

# Technology Law Analysis

November 11, 2024

## WATCH LIST 2025: TMT

As we round up the final quarter of 2024, and look ahead to 2025, the TMT sector is poised for significant change. Increased regulatory scrutiny around AI, data protection, OTT content, and social media platforms promises to shape the legal landscape for major industries in the upcoming months. The regulatory framework is expected to evolve to balance innovation and businesses growth in emerging technologies, while ensuring consumer protection. In this article, we have curated a watch list of key legal developments businesses in the TMT sector should monitor as they plan ahead.

### 1. DATA PROTECTION RULES:

After a long wait, India introduced a comprehensive principles-based data protection law – the Digital Personal Data Protection Act, 2023 (“**DPDPA**”) on August 11, 2023. While the law has been passed, the provisions of the law are yet to be brought into effect. The DPDPA will be operationalized through rules to be issued under the Act. As per latest statements from the Ministry of Electronics and Information Technology (“**MeitY**”), (the ministry that administers the DPDPA), the **introduction of the rules are imminent**. The delay in their introduction is reportedly due to difficulty in determining technical standards for certain provisions, **such as the requirement to obtain ‘verifiable parental consent’ for the processing of childrens’ data**. Per reports, during a consultation, the MeitY informed stakeholders to **prepare for implementation of the law**.

### 2. PARLIAMENTARY IT COMMITTEE IDENTIFIES PRIORITIES FOR 2024 – 2025:

A Parliamentary Standing Committee on Communications and Information Technology recently met to **discuss subjects for deliberation for 2024 – 2025**, and identified the following, amongst others: (1) review of mechanisms to curb fake news, (2) overview of the film industry, (3) issues concerning OTT platforms (see point 3 below), (4) impact of artificial intelligence and related issues, (5) social and digital platforms and their regulation, (6) regulation and monitoring of digital and cybercrimes. Topics (1) – (3) will be taken up by the Ministry of Information and Broadcasting (“**MIB**”), whilst issues (4) – (6) will be taken up by the MeitY. These items will likely be the priority areas for the new Government.

### 3. OTT CONTENT REGULATIONS:

The MIB is reportedly working on new regulations to regulate content *prior* to their release on OTT (over-the-top) platforms. It is **reported** that the proposed guidelines will curb the use of profanity, blur explicit scenes, and encourage alternative portrayal of intimate scenes, even if vital to the script. In March 2024, MIB had **blocked** access to obscene content on 188 OTT platforms.

The proposed regulations are also reported to have been prompted amid concerns regarding the glorification of anti-Indian elements and alleged inaccuracies in content (an example of the Netflix series IC 814, based on the 1999 hijacking of an Indian Airlines flight has been cited). The MIB is currently in discussions with stakeholders, including major streaming platforms such as Netflix, Amazon, Jio etc. to gather input on how content is researched and developed, especially pertaining to Indian history. Production teams **reportedly** may be mandated to include members tasked with proposing alternative ways to express vulgar dialogues while preserving the story’s integrity. Additionally, producers might be required to submit affidavits to both the Central Board of Film Certification (CBFC) and the MIB, confirming compliance with the new guidelines during the entire filmmaking process.

### 4. INDIAN GOVERNMENT CONSIDERS AI SAFETY CENTRE:

As per **reports**, the Indian Government, through MeitY, is considering setting up an artificial intelligence (AI) safety institute to set standards for AI development. A preliminary meeting with stakeholders was held by MeitY on October 7<sup>th</sup> to discuss initial thoughts around the proposal.

This comes following sensitivity around deepfakes created by AI platforms early this year. MeitY issued certain advisories (see **here**) advising platforms to take down, label, etc., such content, early this year.

At the same time, the Government is seeking to bolster the AI ecosystem in India, with the Union Cabinet **allocating significant funding towards an IndiaAI Mission** to this effect.

### 5. ANNOUNCEMENT OF NATIONAL CENTRE OF EXCELLENCE (NCOE) FOR ANIMATION, VISUAL EFFECTS, GAMING, COMICS AND EXTENDED REALITY (AVGC-XR) INDUSTRY:

In 2022, an AVGC Task Force was constituted to submit a report to the MIB with recommendations on how to realise the potential of the industry. It submitted its recommendations through the report in **December, 2022**. Following this, in September, 2024, the Union Cabinet **approved the establishment of a NCoE** for the industry. The NCoE is

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envisaged to foster research and development, boost creation of local Indian IP, act as an incubation centre for startups in the industry, amongst others.

