



THE RECAP

A ROUND-UP OF MEDIA, ENTERTAINMENT & GAMING INDUSTRIES' LEGAL UPDATES

VOLUME 26: SEPTEMBER - OCTOBER 2024

Authors: Ranjana Adhikari | Sarthak Doshi | Saurabh Sinha | Abhijit Chakrabarti |
Vidhi Udayshankar | Prateek Joinwal

INTRODUCTION

"The sky above the port was the color of television, tuned to a dead channel."

– William Gibson, Neuromancer (1984).

Regarded as the earliest and best-known works in the cyberpunk genre, through *Neuromancer*, Gibson introduced a world immersed in technology, where the boundaries between the virtual and real world are blurred, and aspects of identity and reality remain as intangible as the flickering signals on a screen. Just as Gibson's protagonist zealously attempt to navigate a dystopian and ever-evolving cyberpunk landscape, the Indian media and entertainment

industry is going through a similar phase. Be it Vishnu Manchu's efforts to protect his likeness in the cyberspace (including the Metaverse!), the JioHotstar cybersquatting issue, or the Delhi High Court's inquiry on the use of AI to create deepfakes, they all echo Neuromancer's cautionary tale about the significance of maintaining order amidst the rise of technology.

Against this backdrop, we present to you, Volume XXVI of IndusLaw's The Recap, a round-up of legal updates for the media & entertainment and gaming industries. This edition covers updates from 1 September 2024 to 31 October 2024.



MEDIA AND ENTERTAINMENT UPDATES

Adherence to due diligence requirements by intermediaries

The Ministry of Electronics and Information Technology ("**MeitY**") issued an advisory directing intermediaries to take prompt action and remove 'prohibited information' from their platforms at the earliest possible opportunity, in compliance with due diligence obligations under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("**IT Rules 2021**"). The MeitY also directed intermediaries to complete the takedown process proactively and at the earliest possible opportunity, and not wait for the expiry of the time limits prescribed under the IT Rules 2021. This direction by the MeitY came after the Bombay High Court's ("**Bombay HC**") direction to social media platforms to remove deepfakes of the Managing Director of the National Stock Exchange, Ashishkumar Chauhan ("**Mr. Chauhan**"), and also added that such social media platforms must remove the content within 10 (ten) hours (and not exceeding 14 (fourteen) hours) of the complaint being sent by Mr. Chauhan.

Separately, the MeitY also directed social media platforms to adhere to due diligence obligations outlined under Rule 4 of the IT Rules 2021 which imposes certain additional obligations on 'significant social media intermediaries' which *inter alia* include publishing of periodic compliance reports every month, mentioning certain details including the details of complaints received and action taken. These advisories and directions are in line with the efforts of the Central Government's increased scrutiny of intermediaries.

You can read the MeitY advisory and the Bombay HC order which is annexed as a part of this advisory [here](#).

You can read more on this development as reported by StartupNews and Moneycontrol [here](#) and [here](#).

Strengthened efforts to safeguard children on social media platforms persist

In an effort to effectively address issues pertaining to the protection and safety of children online, the National Commission for Protection of Child Rights (NCPCR) met with representatives of major social media platforms including companies like YouTube, Meta, X, etc. Measures of protecting children including age verification and adopting tools for identifying and blocking child sexual abuse material ("**CSAM**"), were discussed, with emphasis given on the adoption of mandatory Know Your Customer ("**KYC**") procedures to verify user identity on platforms

and mandatory reporting of CSAM under the Protection of Children from Sexual Offences, Act, 2012 ("**POCSO**"). Further discussions on enhanced safety features were also undertaken, such as parental consent for minors entering into contracts on social media platforms, and proper disclaimers on adult content, with the focus remaining on keeping children safe from predators and explicit content.

You can read more about this development as reported by the Economic Times [here](#).

The Curious Case of Complian and how much sugar is good sugar

The Delhi High Court ("**Delhi HC**") ordered influencer Prashant Desai ("**Defendant**") to remove a video disparaging the nutritional drink of Zydus Wellness ("**Plaintiff**"), Complian. In essence, the Defendant had published a video on his social media platform pointing out the high sugar content in Complian and stated that it is very harmful for children. The Plaintiff argued that not only was the video unsubstantiated and baseless impacting the goodwill of the Plaintiff, but also violative of the Guidelines for Influencer Advertising in Digital Media in India, released by the Advertising Standards Council of India ("**ASCI**"), which requires influencers putting out posts relating to health and nutrition, to have necessary medical qualifications and certifications.

While the Delhi HC did not answer whether the ASCI guidelines are mandatory, it observed that the Defendant did not possess the relevant qualifications as had been prescribed in the guidelines for making posts of this nature. The Delhi HC also held that the statements made by the Defendant in their video were false and concluded that the Plaintiff was able to make out a *prima facie* case that the video of the Plaintiff was detrimental to the goodwill/character of the Plaintiff's product, Complian.

You can read more about this development as reported by the Hindu [here](#).

You can access the order of the Delhi HC [here](#).

SC expands the scope of penal provisions under POCSO

The Supreme Court ("**SC**") recently clarified that viewing, downloading and storing of online sexual material regarding children are offences under POCSO. The SC pronounced this judgement further to an appeal filed before it against

a Madras High Court ("**Madras HC**") order setting aside criminal charges under POCSO against a man, who was sought to be prosecuted for viewing and storing video clips featuring children being exploited for sexual acts.

