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SEBI RELEASES CONSULTATION PAPER ON GUIDELINES FOR RESPONSIBLE USAGE OF AI/ML IN INDIAN SECURITIES MARKETS

In light of the growing adoption of Artificial Intelligence (AI)/Machine Learning (ML) systems in the securities market, the Securities Exchange Board of India ("**SEBI**") constituted a working group to study and develop guidelines for usage of AI/ML applications in the securities market. Pursuant to the findings and recommendations of the working group, SEBI, on June 20, 2025, released a consultation paper titled 'Guidelines for Responsible Usage of AI/ML in Indian Securities Markets' ("**AI/ML Guidelines**") to invite public comments on the proposed guiding principles for the responsible use of AI/ML models in the Indian securities ecosystem. The last date for submitting comments is July 11, 2025.

Background

Previously, in 2019, SEBI introduced reporting requirements for AI/ML applications and systems, covering those offered and used by stock exchanges, clearing corporations, depositories, intermediaries, and mutual funds.

The present AI/ML Guidelines have been notified by the SEBI considering the increased use of AI and ML-based applications and models in the securities market. Pertinently, it is expected that this uptake is likely to increase with the advent and adoption of Large Language Models (LLMs) and generative AI, enabling diverse use cases. To prepare the AI/ML Guidelines, SEBI constituted a working group which studied existing AI/ML guidelines in India and globally, including but not limited to, NITI Aayog's "Approach Document for India Part 1 - Principal for Responsible AI' and the consultation paper by the International Organisation of Securities Commissions.

Importantly, SEBI also engaged with market participants to understand AI/ML deployment in the securities market. Current use cases of AI/ML applications across the Indian securities market include:

- By exchanges - primarily for surveillance, member support, data input tasks, and advanced cybersecurity;

- By brokers - primarily for KYC/document processing, chatbots, digital account opening, order execution, and product propensity; and

- By mutual funds - primarily for cybersecurity, chatbots, and surveillance tools.

Recommendations of the Working Group

The working group constituted by SEBI has provided the following guiding principles under the AI/ML Guidelines for the responsible usage of AI/ML:

- **Model Governance:** Market participants using AI/ML should establish skilled teams to ensure effective human oversight of algorithmic performance, control, testing, and efficacy throughout their lifecycle, and to implement robust risk control measures and governance frameworks. These teams must also ensure the auditability and explainability/interpretability of AI/ML-based models. Importantly, these teams must also establish backup/fallback plans in the event of an AI-based application failure.

- **Investor Protection Disclosure:** Market participants that use AI/ML models for their business operations, which directly impact their customers/clients, should disclose the same to their respective customers/clients. The disclosure should be made in clear language that is comprehensible to customers/clients.

MADRAS HIGH COURT UPHOLDS VALIDITY OF THE TAMIL NADU ONLINE GAMING AUTHORITY (REAL MONEY GAMES) REGULATIONS, 2025

On June 03, 2025, the Madras High Court ("**High Court**") in _Play Games 24x7 Private Limited & Anr. vs State of Tamil Nadu & Ors._("**Play Games Case**") upheld the constitutionality of the Tamil Nadu Prohibition of Online Gambling and Regulations of Online Games Act, 2022 ("**TNOG Act**") and the Tamil Nadu Online Gaming Authority (Real Money Games) Regulations, 2025 ("**RMG Regulations**"). The High Court affirmed the competency of the state to impose regulatory measures on online real money games, including restrictions on playing hours and mandatory age-verification requirements.

Tamil Nadu and Real Money Gaming: A Complex History

Online real money gaming regulation in Tamil Nadu has evolved rapidly over the past few years. In 2021, the State Government amended the Tamil Nadu Gaming Act, 1930, by way of the Tamil Nadu Gaming and Police Law (Amendment) Act, 2021 ("**2021 Amendment**"), thereby banning online gaming and wagering, including on games of skill. The High Court subsequently struck down amendments introduced by the 2021 Amendment in respect of the blanket prohibition on online games of skill as unconstitutional, in the case of _Junglee Games India Pvt. Ltd. v. State of Tamil Nadu_, on the grounds of the same being unreasonable, excessive, and manifestly arbitrary - thereby infringing Article 19(1)(g) of the Constitution.

