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The draft E-Commerce Rules - Moving towards protectionism

By **Nayanika Majumdar**

The Ministry of Consumer Affairs, recently, on November 11, 2019, under Section 101(1)(zg) of the Consumer Protection Act, 2019 issued a draft set of rules on e-commerce titled the Consumer Protection (e-commerce) Rules, 2019 ("Draft Rules"). The contents of the Draft Rules are akin to the E-Commerce Guidelines for Consumer Protection 2019 which were released on August 02, 2019, with the difference being that the aforementioned guidelines were framed under the Consumer Protection Act, 1986 whereas the Draft Rules have been framed under the Consumer Protection Act, 2019.

In the advent of numerous complaints being made by local players of unfair practices being adopted and deep discounts being offered by e-commerce players, a need was felt to regulate the e-commerce sector. Regulation of business practices of foreign investment based e-commerce entities was attempted by way of Press Note 3 of 2016 (PN 3 of 2016) and Press Note 2 of 2018 (PN 2 of 2018) issued by the Department for Promotion of Industry and International Trade (DPIIT) (erstwhile Department of Industrial Policy and Promotion (DIPP)). Despite the direction issued by the press notes on maintenance of level playing field by e-commerce entities there was apparently no, or hardly any, initiative taken by e-commerce giants in toning down deep discounts being offered on their platforms.

Features:

These Draft Rules appear to have been framed with the idea of bringing some parity between e-commerce players and their brick-and-mortar counterparts. They place a set of roles, responsibilities and liabilities on e-commerce entities in the following manner:

Quality Control

E-commerce entities are required to ensure that the advertisements for marketing of goods/services are consistent with the actual characteristics and usage conditions of such goods/services. E-commerce entities are also required to mention safety and health care information on the goods and services advertised for sale. In addition to this, an e-commerce entity may be held guilty of contributory or secondary liability in the event it makes an assurance about the authenticity of the goods sold on its platform.

Counterfeits

With rampant reports of counterfeit products being sold on e-commerce websites, the Draft Rules have attempted to address the issue. Upon being informed by a consumer, or upon getting to know on its own, of any counterfeit product/s being sold on its platform, the e-commerce entity is required to notify the seller after conducting due-diligence. In case the seller is unable to provide evidence regarding genuineness of the product, the listing of the product will be taken down and the consumers will be notified of the same.

Return

Upon goods being delivered later than the stated date of delivery, upon delivery of defective, wrong/spurious products, or upon delivery of

goods not matching the characteristics/features as advertised, the e-commerce entity involved would be required to accept the return of goods and effect returns within a maximum period of 14 days.

Safe payment and data protection

E-commerce entities are required to provide: (i) information on available payment methods; (ii) security of those payment methods; (iii) instructions regarding usage and cancellation of payment under the available payment methods along with information on charge back options and costs applicable to those payment methods. Additionally, e-commerce entities are required to ensure that personally identifiable information of customers is protected and also ensure that data collection, storage and use is in compliance with the Information Technology (Amendment) Act, 2008.

Liabilities

To assuage concerns of local players, e-commerce entities have been given a mandate to not indulge in certain activities. Primarily, as provided under PN 3 of 2016 and PN 2 of 2018, an e-commerce entity is required to maintain a level playing field and not directly/indirectly influence the price of goods/services displayed on its platform. This can effectively mean the end of discounts/deep discounts offered by e-commerce giants presently in the market, which has been the bone of contention between local traders and e-commerce entities since time immemorial. E-commerce entities are also not to adopt unfair methods or deceptive practices which may influence transactional decisions of the consumers. Further, e-commerce entities cannot falsely represent themselves as consumers, post false reviews, misrepresent or exaggerate the quality of the goods/services displayed on their platform.

In addition to liabilities being set out for e-commerce entities, the Draft Rules also provide for liabilities of the sellers. Any seller selling/advertising his product/services through an e-commerce platform is required to have a prior written contract with the e-commerce entity. A seller is also required to provide all the necessary information required by law or under a mandatory regime for disclosing contractual information. A seller is to ensure that he complies with mandatory display requirements as per the Legal Metrology Rules 2017 for packaged commodities and also ensure that mandatory safety and healthcare warnings along with shelf-life which a consumer would get at any physical point of sale are provided to the consumer on e-commerce platforms as well. Additionally, a seller is mandated to provide fair and reasonable delivery terms or directly reference the shipping policy and be responsible for warranty/guarantee obligation of the goods and services sold.

