MINISTÈRE DE L'ÉCONOMIE, DES FINANCES ET DE LA RELANCE
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REVUE DE PRESSE SECTORIELLE NUMERIQUE

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En bref

NUMÉRIQUE :

- La Haute Cour de Madras suspend partiellement l'application des *IT Rules 2021* visant à réguler la presse numérique.
- Atos va embaucher 15 000 personnes en Inde au cours des douze prochains mois.
- L'entreprise Devas demande à la justice américaine de refuser la demande de l'Inde de retarder l'exécution du paiement des indemnités accordées par un arbitrage.
- La valeur des transactions réalisées sur l'infrastructure de paiement numérique indienne UPI atteint 70 Mds€ en juillet 2021.
- Le Premier ministre Modi annonce la création de *HealthIDs* pour tous les citoyens indiens, première étape de l'infrastructure publique numérique indienne de santé.

TÉLÉCOMMUNICATIONS:

- Le *Department of Telecommunications* impose la certification par des laboratoires accrédités comme préalable à la vente de plusieurs équipements électroniques en Inde.
- Les enchères des fréquences 5G indiennes pourraient être reportées à la mi-2022.

Revue de presse

1. NUMÉRIQUE

IT Rules face yet another hurdle after Madras High Court temporarily stays parts of the law

Medianama, 17/09/2021

The Madras High Court on September 16 stayed a few more portions of the Information Technology (Intermediary Liability and Digital Media Ethics Code) Rules, 2021, a month after the Bombay High Court stayed significant parts of the Rules applicable to digital news organisations. The wording of the order constrains the government from taking action under Rule 3 and 7 that require social media platforms to take down content that violates norms (including a defamation clause that petitioners took specific issue with) and deprive intermediaries of protection from content posted by users in case of non-compliance.

The ruling came in the following two petitions: TM Krishna v. Union of India, and Digital News Publishers Association v. Union of India.

The IT Rules are under severe stress from the judiciary, with nineteen separate cases in courts around the country. The government has filed a transfer petition at the Supreme Court to get these cases heard in one place. Although the government told the Madras High Court that it expects the top court to hear the case in October, the Chief Justice of the Chennai-based court Sanjib Banerjee agreed with petitioners that interim protections were required. While the present judgment is unlikely to stop large social media companies who are already complying with the IT Rules, from continuing to do so, it may be a useful signal for how the courts may approach and eventually settle this issue.

Madras High Court's reasoning

For understandable reasons, the petitioners are wary of the oversight mechanism of the Central Government indicated as the final tier of the process of regulation. Prima facie, there is substance in the petitioners' grievance that an oversight mechanism to control the media by the government may rob the media of its independence and the fourth pillar, so to say, of democracy may not at all be there.

Nothing more need be said on such aspect of the matter since the High Court of Judicature at Bombay, by an order dated August 14, 2021, has stayed the operation of sub-rules (1) and (3) of Rule 9 of the said Rules of 2021. [...]

In the light of the Supreme Court judgment reported at (2015) 5 SCC 1 (Shreya Singhal v. Union of India), wherein Section 79(3)(b) of the Act has been read down and it has observed therein that unlawful acts beyond what is laid down in Article 19(2) of the Constitution "obviously cannot form any part of Section 79" of the [Information Technology] Act, there is substantial basis to the petitioners' assertion that Article 19 (1) (a) of the Constitution may be infringed in how the Rules may be coercively applied to intermediaries.

Accordingly, if there is any action taken in terms of Rule 3 of the said Rules read with Rule 7 thereof during the interregnum, it will abide by the result of the petitions and further orders herein. — Madras High Court order

What the IT Rules require of digital news

The IT Rules have the following requirements for digital news publishers:

- Hire a grievance officer (Level I) to take complaints from the public
- Submit to oversight by a self-regulatory body (Level II) headed by a retired Supreme Court justice or other eminent personality;

- Submit to further oversight by an inter-departmental committee of the government (Level III);
- Submit details of their operations and Level II membership to the Ministry of Information & Broadcasting;
- Take down content when ordered to do so, and issue an apology;
- "observe Norms of Journalistic Conduct of the Press Council of India and the Programme Code under the Cable Television Networks Regulation Act thereby providing a level playing field between the offline (Print, TV) and digital media," per a government press release.

