

# Are you ready for India's new advertising laws ?



**KHAITAN  
& CO** ADVOCATES  
SINCE 1911



**PLEASE STAND BY**

Webinar

10 November 2022  
commences at:

India	9.00 pm
UTC	3.30 pm
London	3.30 pm
New York	10.30 am
Los Angeles	7.30 am

# Disclaimer

No representation, warranty or assurance is given, and none shall be implied, that the information provided in this presentation is accurate, complete, sufficient or not misleading or that any opinion given is reasonably based.

Any information provided or any opinion given in this presentation **does not** constitute reliable legal advice. Recipients **must not rely or act upon** such information or opinion and must take their own steps to verify such information and obtain specific legal advice relevant to their own circumstances.

Opinions expressed in this presentation by individual partners or employees of Khaitan & Co (“**Firm**”) or unrelated parties are individual opinions and do not reflect the views of the Firm, and must **not** be attributed to the Firm, unless expressly confirmed in writing by the Firm.

The Firm accepts no responsibility or liability (whether by statute, in equity, in tort or otherwise) for any loss or damage (economic or otherwise) suffered by any person who relies or acts upon any information provided or opinion given in this presentation.

The law of India governs this presentation and all rights and remedies arising and recipients shall submit to the exclusive jurisdiction of the courts of India in respect of any claims arising out of or related to this presentation.



**Are you ready for India's new advertising laws?**



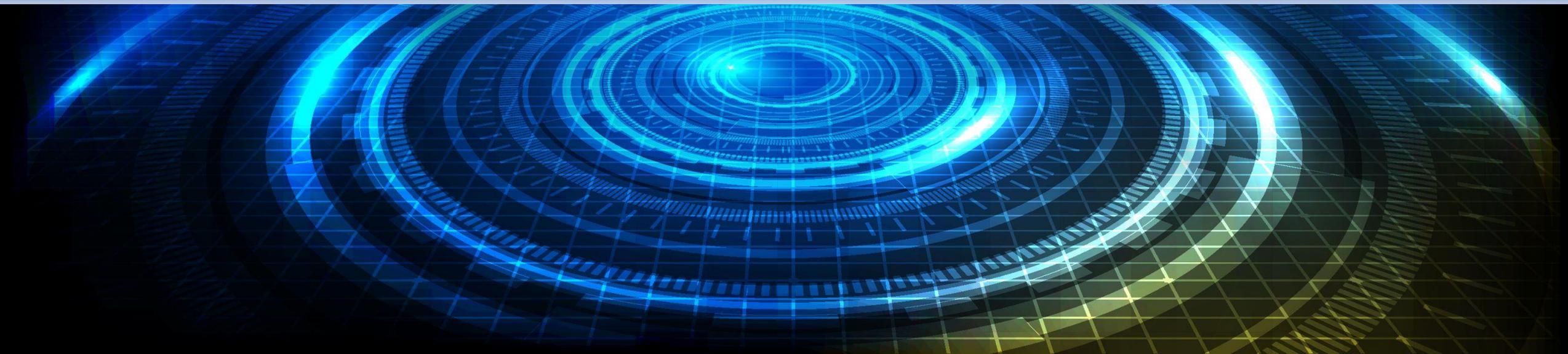
Moderator

Sameer Sah  
Partner

Corporate M&A Practice Group



# Introduction



# Agenda

Session	Topic
1.	Introduction
2.	Presentation – Regulatory Framework Overview
3.	Expert Panel Discussion
4.	Q&A
5.	Closing Remarks



