



THE RECAP

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

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INTRODUCTION

"Is it true? Is it necessary? Is it kind?" – this very famous question was posed by Greek philosopher Socrates, to his followers. In essence, he impressed on his followers to ask themselves whether what they speak is the 'truth', whether it is 'considerate' of the person spoken to or about, or whether their words were 'necessary' for any good purpose. If the answer to any of these questions was no, he preached that it was wiser to remain silent. A similar notion is also widely recognized in the Buddhist tradition, which urges one to think whether what they say is *"spoken in truth"* or *"spoken beneficially"*. While time and experience have served as testament of this long-forgotten way of thinking, the 'truth' is something that is still a fundamental ideal in our society, as seen from our notions of justice and equality.

Whether it is the courts rejecting the stay of a docu-series or the introduction of a fact-checking feature on Meta or a minister dispelling untrue rumours in a state, in some of our key updates carried in this Recap, what struck a chord with us was the emphasis on truth and clarity being fundamental to all these developments.

On that note, we present to you, *The Recap*, capturing the media, entertainment, and gaming updates for the month of February 2024, with a special focus on developments in courts and in the industry. We hope you enjoy reading this edition of The Recap as much as we enjoyed presenting it for you!



MEDIA AND ENTERTAINMENT UPDATES

Bombay High Court rejects stay on Netflix's docu-series 'The Indrani Mukerjea Story: Buried Truth'

The Central Bureau of Investigation ("CBI") unsuccessfully sought a stay on the release of the true-crime series 'The Indrani Mukerjea Story: Buried Truth' on the over-the-top ("OTT") streaming platform 'Netflix' by filing a plea before the Bombay High Court ("Bombay HC"). The series delves into the alleged murder of Sheena Bohra, the daughter of Indrani Mukerjea, the prime suspect.

The CBI sought the stay on the ground that the series would (a) impact the ongoing investigation into the alleged murder that CBI was conducting, considering that the series featured interviews of the accused herself along with lawyers who have been presenting her defence; and (b) impact public perception and impact the rights of the parties. The judges of the Bombay HC presiding over this case themselves viewed the series, and refused to pass a stay order stating that the contents of the series were already in public domain and added that impact on public perception is not grounds for staying the release of the docuseries. The matter was subsequently dismissed.

You can read the order of the Bombay HC [here](#).

Potential protection to content creators:

At the ET Now Global Business Summit, the Minister of State ("MoS") for the Ministry of Electronics and Information Technology, Rajeev Chandrashekhkar, indicated that the Central Government has been considering coming up with a framework to prevent exploitation of content creators by big platforms. Mr. Chandrashekhkar alleged that such online powerful commercial platforms have started to distort the fundamental characteristic of openness of the internet. It was further added that the Central Government acknowledged that big platforms were not allowing content creators to be confident that their content was being monetised fairly, and that these concerns may also be addressed in the proposed Digital India Act.

You can read more on this as reported by the Press Trust of India and the Economic Times [here](#) and [here](#).

Meta's attempts at introducing fact-checking on WhatsApp:

Meta announced its collaboration with the Misinformation Combat Alliance ("MCA") to launch a dedicated fact-checking helpline on WhatsApp. This is aimed at combating

media generated information using artificial intelligence which may deceive the general public and help connect the public with verifiable credible information. The helpline will be available for the public to use in March 2024.

The efforts seem to be aimed at curbing the spread of misinformation through deepfakes. Content may be flagged by sending the same to the WhatsApp chatbot which will offer multilingual support in English and three regional languages, that is, Hindi, Tamil and Telugu. The MCA will also set up a central 'deepfake analysis unit' to manage all inbound messages that are received on the WhatsApp helpline and will work closely with member fact-checking organisation, along with industry partners and digital labs to assess and verify the content, to debunk false claims and misinformation effectively.

You can read Meta's statement [here](#).