The SC held that the Madras HC's decision was erroneous and observed that specific provisions of the POCSO penalise the failure to delete, destroy or report child abuse material, found to be stored or in possession of any person with an intention to share or transmit it. It also invoked the concept of 'constructive possession' and clarified that physical possession is not necessary for invoking penal provisions under POCSO.

The judgment dated 23 September 2024 passed by the Supreme Court can be accessed [here](#).

You can read more about this development as reported by the Hindu [here](#).

MIB's Fact Check Unit declared unconstitutional

The Bombay HC struck down the amended rules under the IT Rules 2021 that empowered the Ministry of Information and Broadcasting ("**MIB**") to set up a fact check unit to identify fake, false and misleading news on social media platforms. A division bench of the Bombay HC had previously rendered a split verdict, and a third judge gave the deciding opinion and stated that the amended rules were ultra vires to the Indian Constitution. It was observed that the terms 'fake', 'untrue', or 'misleading' were vague and wrong, and in the absence of any definition, the rule could result in a chilling effect 'qua an intermediary'.

The judgment dated 20 September 2024 passed by the third judge of Bombay HC can be accessed [here](#).

You can read more about this development as reported by the Hindu [here](#).

Delhi HC directs social media intermediaries to submit their standard operating procedure for dealing with information requests from the police

A division bench of the Delhi HC, comprising Justices Prathiba Singh and Amit Sharma (the "**Bench**"), directed social media intermediaries, including Google, Meta, Reddit, LinkedIn, WhatsApp, and Telegram (collectively "**SMLs**"), to submit their standard operating procedures ("**SOPs**") for handling police information requests. The Bench, while hearing a case titled *Shabana v. Govt. NCT*

of Delhi & Ors. concerning a missing child, noted delays in Meta's response to a police request on 6 September 2024 for information related to the missing child's Instagram account, which remained unfulfilled until 19 September 2024.

The Bench also highlighted delays in other habeas corpus cases and emphasized the need for prompt information sharing by SMLs to assist in tracing missing persons, particularly minors. Further, the Bench urged the SMLs to establish clear timelines and provide investigating officers with necessary guidelines for promptly monitoring and downloading information. In view of these observations, the Bench directed the SMLs to submit their respective SOPs for law enforcement requests, including specific timelines for responding to such requests. At the next hearing on 20 October 2024, the Bench observed that the SMLs would file their SOPs by 25 October 2024 and listed the matter for further proceedings on 28 October 2024.

On 28 October 2024, the Bench noted that SMLs namely Google, Meta and WhatsApp, had submitted their SOPs. The Bench observed that the SMLs did not provide specific timelines for responding to critical information requests from law enforcement agencies regarding missing persons and bomb hoaxes. The Bench also noted that under IT Rules 2021, the SMLs are required to acknowledge information requests from law enforcement agencies within 24 (twenty-four) hours and to provide information 'as soon as possible,' but no later than 72 (seventy-two) hours. Additionally, the Bench emphasized that processing requests from law enforcement agencies cannot be overly complex.

In light of this, the Bench has directed the SMLs to file improved affidavits detailing their timelines for responding to such requests within two (2) weeks. The court is set to hear the matter next on 11 December 2024.

Copies of the order dated 20 September 2024, 20 October 2024 and 28 October 2024 passed by the Delhi HC can be viewed [here](#), [here](#) and [here](#).

Delhi HC steps in: Actor/producer Vishnu Manchu's personality rights get interim protection across social media (even in the Metaverse)

The Delhi HC issued an ex-parte interim order on 1 October 2024 in favour of actor and producer Vishnu Manchu ("**Plaintiff**") in his suit titled *Manchu Vishnu Vardhan Babu Alias Vishnu Manchu v. Arebumdum & Ors.* against various YouTube channels to protect his personality rights. The

Plaintiff's claims include defamation, copyright infringement (including moral rights), misappropriation of his personality/publicity rights, and passing-off. This suit was initiated after the Plaintiff found that clips from his performances and interviews were altered across multiple YouTube channels ("**Respondents**") using machine learning to morph or superimpose his face, resulting in videos that ridicule him.

The Plaintiff argued that his name, voice, image, and other personal attributes have acquired unique distinctiveness and commercial value. The Plaintiff asserted that the Respondents covertly misused these attributes, infringing upon his personality and publicity rights. Additionally, the Plaintiff alleged that the Respondents defamed him by (i) comparing his image to animals; (ii) morphing his face and distorting expressions; (iii) publishing content with profane language; (iv) monetizing defamatory videos; and (v) using his name in explicit videos.

In light of the Plaintiff's contentions, the Delhi HC observed that the Plaintiff has established a prima facie case for the grant of a permanent injunction and consequently passed the ex-parte order directing, among other things, the Respondents (including John Does), to refrain from creating, publishing, or disseminating any content that defames the Plaintiff and to cease infringing upon the Plaintiff's personality rights by any direct or indirect use, exploitation, or misappropriation of the Plaintiff's persona, which includes (a) his name, "Vishnu Manchu,"; (b) his voice; (c) his image; or (d) any other distinctive attribute exclusively associated with him. In the event that Respondents do not comply with the order, the Delhi HC has directed YouTube to take necessary steps to take down the infringing content. The Delhi HC further stated that this injunction extends to the unauthorized use of these attributes for any commercial or personal gain across all formats and mediums, including emerging mediums such as the metaverse, and any future mediums, without the Plaintiff's consent or authorisation.

