MINISTÈRE
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REVUE DE PRESSE SECTORIELLE NUMERIQUE

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En bref

NUMÉRIQUE :

- UPI enregistre une croissance de 15 % en volume de paiements numériques et de 18,5 % en valeur et dépasse le seuil des 100 Mds USD en octobre 2021.
- UIDAI reçoit de nouveaux pouvoirs pour punir civilement et pénalement les contrevenants aux règles d'identité biométrique.
- En l'absence de consensus, le projet de règles relatives commerce électronique est soumis au cabinet du Premier ministre.
- Le MeitY va revoir le programme *Production Linked Incentive* car l'objectif de 250-300 Mds USD de production indienne d'électronique en 2026 pourrait ne pas être atteint.
- La société française de jeux Gameloft s'associe à la plateforme WinZO, basée à Delhi, pour cibler le marcher indien non-anglophone.
- Le projet de loi sur la protection des données sera présenté au Parlement cet hiver dans une version largement remaniée et étendue aux données non personnelles.

TÉLÉCOMMUNICATIONS:

- Le différent fiscal opposant Vodafone à l'Inde depuis 2012 pourrait être prochainement résolu avec le versement de 440 M INR de la part de l'Inde.
- La TRAI a ouvert une consultation concernant la création de licences spécifiques pour les stations au sol des constallations de satellites en orbite basse.

Revue de presse

1. NUMÉRIQUE

Value of UPI transactions crosses $100 billion in October

ETTech, 01/11/2021

Mumbai: The value of transactions made using the Unified Payments Interface (UPI) crossed $100 billion in a month for the first time in October, according to data from the National Payments Corporation of India (NPCI), further cementing its position as India's most popular digital payments system. A whopping 4.2 billion UPI transactions amounting to Rs 7.71 lakh crore (about $103 billion) were clocked in the month, marking all-time highs on both counts for the five-year-old payments channel.

In September, UPI had registered 3.6 billion transactions worth Rs 6.5 lakh crore crore. This means the number of transactions jumped 15% and the value of transactions rose 18.5% in October. The number and value of UPI transactions have more than doubled since this time last year.

The spurt in October is largely on the back of increased demand for online shopping amid the festive season sales. The gradual reopening of the economy since the ebbing of the second wave also aided this growth.

UPI has passed several significant milestones since its launch in 2016. It crossed a billion transactions for the first time in October 2019, and the next billion came in under a year. Since the start of 2021, monthly transaction value has grown by close to 79% from Rs 4.31 lakh crore in January. The number of transactions, meanwhile, have increased by more than 83% from 230 crore in January.

Meanwhile, other modes of digital payments also recorded a sharp surge in October. Immediate Payments Service (IMPS) also touched an all-time high both in terms of number and value of transactions. It clocked 430.67 million transactions worth Rs 3.70 trillion in the month.

NPCI's National Electronic Toll Collection (NETC) channel, which runs FASTag, recorded an all-time high of 214.23 million transactions worth Rs 3,356.74 crore in October, indicating the return of road traffic with most states easing Covid-19 travel protocols.

UIDAI Finally Gets Powers To Penalise Aadhaar Act Violators For Hacking, Unauthorised Use

Medianama, 09/11/2021

How should UIDAI penalise violators of the Aadhaar Act? What should be the designation of the adjudicating officer, and how should they go about handling complaints? The central government answers these questions in the Aadhaar Act (Adjudication of Penalties) Rules 2021 released on October 29.

The Aadhaar Act 2016 gave the UIDAI powers to penalise entities for both civil and criminal violations. The central government has finally outlined a mechanism for UIDAI to enforce the penalties, and hence implement the privacy safeguards outlined in the Act.

What do the new Aadhaar Act Rules say?