Issues not addressed:

The Draft Rules do not provide for specific penalty in case of violation by e-commerce entities or sellers. The Draft Rules have been propounded under the Act and the Act provides for penalty by way of fine (of upto Rs. Ten Lakhs) or imprisonment (for upto 2 years) in cases of false or misleading advertisement being made which is prejudicial to the interest of consumers. In case of violation of any order of the Central Government made under Section 20 (issuance of directions in case of unfair practices being carried on) or Section 21 (issuance of directions/imposition of penalties in case of false/misleading advertisements) of the Act, a fine which may extend to Rs. Twenty Lakhs or an imprisonment for a term which may extend to 6 months may be imposed.

Section 94 of the Act provides that the Central Government may take measures in order to prevent unfair trade practices in e-commerce,

direct selling and also to protect the interest and rights of consumers. The Act and the Draft Rules are silent on the specific penalty leviable in case of counterfeit products being made available on the platform of the e-commerce entity or in case deep discounts are offered by these entities in the future. These may or may not fall within the regime of penalties leviable in case of Section 20 (issuance of directions in case of unfair practices being carried on) or Section 21 (issuance of directions/imposition of penalties in case of false/misleading advertisements) of the Act, but a clarification on this front is much needed.

Absence of specific penalties in the form of fine or imprisonment, or clarity on the penalties leviable in case of non-compliance with the Draft Rules, may lead us back to the situation that occurred after the release of PN 3 of 2016 or PN 2 of 2018 - wherein despite clear guidelines being issued to create a level playing field and not indulge in unfair practices, the same were not adhered to. Further, the draft e-commerce policy released by the DPIIT on February 23, 2019 ("Draft Policy") while laying down guidelines to regulate the e-commerce practice came out with a wide array of measures which could be undertaken to tackle various issues. An example of the same would be marketplaces being advised to create financial disincentives for sellers found selling counterfeit products and blacklisting the seller from the platform for a certain period. Such guidelines have not found their way into the Draft Rules.

Conclusion

In the wake of increase in complaints by the local traders against e-commerce entities, there has been a need to regulate the practices undertaken by these entities. The Draft Rules have attempted to address most of the issues plaguing the local traders and consumers alike. However, prescribing specific penalties which the e-commerce entities may face for not adhering to the Draft Rules will create a deterring factor for the e-commerce players. How far the measures will be implemented in creating a level playing field need to be further examined going forward.

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Notifications and Circulars

Insolvency proceedings against personal guarantors - Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 notified: The Ministry of Corporate Affairs ("MCA") *vide* Notification G.S.R. 854(E) dated November 15, 2019, has notified the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 ('I&B Rules'). A corporate debtor may have guarantors who are corporates (corporate guarantors) or individuals (personal guarantors). The I&B Rules provide for the process and forms for making applications for the initiation of insolvency resolution proceedings against the personal guarantors to corporate debtors, withdrawal of such applications and forms for public notice for inviting claims from

creditors. After the completion of the Corporate Insolvency Resolution Process ("CIRP"), creditors are now allowed to continue the recovery process with personal guarantors.

The I&B Rules bring personal guarantors within the ambit of the Insolvency and Bankruptcy Code, 2016 and treat corporate and personal guarantors at the same level. The MCA has also notified the on the same day, the Insolvency and Bankruptcy Board of India (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019; and the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019. The said rules further promote the IBC's objective to reorganize the insolvency resolution process for corporate persons, partnership firms and individuals in a time bound manner to maximize asset value, ensure availability of credit and balance the interests of all stakeholders.

SEBI notifies guidelines for preferential issue of units and institutional placement of units by listed Infrastructure Investment Trusts (InvIT) and Real Estate Investment Trusts (REIT): SEBI *vide* two separate Circulars dated November 27, 2019 has notified guidelines for preferential issue and institutional placement of units by listed InvIT(s) and REIT(s) (collectively referred to as "SEBI Guidelines"). While "*preferential issue*" is the issue of units to select persons on a private placement basis, "*institutional placement*" is the preferential issue of units by a listed InvIT or REIT to Institutional Investors.