The matter is next listed on 22 January 2025 for further proceedings.

A copy of the order dated 1 October 2024 passed by the Delhi HC can be viewed [here](#).

Delhi HC seeks a status report from the Central Government on the measures taken to prevent deepfakes

The Delhi HC is currently hearing two PILs filed by advocate Chaitanya Rohilla and a prominent Indian journalist, Rajat Sharma, seeking regulatory measures to combat deepfakes. While hearing the PILs, the Delhi HC reportedly expressed concerns over the misuse of deepfake technology, which can distort reality and further

be exploited to spread misinformation, potentially harming an individual's reputation and public trust. In this context, the court directed the Central Government to submit a status report on whether a dedicated committee has been formed for establishing guidelines for regulating deepfake technology, or risk having one appointed by the court. The court also reportedly highlighted the need for regulation of artificial intelligence ("**AI**"), acknowledging that banning AI is impractical, and stressed that specific regulations are needed to address the threat posed by deepfake technology. On 21 November 2024, the Central Government submitted its status report which principally stated that a committee on deepfakes ("**Committee**") has been constituted. The court directed the Central Government to name its nominees for the Committee, which will examine the issue and endeavour to submit a report within three (3) months. The matter has now been listed for the next hearing on 24 March 2025.

The order dated 21 November 2024 passed by the Delhi HC can be viewed [here](#).

The media coverage on the above development as reported by Hindustan Times and Indian Express can be viewed [here](#) and [here](#).

ANI takes Wikipedia to court over defamatory content: the proceedings so far

In July this year, Asian News International Media Pvt. Ltd. ("**ANI**") a news agency filed a defamation suit titled *ANI Media Pvt. Ltd. v. Wikimedia Foundation Inc. & Ors.* seeking INR 2 (two) crore in damages from Wikimedia Foundation Inc. ("**Wikipedia**") for allegedly hosting defamatory statements on ANI's page on Wikipedia, which criticized ANI's reporting integrity. In the first instance, ANI secured a favourable order with the single bench of the Delhi HC directing Wikipedia by way of an order dated 20 August 2024 to disclose the information of the editors responsible for the alleged defamatory edits on ANI's Wikipedia page. However, Wikipedia failed to comply with this direction of the court, leading ANI to file contempt proceedings.

Simultaneously, Wikipedia appealed the interim order before the division bench of the Delhi HC, arguing that no prima facie determination of defamation had been made by the single judge in the interim order and, therefore, challenged its compliance obligation. During the hearing of Wikipedia's appeal, ANI informed the court that the remarks made by the single bench were published and open for editing on Wikipedia's platform. The Delhi HC deemed this to be a contempt of court. To this, Wikipedia clarified that it had not initiated any discussion on the court's decision and stated it would comply with the order of the court if it had to take down the said page. Consequently, the division bench, by order dated 16 October 2024, directed Wikipedia

to remove all comments related to the single bench and division bench orders of the Delhi HC within 36 (thirty-six) hours. Wikipedia has since complied with this order and taken down the aforesaid.

Further, during the appeal ANI urged the division bench of the Delhi HC to direct Wikipedia to disclose the details of the editors that edited ANI's page on Wikipedia. Subsequently, Wikipedia agreed to disclose the details of these editors in a sealed cover to the Delhi HC and undertook to effect service of the summons upon these editors itself. In this view, the division bench [disposed-off](#) the appeal by way of order dated 11 November 2024 and directed the single bench to proceed with the matter in accordance with law. On 14 November 2024, the single bench took note of the division bench order and [directed](#) that summons be issued to the editors.

Copies of the Interim Order and order dated 14 November 2024 passed by the Delhi HC can be viewed [here](#) and [here](#).

Copies of the orders dated 16 October 2024 and 11 November 2024 passed by the division bench of the Delhi HC can be viewed [here](#) and [here](#).

Cybersquatting concerns: The case of the Jio-Hotstar domain name registration

An anonymous app developer based out of New Delhi reportedly registered the domain name www.jiohotstar.com ("Impugned Domain") back in 2023 in view of the rumours about a potential merger between JioCinema and Hotstar. After the merger was finalised this year, the app developer reportedly contacted Reliance Industries Ltd. ("RIL") offering to sell the Impugned Domain for INR 1 (one) crore to fund his higher education abroad. Subsequently, it was reported that the Impugned Domain has been transferred to two siblings, named Jainam and Jivika aged 13 (thirteen) and 10 (ten) years respectively, who are based out of United Arab Emirates ("UAE"). It was further reported that the siblings offered to transfer the Impugned Domain to RIL "free of cost."