In 2022, the State Government enacted the TNOG Act, the validity of which was challenged by several gaming platforms in the case of _All India Gaming Federation v. State of Tamil Nadu & Others_ ("**AIGF Case**"). In the AIGF Case, the High Court, upheld the validity of the TNOG Act but struck down Schedule II of the TNOG Act, which classified rummy and poker as games of chance. Further, in February 2025, the State Government notified the RMG Regulations, which were contested before the High Court in the Play Games Case.

High Court's Verdict

On Legislative Competence
One of the primary contentions of the petitioners in the Play Games Case was that the State Government lacked legislative competence to regulate internet-based activities, since this would fall under the exclusive domain of the Union Government under the Information Technology Act, 2000.

In the Play Games Case, the High Court held that the State Government was well within its powers to legislate on matters concerning public health and trade and commerce within the state. It observed that online real money games in their true essence constituted trade activity, thereby warranting regulation through state legislation. The High Court further relied on Articles 39 and 47 of the Constitution, which empower the state to take steps to improve public health and welfare. Consequently, the challenge on the ground of legislative incompetence was dismissed as untenable.

On Night Ban

Notably, the RMG Regulations require all online real-money games to enforce "blank hours" from 12 to 5 A.M., during which login and play are prohibited. The petitioners challenged such a blanket ban as arbitrary and without empirical justification. The petitioners contended, *inter alia,* that such a ban infringed their fundamental right to carry on a trade or business under Article 19(1)(g) of the Constitution. The High Court, in the present case, upheld the validity of the night-time ban, finding that the potential harm to public well-being, including but not limited to impaired cognitive function, disrupted circadian rhythms, outweighed the petitioners' right under Article 19(1)(g) and justified regulatory intervention.

Read more on RMG Regulations *here*.

On Aadhar-Based KYC

Under the RMG Regulations, online real-money gaming platforms are required to conduct mandatory KYC verification, with initial login via Aadhaar and a second layer of authentication through OTP verification linked to the registered Aadhaar number. The petitioners challenged this requirement, arguing, *inter alia*, that it violated Section 4(7) of the Aadhaar Act, 2016 ("**Aadhaar Act**") and the Supreme Court's decision in '*Justice K.S. Puttaswamy (Retd.) v. Union of India*', which held that Aadhaar authentication can only be mandated by a law enacted by Parliament.

The High Court upheld the State Government's decision, noting that while other forms of identification are valid, they lack the infrastructure for real-time verification. Aadhaar, in contrast, provides a reliable mechanism for verifying age, which is critical for regulating access to real-money games. Relying on Section 4(4)(b)(i) of the Aadhaar Act, the Court held that Aadhaar authentication may be used where permitted by the Central Government in the interest of the State. The Central Government, through its counter-affidavit, confirmed that it is permitted for online gaming service providers.

CONSUMER PROTECTION AUTHORITY CALLS FOR MANDATORY SELF-AUDITS ON DARK PATTERNS BY E-COMMERCE ENTITIES

On June 05, 2025, the Central Consumer Protection Authority ("**CCPA**") issued an advisory ("**Advisory**") directing all e-commerce platforms to refrain from engaging in any deceptive or unfair trade practice in the nature of '*dark patterns*'. The Advisory requires e-commerce platforms to conduct a self-audit to identify and remove such dark patterns from their user interface ("**UI**"). Additionally, the Advisory focuses on the use of pre-ticked checkboxes to obtain consumer consent as a misleading practice.