The government announced that two groupings of news organisations had registered as self-regulatory bodies under the IT Rules this month.

Atos to hire about 15,000 people in India over the next 12 months

ET Bureau, 19/09/2021

French technology firm Atos will recruit about 15,000 people in India over the next 12 months, adding to its existing workforce of 40,000 in the country.

"We are at a tipping point at this moment," chief executive Elie Girard told ET in an interview.

"We are experiencing a productivity shock, like what we experienced 20 years ago, thanks to the acceleration of digitisation, and India is at the heart of it," Girard said.

This, he said, has resulted in a demand boom across sectors, including public sector and defence, which would benefit employment.

India is by far the best provider of those skills in the world, but at present there is tension between demand and supply, he added.

The €11 billion firm invests about €400 million in India annually on employee-related expenses, including payroll and skilling.

India is an important market for the French firm, which is partnering with the government on the National Supercomputing Mission. The company has invested in NSM by way of assembly and testing of high-performance computers.

"I think this is very important for our employees in India that we are really investing in this," said Girard. At present, almost one-third of its revenues are driven out of India., he said.

"We have a quantum lab in India, and I think India can lead the pack in quantum given the magnificent digital force you have," he said.

The coupling of 5G with edge technologies will also open up new opportunities for services firms.

"A lot of our product development in cybersecurity is happening in India. We've invested in assembly lines on supercomputing and on 5G edge and are working to... make sure we can integrate those two technologies together to build the new services," Girard said.

Atos has three clear differentiators that set it apart from other companies.

"We have hardware, and we have software on top of services, and this is very unique," he said. "Second, we are number one in Europe and second in the world in cybersecurity services. To that end we are doing a lot of acquisitions there and I believe that in a year or two we will be number one worldwide in cybersecurity services," he said.

Last year, Atos acquired Paladion, which has a significant presence in India.

Girard said a lot of the product development in this area was happening out of India currently. The other important part of the company's strategy was the decarbonisation business line it has built.

Earlier this year, Atos made a bid to acquire DXC Technology, a deal that did not go through eventually.

Girard said that the company would not pursue this further, even as it continues to focus on smaller acquisition opportunities and is open to midsize options.

The post Covid-19 rebound currently underway is likely to plateau next year but will remain high, he added.

"There is a structural dimension to this, where the move to the Cloud has been understood by a lot more companies who were hesitating before the crisis," Girard said.

Devas investors urge US court to deny **India's bid to stall** arbitration award

ET Bureau, 22/09/2021

Bengaluru: Devas Multimedia Ltd.'s investors have urged a US federal court to deny India's motion to pause a suit to enforce a $111 million award in their favour.

The investors, which include Devas (Mauritius) Ltd, Devas Employees Mauritius Pvt. Ltd. and Telecom Devas Ltd, argued that the motion to dismiss the suit was "India's latest effort to avoid its obligations".

The submission came in response to a motion filed by India in The United States District Court for The District of Columbia to dismiss an ongoing suit, arguing that the court did not have jurisdiction under the US Foreign Sovereign Immunities Act.

"India government's latest legal gambit is to argue for delay...attack investors in Devas and evade payment of three lawful international arbitration awards," said Jay Newman, senior advisor to Devas's shareholders. "Courts and tribunals everywhere outside India have ruled in Devas' favour. No one will be fooled, nor deceived, by the Indian government's actions."

Earlier this month, the National Company Law Appellate Tribunal (NCLAT) dismissed a petition by shareholders of Devas Multimedia challenging an order of the Bengaluru bench of the National Company Law Tribunal (NCLT), which had directed that the satellite company be wound up, following a plea by the Indian space agency's commercial arm, Antrix, that the deal between it and Devas was fraught with fraud.