The registration of the Impugned Domain by the anonymous app developer illustrates a classic case of cybersquatting, wherein an individual registers a domain name associated with an established brand to profit from its potential value. Since the domain name "JioHotstar" was confusingly similar to trade marks owned by RIL and/or Hotstar, RIL and/or Hotstar were reportedly considering pursuing action under the Uniform Domain Name Dispute Resolution Policy ("UDRP"), established by the Internet Corporation for Assigned Names and Numbers ("ICANN"). However, as per the Whois website, the Impugned Domain is acquired by Viacom18 Media Pvt. Ltd. as of 2 December 2024. As the Impugned Domain is now in RIL's possession, the potential dispute appears to have been resolved without the need for formal UDRP proceedings.

The registration status of the Impugned Domain on the Whois domain name website can be viewed [here](#).

The media coverage on the above development by LiveMint and Business Standard can be viewed [here](#), [here](#) and [here](#).

ASCI to increase focus on the financial sector

Newly appointed chairman of ASCI, Partha Sinha (who is the current President and Chief Brand Officer of Bennett Coleman and Company Limited) highlighted the need for ASCI to stay ahead of the 'tech curve' and emphasised that the ASCI's focus on the technology and especially the financial sector will continue to persist. This movement is intended to further the ASCI's primary goal of protection of consumer interest and seeks to focus on insulating individual consumers who are defrauded in the financial world.

You can read more on this development as reported by Storyboard 18 [here](#).



FILMS AND TV IN COURTS: A ROUNDUP

Kangana Ranaut's 'Emergency' cleared for release with CBFC recommended cuts

The Bombay HC refused to direct the Central Board of Film Certification ("CBFC") to hand over the certification for the film 'Emergency', starring Kangana Ranaut, to Zee Entertainment Enterprises Limited ("Petitioner"). The film was produced by the Petitioner, and was submitted to the CBFC for certification, for subsequent public exhibition. The CBFC had granted a 'UA' certificate subject to certain cuts and modifications. Upon making the required modifications, when the Petitioner sought to collect the certificate from the office of the CBFC, the same was refused to be handed over on the rationale that certain groups of the Sikh Community had found the trailer of the film objectionable and opposed the release of the film. Subsequently, the Petitioner filed this petition before the Bombay HC.

While the Petitioner argued that the CBFC had no reason to hold on to the certificate that had already been issued, the CBFC *inter alia* argued that certain organisations had approached the Madhya Pradesh High Court ("MP HC") by way of a writ petition, opposing the release of the film. The MP HC had permitted these organisations to file a comprehensive representation with the CBFC in relation to the movie and the trailer. Further, the MP HC had directed the CBFC to consider the objections and take appropriate action. Accordingly, in light of this order by the MP HC, the Bombay HC would be unable to direct the CBFC to hand over the certificate of the film to the Petitioner.

While the Bombay HC noted that the MP HC was not informed of the certificate for the film had already been issued, it still refused to direct the CBFC to handover the certificate, considering any direction in this regard would in effect result in directing the CBFC to be in breach of the order of the MP HC of considering the objections filed before it by the abovementioned organisations, before certifying the film. However, it directed the CBFC to consider the objections in an expeditious manner and decide on whether to release the certificate to the Petitioner within 25 September 2024.

In line with the directions issued by the Bombay HC, the CBFC considered the objections raised by the Petitioner and informed the court during the hearing on 4 October 2024, that the Petitioner would need to make further excisions/modifications to the film to obtain CBFC certification for the film's release. To this, the Petitioner submitted that it had agreed to carry out the excisions/modifications as required by the CBFC. Taking note of the submissions from both

parties and observing that the matter had been resolved, the Bombay HC recorded the parties' consent to dispose of the matter and accordingly closed the proceedings.

You can access the relevant orders of the Bombay HC [here](#), [here](#) and [here](#).

PIL in SC on the regulation of OTT content dismissed

A public interest litigation ("PIL") was filed in the SC, praying for a direction to the Centre to set up an autonomous body to 'monitor and filter' content on over-the-top ("OTT") and other platforms in India. A reference in the PIL was also made to the recently released show IC 814: the Khandahar Hijack by Netflix, and the purported inaccuracies and the targeting of a religious group, in a show that claimed to be based on real-life incidents.

The PIL noted that while a film certification body like the CBFC regulates the public exhibition of films, the OTT content is only bound by the self-regulations which are not complied with properly. Different ministries such as Information and Broadcasting, and the Telecom Regulatory Authority of India were made parties to the plea, which sought directions to constitute an autonomous board, that is the Central Board for Regulation and Monitoring of Online Video Contents, to regulate OTT and other platforms for viewers in India. Subsequently, the PIL was dismissed by the SC stating that such matters fall within the policy domain, parliament and required consultations by various stakeholders.

You can read more about this development as reported by the *Economic Times* and *Times of India* [here](#) and [here](#) respectively.

Delhi HC the 'Dark Knight' for Warner Brothers, Netflix and Ors

The Delhi HC granted a dynamic+ injunction in favour of major global entertainment companies, including Warner Brothers, Netflix, Disney and others, and ordered the blocking of 45 (forty-five) rogue streaming websites, accused of copyright infringement by illegally disseminating their copyrighted movies and shows. The Delhi HC not only observed the need to curb these websites but also acknowledged that it is difficult to identify and block all rogue websites considering that these websites often escape detection. Accordingly, the court granted a

dynamic+ injunction with the effect of not only blocking the current infringing websites, but also extending the order to any future mirror or alphanumeric variations of these sites.