**Rishi Gautam**  
General Counsel –  
Tata Consumer Products

**Tanu Banerjee**  
Partner – Khaitan & Co

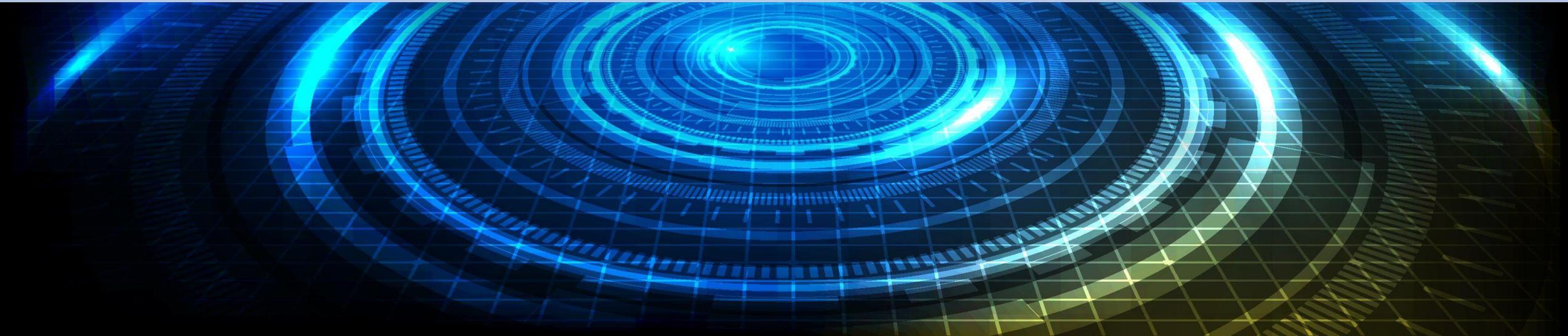
# Expert Panel

**Subash Kamath**  
Chairman ASCI &  
Industry Legend

**Manisha Kapoor**  
Chief Executive  
ASCI

**Nishad Nadkarni**  
Partner – Khaitan & Co

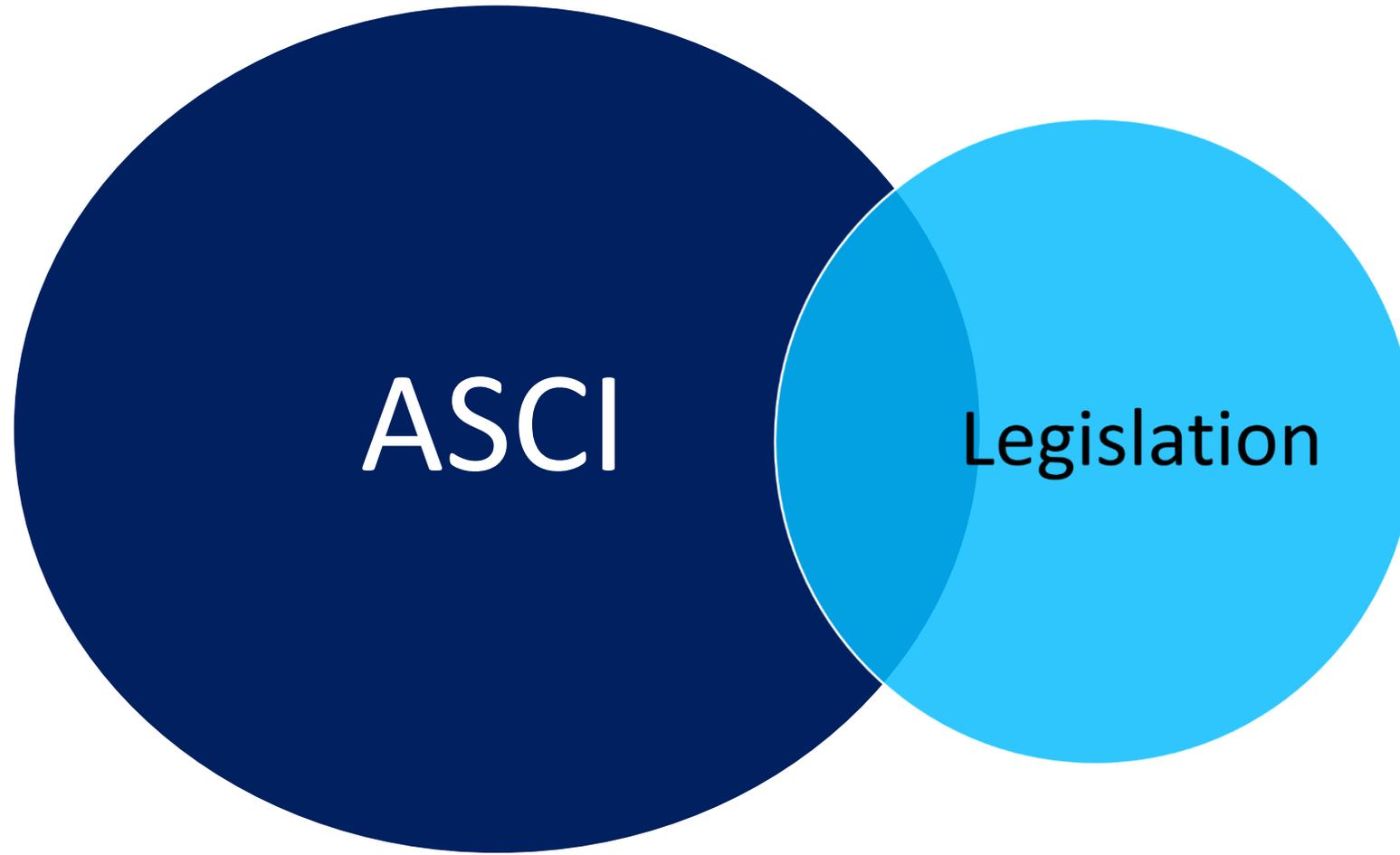
# Presentation – Regulatory Overview



# Scope – Regulatory Framework Overview

Session	Topic
1.	ASCI & the Code for Self-Regulation of Advertising Content in India
2.	Legislative regulation
3.	Consumer Protection Act 2019
4.	Guidelines for Prevention of Misleading Advertisements and Endorsements 2022 - CCPA
5.	Sector Specific Guidelines – VDAs, Influencer Marketing, Gaming

# Regulatory Framework



# Regulatory Framework – ASCI



- ASCI Code – General principles for all media
- Specific Guidelines for particular sectors or participants
- Complaints regime
- Penalties
- Role of Consumer Complaints Council

# Regulatory Framework – Legislation

## Multiple Laws for Specific Purposes

Law	Scope
Indian Penal Code 1860	Prohibits obscene or defamatory advertisements
Information Technology Act	Prohibits lascivious and sexually explicit content depicting children.
Cable TV Rules 1995	Advertisements broadcast on cable television
Public Gambling Act, 1867, Lotteries (Regulation) Act, 1998 & the Prize Competitions Act, 1955	Lotteries & gaming
Cigarettes & other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003	Tobacco & Cigarettes
Drugs & Cosmetics Act 1940   Drugs & Magical Remedies (Objectionable Advertisements) Act 1954	Medicinal Products & Devices