The Aadhaar Act (Adjudication of Penalties) Rules 2021 outline the procedure for UIDAI to deal with violators:

Who should be the adjudicating officer? Under the Aadhaar Act, UIDAI must appoint an adjudicating officer to deal with violations of the act. The officer must:

- not be below the rank of Joint Secretary to the Government of India

- possess ten years or more of experience in the government body
- possess more than three years of experience law, management, IT or commerce
- How to send a complaint: The UIDAI can send a complaint to the adjudicating officer in case of a violation, which must contain the following:
    - the nature of the contravention
    - relevant provision of the Aadhaar Act or rules issued by UIDAI
    - the maximum penalty which can be imposed on the person or entity
    - the timing, place of contravention along with supporting documents

How will the adjudicating officer deal with the complaint? Once a complaint is received from UIDAI, the adjudicating officer will take the following steps:

- issue a notice to the alleged violators, requiring them to show cause as to why the penalty should not be imposed on them. (Respondents must be given a minimum of 30 days to respond)
- on receipt of reply, issue a notice of hearing to the alleged violators and UIDAI
- (If the violators plead guilty, no hearing will be required and the penalty can be levied)
- after giving reasonable opportunity to be heard, the officer can pass an order based on their discretion

What offences can UIDAI penalise under the Aadhaar Act?

Under Aadhaar Act 2016, the adjudicating officer can impose civil and criminal penalties on individuals and companies for reasons such as:

Impersonation: is an offence – imprisonment for 3 years and a fine of Rs. 10,000.

Providing false demographic or biometric information

Attempting to change the demographic and biometric information of an Aadhaar number holder

Pretending to be an agency authorised to collect identity information

Unauthorised use: Intentionally transmitting information collected during enrolment and authentication to an unauthorised person is an offence – imprisonment for 3 years and a fine of Rs. 10,000 for a person, and Rs. 1 lakh for a company.

Hacking: Unauthorised access to the central identities data repository (CIDR) and hacking is an offence – imprisonment for 10 years and a fine of Rs. 1 crore.

Data tampering: Tampering with the central identities data repository is an offence – imprisonment for 10 years and a fine of Rs. 10,000.

Non-compliance: Failure to comply with the provision of the Aadhaar Act or to furnish any information required by the Authority is punishable, and the UIDAI can charge a fine of Rs. 1 crore.

Some instances of Aadhaar data being leaked

While the mechanism for penalisation has only been outlined now, the Aadhaar database has existed for five years. In that time, multiple instances of Aadhaar data being leaked have been reported:

May 2, 2017: CIS India reported that details of around 130-135 million Aadhaar Numbers, and around 100 million bank numbers have been leaked online by just four government schemes alone.

July 9, 2017: An independent website called MagicAPK (since removed) leaked the data of 120 million Jio customers. Querying the website by phone number returned details such as name, email, circle, SIM activation date and Aadhaar number.

July 20, 2017: The government admitted that around 210 government websites had been leaking sensitive information including Aadhaar.

January 5, 2018: A Tribune investigation revealed that a journalist from the paper was able to purchase unrestricted access to the Aadhaar database for as little as Rs 500.

April 2, 2018: Anonymous hackers Lulzsec India claimed to have spotted a vulnerability in a server related to PAN applications, leaking 22,000 Aadhaar and PAN card details.

PMO to step in for consensus on ecommerce rules

ET Bureau, 17/11/2021

The Prime Minister's Office will weigh in on consultations the consumer affairs ministry is having with various stakeholders regarding proposed amendments to the e-commerce rules, an official said, requesting anonymity.

This is to build consensus among various government arms regarding the amendments, a draft of which the ministry had released in June, the official added.

The draft guidelines seek to strengthen consumer protection and tighten rules for ecommerce marketplaces, including barring affiliated entities from selling on their platforms, as well as restricting flash sales - the discounts or promotions that ecommerce firms offer for a short duration.

"It has been known to all for a long time that wide-ranging consultations are ongoing at various levels on the subject in question. Such things are always a work in progress," a spokesperson for the consumer affairs ministry said. "The best feasible and appropriate decisions, in the interest of all, and appropriate decisions, in the interest of all, would be taken in due course. All concerned would be informed accordingly as and when required," the spokesperson added.

The Consumer Protection (E-Commerce) Rules, 2020, which fall under Section 101 of the Consumer Protection Act, 2019, were notified in July last year by the ministry, the nodal agency responsible for protection of consumer rights.