The SEBI Guidelines are structured in a manner that it constitutes three annexures. The first annexure prescribes the manner and conditions for issuance of units, which includes manner of preferential issue through unit holders' approval, pricing of frequently and infrequently traded units, lock-in period and allotment of units. The second annexure addresses institutional placements, which contains requisites of the placement document, pricing of frequently and infrequently traded units, transferability and allotment pursuant to unit holders' resolution. The third annexure addresses general disclosures to be made by the issuer as well as specific disclosures with respect to market price information, terms of issue, related party transactions, valuation, financials and distributions.

RBI notifies Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2019: The Reserve Bank of India *vide* Notification #FEMA 5 (R)/(3)/2019-RB dated November 13, 2019, i.e., Foreign Exchange Management (Deposit) (Third Amendment) Regulations, 2019 ("Amendment Regulations") has amended the provisions of the Foreign Exchange Management (Deposit) Regulations, 2016 ("Deposit Regulations").

The Amendment Regulations *inter-alia* relaxes procedural constraints for operating Special Non-Resident Rupee Account ("SNRR Account") as stipulated in Schedule 4 of the Deposit Regulations. Given below is a brief overview of certain key changes:

(i) While any person having "*business interest*" in India may open a SNRR account, the meaning of term "*business interest*" apart from generic business interest has been expanded to include Investments made in India through Debt or Non-Debt pursuant to the concerned RBI regulations, import/export of goods and services in accordance with relevant provisions of Foreign Exchange Management Act, 1999, trade credit transactions, lending under External Commercial Borrowings and business related transactions outside International Financial Service Centre by IFSC.

(ii) The SNRR Account will carry the nomenclature of the specific business for which it is in operation.
(iii) At its discretion, the Indian Bank may maintain a separate SNRR Account for each category of transactions or a single account for a person residing outside India, who is engaged in multiple categories of transactions, provided that the Bank is able to identify and account them category-wise.
(iv) The tenure of the SNRR Account will be concurrent to the tenure of the contract of the account holder. Generally, the tenure cannot exceed seven years. For accounts opened for business interests as stated above, this restriction will not apply.
(v) The amount payable to a non-resident nominee from the account of a deceased account holder can now be remitted through normal banking channels.

MCA publishes Company Law Committee Report, 2019 focusing on corporate criminal liability and re-categorisation of minor, technical or procedural compoundable offences in the Companies Act, 2013: The Company Law Committee ("CLC"), under the aegis of Corporate Affairs Secretary, published its yearly report on November 18, 2019 focusing on corporate criminal liability and de-criminalization of minor, technical and procedural offences incidental to day-to-day affairs of a company.

The CLC has made recommendations to the MCA for re-categorizing certain '*criminal compoundable offences*' to '*civil wrongs*' carrying civil liabilities. The changes proposed by the CLC are aimed at relieving the burden of NCLT, NCLAT and other special courts. Offences in relation to transfer or transmission of securities are advised to be deemed as 'civil penalty' offences. Forbidden changes to the Memorandum of Association or erroneous disclosures in the prospectus are advised to only be penalised with a fine.

The report also advises the MCA to omit certain classes of private companies from the definition of "listed companies" after consultation with SEBI, to make compliance requirements less burdensome and ease corporate governance for private players. Following this report, suitable amendments to the Companies Act, 2013 and Rules thereunder may be expected and will be a welcome change for Indian companies.

Companies (Meetings of Board and its Powers) Second Amendment Rules, 2019 notified: The MCA *vide* Notification dated November 18, 2019, has issued Companies (Meetings of Board and its Powers) Second Amendment Rules, 2019 ('Amendment Rules') to further amend the Companies (Meetings of Board and its Powers) Rules, 2014 ('2014 Rules'). Accordingly, the threshold limits in the criteria for distinguishing Related Party Transactions ("RPT"), that require authorization through resolution by the company have been amended.

Under Section 188 of the Companies Act, 2013, certain RPTs require board resolutions for authorization along with an ordinary resolution. Proviso to this Section requires prior approval by shareholders by way of a resolution for RPTs provided under Section 188(1), if the value of the transaction is above the prescribed limits. Rule 15 of the 2014 Rules provides for the thresholds in cases of different kinds of transactions.

The Amendment Rules inter-alia amends the thresholds of such RPT(s). With respect to sale, purchase or supply of any goods or material, or selling or disposing or buying of property of any kind, the threshold is (ten) 10% or more of the turnover of the company. Transactions which involve leasing of property and availing or rendering of any services now have the minimum value set at 10% or more of the turnover of the company.