ET reported on August 18 that the US District Court for the Western District of Washington had ordered Antrix to furnish information, including documents showing any transfer of assets, money and business contracts from Antrix to NewSpace India Ltd—the commercial arm of the Department of Space—to Devas' shareholders and the court, by September 17.

Judge Thomas S. Zilly had upheld that the shareholders of Devas had a legal right to enforce the award, which the Indian government and Antrix have been disputing ever since it placed Devas in liquidation to avoid paying cumulative arbitral awards worth $1.3 billion (including interest and other costs).

"India government's liability has been confirmed by nine arbitrators and two levels of courts at the seat of the arbitration. Having lost three separate arbitrations, (the) India (n) government now is turning to its own courts to pursue baseless attacks against Devas's highly respected US investors," said Matthew D. McGill, partner at law firm Gibson, Dunn & Crutcher, who is the lead counsel for a number of Devas's shareholders.

UPI transaction value doubled to Rs 6.06 lakh crore in July

ET Bureau, 29/09/2021

New Delhi|Kolkata: Unified Payments Interface (UPI) transactions more than doubled in value in July over the year-ago period, outstripping payment by cards, which went up 42%, according to the latest Reserve Bank of India (RBI) data.

UPI transactions by value touched their highest ever in July at Rs 6.06 lakh crore, surpassing the previous record of Rs 5.47 lakh crore in June and up from Rs 2.91 lakh crore a year ago. Card spending at Rs 1.36 lakh crore in July, on the other hand, was the highest since April and rose from Rs 95,883 crore in the year earlier as the economy recovered.

UPI platforms saw a 109% jump as consumers took to digital payments for daily essentials at local stores as well as premium purchases.

"We are observing that a majority of online payments are through UPI platforms and apps such as Cred," said Riyaaz Amlani, chief executive of Impresario Handmade Restaurants, which runs the Social, Smoke House Deli and Salt Water Café chains. Amlani said UPI adoption is rising as average order value at outlets has increased 20% after the pandemic's second wave.

While the economy shows signs of recovery, discretionary spending using cards has grown but couldn't match UPI, executives said.

Banks, Retailers Note Trend

Digital payments made on wallets and UPI platforms by volume rose to about 3.25 billion in July, from 1.5 billion a year ago. The number of payments using cards was 520 million, compared with 450 million a year earlier.

Le Marche Retail chief executive Amit Dutta said the premium grocery chain has observed the trend within stores as well as in-home transactions. "UPI payments are showing increased traction in the past year, driven by convenience and the transactions being contactless, compared to card swiping, where contact points are higher," he said. Consumers not previously comfortable with UPI payments have overcome their initial hesitation, Dutta said.

Banks executives said card payments are also growing, though UPI platforms are growing faster.

"UPI growth rate is and will outstrip cards, and it comprises both peer-to-peer and merchants payments," said Axis Bank head for cards and payments Sanjeev Moghe. "Cards are only for payment to merchants. As long as the cards segment is growing at over 30-40%, it is quite healthy."

UPI, payment platforms and wallets account for 10-15% of sales at leading electronics retail chain Vijay Sales, said its director Nilesh Gupta, up from almost nil just a year ago. "Consumers are even buying high-ticket items through such modes. These platforms often offer cashback incentives to entice customers," he said.

Digital Adoption

The government and the RBI have been focusing on facilitating digital adoption by enhancing acceptance infrastructure and introducing innovative payment options to deepen the reach of payment systems.

"UPI transactions have moved the needle substantially in the past 12-15 months for neighbourhood grocery stores, riding on three reasons — convenience, instant credit and contactless transactions," said Prem Kumar, founder of Ratan Tata-backed retail tech company SnapBizz, which devises technology for over 30,000 kirana stores and does business transactions of over $1 billion a year.

RBI said in its latest annual report that efforts were also directed toward ensuring smooth functioning of all payment systems despite disruptions in movement and access to infrastructure caused by the Covid-19 lockdown, with varying intensity and duration across various locations in the country.

Remittances also contributed a chunk of UPI volume. The platform is expected to see more traction once all banks develop systems to support inward remittances on UPI platform, said Emil Ruban, country manager India at Ria Money Transfer. "Many banks are yet to develop cross-border money transfer facilities," he said.