You can read more about this development as reported by the Business Standard [here](#).

You can access the order of the Delhi HC [here](#).

PILs filed before Delhi HC and Bombay HC to curb ticket scalping

In light of the recent difficulties faced by fans in securing tickets for Diljit Dosanjh's Dil-Luminati Tour ("**Diljit's Concert**") and Coldplay: Music of the Spheres World Tour ("**Coldplay Concert**") concerts, PILs have been filed before the Delhi HC and Bombay HC titled *Rohan Gupta v. Union of India & Ors.* and *Amit Vyas v. Union of India & Ors.*, respectively. These petitions seek regulatory measures to authorise the reselling of event tickets through approved platforms, to ensure fair ticket access for consumers and counter unregulated resale practices that often lead to inflated ticket prices and instances of fraud.

In the Delhi HC, the case of *Rohan Gupta v. Union of India* highlights concerns over the unauthorized reselling of event tickets, commonly known as ticket scalping. The petitioner in this case reportedly claims this practice distorts market fairness by often employing bots to secure large quantities of tickets, making it challenging for genuine

buyers to purchase tickets at face value. The petitioner also reportedly highlights how ticket scalping undermines consumer experience and promotes a shadow economy, depriving the state of potential revenue. In this view, the petitioner has urged the court to introduce a comprehensive regulatory framework and employ technological tools to curb this issue, addressing it as a "petty organised crime" under Section 112 of the Bharatiya Nyaya Sanhita, 2023. This matter will be heard next on 18 February 2025.

In the Bombay HC, the PIL reportedly focuses on BookMyShow's alleged practices that disadvantage legitimate consumers. The petitioner reportedly claims that BookMyShow unfairly restricted access to tickets for the Coldplay Concert by allowing bots to secure bulk tickets, which were later resold on secondary platforms at inflated prices. This PIL reportedly raises concerns about denying consumers fair access to entertainment and emphasizes the need for adherence to the Consumer Protection (E-Commerce) Rules, 2020. The petitioner has reportedly urged the court to implement guidelines to prevent black marketing, ticket scalping, and bot use, suggesting the formation of an expert committee to address these issues.

A copy of the order dated 9 October 2024 passed by the Delhi HC can be viewed [here](#).

The media coverage on the above development as reported by the Hindu and Economic Times can be viewed [here](#) and [here](#).



GAMING UPDATES

Bombay HC hears PIL challenging online rummy platforms

A PIL has been reportedly filed by one Ganesh Ranu Nanaware in Bombay HC questioning the legality of online rummy and seeking to ban platforms offering it in the state of Maharashtra. A division bench of the Bombay HC reportedly heard pre-admission submissions from both the petitioner and the respondents. The petitioner has *inter alia* prayed for a ban on online rummy platforms such as 'Jungle Rummy' and 'Rummy Circle' in Maharashtra and an injunction on the celebrity-driven endorsements of such platforms.

The primary contention raised by the petitioner was that online rummy amounted to 'gambling,' which is prohibited under applicable laws such as the Information Technology Act, 2000 ("**IT Act**"), the Maharashtra Prevention of Gambling Act, 1887 ("**Maharashtra PGA**"), and the Public Gambling Act, 1867 ("**PGA**") and that the proliferation of such platforms has several negative ramifications, including user addiction, financial losses, and even suicides. The petitioner also argued that Google India Private Limited ("**Google**") should be barred from providing server support and hosting services to these online gaming platforms, given the social harm caused by their widespread use.

To this, the respondents including the state of Maharashtra and Google cited several judgments which expressly categorised online rummy as a game of skill and consequently, challenged the maintainability of the PIL. It was argued by the respondents that success in the impugned games was contingent upon the users' exercise of considerable skill, strategy and cognitive skills, which differentiated them from games of chance where success was 'predominantly' dependent on luck.

The petitioner reportedly sought to implead celebrities like Sachin Tendulkar and Shah Rukh Khan by way of an interim application, which was withdrawn after Bombay HC expressed its doubts about its relevance and suggested that it would dilute the core issues raised in the PIL.

The PIL was listed on 16 October 2024, however, no substantive arguments took place and is now next listed on 15 January 2025.

A copy of the order dated 25 September 2024 passed by the Bombay HC can be viewed [here](#).

A report by India Today covering this PIL can be viewed [here](#).

Sikkim government notifies amendments to the Sikkim Online Gaming (Regulation) Act 2008 in the State Gazette

The Sikkim Legislative Assembly had approved amendments to the Sikkim Online Gaming (Regulation) Act, 2008 ("**SOGA**") in the government's Budget Session 2024-25 conducted in August this year. The Sikkim Online Gaming (Regulation) (Amendment) Act, 2024 ("**Amendment Act**"), was uploaded by the State's Gazette for public access on 25 September 2024. The Amendment Act was reportedly introduced to crack down on fraudulent gaming portals operating from outside the State which hampered the State's revenue pursuant to their operations.