Dark Patterns: Deceptive Design and Regulatory Scrutiny

Dark patterns are deceptive practices deployed on the UI of a platform with the intention to manipulate consumers into making choices they would not ordinarily make of their own free will. Notably, the issue of dark patterns was first formally addressed in November 2023, when the Department of Consumer Affairs introduced the Guidelines for Prevention and Regulation of Dark Patterns, 2023 ("**Guidelines**"). The Guidelines comprehensively cover all types of online platforms, including websites, mobile applications, advertisers, and sellers. Pertinently, the Guidelines provide a non-exhaustive list of 13 types of dark patterns, including basket sneaking and confirm shaming.

Pursuant to notification of these guidelines, in June 2024, the CCPA issued a notice to IndiGo Airlines for indulging in 'confirm shaming' after users opting out of add-ons were confronted with the message "*No, I will take the risk*", thereby resorting to a deceptive design practice. IndiGo thereafter revised the wording to "*No, I will not add to the trip*". Additionally, the CCPA issued a notice to Book My Show for basket sneaking, when its UI automatically added ₹1 per ticket to the BookASmile charity initiative without obtaining consumer consent. Book My Show subsequently modified its UI to require an explicit opt-in for such donations.

Key Highlights of the CCPA Advisory

The CCPA, in its Advisory, stated that e-commerce entities are required to:

- Conduct self-audits within the three months from the date of the issuance of the Advisory and identify any dark patterns present on their platforms; and

- Eliminate all identified dark patterns, and once removed, platforms are encouraged to publish a self-declaration affirming that the platform is free of dark patterns for the benefit of consumers.

The Advisory also highlights Rule 4(9) of the Consumer Protection (E-Commerce) Rules, 2020, which mandates that the user consent must be obtained through clear and affirmative action.

Joint Working Group

Additionally, on June 05, 2025, the Department of Consumer Affairs constituted a Joint Working Group ("**JWG**") for the identification and combat of dark patterns, as part of its cumulative effort to combat dark patterns. Operating for 12 months, the JWG will meet regularly and submit periodic reports to the government. The JWG's mandate includes identifying the violations of the Guidelines, reporting such violations, proposing consumer safeguards, and devising public-awareness strategies.
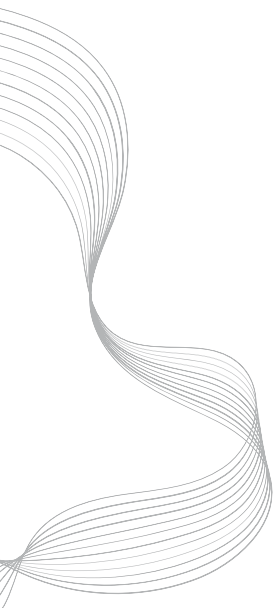
KARNATAKA GOVERNMENT PROPOSES DRAFT LAW ON FAKE NEWS AND MISINFORMATION

The Karnataka Government placed before the cabinet its draft bill titled Karnataka Misinformation and Fake News (Prohibition) Act, 2025 ("**Draft Bill**"), aimed at tackling online misinformation and fake news. Under the Draft Bill, no person, whether inside or outside the state of Karnataka, may communicate or abet the communication of misinformation. If enacted, the Bill would impose stringent penalties and fines on those convicted of disseminating misinformation or fake news online. According to media reports, the Draft Bill was tabled before the cabinet on June 13, 2025.

Misinformation and Fake News

The Draft Bill criminalizes *'misinformation'*, defined as knowingly or recklessly making a false or misleading statement of fact, in whole or in part, within its context. Notably, the definition excludes opinions, religious or philosophical sermons, satire, comedy, parody, and other artistic expressions that a reasonable person of ordinary prudence would not interpret as factual. Under the Draft Law, any person convicted of communicating misinformation faces imprisonment for two years, extendable up to a period of five years, and/or a fine. Further, any person who abets the communication of misinformation faces imprisonment for a period of up to two years and/or a fine.