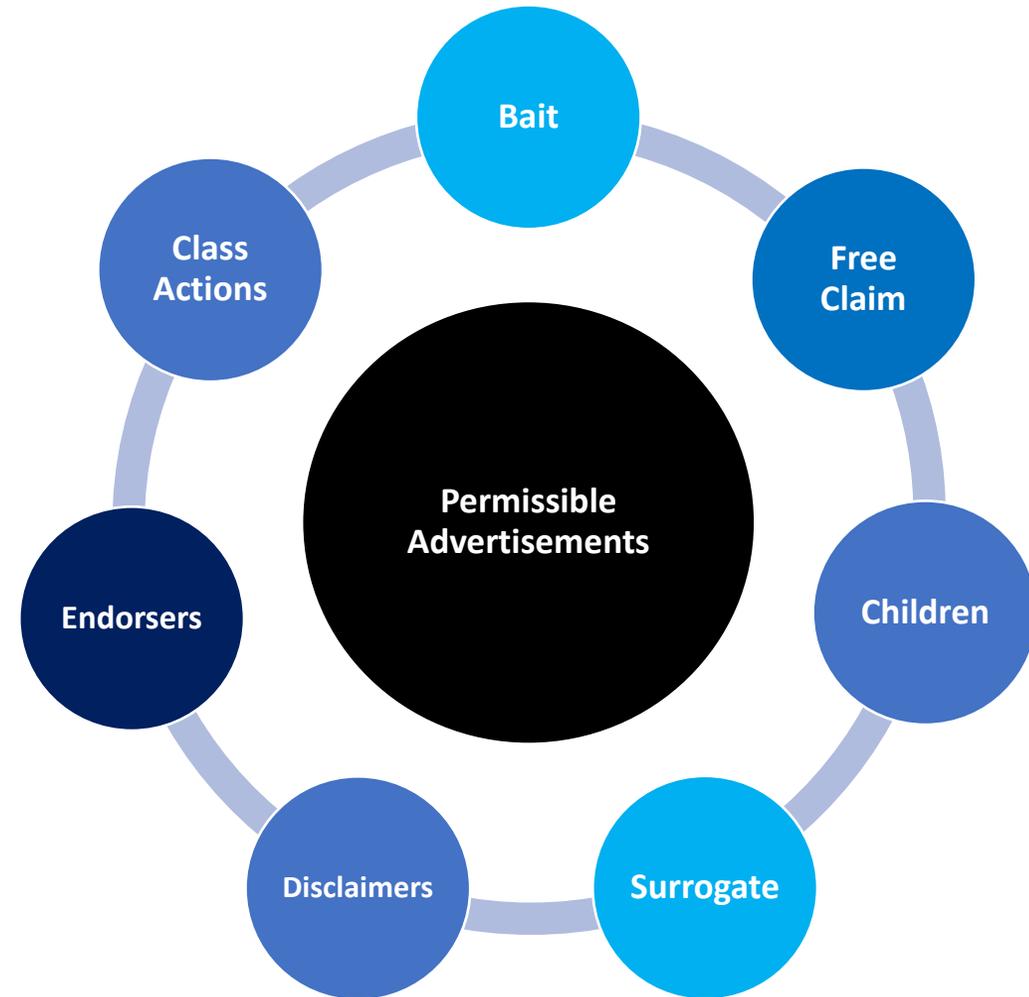
# Regulatory Framework

## Consumer Protection Act 2019 (CPA)

- History & Commencement
- Prohibits any **unfair trade practice** which is broadly defined and includes:
  - make **false or misleading** representations concerning price, standard, usefulness, condition, sponsorship, life of product, and conditions of replacement: or
  - disparages a rival's goods or services.
- Prevention of Misleading advertisements
- Regulator & Role | Central Consumer Protection Authority (CCPA)
- Penalties

# Regulatory Framework

Guidelines for Prevention of Misleading  
Advertisements and Endorsements  
2022 (“**Advertisement Rules 2022**”)



# Sector Guidelines



## Influencers & Celebrities

- Governed by :
  - ASCI Guidelines on Influencers and Celebrities
  - Misleading Advertising Guidelines under Consumer Protection legislation
- Disclosures - “material connection” with advertiser
- Due Diligence on products & services being promoted by the endorser



## Online Gaming

- State specific subject – each Indian state has its own gaming legislation
- Betting and Gambling illegal in most of India
- Advertising online gaming platforms
  - ASCI guidelines on Online Gaming
  - Advisory by Ministry of Broadcasting to all mediums



## Cryptocurrencies & NFTs

- No comprehensive regulatory framework in India yet
- For advertising - ASCI Guidelines on Advertising of Virtual Digital Assets
  - Mandatory risk disclaimer in all ads
  - No comparison with regulated financial products