A Euromonitor report said the trend is expected to continue, with increasing acceptance of UPI. "A large number of consumers started using UPI transactions for daily shopping activities especially at local retail stores, with the outbreak of the pandemic," said Euromonitor consultant Vishnu Vardhan.

Health IDs: Unpacking the Narrative That Underpins India's New Digital Superstructure

The Wire, 30/09/2021

On Monday, Prime Minister Narendra Modi launched the Ayushman Bharat Digital Mission, a platform to digitise citizens' health records and provide them to public and private hospitals, testing laboratories and pharmacies.

"Every Indian will be given a Health ID," the prime minister had promised on August 15 this year, from the ramparts of the Red Fort, elaborating, "This Health ID will work like a health account for every Indian. Your every test, every disease – which doctor, which medicine you took, what diagnosis was there, when they were taken, what was their report – all this information will be included in your Health ID."

As a part of the online registration process for vaccinations against COVID-19, anyone who uses their Aadhaar details to sign in to the CoWIN platform is automatically issued a new health ID.

Apart from issuing Health IDs and digitising citizens' personal health records, including prescriptions, diagnostic reports, medical histories, and billing information, the Ayushman Bharat platform will also maintain a digital register of medical practitioners, hospitals, and clinics. These will integrate private telemedicine and e-pharmacy operators with the public citizen-facing ecosystem to facilitate digital consultations with doctors, book appointments with diagnostic laboratories, order medication to be delivered home, or integrate health insurance payments for these services.

"The core building blocks… shall be owned, operated and maintained by the Government of India. Private stakeholders will have an equal opportunity to integrate with these building blocks and create their own products for the market," senior bureaucrat Indu Bhushan, who was spearheading the digital health mission earlier, told reporters during its launch.

Major private players have heralded the Ayushman Bharat initiative for allowing them parity with the governmental healthcare system.

"The implications of this programme are far wider than what is being perceived today. It's like a neural system for the entire ecosystem where the signals will flow up and down. That is what would bring in efficiency in the healthcare system," Ashutosh Raghuvanshi, managing director and CEO, Fortis Healthcare, told Business Standard.

However, critics warn that such platforms will be used by the government to shirk off its responsibilities towards developing public healthcare infrastructure and have questioned the lack of adequate data protection laws in India.

Before the COVID-19 pandemic, in July 2018, the NITI Aayog had released its strategy document for the National Health Stack. This marked India

Stack's foray into healthcare, promising to build a key link in providing better 'quality of care' to citizens.

India Stack refers to a set of application programming interfaces (or APIs) for integrating software and hardware, developed in conjunction with UIDAI's Aadhaar project, that will facilitate 'cashless', 'paperless' and 'presence-less' services from business and government.

This idea was developed into the Data Empowerment and Protection Architecture (or DEPA), a draft framework proposed by NITI Aayog in August 2020 for how private corporations and government agencies can access citizens' personal data. DEPA calls upon private developers to design 'consent managers' – software that will allow exchanges from databases holding citizens' personal data with those agencies seeking it, with the individual's consent. DEPA stipulates certain financial and regulatory obligations under which consent managers will be governed.

How does DEPA seek to make India 'data rich' even while a lot of Indians remains very poor?

And what are the threats that we must be **protected from on this path to 'data empowerment'?**

These are some questions that we delve into here. The rapidly expanding ecosystem of personal data-reliant services demands that we, as a society, face up to new challenges. But all that is silicon may not be gold. The role played by a small coterie of the financial and political elite in shaping India's personal data governance machinery, in the pursuit of consent-based data sharing, is far from selfless. The Indian experience with personal data may have been different from the US, European, or Chinese ones, but it will be no less a stranger to controversy.