'Slandorous content': Social media platforms v. the Central Government:

During question hour in the Rajya Sabha, Ashwini Vaishnaw, the Union Minister of Railways, Communications, Electronics & Information Technology, stated that the Central Government is bringing in laws and taking other steps to make social media platforms more accountable for any 'slandorous content' posted on their social media platforms. It was further indicated that the Central Government intends on amending intermediary rules, which would be aimed at conferring 'significant responsibility' on social media platforms, such that they can detect deep fakes, and misinformation and take appropriate action against deepfakes and misinformation. The minister added that one of the main aims behind this was to ensure that the internet is safe, trusted and is delivering on its intended goals.

You can read more on the development as reported by the Economic Times and the New Indian Express [here](#) and [here](#).

You can read more on this development in this press release by the Ministry of Commerce and Industry available [here](#).

Kerala High Court comes to the aid of WhatsApp:

Notices issued by the Additional Chief Judicial Magistrate ("AJM") which summoned WhatsApp India's representative to provide details of the originator of an obscene video that was circulating on the platform, were stayed by a single judge of the Kerala High Court ("Kerala HC"). This matter

involved an investigation that had been undertaken by the Kerala Cyber Police in relation to certain obscene video of a woman that was shared on the WhatsApp platform.

The Kerala Cyber Police had attempted to obtain the information of the originator by furnishing a notice under Section 91 of the Code of Criminal Procedure, 1973 (conferring on the police the right to request for summons of a document). WhatsApp did not provide the required information citing its inability to provide such details on account of end-to-end encryption.

Subsequently, the Kerala Police approached the Additional Judicial Magistrate praying for a direction to WhatsApp

to furnish details, such as mobile number/IP address of the originator's WhatsApp account, by virtue of its powers under Rule 4(2) of the *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* ("IT Rules 2021"). However, WhatsApp did not comply with the AJM's notice citing that the information was sought for the commission of offences for which a maximum term of 3 years is prescribed, for which Rule 4(2) could not be invoked. The Kerala HC agreed with this contention and passed an interim order staying the notices issued by the AJM. This matter has been listed for April 12, 2024 for filing of counter affidavits.

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



MeitY to verify online games itself; Establishment of SRBs at a standstill

The Ministry of Electronics and Information Technology ("MeitY") has recently announced its intention to exclusively regulate the online gaming sector, by doing away with the co-regulatory model envisioned under the IT Rules 2021 and verifying online real money games¹ by itself. To that end, MeitY is also reportedly planning to release a framework for the verification of 'online real money games' as 'permissible online real money games.'²

The IT Rules 2021 were recently amended to regulate online gaming and prescribed a co-regulatory model for the regulation of the online gaming sector based on the verification of online real money games as permissible online real money games. Under the amended framework, the establishment of certain self-regulatory bodies ("SRBs") was envisioned, to determine permissible online real money games. However, while originally the SRBs were to be instituted within three months from the date of notification of the amendments to the IT Rules 2021 (i.e., April 06, 2023), MeitY recently raised concerns with the applications submitted by stakeholders for being recognized as SRBs under the IT Rules 2021. As per reports, the primary concern for the government was to ensure maximum transparency and eliminate potential bias that could emanate while verifying online real money games. Accordingly, the central government now intends to assume the role originally designated to the SRBs under the IT Rules 2021.

You may read more about this update as reported by the Indian Express [here](#).

Tamil Nadu appeal against Madras HC judgment clubbed with pending appeals against enactments passed by Tamil Nadu and Karnataka

On February 05, 2024, a three-judge bench of the Supreme Court of India ("SC") admitted the state of Tamil Nadu's appeal against a recent judgement passed by the Madras High Court ("Madras HC") ("**Impugned Judgement**").³ Through the Impugned Judgement, the Madras HC had struck down the Schedule to the *Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022* ("**TN Gaming Act**"), and read down some of its provisions⁴ to apply exclusively to games of chance. However, the SC has tagged the state's appeal along with a batch of petitions pending before the SC, which challenge the striking down of the *Tamil Nadu Gaming and Police Laws (Amendment) Act of 2021*, ("**TN 2021 Act**") and the *Karnataka Police (Amendment) Act, 2021* ("**KPA**") passed by the states of Tamil Nadu and Karnataka, respectively.