The Department of Consumer Affairs, which is one of the two departments under the Ministry of Consumer Affairs, Food and Public Distribution, is engaged in detailed discussions with various companies and industry associations on the proposed amendments.

Top industry bodies representing the Tatas, Amazon, Walmart-owned Flipkart and others have opposed some of the proposed clauses, while key provisions have also not found favour with the finance as well as corporate affairs ministries, and the government's public policy think tank, Niti Aayog.

Niti Aayog vice-chairman Rajiv Kumar has said previously that the proposed amendments send out a message of unpredictability in policymaking, while the finance ministry had expressed concern that that they could adversely impact the ecommerce and allied sectors. The Ministry of Corporate Affairs has said that the guidelines should not impinge on competition issues.

The difference of views has delayed a decision on the proposed changes.

The e-commerce sector is expected to grow to $188 billion by 2025 from $64 billion in 2020, according to estimates by accounting and advisory firm Grant Thornton.

The online retail sector - despite being one of the biggest job creators - has faced flak from small traders and offline retailers for alleged predatory pricing, preferential treatment to related parties and flouting of several regulations.

Govt to review PLI schemes for electronics companies

ET Bureau, 19/11/2021

The government is set to start a comprehensive review of its ambitious production-linked incentive (PLI) schemes on electronic manufacturing, officials said. The review comes amid increasing concerns that the already lowered target of $250-$300 billion for local production by 2026 may also be tough to achieve, given the pandemic and policy-related challenges.

“We have been asked to give a detailed roadmap of how to achieve the $250-$300 billion target for electronic production by 2026," a senior government official told ET.

The official added that among the schemes, under special focus is on the one on IT hardware. This comes with the lukewarm response to the scheme with companies committing to only half the production targets aimed for.

Even mobile phone production, which is expected to contribute the bulk 40% of the target and has seen early gains, could miss the long-term targets, if issues such as GST reduction and 5G proliferation aren't addressed, said industry executives who have met officials.

The minister of state for electronics, Rajeev Chandrasekhar, has asked officials in the ministry of electronics and Information Technology (MeitY) to figure out what needs to be done to achieve the set targets by 2026, say officials.

MeitY has been asked to especially see if tweaks are needed to make the existing PLI scheme for IT hardware more attractive, or if a new scheme needs to be floated.

The government, while announcing the policy in February this year, had set an outlay of Rs 7,325 crore to achieve a total production of Rs 3.26 lakh crore. However, the participants that included the likes of manufacturing majors Dell, Flex, Foxconn and Wistron have committed production worth only Rs 1.60 lakh crore, just about half of the target.

Apple, one of the major makers of tablets and laptops, has given this scheme a complete miss. The iconic smartphone major, through its contract manufacturers, is the primary driver of the PLI scheme for mobile phones, committing to 80% of the total exports projected through the scheme.

The policy around hearables & wearables, which are to contribute around $7 billion by 2026, is yet to see the light of day, industry executives noted.

“The $250 billion by 2026 will need many strategic pieces to come together in perfect harmony,” said Pankaj Mohindroo, chairman of India Cellular and Electronics Association (ICEA), the industry body representing mobile phone makers, the likes of Apple, and global contract manufacturers such as Foxconn and Wistron, among others.

He said that beyond strengthening mobile phone production, the country needed a product-wise focus to clock $250 billion for domestic and exports separately. “New PLI schemes, sharp reduction in GST/ import tariffs on inputs and a planned move to shift the ecosystem from China and Vietnam, are key to our success,” he said.

India’s handset industry wants the GST rate on mobile phones to be cut to 12% from 18% and that on parts and components, to 5%, reasoning that the high rate has led to a rise in prices and is affecting demand. Out of the $250 billion, the largest component is local mobile phone production worth $110 billion, of which $80 billion is domestic and the balance is for exports.

“We shouldn’t hesitate to fine tune our policies,” George Paul, chief executive of Manufacturers Association of IT (MAIT) said, speaking about the need for policy tweaks to the PLI for IT hardware.