6. DELHI HIGH COURT TO HEAR CHALLENGES TO IT RULES STARTING NOVEMBER:

The *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) ("IT Rules")* were introduced in 2021, to (1) prescribe due diligence obligations for 'intermediary' platforms, (such as social media platforms, ISPs, TSPs, domain name registrars, etc.), and (2) to regulate OTT platforms. Following their introduction, (and amendments to the rules introduced from time to time), challenges to the constitutional validity of the IT Rules were raised in various Indian High Courts. Certain **High Courts issued interim stays** on the operation of certain provisions of the rules seeking to regulate OTT platforms.

These challenges were transferred to the Supreme Court by the Union Government. In May, 2022, the Supreme Court stayed the various proceedings before different High Courts. In March, 2024, the Supreme Court **transferred all pending petitions to be heard by the Delhi High Court**. In the **latest hearing held on October 14, 2024**, the High Court of Delhi segregated the challenges issue wise (i.e., basis challenges to different parts of the rules), and indicated that the challenges to Part III of the IT Rules, i.e., the provisions applicable to OTT platforms, would be taken up for hearing first. The hearing is set to commence on November 11, 2024.

7. MAJOR DEVELOPMENTS AND MILESTONES SHAPING THE FUTURE OF INDIA'S SPACE SECTOR:

In 2024, India's space sector experienced significant advancements, marked by both governmental initiatives and private sector growth. In addition to the continued growth by Indian Space Research Organisation ("**ISRO**"), the private sector saw substantial growth, with the number of space startups increasing from just 1 (one) in 2022 to nearly 200 (two hundred) by 2024.<sup>1</sup> This expansion was bolstered by the government's establishment of the INR 10 billion (approx. USD 118,882,685) venture capital fund aimed at fostering innovation within the sector.<sup>2</sup> Notable companies like Skyroot Aerospace and Agnikul Cosmos made strides with indigenous launch vehicles, with Skyroot's Vikram series and Agnikul's Agnibaan rocket undergoing key testing phases.<sup>3</sup>

A major policy change in 2024 included the government's move to allow 100% (one hundred percent) Foreign Direct Investment ("**FDI**") in ranging from satellite manufacturing to launch vehicles to other components manufacturing along with relaxations in other areas, which is expected to attract global investors and deepen India's integration in the global space market.<sup>4</sup> Another significant step towards a global space economy is the introduction of the Norms, Guidelines, and Procedures for Implementation of Indian Space Policy, 2023 in respect of Authorization of Space Activities which were implemented by the Indian National Space Promotion and Authorization Centre ("**IN-SPACE**") on May 4, 2024.<sup>5</sup> These guidelines provide a comprehensive framework for authorizing space activities by non-government entities, detailing the processes and requirements for participation in India's space endeavors.

Additionally, the Telecom Regulatory Authority of India ("**TRAI**") released a consultation paper on September 27, 2024, seeking public and stakeholder input on the key issues concerning spectrum allocation for satellite-based communication services.<sup>6</sup> This move aims to ensure fair competition between satellite and terrestrial services.

These developments underscore India's commitment to becoming a major player in space, leveraging public and private sector initiatives to drive innovation and economic growth.

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<sup>1</sup>India's share in global space economy to rise 4 times by 2030: MoS Department of Spacecraft, Department of Space, June 20, 2024, available at <https://pib.gov.in/PressReleasePage.aspx?PRID=2027137>

<sup>2</sup>Empowering India's Space Economy: Rs. 1,000 Crore Venture Capital Fund Initiative for Innovation and Growth, Department of Space, October 25, 2024, available at <https://pib.gov.in/PressReleaseFramePage.aspx?PRID=2068155>

<sup>3</sup>ISRO's SSLV, private players Skyroot, Agnikul eye share in small satellite business, August 18, 2024, available at <https://economictimes.indiatimes.com/news/science/isros-sslv-private-players-skyroot-agnikul-eye-share-in-small-satellite-business/articleshow/112607817.cms?from=mdr>

<sup>4</sup>Boost to India's Space Potential: India Liberalizes Foreign Direct Investment - Part II, March 15, 2024, available at <https://www.nishithdesai.com/NewsDetails/14953>

<sup>5</sup>Norms, Guidelines and Procedures for Implementation of Indian Space Policy-2023 in respect of Authorization of Space Activities (NGP), May 4, 2024, available at [https://www.inspace.gov.in/sys\\_attachment.do?sys\\_id=5d532e37877102503b0f0d060cbb35cf](https://www.inspace.gov.in/sys_attachment.do?sys_id=5d532e37877102503b0f0d060cbb35cf)

<sup>6</sup>Consultation Paper on Terms and Conditions for the Assignment of Spectrum for Certain Satellite-Based Commercial Communication Services, September 27, 2024, available at <https://traigov.in/release-publication/consultation>

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