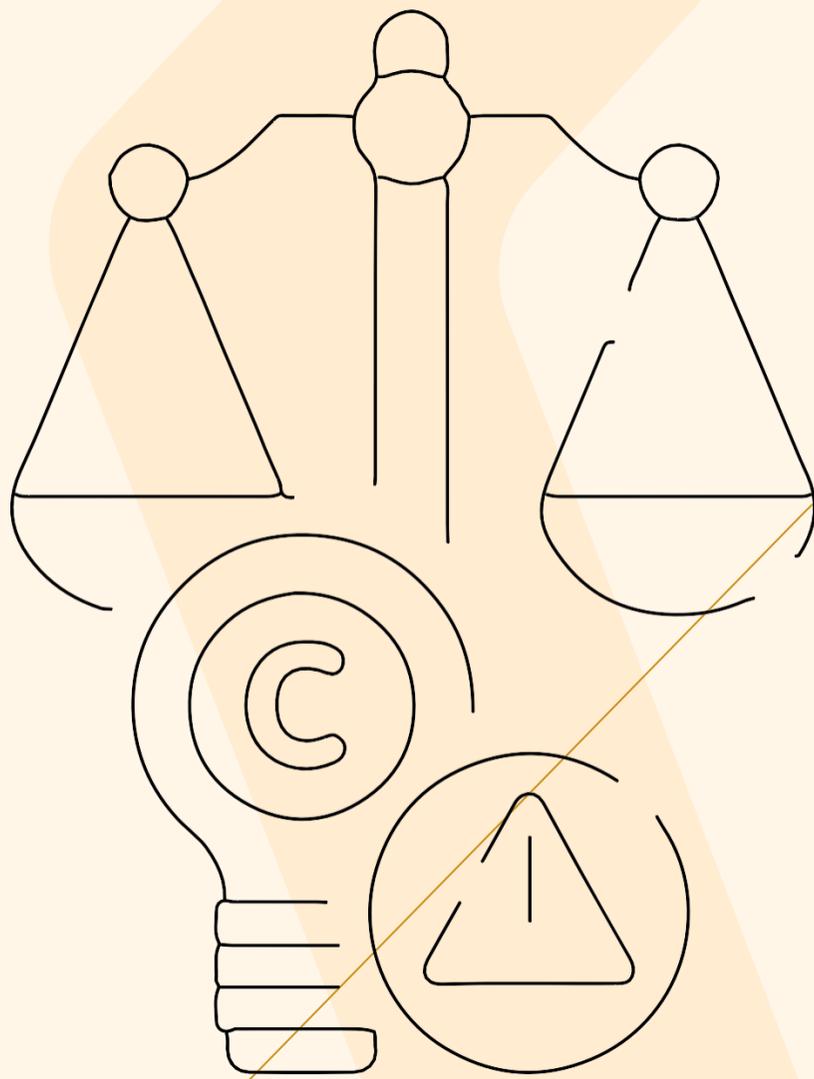
Case Citation: Case C-650/22 FIFA v. BZ, ECLI:EU:C:2024:105

[\[CJEU Judgment\]](#)

[\[FIFA RSTP\]](#)

# INTELLECTUAL PROPERTY RIGHTS

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# INSIGHTS FROM RECENT INTELLECTUAL PROPERTY LAW DEVELOPMENTS

## » Advertisement of 55 new well-known marks in October, 2024

Recently, 55 new well-known marks have been advertised in Trade Mark Journal No. 2177. Well-known marks are trade marks that have gained widespread recognition among the general public and have established a strong reputation, often across multiple sectors and jurisdictions. These marks are offered a higher degree of protection under trade mark law, preventing unauthorized use. The inclusion of these 55 new marks reflects their significant commercial impact and consumer recognition, ensuring enhanced protection against infringement and safeguarding their brand equity. Few of these well-known marks include Pogo, Britannia, PVR, T-Series and H&M to name a few.

[Trade Mark Journal no. 2177, Well-known marks](#)

## » Himalaya Triumphs in “EVECARE” Trademark Dispute: Delhi High Court Upholds Injunction Against Wipro Despite Difference in Trade Dress and Product Classification

The Division Bench of the Delhi High Court, in a recent ruling, favoured Himalaya Wellness Company (“Himalaya” / Respondent) in an appeal filed by Wipro Enterprises Private Limited (“Wipro” / Appellant) against an interim order restraining Wipro from using the trademark “EVECARE”. Interestingly, while the word marks of both parties were identical, there was a substantial difference in not only the trade dress of the products but also the category of the products. The goods provided by Himalaya’s are ayurvedic medicines in the form of tablets and capsules for regulating menstruation while Wipro’s was selling cosmetic intimate wash. Despite the products falling under different trademark classes, the Court determined that they are allied/cognate goods as they targeted the same consumer group (women) and addressed similar concerns related to female reproductive hygiene. The Court emphasized that the identical trademarks and related product functions could create confusion in the public, especially considering the “hush” nature of these products, where consumers might hesitate to inquire further.