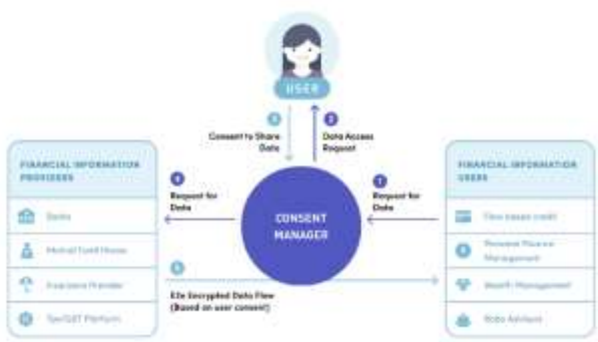
Consent in code

DEPA's consent managers will serve as intermediaries for handing over an individual or organisation's personal data, similar to a notary or broker handling more traditional transactions. Consent managers will be 'data-blind', that is, they will not access any of the data under question or create copies in their own database but merely facilitate access to it for a fee.

This is how the technology will work: A 'data user', which could be either a government or a private agency, will submit its request in a standardised format to the consent manager. The consent manager will inform the person or organisation, whose data is in question, of the kind of data being requested, what purpose it will be used for, how long it will be shared, and whether it will be handed over to third parties.

If the request is granted, one or more 'data fiduciaries' – the governmental or private entities hosting the data – will fulfil the request. DEPA stipulates certain design principles to ensure that what is being consented to can be clearly understood, arguing that market-based competition among consent managers will ensure that diverse populations are catered to as porting between them will not be a hassle.

DEPA Institutional Architecture



For this exchange to work, the data will have to maintain 'interoperable' standards, that is, it must be readable across consent managers and the databases which could potentially use it. DEPA proposes using Open Standards to allow data sharing and portability between applications, tasking relevant agencies under the central government to set up data 'sandboxes' – toolkits that allow commercial entities to test their products before release using anonymised data sets maintained by the government.

While NITI Aayog predicts that individuals or small business can profit from allowing access to their data through a consent manager, charging them for each transaction may not be viable commercially. This is why consent managers may set up a subscription rate or enter into financial agreements with the entity requesting access to the data, the 'data user', to facilitate the transaction.

The regulation of DEPA's consent managers has been delegated by NITI Aayog to sectoral authorities, as designated by the relevant Union ministry. Unregulated sectors can also use consent managers, in which case, the newly-designated Data Protection Authority (DPA) will serve as the regulatory authority. The Personal Data Protection Bill, tabled in the lower house of parliament in 2019, proposed setting up the DPA to monitor the use of public data, along the lines of the regulator SEBI in the securities market, IRDA in insurance, or TRAI in telecommunications. Currently, the DPA is set to be a wholly nominated body, while the data protection law awaits parliamentary approval for close to two years.

DEPA also states that, in certain cases, self-regulatory bodies may also be set up by businesses 'to ease the burden on regulators'. An industry body called Sahmati is already performing such a role in the banking sector.

'Data empowerment' in practice

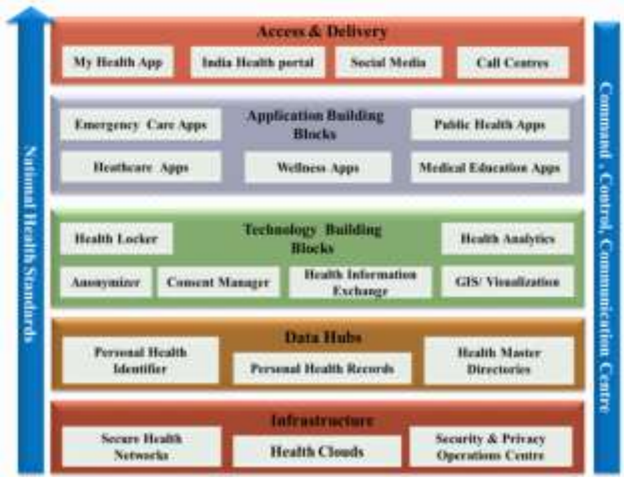
The draft framework states that 'financial inclusion' is DEPA's immediate objective, something it has in common with the 'Jan Dhan-Aadhaar-Mobile' trinity. Speaking at a Microsoft policy conclave back in 2016, Nandan Nilekani, ex-chairperson of the UIDAI, had illustrated what this brave new world of consent-based data sharing for banking could look like.