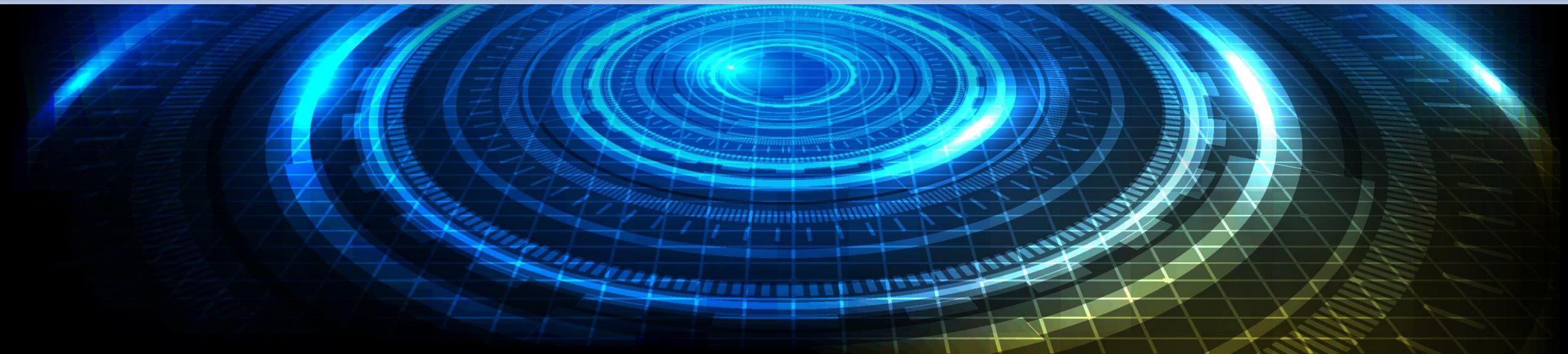
# Expert Panel Discussion

An abstract graphic at the bottom of the slide features a central bright blue point surrounded by concentric, glowing rings of varying thicknesses and colors, including shades of blue and yellow. The rings have a textured, grid-like appearance, suggesting a digital or technological theme. The background is dark, making the glowing elements stand out.



**KHAITAN**  
**& CO** ADVOCATES  
SINCE 1911

# Q&A





**Nishad Nadkarni**  
T : +91 9820329028  
E: [nishad.nadkarni@khaitanco.com](mailto:nishad.nadkarni@khaitanco.com)



**Tanu Banerjee**  
T : +91 9503133802  
E: [tanu.banerjee@khaitanco.com](mailto:tanu.banerjee@khaitanco.com)



**Sameer Sah**  
T : +91 98203 47736  
E: [sameer.sah@khaitanco.com](mailto:sameer.sah@khaitanco.com)

# Disclaimer



No representation, warranty or assurance is given, and none shall be implied, that the information provided in this presentation is accurate, complete, sufficient or not misleading or that any opinion given is reasonably based.

Any information provided or any opinion given in this presentation **does not** constitute reliable legal advice. Recipients **must not rely or act upon** such information or opinion and must take their own steps to verify such information and obtain specific legal advice relevant to their own circumstances.

Opinions expressed in this presentation by individual partners or employees of Khaitan & Co ("**Firm**") or unrelated parties are individual opinions and do not reflect the views of the Firm, and must **not** be attributed to the Firm, unless expressly confirmed in writing by the Firm.

The Firm accepts no responsibility or liability (whether by statute, in equity, in tort or otherwise) for any loss or damage (economic or otherwise) suffered by any person who relies or acts upon any information provided or opinion given in this presentation.

The law of India governs this presentation and all rights and remedies arising and recipients shall submit to the exclusive jurisdiction of the courts of India in respect of any claims arising out of or related to this presentation.



**Are you ready for India's new advertising laws?**

**The webcast has concluded  
| Thank you for your participation | [www.khaitanco.com](http://www.khaitanco.com)**