The case already pending before the SC is in relation to the striking down of the TN 2021 Act, which was deemed to be unconstitutional for criminalising online betting/wagering, as it violated the fundamental right to practice a profession or trade under Article 19(1)(g) of the Constitution of India. The other matter clubbed is the appeal filed by the Karnataka government⁵ against the Karnataka High Court's 2022 decision to strike down the provisions of the KPA that created a blanket prohibition on offering online games for stakes, including games of skill. The Karnataka High Court, in its said 2022 decision, had struck down the operative provisions of KPA and also issued a writ of Mandamus restraining the state from interfering with the online gaming activities of the petitioners.

The batch of appeals were last listed before the SC on December 07, 2023 and the matter was adjourned for five weeks. With Tamil Nadu's challenge against the Impugned Judgement clubbed with the aforementioned batch of appeals, the contentions in these cases will be assessed together by the SC.

For now, there is no clarity on when the matter will be listed next.

You may access the order passed by the SC [here](#).

SC calls for an expedited disposal of Meghalaya's challenge to certain provisions of the Lotteries (Regulation) Act, 1998

A two-judge bench of the SC has called for an expedited disposal of the matter concerning the state of Meghalaya's challenge to certain statutory provisions of the Lotteries (Regulation) Act, 1998 ("**LRA**") that allow states to prohibit the sale of lottery tickets organised by other states.⁶

The Meghalaya state government had approached the SC to challenge the constitutionality of Sections 5, 6, 7, 8 and 9 of the LRA as well as Rule 5 of the Lotteries (Regulation)

1. Section 2(qd) of the IT Rules 2021: 'online real money game means an online game where a user makes a deposit in cash or kind with the expectation of earning winnings on that deposit'.
2. Section 2(qf) of the IT Rules 2021: 'permissible online real money game means an online real money game verified by an online gaming self-regulatory body under rule 4A'.
3. All India Gaming Federation v. The State of Tamil Nadu, WP 13203 of 2023 (Madras HC).
4. Sections 2(i) and 2(l)(iv) of the TN Gaming Act were also read down to be applicable exclusively to games of chance.
5. State of Karnataka v. All India Gaming Federation, Civil Appeal No. 6132 - 6143/2023.
6. State of Meghalaya v. Union of India & Ors., Original Suit No. 1 of 2021 (SC).

Rules, 2010 (“**LR Rules**”).⁷ It was primarily contended that the state governments could not be permitted to place restrictions on or prohibit the sale of lottery tickets organized by another state(s). Accordingly, the provisions challenged by the state were those that (a) permitted states to impose restrictions on the sale of lottery tickets organised by other states, and (b) prescribed the procedure/penalties for the same.

In an earlier order dated May 11, 2023, the SC primarily deliberated on the case’s maintainability as it was contended by the respondent states that recourse to its original jurisdiction under Article 131 of the Constitution of India cannot be invoked to challenge the vires of a statute. The SC ultimately observed that it was well-equipped to address the concerns raised by the state of Meghalaya on merits under its original jurisdiction, as the matter dealt with the state’s enforcement of its right to do business in lotteries.

In the latest order passed in February 2024, a two-judge bench of the SC impressed on the need to expedite the hearings on the matter, especially in light of the other cases pending before the SC on matters of “greater importance” than lottery. The SC recorded that the state of Meghalaya would not be adducing any oral or documentary evidence for the matter and further directed the respondent states to produce its statement on whether it would be advancing any evidence on the next date of hearing.

You may access the SC’s earlier order [here](#).