"Suppose I want to get a loan from someone, I can tell my bank, 'Give me my bank statement, electronically signed,' and I'll give it to the lender. I can tell the Income Tax [department], 'Give me my tax records,' I'll give it to the lender. I'll ask the, you know… my social media guys to give me my behavioural data, and I'll give it to the lender."

However, NITI Aayog's report also clarified that DEPA will be applicable beyond banking and insurance. Apart from Ayushman Bharat in healthcare, the Telecom Regulatory Authority of India's recommendations for 'user empowerment' in telecommunications, 'e-credentialing' for vocational education, and the India Urban Data Exchange for 'smart city' governance are some other places this will play a key role. Earlier in September, the Reserve Bank of India gave its nod to expand 'account aggregators' (AAs), the technology behind the Unified Payments Interface (UPI), into lending. AAs can now digitally serve the financial information of individuals and small businesses to lenders. Over 14,000 accounts have requested to join the new platform within a fortnight, making details of bank statements, insurance policies and mutual fund holdings just a tap away for lenders.

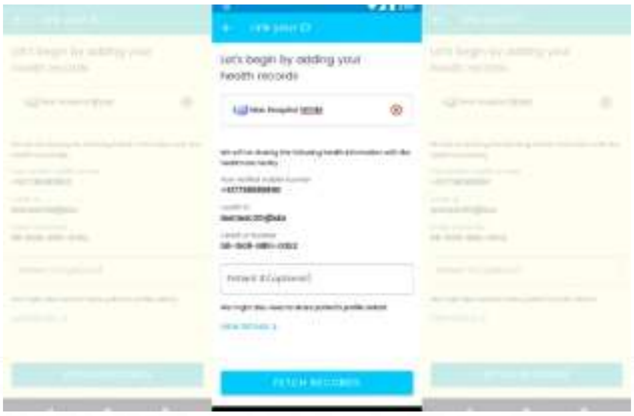
Health's data-sharing quest

What will DEPA look like when the healthcare sector embraces its data sharing potential? Progress made on implementing consent managers in healthcare that is demonstrated on the National Digital Health Mission's sandbox website hints at what lies ahead.



In one scenario, a cancer patient may provide her Health ID to her diagnostics lab. Her reports will then be available to her on any consent manager of her choice by simply linking her Health ID to the app.

Now, if a 'health information user', such as an insurance agency, requests to view the patient's radiology reports, this pop up on the consent manager application. She can then choose to share the reports with the agency for a designated period of time by 'agreeing' to do so on the app, as shown below.



In practice, however, it may happen that a private insurance agency may choose to grant medical coverage only to customers willing to link their Health IDs and share other digitised records. Similarly, they may offer special incentives to those who share their medical history and financial statements for more customised insurance premium plans. In both these cases, while consent managers may allow citizens to exercise their choice, as defined in technological terms, odds will weigh against the individual for withdrawing consent because they entail putting her insurance coverage on the line.

The government, which is investing public resources in operationalising this digital ecosystem, is unlikely to play the role of a neutral arbiter either. Experience with voluntary enrolment under the UIDAI's Aadhaar project, a biometrics-based identification system, illustrates this. With Aadhaar, not sharing biometric details with state and non-state agencies comes at a high cost. Activities ranging from opening Jan Dhan Yojana bank accounts, receiving subsidies or even buying a SIM card may be stalled, or become incredibly more tortuous, without Aadhaar linkage. In some cases, not sharing biometric details has resulted in being denied elementary government welfare schemes such as Mid Day Meals. With the prime minister's public push for Health IDs, it seems that Ayushman Bharat is also heading the Aadhaar way. Welfare schemes in healthcare may be made contingent on digitising one's health records, as has been done with a host of targeted benefits delivery schemes in the case of Aadhaar.