Ratio Decidendi

Dissenting financial creditors can be discriminated during settlement of claims under Insolvency Resolution Process prior to amendment in Regulation 38

Brief Facts:

The CIRP was initiated against M/s. Rave Scans Private Limited ("Corporate Debtor") under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("IBC") on January 25, 2017. The revised resolution plan was submitted by the resolution applicant and was approved by the NCLT on October 17, 2018.

M/s Hero Fincorp Ltd. ("Financial Creditor") appealed against the order of NCLT on the grounds of discrimination between financial creditors. This resulted in NCLAT modifying the final order. The Financial Creditor dissented the resolution plan stating that the other financial creditors were provided with a higher percentage of claim amount constituting only 32.34% of the claimed amount in comparison to 45% in case of the other financial creditors. The remarks column of the resolution plan stated that the plan was based on the Maintained liquidation value ("LV") under Regulation 38 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The NCLAT in its impugned order had set aside the NCLT's directions and required the applicant to increase the liquidation value of the offer to the Financial Creditor. The NCLAT held that the NCLT's order had failed to notice that no resolution plan could be approved discriminating against the dissenting financial creditor, in terms of the amended Regulation 38. Therefore, the issue for consideration before the Supreme Court was whether the imposition of greater financial burdens on the resolution applicant, was justified in the circumstances or not?

Submissions:

The Resolution Applicant submitted that, prior to the amendment of Regulation 38 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, the dissenting financial creditor had to be provided only with the liquidation value. In the present scenario, the liquidation value of the Corporate Debtor was ascertained as INR 36 crores and the applicant had INR 54 crores to revive the Corporate Debtor and thus the plan was fair and just. Therefore, it was contended that the resolution plan allowed separate treatment of the financial creditors who had not voted in favour of the resolution plan.

The counsel appearing on behalf of the Corporate Debtor argued that the resolution plan under Section 30(2)(b)(ii) of the IBC, allows separate treatment of financial creditors who do not vote in favour of the resolution plan, whereas, the counsel for the aggrieved Financial Creditor relied on the case of *Swiss Ribbons Pvt. Ltd. and Anr. v. Union of India* [2019 SCC OnLine SC 73] ("Swiss Ribbons") and Section 30 of the IBC, contending that financial creditors of the same class, falling under one description cannot be discriminated against. The said arguments were based on principles of fair and equitable dealing of operational creditor's rights together with priority in payment over financial creditors.

Held:

Regulation 38(1)(c) prior to the amendment stated that, "A resolution plan shall identify the funds that will be used to pay the liquidation value due to dissenting financial creditors and provide that such payment is made before any recoveries are made by the financial creditors who voted in favour of the resolution plan". However, the amendment which came into force w.e.f. October 5, 2018 has omitted any reference to dissenting financial creditors, thereby rendering the earlier Regulation(1)(c) invalid. In the present case, the Supreme Court observed that the NCLAT could not have applied the amended Regulation 38 to the Corporate Insolvency Resolution Process which was initiated in January 2017. The Resolution Plan had been prepared before the amendment date and was offering the Corporate Debtor with more money than its liquidated value and thus was justified and hence approved. Therefore, the Court held that the NCLAT's order and direction were not justified and thereby restored the order of the NCLT. [*Rahul Jain* v. *Rave Scans Pvt. Ltd. and Ors.* – 2019 SCC OnLine SC 1447]

Insolvency - Supreme Court upholds constitutional validity of Insolvency and Bankruptcy (Amendment) Act, 2019 and reinforces primacy of Committee of Creditors

Brief Facts:

All the appeals and the writ petitions related to the aforesaid judgment have been a result of the aftermath of the Court's judgment on October 4th, 2018, reported as *Arcelor Mittal India Pvt. Ltd. v. Satish Kumar Gupta* [(2019) 2 SCC 1]. The issues for consideration in the present matter were relating to the constitutional validity of Sections 4 and 5 of the Insolvency and Bankruptcy (Amendment) Act, 2019 ("Amendment Act"); the role of resolution professionals, resolution applicants and the Committee of Creditors; and the jurisdiction of the NCLT and the NCLAT.

Held:

The Supreme Court set aside the judgment of the NCLAT and upheld the constitutional validity of the Amendment Act. Through its judgment, the Court provided much needed clarity on issues relating to Insolvency and Bankruptcy Code, 2016 ("IBC").