The following key changes have been introduced in SOGA:

- i. The definition of "gaming terminal" was added under Section 2(l) of SOGA by substituting the earlier definition for "online gaming server". The revised definition now expressly includes "internet gaming terminal" and "URL" of the licensee through which online games are conducted and/or offered to users based in Sikkim.
- ii. The Amendment Act incorporates a new Section 12A in SOGA that deals with the penalties on unlicensed operators, and expressly prohibits *inter alia*, the operation of an "online gaming" service in the state without a valid license from the government. The State would have the power to initiate suo moto action and/or investigation against any entity found to be involved in unlawful gaming operations and may also collaborate with law enforcement agencies to address all such unlawful operations. Entities found to be engaging in such activities may be subject to sanctions including fines, as may be prescribed by the government.

The Amendment Act as uploaded on the State's Gazette can be viewed [here](#).

A report by the North East Live on the intention to introduce the amendments to SOGA can be viewed [here](#).

ED cracks down on online betting platforms for alleged "layering" of proceeds of crimes

The Enforcement Directorate ("**ED**") has reportedly uncovered a complex structure for disbursing illicit proceeds to offshore entities, as part of its probe on several mobile applications including Fairplay Sports LLC ("**Fairplay**"), that operates a sports betting platform accessible in India.

ED's probe was initiated pursuant to an FIR registered by Mumbai's Nodal Cyber Police against Fairplay under *inter alia*, the IT Act and the Indian Penal Code, 1860. The complaint alleged loss of revenue exceeding INR 100 (one hundred) crores, reportedly believed to be proceeds of crime.

While the scope of this complaint was limited to (a) illegal streaming of cricket matches; and (b) celebrity-driven endorsement of Fairplay's betting offerings, ED's probe subsequently revealed the entity's partnership with offshore firms (based in Dubai, UAE and Curaçao) for remitting the impugned proceeds.¹ Searches were conducted by ED pursuant to its investigation in June and August this year and assets worth INR 8 (eight) crores were seized accordingly. These investigations are targeted towards ascertaining the ultimate beneficiaries of the operations whereby the alleged proceeds of crime are "layered" by disbursing them through multiple transactions, to obscure the identity of the originators or ultimate beneficiaries.

ED's probe revealed the utilisation of more than 400 (four hundred) such bogus or shell accounts for "layering". The funds in these accounts were later filtered using a complex web of bank accounts such that they finally reached offshore pharmaceutical companies engaged in fraudulent billing. The proceeds were later siphoned to shell companies based in jurisdictions such as China, Dubai and Hong Kong. This is a developing story, and the ED is reportedly continuing its investigation to trace the ultimate beneficiaries of such betting activities on mobile applications.

You may access ED's press release on this development [here](#).

You may read more on this development as reported by the Hindustan Times [here](#).

No GST relief granted to the online gaming industry at the 54th GST Council Meeting

Despite continuous lobbying by market participants of the online gaming sector, no relief was provided with respect to the 28 (twenty-eight)% Goods & Services Tax ("**GST**") levy on the supply of "specified actionable claims", by the GST Council in its 54th Council meeting held on 9 September 2024.

It has been reported that centre and state tax officers were supposed to present a taxation "status report" before the GST Council in its 54th meeting, pertaining to the changes observed in the taxation collection before and after the implementation of the revised GST framework (whereby 28 (twenty-eight)% GST was imposed on the supply of specified actionable claims and was subject to it being

reviewed after six months of its implementation). However, it was clear that the GST Council would only deliberate on the status of taxation for the online gaming sector, and chances of any revision in the rate of GST levy remained unlikely. Additionally, statistics pertaining to GST evasion pursuant to offshore online gaming platforms' failure to register with the central GST authorities were also expected to be provided before the GST Council.

While the GST Council in its meeting reviewed the status report and the taxation rates for the online gaming sector, no relief was reportedly given vis-à-vis any reduction in the GST levy for online gaming companies. Owing to the increased taxation revenues being brought to the exchequer as well as the legality of retrospective GST claims being currently sub judice before the SC, the GST Council decided to maintain the 'status quo' in that regard.

The media coverage on this development by Business Standard and News18 can be viewed [here](#) and [here](#).

TNOGA initiates legal action against the promotion of online gambling via social media

The Tamil Nadu Online Gaming Authority ("**TNOGA**") has reportedly initiated legal action against six YouTubers, Instagram influencers, and a private firm for promoting online betting and gambling. TNOGA is a five-member statutory regulatory body constituted under Section 3 of the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022 ("**TN Online Gaming Act**") and is *inter alia* responsible for regulating the offering of online games in the state by issuing certificates of registration to "local online games providers".

The concerned individuals were reportedly vlogging about lifestyle topics such as food and cinema on YouTube and/or Instagram but while doing so, discreetly endorsed offshore online gaming platforms such as those offering fantasy games, poker, and rummy. In their videos, they allegedly attempted to lure users with offers of cash rewards up to INR 10 (ten) lakh per day, on offshore platforms.

In its investigation, TNOGA considered factors such as the concerned individual/influencers' ability to influence vulnerable demographics and the legality of their association with offshore gambling entities, particularly from an advertising standpoint. Accordingly, show-cause notices were issued to the social media personalities and the private firm, questioning why their platforms or social media accounts should not be geo-blocked in Tamil Nadu.