India has roughly twice as many private hospitals as government ones, despite less than a quarter of its citizens having access to medical insurance. There is one Indian doctor for every 11,082 citizens, more than ten times the doctor to patient ratio prescribed by the World Health Organisation. Prasanna S., a Supreme Court lawyer who has challenged the mandatory linkage of Aadhaar, warns that the digital health mission's data policy puts the cart before the horse. Without clearly outlining its public healthcare benefits, the government has restricted public consultation to the fine print of how a massive database of citizen's health data will be created. How the NDHM, which facilitates the entry of private medical technology companies using publicly-funded infrastructure, will help India reduce its healthcare deficit has not been addressed.

Moreover, a nine-judge bench of the apex court in the K. S. Puttaswamy vs Union of India verdict had designated certain types of data, such as that related to healthcare, as 'sensitive personal data' requiring legal safeguards. "So once this private information is at play, any state measure necessarily requires law," Prasanna pointed out to this reporter during a discussion on the NDHM's health data policy last September. "Where is this law? There is no law as on date."

The proposed Personal Data Protection Bill, 2019 is yet to be adopted by the Lok Sabha. In effect, a series of position papers from NITI Aayog and private think tanks seen as being close to the government have substituted any general or sectoral legislation related to personal health data.

Over 55,700 Health IDs had been issued within a fortnight of the prime minister's announcement. Only on August 26 did the NDHM release a draft National Health Data Policy, which outlined certain protections for citizens' sensitive personal data related to health. A week was initially provided for consultation with the public, which led technology watchdog groups such as the Internet Freedom Foundation to argue that the government was showing undue haste during a global pandemic.

Major conglomerates were already in the fray over this development. A day before Modi's Independence Day address, the US-based retailer Amazon had launched its online pharmacy services in Bengaluru. Three days after the announcement, Mukesh Ambani's Reliance Industries inked a Rs 620 crore deal to pick up 60% stake in the e-pharmacy company Netmeds.

2. Télécommunications

DoT Orders Mandatory Testing, Certification of Select Electronics

TelecomTalk, 27/09/2021

In a recent development, the department of telecommunications (DoT) has revealed a list of telecom products that should undergo mandatory testing and certification before sale in India. Effective from July 1, 2022, electronics products such as smartwatches, smart cameras, tracking devices, base tower stations for telecom networks and electricity metres among others can be sold, used or imported only if they have been tested and certified by an accredited lab. The third phase of mandatory testing and certification of telecom equipment (MTCTE) regime has notified these products, notes Financial Express.

Notably, the regime came into effect after the government set the Indian Telegraph Rules. In the fourth phase, products such as optical point of sale (PoS), optical fibre, transmission equipment, routers, LAN switches, satellite communications equipment, and more will be included in the list. Apparently, these will also need mandatory testing and certification from February 1, 2022.

Mandatory Certification Of Equipment

Mandatory testing, as well as certification of equipment, are important to check for security flaws, especially when it comes to imported equipment. Though there is already a proposal for mandatory testing of telecom equipment since 2010, there has been a delay in its implementation due to several reasons such as non-compliance with some WTO rules. However, it was surmounted with the Telegraph Act that was amended in 2017.

In addition to the new amendment of mandatory testing and certification, there has been an increase in the number of accredited labs in the country to avoid disruptions in the supply chain. Also, this will ensure that telecom equipment can be tested and implemented in the networks on a timely basis. The Telecommunications Engineering Centre (TEC) and International Laboratory Accreditation Cooperation (ILAC) are capable of testing and certifying these equipment.

As the Telecom Equipment Manufacturing Association (TEMA) welcomes this move taken by the government, it noted that the step will promote the Make in India initiative. Also, it will boost local talent and help in bringing about data privacy and national security. NK Goyal, chairman emeritus, TEMA said that they welcome and complement the Phase III and IV of mandatory testing and certification of equipment that was pending demand since 2010.

Govt may miss Jan-Mar 2022 auction timeline, unless Trai gives pricing recommendations by November

Et Telecom, 29/09/2021

The government will miss its January-March timeline to conduct an auction of 4G and 5G airwaves unless the telecom regulator sends in its pricing recommendations by November. If there is a delay, then the Department of Telecommunications (DoT) will conduct the 5G sale later on in 2022 but may not wait until the fourth quarter of the next fiscal year.

