



TECHNOLOGY STARTUPS:
**QUARTERLY UPDATE ON LEGAL AND
REGULATORY DEVELOPMENTS**

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A. UPDATE ON THE OTT PLATFORM

Over the Top (OTT) platforms and Digital News platforms have touted to be the king of the Media & Entertainment Industry over the past few years. The Central Government of India has created a buzz through its recent notification which aims at bringing digital content inclusive of online media platforms, films release on OTT and audio- visual programs, within the ambit of Ministry of Information and Broadcasting.

The notification issued by the Cabinet Secretariat on 9 November 2020, amends the Government of India (Allocation of Business) Rules 1961 by making two new entries to the second schedule of the Rules -22A and 22B:

1. Films and Audio Visual programmes made available by online content providers; and
2. News and Current Affairs on online platforms

Government around the globe such as Singapore, UK, USA and Australia have either formulated regulations or are in process of regulating the online digital platform. So far there were no laws or rules or regulations to monitor these platforms in India. The above inclusion will enable the Ministry of Information and Broadcasting to regulate the online digital platforms in India. As India mulls their approach towards the online digital platform it will be interesting to see the manner and extent to which the Government proposes to regulate the digital platform.

A copy of the amendment can be accessed [here](#).

B. UPDATE ON THE MOTOR VEHICLE AGGREGATOR GUIDELINES 2020

The Ministry of Road Transport and Highway on 27 November 2020, issued the Motor Vehicle Aggregator Guidelines, 2020 (“**Guidelines**”). The Guidelines are meant to operate as a guiding framework for respective state governments to consider while issuing licenses to transport aggregators and for the purpose of regulating the business conducted by such aggregators. The Guidelines are applicable to Aggregators, which is defined as ‘a digital intermediary or marketplace for a passenger to connect with a

driver for the purpose of transportation’.

The key provisions of the Guidelines are broadly divided into; (i) conditions with respect to grant and renewal of license to Aggregators; (ii) compliances with respect to drivers, vehicles, apps & website; and (iii) regulation of fares and commissions. The Guidelines further provide for events and conditions relating to suspension and cancellation of license to Aggregators.

The Guidelines makes it mandatory for Aggregators to (i) conduct or outsource an authorised third party to conduct an induction training program for the drivers covering training on, usage of the app, driving and maintenance of vehicle, terms of contract between driver and the Aggregator, gender sensitization and safety of women and girl child, etc.; (ii) procure health insurance for up to INR 5 lakhs and a term insurance of up to INR 10 lakhs for each driver; (iii) charge maximum of 50% lower than the base fare and a maximum fare of 1.5 times the base fare; and (iv) provide the driver of a vehicle with at least 80% of the fare for each ride.

Further, the Guidelines provide that the Aggregator should ensure that the vehicles owned by the Aggregator are treated at par with the vehicles which are not owned and that an Aggregator may provide for non-transport vehicle pooling, unless specifically prohibited by a state government.

A copy of the Guidelines can be accessed [here](#).

C. DRAFT GUIDING PRINCIPLES FOR ONLINE FANTASY SPORTS PLATFORM IN INDIA

NITI Aayog has released its discussion paper on Guiding Principles for the uniform national level regulation of online fantasy sports platform in India in December 2020 (“**Discussion Paper**”) to identify the landscape and potential for India to be the global leader in online fantasy sports. The Discussion Paper recognizes the issues faced by online fantasy sports platform because of different state laws and based on the recommendations from the stakeholders, has proposed a draft guiding principle for such platforms.





As per the draft guiding principle, the operator should be in compliance with all the applicable laws and the game is required to remain predominantly a game of skill. The operator will be required to obtain prior approval in case of a pay-to-play variant of contests which are skill-predominant. The operator will also be required to keep statistical data to track player performance and submit the same to the self-regulatory organization to demonstrate that the formats are skill-predominant. The operator should ensure that (a) the contest generally relate to a real world official sanctioned contest; (b) necessary safeguard is placed to ensure minors do not participate; (c) standard policies are incorporated to prohibit and prevent use of their platform for illegal purposes; (d) advertisement and promotional events follow the guidelines of Advertising Standards Council of India; and (e) an effective grievance redressal mechanism is established to address user complaints. With respect to advertisement and promotional events, the operators are required follow the guidelines of Advertising Standards Council (“**ASCI**”) of India including the ASCI guidelines on online gaming which is in effect since 15 December 2020.

The draft guiding principle proposes to establish a self-regulatory organization which will implement and oversee the operation of the platforms. The self-regulatory organization will form an evaluation committee which will ascertain that the proposed contest on a platform is skill-predominant. The self-regulatory organization will further request the state governments to consider granting diligent online fantasy sports platforms immunity from criminal prosecution.

A copy of the Guidelines can be accessed [here](#).

D. INTRODUCTION OF SOCIAL SECURITY MEASURES FOR AGGREGATORS

The Union Government of India has published the Code on Social Security, 2020 (“**Code**”) on 28 September 2020 which proposes to consolidate the existing labour laws on social security. The Code introduces new concepts like the gig workers, platform workers and aggregators. The Schedule VII of the Code provides an exhaustive list of classifications of aggregators which will be covered under the Code. As per the provisions of the Code, the Central Government may introduce necessary social security schemes for such

gig and platform workers. Such schemes, as and when introduced, will be funded, wholly or partly, by the aggregators at a rate falling between 1%-2% of their annual turnover.

In addition to the Code, aggregators will have to separately comply with the social security norms provided under the Motor Vehicles Guidelines, 2020 discussed above. Apart from procuring health and term insurance mentioned earlier, an aggregator is required to ensure that drivers are not logged in for more than 12 hours in a day, provide mandatory breaks of 10 hours for every shift of 12 hours to each driver and enable drivers to operate with multiple aggregators.

A copy of the Code can be accessed [here](#).



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