Officials' privy to the matter revealed that TNOGA has also been assessing the conduct of film celebrities in this regard, who allegedly endorsed offshore betting and gambling

1. As per reports, such offshore entities acted as financial service providers for the alleged illicit applications.

apps through their Instagram stories and other social media platforms. Additionally, the authority pulled up a private advertising firm for promoting such gambling apps through stickers on taxis in Chennai.

A detailed media coverage on this development by ET Brand Equity can be viewed [here](#).

TNOGA considering stricter online gaming regulation to safeguard young players

TNOGA is reportedly mulling implementing stricter regulations on online gaming in the state, by promulgating provisions imposing time and deposit limits on certain games, to address the ill effects of online gaming, particularly on the younger population in the state. This development comes in light of the central government's reported plans to introduce time and spending limits on online games, particularly their real-money counterparts.

Based on a survey conducted by TNOGA of around 1.5 lakh children, most of them were found to have engaged in online gaming using their parents' devices. To offset such instances, regulations on the lines of those adopted in South Korea, UAE and China were also proposed, whereby routine pop-up notifications may be required to be sent to intimate about time and money spent on such platforms.

Some key proposals as reported by news outlets are listed below:

- i. The government may place a complete embargo on online gaming between midnight and 5:00 a.m., and place additional prohibitions on playing in excess of four hours every day.
- ii. Each gaming session may also be capped at two hours.
- iii. Regarding limits on monetary deposits, the government may prescribe daily and monthly deposit limits of INR 5,000 (five thousand) and INR 20,000 (twenty thousand) respectively.
- iv. Mandatory Aadhaar verification may be prescribed during the user-onboarding and registration process.

Notably, current reports suggest that the foregoing obligations may be limited to real-money gaming offerings and may not apply to 'entertainment-oriented video games' where no money is staked.

A detailed media coverage on this development by the Times of India can be viewed [here](#).

A report on central government's plans to introduce time and spending limits on online real money games by Economic Times can be viewed [here](#).

ASCI reports illegal advertisements pertaining to betting and gambling to the MIB

ASCI has reportedly written to the Secretary of the MIB to notify the Ministry about the surge witnessed in the advertisements of illegal betting and gambling companies.

ASCI identified around 700 (seven hundred) advertisements promoting the offerings of companies operating in the betting and gambling sector, that were reportedly issued in the period spanning from April to August 2024. Several offshore operators such as 'Melbet', 'Dafabet', 'Vegas11', 'Fun88' and '1xBet' were said to be undertaking surrogate advertising by employing slightly altered names such as 'Metbat', 'Dafanews', 'Vegas11 Sports News', 'Fun88 News' and '1xBat'. Players engaged in the real-money gaming verticals also apprised ASCI about such platforms' using Season 11 of the Pro Kabaddi League ("**PKL**") as an avenue to promote their betting offerings. Illustratively, 'Dafa News' and 'Parimatch News' are both official partners of the upcoming edition of PKL and are surrogate platforms of 'Dafabet' (based in the Philippines) and 'Parimatch' (based in Cyprus) respectively.

A report on this development by StoryBoard18 can be viewed [here](#).

Union Ministry of Youth Affairs & Sports releases the Draft National Sports Governance Bill and the Draft National Sports Policy, 2024 for stakeholder comments

On 10 October 2024, the Union Ministry of Youth Affairs & Sports ("**Sports Ministry**") released the Draft National Sports Governance Bill, 2024 ("**Draft Bill**"). The Draft Bill aims to provide a robust regulatory structure for a variety of sports in the country. It proposes to establish various institutions, including a National Olympic Committee ("**NOC**") and National Paralympic Committee ("**NPC**") to oversee Olympic and Paralympic sports, respectively.

Additionally, it aims to designate multiple National Sports Federations ("**NSFs**") for each sport which will operate under the oversight of the Sports Regulatory Board of India ("**SRBI**"), ensuring affiliation with international bodies and maintaining standards for Regional Sports Federations ("**RSFs**"). Other key institutions include the Athletes Commission, NOC Ethics Commission, and NOC Dispute Resolution Commission, which will collectively support athlete representation, address ethical issues, and resolve stakeholder grievances. The Draft Bill further proposes an Appellate Sports Tribunal ("**AST**") with exclusive authority to adjudicate disputes involving the NOC, NPC, or NSFs, with appeals from AST decisions permitted solely to the Supreme Court of India.

In parallel, the Sports Ministry has also issued the 'Draft National Sports Policy, 2024' ("**Draft NSP**"). The Draft NSP is issued to revamp the extant National Sports Policy and attune it vis-à-vis the developments in the realm of sports. It intends to *inter alia*, harness the potential of sports to drive excellence, economic growth and social progress whilst promoting the well-being of citizens and focuses on 5 (five) key pillars viz., excellence on the global stage, sports for economic development, sports for social development, sports as a people's movement, and harmonisation of the Draft NSP with the National Education Policy.

The last date to submit comments to the Draft NSP was 27 October 2024. For the Draft Bill, the Sports Ministry initially kept the deadline to receive stakeholder comments by 25 October 2024, which is now extended to 10 November 2024.

You may access the Draft NSP [here](#) and the Draft Bill can be viewed [here](#).

The notification dated 25 October 2024 by the Sports Ministry can be viewed [here](#).