[Wipro Enterprises Private Limited v. Himalaya Wellness Company FAO \(OS\) \(COMM\) 145/2023](#)

## » Himachal Pradesh High Court comes out with IPD rules

The Himachal Pradesh High Court (HPHC) has recently joined Delhi, Madras, and Calcutta High Courts by establishing its own Intellectual Property Rights (IPR) Division under the HPHC Intellectual Property Division Rules, 2022 (IPD Rules). The IPD Rules, notified on July 8, 2024, closely mirror the Delhi High Court's IPD rules, with relevant modifications for Himachal Pradesh. The new IPD Rules streamline proceedings, allow for trade mark agent representation, and prioritize mediation and early resolution of disputes, reflecting the HPHCs aim to boost efficiency in handling complex IP issues. This initiative further underscores the role of intellectual property in supporting innovation and economic growth.

[The Himachal Pradesh High Court Intellectual Property Rights Division Rules, 2022.](#)

## » Delhi High Court Issues 'John Doe' Order Against Fraudulent WhatsApp Groups Misusing "Master Trust" Brand

On October 1, 2024, the Delhi High Court ruled in favor of Master Capital Services Limited (Plaintiff) and its senior executive in a case against fraudulent WhatsApp groups impersonating the executive and misusing the "Master Trust" brand. The Plaintiffs had received 17 complaints in March 2024, alleging financial losses and damage to their reputation due to the misrepresentation. The Court found the impersonators actions to be deceptive and aimed at financial embezzlement, using the Plaintiffs' trade mark and image with malicious intent. The Court issued a 'John Doe' order directing Meta to block these unknown individuals and granted an interim injunction to prevent further misuse.

[Master Capital Services Limited v John Doe and Ors. CS \(COMM\) 832/2024](#)

## » Delhi High Court Protects Actor Vishnu Manchu's Personality Rights, Orders Removal of Defamatory AI-Generated Content

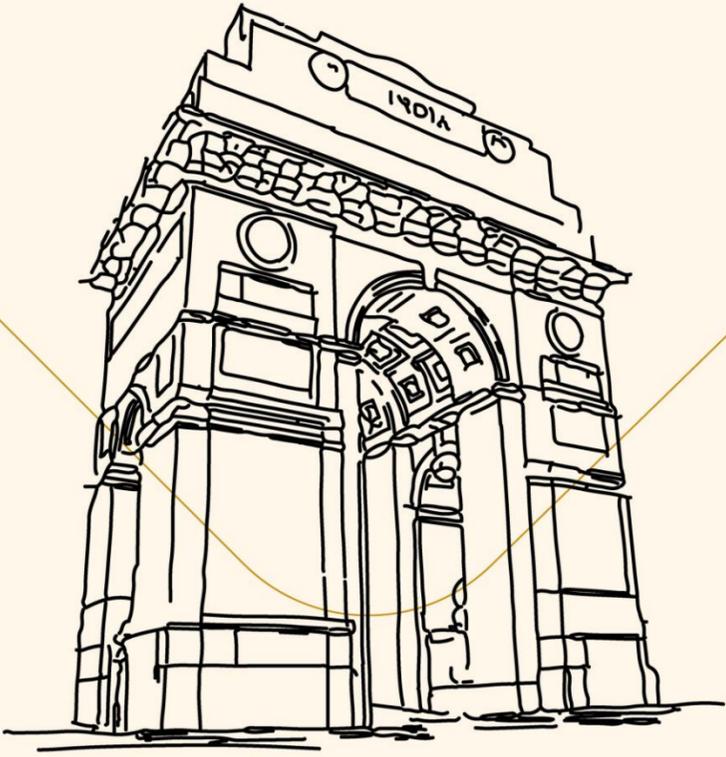
In yet another significant victory for celebrities and public figures, the Delhi High Court recently ruled in favour of Telugu actor and producer, Vishnu Manchu, in a case against multiple defendants for defamation, copyright infringement, and involving the misuse of personality rights. The plaintiff alleged that the defendants used artificial intelligence and other technologies to create and disseminate videos that defamed and ridiculed him, thereby infringing his personality rights and generating revenue for the defendants. The Court acknowledged the plaintiff's reputation and the distinctiveness of his persona, which includes his name, voice, image, and likeness. The case highlights the growing concern of misuse of personality rights in the digital age, especially through artificial intelligence and online platforms. The court's ruling underscores the importance of protecting individuals from defamation and unauthorized use of their personal attributes for commercial gain.

[Manchu Vishnu Vardhan Babu v. Arebundum and Ors. CS \(COMM\) 828/2024](#)

## » Delhi High Court Protects Actor Vishnu Manchu's Personality Rights, Orders Removal of Defamatory AI-Generated Content

The Delhi High Court issued an ex-parte, ad interim injunction order against MovieBlast and several rogue apps for illegally sharing copyrighted content belonging to Star India, a leading media company. Star India claimed that the Defendants were hosting, streaming, and distributing its content without authorization, violating its exclusive rights under Section 14(d) of the Copyright Act, 1957. The Court acknowledged Star India's exclusive rights and noted the significant financial losses and irreparable harm caused by illegal streaming. A dynamic injunction was granted, allowing Star India to extend the order to newly discovered infringing platforms, and domain registrars were ordered to disclose the identities of those involved in the piracy. The telecom service providers were directed to block the infringing websites. The matter is now listed before the Court on February 27, 2025.

[Star India Pvt. Ltd. v Movieblast Application and Ors. CS \(COMM\) 837/2024](#)



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