With respect to the role of Resolution Professionals ("RPs"), the Court ruled that it is the responsibility of the RPs to (i) manage the affairs of the Corporate Debtor ("CD") during ongoing CIRP; (ii) appoint and convene meetings of CoC; (iii) collect, collate and admit the claims of all creditors followed by examination and negotiation by CoC. The role of the RPs has been held to be not adjudicatory but administrative.

With respect to the role of the Resolution Applicant ("RA"), the Supreme Court ruled that the RA has the right to receive complete information related to CD like the details of the debts and the ongoing activities. The RA has to submit the Resolution Plan which provides measures for maximisation of value of the CD's assets. The resolution plan must (i) provide that the amount due to operational creditors ("OCs") shall be given priority in payment over Financial Creditors ("FCs"); (ii) include provisions of dealing with the interests of all stakeholders, including FCs and OCs of the CD; (iii) provide for the term of the plan, management and control of the business of the CD, and its implementation; and (iv) demonstrate the feasibility and viability of the plan.

Regarding the role of the CoC, the Court ruled that the CoC must inspect and decide the resolution process that has to be adopted by approval of the plan by a vote of not less than 66% of the voting share of the FCs, after considering its feasibility and viability. The CoC must determine in what manner the CIRP is to take place.

Regarding the jurisdiction of the Adjudicating Authorities (AA), the Court ruled that the limited judicial review available to AA has to be within the scope of section 30(2) of the IBC. In respect of the NCLAT, it has to be within parameters of section 32 read with section 61(3) of IBC. Although the decision of implementing the resolution plan is with the CoC, the AA must keep a check on the role of the CoC so as to protect the interests of all stakeholders including OCs.

Regarding the FCs and OCs, the Court ruled that the 'equity principle' cannot be stretched to treating unequals equally, as that will destroy the very objective of the IBC which is to resolve stressed assets. Equitable treatment is to be accorded to each creditor depending upon the class to which it belongs: secured or unsecured, financial or operational.

With respect to the amendment of Section 12 of the IBC, the Court ruled that Section 4 of the Amendment Act is constitutional and the only change that needs to be brought is the removal of the term 'mandatory' because it goes against the spirit of Article 14 (*Right to Equality*) and acts as an unreasonable restriction on the litigant's right to carry on business under Article 19(1)(g). The CIRP must be completed within a time period of 330 days, with an option of extending the time limit.

With respect to the amendment of Section 30 of the IBC, the Court ruled that Section 30(2)(b) is a beneficial provision in favour of OCs and dissenting FCs as their interest is protected on account of payment of a minimum amount.

Regarding the resolution plan of Arcelor Mittal, the Court ruled that the commercial wisdom of the requisite majority of CoC shall prevail over the facts and circumstances of a case and the discretion given to them cannot be given to the AA or the NCLAT. The Court further set aside the NCLAT's judgment as there was no fiduciary relationship between the CoC and the group of creditors. [*Committee of Creditors of Essar Steel India Limited Through Authorised Signatory* v. *Satish Kumar Gupta and Ors.* – 2019 SCC OnLine SC 1478]

News Nuggets

Ministry of Corporate Affairs to be party in all IBC Proceedings and Company Petitions: The NCLT (Principal Bench), vide an order dated November 22, 2019, has directed that, in all further cases of IBC and Company Petitions, the Ministry of Corporate Affairs, Union of India ("MCA"), through its Secretary, be impleaded as a party respondent so that authentic information is made available by the officials of MCA for proper appreciation of matters.

PAS-6 - Last date for filing extended: MCA, *vide* notification dated November 28, 2019, has extended the due date for filing Form PAS-6 (Reconciliation of share capital audit

report) to sixty (60) days from the date of deployment of the form on mca.gov.in. The earlier deadline was sixty (60) days from the conclusion of the financial half year i.e., September 30, 2019.

AOC-4 and MGT-7 for companies in Union Territories of Jammu & Kashmir and Ladakh – Last date extended: MCA, *vide* notification dated November 28, 2019, has extended the deadline for filing of AOC-4 and MGT-7, for the financial year ended on March 31, 2019, to January 31, 2020 for companies situated in UT of Jammu & Kashmir and UT of Ladakh.