Department of Consumer Affairs cancels its plan to frame guidelines and conduct a study on online gaming

The Department of Consumer Affairs ("**DoCA**") under the Ministry of Consumer Affairs ("**MCA**") has reportedly cancelled its plan to frame guidelines on online gaming and has also cancelled its proposed study on the ill effects associated with gaming addiction.

Earlier this year, the government planned to collaborate with the National Institute of Mental Health and Neurosciences (NIMHANS), Bangalore and other stakeholders to assess the ill-effects of online gaming addiction and its ramifications on impulse control and mental health. The purpose of this study was to frame a "responsible digital consumption model" basis *inter alia*, the consumption practices around online gaming (see Press Information Bureau press release [here](#)). The initiative was to be led by the DoCA and the findings from the study were expected to tailor the government's policies around online gaming, especially vis-à-vis predicting excessive consumption of such content.

It has now been reported that DoCA has decided to cancel its plan to undertake the foregoing study. The cancellation reportedly comes in the wake of MeitY's purported plans to issue draft guidelines on this aspect, which made the government reluctant to invest a corpus of around INR 20 (twenty) crores to fund a separate study. Additionally, it is also reported that policymakers are of the view that global studies on online gaming addiction already provide

adequate insights that are equally applicable to Indian users, which may be used to frame guidelines in that regard.

You may read more on this development as reported by the Mint [here](#).

Proposal to institute an IDC to combat the illicit activities rampant in the online gaming sector: DGGI's Annual Report

The Directorate General of GST Intelligence ("**DGGI**") has reportedly proposed establishing an Inter-Departmental Committee ("**IDC**") involving various central ministries to tackle illegal activities on online gaming platforms, including tax evasion and money laundering. This proposal follows the DGGI's Annual Report for 2023-24 ("**Annual Report**"), which reportedly revealed GST evasion of approximately INR 81,875 (eighty one thousand eight seventy-five) crore, double the amount from 2022-23, primarily from 78 (seventy-eight) cases in the online gaming sector, based on this the online gaming sector was flagged as a 'high-risk' industry for tax evasion and other illegal activities such as money laundering and cyber frauds.

The DGGI identified about 658 (six fifty-eight) offshore platforms as non-compliant with GST registration obligations and initiated actions against several domestic operators, issuing show-cause notices for approximately INR 1,10,531 (one lakh ten thousand five thirty-one) crore in unpaid GST at the revised rate of 28 (twenty-eight) % on specified actionable claims.

To combat these illicit activities, the Annual Report recommended forming an IDC with members from industry bodies and ministries, including the Central Board of Indirect Taxes ("**CBIC**") and MeitY. This committee was deemed crucial for addressing compliance challenges posed by offshore platforms, particularly regarding ownership verification and the use of mirroring domains to operate in India.

Additionally, the DGGI has reportedly also proposed reciprocal arrangements with foreign governments for information sharing and enforcement, focusing on Online Information Database Access and Retrieval (OIDAR) services to block websites and disrupt operations of offshore gaming operators using VPNs to reach Indian users.

The full DGGI Annual Report for 2023-24 can be viewed [here](#).

The reports by Business Standard and Business Today on the DGGI's proposal of an IDC and on reciprocal arrangement with foreign governments can be viewed [here](#), [here](#) and [here](#).

OUR OFFICES

BENGALURU

101, 1st Floor, "Embassy Classic" # 11
Vittal Mallya Road
Bengaluru 560 001
T: +91 80 4072 6600
F: +91 80 4072 6666
E: bangalore@induslaw.com

HYDERABAD

204, Ashoka Capitol, Road No. 2
Banjarahills
Hyderabad 500 034
T: +91 40 4026 4624
F: +91 40 4004 0979
E: hyderabad@induslaw.com

CHENNAI

#11, Venkatraman Street, T Nagar,
Chennai - 600017 India
T: +91 44 4354 6600
F: +91 44 4354 6600
E: chennai@induslaw.com

DELHI & NCR

2nd Floor, Block D
The MIRA, Mathura Road, Ishwar Nagar
New Delhi 110 065
T: +91 11 4782 1000
F: +91 11 4782 1097
E: delhi@induslaw.com

9th Floor, Block-B
DLF Cyber Park
Udyog Vihar Phase - 3
Sector - 20
Gurugram 122 008
T: +91 12 4673 1000
E: gurugram@induslaw.com

MUMBAI

1502B, 15th Floor
Tower – 1C, One Indiabulls Centre
Senapati Bapat Marg, Lower Parel
Mumbai – 400013
T: +91 22 4920 7200
F: +91 22 4920 7299
E: mumbai@induslaw.com

#81-83, 8th Floor
A Wing, Mittal Court
Jamnalal Bajaj Marg
Nariman Point
Mumbai – 400021
T: +91 22 4007 4400
E: mumbai@induslaw.com

DISCLAIMER

This document is for information purposes only and is not an advisory of legal nature. Nothing contained herein is, purports to be, or is intended as legal advice or a legal opinion, and you should seek advice before you act on any information or view expressed herein. We make no representation or warranty, express or implied, in any manner whatsoever in connection with the contents herein. No recipient of this document should construe it as an attempt to solicit business in any manner whatsoever. The views expressed in this document may be the personal views of the author/s and may not reflect the views of the Firm.