The government of Karnataka approves the AVGC-XR Policy 3.0

The cabinet of the state of Karnataka has approved the updated Animation, Visual Effects, Gaming, Comics, and Extended Reality (“**AVGC-XR**”) Policy 3.0 for the period 2024-2029 (“**AVGC-XR Policy**”).

This development comes against the backdrop of the state’s endeavour to promote the growth of the AVGC-XR sector, as also evidenced by the Karnataka Chief Minister’s allocation of a corpus of INR 150 crores for the sector. The corpus was allocated in the budget for the period 2024-29 and was done to position the AVGC-XR sector as one of the key drivers of the state’s digital economy. With the revised AVGC-XR Policy, the state intends to transition into becoming the global hub for innovation in this sector, by capitalising on its expertise in information technology and business management.

The revised AVGC-XR Policy is going to be primarily focused on infrastructure development, facilitating market access by creating business opportunities for companies operating in the AVGC-XR space, optimizing products in the sector for mobile platforms, and providing financial incentives to start-ups and micro, small, and medium enterprises. The broad objectives of the updated AVGC-XR Policy are to inter alia (a) promote exports by ensuring that they constitute

at least 80 percent of the sector’s total revenue, (b) create employment in the sector by generating around 30,000 new jobs by 2028, (c) generate a skilled workforce and (d) create a sustainable and innovative ecosystem for the sector.

You may access this update as reported by New Indian Express [here](#).

The government of Goa dispels concerns around the closure of casinos in the state

In light of the revenue generated from casinos in the state, the government of Goa has dismissed all concerns around the shutting down of casinos in the state. The move comes at a time when concerns surrounding the closure of casinos with the government adopting a strict stance against its operations were in the air. However, pursuant to the statements issued by the Chief Minister of the State, the government has now affirmed that it does not intend to shut down casinos operational in the state owing to the substantial revenue generated from the casinos in the last two years (exceeding INR 820 Crores).

For context, in November 2023, the government of Goa started cancelling licenses if a casino’s key managerial personnel were found to be convicted of a criminal offence with an imprisonment term of two or more years. This was implemented to ensure that only legitimate businesses operate casinos in the state. Accordingly, if any individual holding a controlling interest in a casino gets convicted of a criminal offense, the casino would inevitably get its license revoked or its application for the grant of a license rejected.

You may read more about this update as reported by Dainik Gomantak [here](#).

EGF partners with the state of Maharashtra to promote responsible online gaming

The E-Gaming Federation (“**EGF**”), an industry body representative of the skill-gaming vertical in India, has entered into a Memorandum of Understanding (MoU) with the Commissionerate of Health Services of the government of Maharashtra to promote responsible gaming within the state. Under the terms of this partnership, campaigns would be organised to raise awareness about responsible gaming practices to ensure a safer environment for all participating players. Other initiatives such as outreach campaigns and training sessions would also be implemented to educate players on making informed decisions while playing online.

You may access this update as reported by the Financial Express [here](#).

7. Id.

PARLIAMENTARY CAPSULE

Question: The Minister of MeitY was questioned in the Lok Sabha on the steps taken by the government to address the adverse ramifications of online gaming, especially on the youth and other susceptible sections of the society. Further details were sought on the state-wise particulars of such measures and a follow-up query was posed on whether the government plans to enact stricter guidelines to augment the accountability of online gaming platforms.

Response: After highlighting the surge in the permeance of internet across the country, the MoS MeitY pointed to the amendments introduced in the IT Rules 2021 in April 2023 whereby several due diligence obligations were imposed

on online gaming intermediaries. Some notable obligations included the prohibition against publishing or sharing any information vis-à-vis any online game not verified as a 'permissible online game', all of which were stated to be targeted towards enforcing greater accountability on online gaming intermediaries as well as other social media platforms. While the MoS MeitY appended a list of cyber-crimes committed against children (as provided by the National Crime Record Bureau) in the Annexure to his response, it was also highlighted that no separate record was maintained by the government for crimes against children relating to online gaming.



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