MAIT, which has Acer, Cisco, Dell, HP, Intel and Samsung, among others, as its members, has asked the government to more-than-double, both the incentive rate (currently at 2.3%) as well as the outlay.

Some stakeholders want the outlay to be raised to around Rs 20,000 crore to be attractive enough for more global players.

"When companies are looking to diversify their risk, and move out of China to India, time is of essence," Paul said. He added that the government needed to act fast as time was running out to meet the government's revised target of hitting the $250 billion production in electronic manufacturing by 2026.

"The decision to manufacture out of a new location takes time to plan and execute," he said.

Under the national policy on electronics, the government had set a target of achieving $400 billion worth production by 2025. However, owing to the pandemic, the targets were revised down to $250 billion-$300 billion, and by FY26, with the scheme around mobile phones being extended by a year due to covid-related lockdowns.

Industrial, auto and consumer electronics are expected to contribute about $20 billion each. The balance is to be split between printed circuits board assembly (PCBA).

French gaming company Gameloft partners with WinZO

ET Bureau, 28/11/2021

Mumbai: French multinational gaming company Gameloft has entered into a partnership deal with Delhi-based social gaming platform WinZO to enable the creator of popular games like Asphalt 9 to tap into a large potential market in the country.

India accounts for 12%, or more than 150 million people, of Gameloft's downloads, but it accounts for only 0.6% of the company's worldwide income, making it a high-potential yet underutilised market.

"With our strong market presence and deep expertise of vernacular markets, WinZO will be able to assist Gameloft," WinZO CEO Paavan Nanda told ET.

WinZO has a user base of about 70 million, with more than 60% of the premium-paying customers conducting more than 2.5 billion micro-transactions per month.

"This makes us well-positioned to help big global companies increase their presence in India's booming vernacular gaming market," said Nanda. "Today, India is at the forefront of the global gaming scenario and considering that we are at the cusp of this opportunity, we believe we can ably leverage our tech and market capabilities to tap into this boom and make it noticeable on the global grid."

By using WinZO's consumers, who are largely based in India's tier-2 to tier-5 markets and consume the games in non-English languages, Gameloft will be able to expand its user base.

Gameloft is a leading casual gaming company with more than 150 popular games that have clocked more than 1.2 downloads globally.

"The perception of India is that, despite our high volume, our users do not pay," said Nanda. "We can help Gameloft monetise 100X better with our format because they only have to push their product on our platform, which has a massive captive audience."

As part of the partnership, WinZO will make its platform capabilities, such as streaming, game formats, and the WinZO Store, available to help drive revenue for Asphalt 9.

WinZO has more than 80 games available in 12 different languages and formats. WinZO Store, the platform's in-app marketplace, enables the selling of in-app currency for the "lowest commissions" when compared to other traditional app stores such as the Google Play Store and the Apple App Store.

According to Nanda, more than 300 game creators have benefited from WinZO's unique and creative integration process, which offers a 100 times revenue boost than other revenue streams.

WinZO is a series C funded startup supported by worldwide gaming and entertainment investment groups such as Griffin Gaming Partners, Maker's Fund, Courtside Ventures, Pags Group and Kalaari. It was founded in 2018 by second-timers Nanda and Saumya Singh Rathore.

The new data bill is nothing like its first draft

Mint, 30/11/2021

The Joint Parliamentary Committee (JPC) on Personal Data Protection (PDP) bill is finally ready to table its report during the winter session of the Parliament. Mint looks at what is new in the JPC's recommendations.

What is the new name of the bill, and why?

The JPC has recommended that the bill should be called the Data Protection Bill, and its scope widened. It said the bill should cover not just personal data within its purview but also non-personal data and non-personal data breaches, which includes any unauthorized acquisition, sharing, use, alteration, destruction, or loss of access to such data that compromises the confidentiality, integrity or availability of this data. Accidental disclosure of non-personal data is also covered under such breaches, which means that breaches resulting from lack of proper compliance measures will also be covered by the bill.

What could be seen as non-personal data?