Arbitration - Section 87 of the Arbitration and Conciliation Act, 1996 held unconstitutional: A three-judge bench of Supreme Court, vide judgement dated November 27, 2019, has struck down deletion of Section 26 of Arbitration and Conciliation (Amendment) Act, 2015 together with insertion of Section 87 into Arbitration Act, 1996 by Arbitration and Conciliation (Amendment) Act, 2019 ("2019 Amendment") as being manifestly arbitrary under Article 14 of Constitution of India. Section 26 of 2015 Amendment inter alia provides that the 2015 Amendment shall not apply to arbitral proceedings commenced before the commencement of 2015 Amendment unless the parties otherwise agree. Section 87 of 1996 Act states inter alia that the amendments made by the 2015 Amendment will not apply to arbitral proceedings commenced before 2015 Amendment and court proceedings arising out of or in relation to such arbitral proceedings irrespective of whether such court proceedings are commenced prior to or after the commencement of the 2015 Amendment.

Limitation is a jurisdictional issue, cannot be examined by High Court at pre-reference stage of arbitration: The Supreme Court, vide judgement dated November 27, 2019, has held that the scope of examination by High Court for application under Section 11 of Arbitration and Conciliation Act, 1996 ("**1996 Act**") is confined only to the existence of an arbitration agreement. The apex court further held that the legislative intent underlying the 1996 Act is party autonomy and minimal judicial intervention in the arbitral process. Therefore, once the existence of the arbitration agreement is not disputed, all issues, including limitation which is a jurisdictional issue, are to be decided by the arbitrator under Section 16 of 1996 Act and not by the High Court at pre-reference stage.

SEBI notifies permissible jurisdictions and exchanges for issuance of depository receipts by listed companies: SEBI, vide notification dated November 28, 2019, has notified: i) United States of America - NASDAQ, NYSE ii) Japan - Tokyo Stock Exchange iii) South Korea - Korea Exchange Inc. iv) United Kingdom excluding British Overseas Territories- London Stock Exchange v) France - Euronext Paris vi) Germany - Frankfurt Stock Exchange vii) Canada - Toronto Stock Exchange viii) International Financial Services Centre in India - India International Exchange, NSE International Exchange as permissible jurisdictions and stock exchanges for issuance of depository receipts by Indian companies.

Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2019: The Insolvency and Bankruptcy Board of India ('IBBI'), vide notification dated November 28, 2019, has issued the Guidelines

to be effective from January 01, 2020. The Guidelines will be applied for preparation of a common panel of IPs for appointment as IRP, Liquidator, RP and share the same with the NCLT and NCLAT. These Guidelines have been issued in supersession of the Insolvency Professionals to act as Interim Resolution Professionals and Liquidators (Recommendation) Guidelines, 2019 dated May 14, 2019.

TRAI issues recommendations on platform services offered by DTH operators: TRAI, *vide* Press Release No. 116 of 2019 dated November 14, 2019, has issued recommendations on platform services offered by DTH operators. The recommendations define a 'platform service' as programs transmitted by Distribution Platform Operators (DPOs) exclusively to their own subscribers, and does not include Doordarshan channels, registered TV channels and foreign TV channels that are not registered in India. Pursuant to the recommendations, the total number of permitted platform services for a DTH operator shall be capped to 3% of the total channel carrying capacity of the DTH operator, subject to a maximum of 15 platform services per DTH service provider, and a one-time non-refundable registration fee of INR 10,000 shall be charged from DTH operator per platform service. Upon acceptance of these recommendations by the Department of Telecom, Union of India, the recommendations shall be forming part of terms and conditions of the licenses issued to DTH operators.

European Union Data Protection Board (EUDPB) adopts Guidelines of Territorial Scope and Guidelines on Data Protection by Design & Default: The EUDPB, comprising of national data protection authorities and the European Data Protection Supervisor (EDPS), in its 15th plenary session held during November 12-13, 2019, has adopted the final versions of Guidelines on the Territorial Scope of the GDPR and Guidelines on Data Protection by Design & Default. The said guidelines are aimed at interpreting the provisions of GDPR and to help the stakeholders undertake a careful and in-concreto assessment of their processing activities.

California Consumer Privacy Act ('CCPA') to be effective from 01st January 2020: CCPA, enacted by the State of California, USA, is all set to become effective from January 01, 2020. The law, which is similar to GDPR, would grant a consumer the right to request a business to disclose the categories and specific pieces of personal information that it collects about the consumer, the categories of sources from which that information is collected, the business purposes for collecting or selling the information, and the categories of third parties with whom the information is shared. Penalties for violation may be levied up to US$ 2,500 per unintentional violation and US$ 7,500 per intentional violation.

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