Additionally, under the Draft Bill, the state government shall ensure a complete prohibition on fake news on social media platforms. Pertinently, the Draft Bill defines *'fake news'* as information that is either individually or in combination:

- the misquotation or false and/or inaccurate reporting of someone's statement;

- the editing of audio or video content that distorts the facts and/or alters the context; and/or

- purely fabricated content.

Social media users found guilty of posting fake news would face imprisonment for a period that may extend up to 7 years and/or a fine of up to INR 10 lakhs.

Key Highlights of the Draft Bill

- **Social Media Regulatory Authority:** The Draft Bill proposes a six-member Social Media Regulatory Authority ("**Authority**") to oversee a comprehensive ban on fake news across social media platforms. The Authority's functions include, *inter alia*, prohibiting the posting of antifeminist content, content disrespecting sanatan symbols, and content promoting superstition on social media platforms.

- **Special Courts:** The Draft Bill proposes the establishment of special courts, presided over by session judges, to try all offences under the Draft Bill. The special courts will have the power to order the removal of content, impose penalties on individuals or platforms, and issue corrective or disabling directions to intermediaries, publishers, and broadcasters in Karnataka. The Draft Bill also provides for the appointment of at least one special public prosecutor at each bench of the Karnataka High Court to handle appeals, revisions, and other criminal proceedings arising under the Draft Bill.

TRAI LAUNCHES PILOT PROJECT FOR DIGITAL CONSENT MANAGEMENT IN PARTNERSHIP WITH RBI AND BANKS

On June 13, 2025, Telecom Regulatory Authority of India ("**TRAI**")in partnership with the Reserve Bank of India and select banks, announced/initiated a <u>pilot project for Digital Consent Management</u>, aiming to curb spam by ensuring that commercial communications, including SMS/calls, are made only with digitally verifiable consumer consent.

Under the pilot project, which specifically prioritizes the banking sector for the first phase of implementation, Telecom Service Providers **("TSPs")** in coordination with select banks will test the technical, operational, and consumer-facing aspects of the Consent Registration Function ("**CRF**"). The CRF, as outlined under the TCCCPR, is intended to enable consent acquirers to record, authenticate, and revoke customer consent in an immutable and non-repudiable manner.

Notably, the pilot project will be conducted within the regulatory sandbox established under Regulation 36 of the Telecom Commercial Communications Customer Preference Regulations ("**TCCCPR**").

Key Components of the Initiative

- <u>*Dual Role Structure:*</u> Under the pilot project, Access Providers (*as defined under the TCCCPR, which inter alia, includes basic telephone service providers, cellular mobile telephone service providers, unified access service providers, universal access service providers, and virtual network operators, as licensed by the Department of Telecommunication*) will serve as both: (a) Originating Access Providers ("**OAPs**") to facilitate coordination amongst banks; and (b) Terminating Access Providers ("**TAPs**") to manage customer notifications and consent revocations.

- <u>*Multi-Modal Revocation:*</u> Under the pilot project, consumers will have access to intuitive, user-friendly interfaces to revoke their consent. Consent revocation will be available through multiple channels, including web portals, mobile apps, and SMS.

- <u>*Reporting Requirements:*</u> Access Providers must submit a detailed report within 10 business days of the completion of the pilot project. The report and any associated feedback should be supported with relevant data collected during the duration of the pilot project and should, *inter alia,* focus on the technical evaluation, consent lifecycle analysis, UI review, and inter-operator coordination.

- _Distributed Ledger Technology-Based Consent Tracking:_ Access Providers must integrate end-to-end Distributed Ledger Technology systems for the purposes of consent recording and revocation.

- _SMS Alerts from '127xxx':_ Consumers will receive SMS updates showing: (a) which businesses have their consent; (b) how to revoke it instantly; and (c) links to view all active consents in one place.

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