Simply put, the JPC is defining all data that is not personal—data that doesn't personally identify a user— as non-personal. For instance, an anonymized data set showing the preferences of users in a particular city or state can fall under non-personal data. An expert committee chaired by Infosys co-founder Kris Gopalakrishnan had released a draft report in July, which had suggested that non-personal data should be provided to domestic companies for building products and services. It has been opposed by major social media firms and more, who think it will take away their competitive advantage.

What criticism has the bill faced?

Seven members of the JPC, including Trinamool Congress (TMC) leaders Derek O' Brien and Mahua Moitra, and Congress leader Jairam Ramesh have expressed dissent. On 27 November, TMC tweeted that Section 35 of the Act will give the "government exclusive rights to invade our privacy whenever they want". The bill has been criticized for excluding the government and its agencies such as the CBI and Uidai from its provisions on matters of national security and public welfare.

What else does the bill recommend?

The JPC has recommended that social media firms shouldn't be allowed to function in India without setting up offices here. It has also said firms that do not operate as intermediaries should be treated as publishers, who will be accountable for the content distributed on their platforms. Further the JPC recommended creating an alternative payment system to SWIFT for cross-border payments, digital certification of Internet of Things (IoT) and other digital devices by the DPA, and localization of sensitive data.

2. Télécommunications

Vodafone likely to settle retro tax case with India in coming weeks

BusinessToday, 09/11/2021

After Cairn Energy, Vodafone is expected to settle the retrospective tax dispute with the Indian government under the new legislation in the coming week, which will see the British telecom major withdraw international arbitration case against India. In turn, it will get a refund of Rs 44 crore collected as taxes previously.

India had appealed against the verdict of an international arbitration tribunal in Singapore in December to set aside the award on jurisdictional grounds. As per the award, the government has to reimburse Vodafone 60 per cent of its legal costs and half of the 6,000-euros cost borne by Vodafone for appointing an arbitrator on the panel, which stands at around Rs 85 crore.

"We are expecting Vodafone and others to come forward for settlement under the Taxation Amendment Act. While Cairn will get the biggest refund, others also want to settle these cases. They should apply in another week or so," said a government official.

Under the Act, Vodafone will have to indemnify the Indian government against future claims to settle their retrospective tax cases, according to rules notified by the government in October to settle disputes arising from seeking back taxes.

India lost arbitration to the British telecom major over a 2012 legislation that gave government powers to retrospectively tax deals like Vodafone's acquisition of 67 per cent stake owned by Hutchison Whampoa in 2007. It had challenged that tax demand of Rs 22,100 crore, including interest and penalty under the Netherlands-India Bilateral Investment Treaty (BIT).

The Ministry of Finance in October had notified new Relaxation of Validation Rules to settle the Vodafone retro tax case, which is different from that of Cairn and other cases. While the telecom major had faced validation of tax demand under Section 119 introduced in the Finance Act 2012, in the case of Cairn and others, the tax demands were issued after the 2012 amendment under Section 9 relating to indirect transfer of Indian assets.

Vedanta, which had bought Cairn Energy's erstwhile subsidiary Cairn India in 2011, is also likely to withdraw an arbitration it had filed in Singapore, seeking around Rs 5,000 crore in damages from the government.

"Vedanta will come separately for settlement. We are also expecting them to apply soon," said another government official.

India passed the Taxation Laws (Amendment) Act 2021 in Parliament in August, offering a settlement of the retrospective cases pertaining to the 2012 legislation on the offshore indirect transfer of Indian assets.

The government has collected Rs 8,000 odd crore from three of the 17 companies - Rs 7,900 crore from Cairn Energy, Rs 44.7 crore from Vodafone-Idea, and Rs 48 crore to WNS Capital - which it has proposed to refund under the new legislation if these companies fulfill certain conditions.

Last week, Cairn Energy announced the settlement of tax dispute with India, under which it will let go of the $1.2 bilion arbitration award plus penalty to avail a refund of Rs 7,900 crore collected as taxes. It entered into undertakings with the Indian government to participate in the scheme introduced by recent Indian legislation, the Taxation Laws (Amendment) Bill 2021 (the "Taxation Amendment Act").