"The regulator has to send pricing recommendations by November and if that happens then auctions can be held in the January-March quarter of 2022," said a person aware of the development.

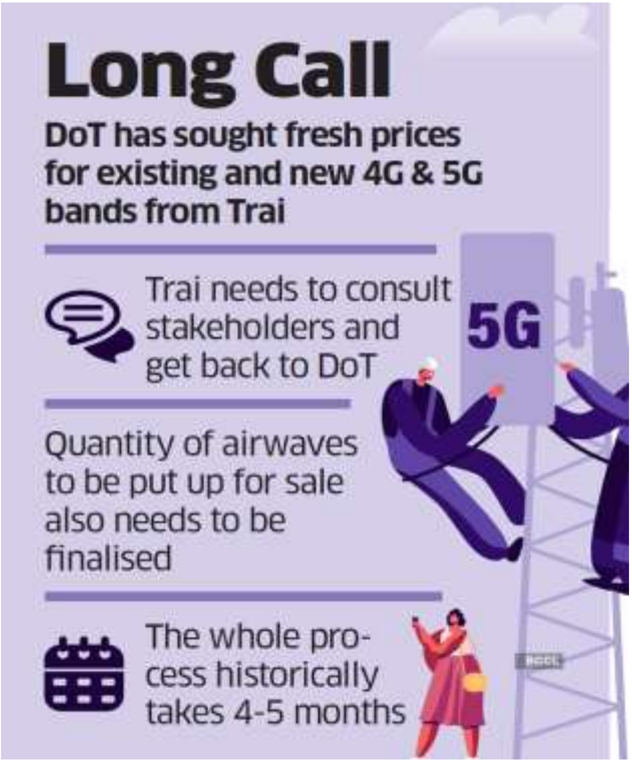
The DoT has recently sent a reference to the Telecom Regulatory Authority of India (Trai), seeking fresh starting prices for existing 4G and 5G spectrum bands, plus for new bands like the millimetre wave frequencies in 26 GHz and 28 GHz bands that also support 5G technology.

Trai will now need to get back to the telecom department on the pricing, as well as other points such as details of the auction and quantity to be put up for sale.

"If the November timeline is not met, then sale will happen anytime in the year," the person said. The government had recently said that it expects the next spectrum sale in January-February of 2022. It has also said that the government is working to give telcos a fixed schedule for auctions – such as holding a sale every year in the January-March period of the fiscal – to help operators plan investments.

The DoT has sought recommendations for a gamut of airwave bands, including key ones like 700 MHz, 3.3-3.6 GHz and the coveted millimeter waves. It has also sought fresh base prices for 4G airwave bands such as 800 MHz, 900 MHz, 1800 MHz, 2100 MHz and 2300 MHz, which can also be used for 5G in the future

Industry experts say the November deadline will be tough for Trai to adhere to, since there are a lot of back and forth between TRAI, industry and the DoT before the final pricing is accepted. After a DoT reference, Trai conducts a process which includes a four-week period for stakeholders to submit their views after a consultation paper is floated, followed by two weeks for counter comments. Then TRAI holds open-house discussions before arriving at its recommendations. The whole process historically takes about four-five to months.



Lowering the base price of 5G spectrum is critical to the success of the auctions, say industry executives and experts. The current base price of Rs 492 crore for a unit of 5G spectrum in the 3.3-3.6 Ghz band has been deemed too expensive by all three private players – Bharti Airtel, Reliance Jio and Vodafone Idea (Vi). The telcos have also sought a cut in the price of the 700 MHz band.

For the government, the next auctions are also important for the much-needed revenue it will need, especially now that telcos like Vi and Airtel are expected to opt for a four-year spectrum and adjusted gross revenue (AGR) payment moratorium, which was recently allowed by the government.

The government garnered Rs 77,814 crore in the last spectrum auction in March 2021 but sold only 37% of the over 2300 units of airwaves across seven bands on sale as telcos gave the 700 MHz band a miss for the second successive sale, again citing its high starting price. In the October 2016 auction, the government had collected Rs 65,789 crore.

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