The case pertains to the Rs 24,500-crore tax demand (including interest and penalty) on capital gains made by the oil major in reorganising its India business in 2006-07. The Income-tax department had launched retrospective tax investigation transactions undertaken prior to that in 2014.caught under the indirect transfer of shares.

Cairn will commence the filing of the necessary documentation under rule 11UF(3) of the Indian Income Tax Rules 1962 (Rules), intimating the withdrawal, termination and/or discontinuance of various enforcement actions, it added.

Cairn would be required to withdraw its international arbitration award claim, interest and costs and to end all legal enforcement actions in order to be eligible for the refund under the terms of a new legislation. The company had registered the arbitration award in many jurisdictions, including the US, UK, Canada, Singapore, Mauritius, France and the Netherlands. It had even sought mortgage of government properties in Paris and sought claim on Air India as "the alter ego of the Indian state".

There are four forms under the Act. The interested company will have to submit the undertaking in Form 1 within 45 days from the date of commencement of the rules (October 1). Thereafter, the tax authority will have 15 days to pass an order and issue a certificate in Form 2.

Post that, the entity concerned will have two months to withdraw the litigation and inform the Department via Form 3. Based on that, the jurisdictional Principal Commissioner or Commissioner will issue directions in form 4, stating that the tax demand orders shall be deemed to have never been passed. This order will be binding on the Assessing Officer (AO), who will revoke the attachment (if any) and issue a refund within 15 days.

Trai seeks views on need for new license category for setting up satellite earth station gateway

ET Bureau, 15/11/2021

The telecom regulator has asked industry stakeholders if a separate licence category is needed for setting up satellite earth station gateways, a key resource for offering fast broadband-from-space services in a market being eyed by the likes of Elon Musk's SpaceX, Bharti-backed OneWeb, and Amazon's Project Kuiper.

The Telecom Regulatory Authority of India (Trai) has also sought suggestions on the "operational scope," and associated "financial obligations," of such a permit, including licence fee, entry fee, bank guarantees and network operation & control centre (NOCC) charges.

Trai also wants suggestions on ways to assign spectrum for establishing such satellite gateways, and the mechanism for charging a satellite earth station permit-holder for such airwaves.

"Internationally, most administrations assign spectrum administratively for an earth station licence, and (such) spectrum is also charged as a fee to cover administrative costs, though some also charge a licence tax," Trai said in its paper, issued Monday.

The latest consultation paper is seen as a decisive step towards framing new licencing rules on setting up of in-country satellite gateways by global non-geostationary satellite system operators (NGSOs), or low-earth orbit (LEO) satellite service providers such as OneWeb, SpaceX and Amazon and Canada's Telesat who are keen to launch fast satellite broadband services in India.

An earth station gateway would, typically, control an LEO satellite constellation and also facilitate bandwidth connectivity between a satellite and the end-user of broadband-from-space services in India.

Trai, in its paper, has also sought views on whether a potential "earth station licence should be available to a satellite operator or its subsidiary or any entity having a tie-up with the satellite operator".

The regulator said that the Department of Telecommunications (DoT), in a reference in September, had said the current licencing framework for satellite services "has limitations with respect to proposed satellite gateway operations, as there are no provisions regarding usage of ga gateway by service provider established by a satellite constellation operator".

Accordingly, Trai has sought views if sharing of satellite earth station resources should be permitted among licencees -- as in between a proposed earth station licencee and a telecom service licencee.

The regulator has also sought industry suggestions on changes required to existing terms and conditions of the relevant service authorisations of Unified Licence, DTH licence and teleport permission t to enable a service licencee to connect to a satellite gateway set up by a prospective earth station licencee.

Deadlines for stakeholder comments and counter-comments are December 13 and December 27 respectively.

Trai's paper comes at a time when OneWeb and Elon Musk's Starlink plan to launch high-speed satellite broadband services in India next year. India is seen as a key emerging satellite broadband market with an over $1 billion annual revenue opportunity. This is since almost 75% of rural India still does not have access to broadband as many locations are still without cellular or fibre connectivity. The LEO satellite systems are being seen as a viable alternative.

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