

# LEXTECH UNWRAPPED



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# WHO ARE WE?

# ABOUT NLNUO



**National Law University Odisha, the prestigious institution is situated at the confluence of the Mahanadi and the Kathajodi rivers in the Millennium City or the Silver City of Cuttack. This legal temple was established by Act IV of 2008 by the Odisha State Legislature.**



The institution since its inception in 2008 has continuously endeavored towards thriving excellence and producing bright minds in the legal and other associated arenas. It has painted a blazing picture of cultural diversity as being a pan-India institute and equally treating all students to realize their true potential. Academic as well as non-academic co-curricular activities have been given proportionate importance for the overall development of the students.

# ABOUT LEXTECH



**LexTech - Centre for Law, Entrepreneurship, and Innovation** focuses on the emerging areas of FinTech, AI, TMT, Online Gaming and Betting Laws, and Data Privacy. The centre publishes a monthly newsletter that thoroughly analyses updates in these subject areas. Additionally, the centre hosts a premier talk show called "Tech Tales: From Code to Courtroom." It is a platform that hosts tech law industry experts who share their knowledge from real-life experiences, providing the audience with an insight into the legal world.

**The Centre aims to promote interdisciplinary research, collaboration, and capacity building in the emerging areas of tech law, as mentioned above. It aims to foster critical thinking and responsible technology adoption to enhance access to justice, improve legal processes, and address emerging challenges.**

**LexTech has worked towards bridging the gaps between law and technology by providing insights through monthly newsletters, conducting talk shows with prominent persons in tech law and much more. With a commitment to interdisciplinary research, collaboration, and responsible tech adoption, LexTech is a catalyst for a more inclusive and adept legal future, being one of the few research centres to have delved into these niche areas of law.**

# ABOUT NLUO INCUBATOR FORUM



The NLUO Incubator Forum (NIF), incorporated as a Section 8 company under the Companies Act, 2013, is an initiative by National Law University Odisha (NLUO) aimed at fostering entrepreneurship and innovation. NIF is dedicated to nurturing early-stage startups, particularly in the tech law space, by providing essential resources, mentorship, and a platform for experimentation. Its mission is to bridge the gap between law and technology, enabling entrepreneurs and students to address emerging challenges in the legal and corporate sectors.

NIF comprises two key components: the Incubation Cell and the Research and Development Wing, both of which work in tandem to create a robust ecosystem for fostering legal innovation. By supporting startups, NIF contributes significantly to the larger entrepreneurial landscape in Odisha and strengthens NLUO's role as a leader in tech law.

To ensure the effective functioning of NIF and to extend its reach, it is essential to establish a dedicated website. A website would serve as a centralized platform for showcasing the forum's initiatives, attracting potential partners, and providing updates on ongoing projects, funding opportunities, and mentorship programs. It would also enhance accessibility for entrepreneurs and students, further boosting NIF's impact.

# MEET OUR TEAM



MADHUBRATA  
RAYASINGH  
**Director**



SUDATTA  
BARIK  
**Co-Director**



MD. SIKANDAR  
**Co-Director**



Samridhi Bajoria: **Co-Ordinator**

Harsh Mittal: **Co-Ordinator**

Gargi Agnihotri: **Incubation Head**

Shloka Mathur: **IIC Head**

Anjali Pande: **Finance Head**

Lavanya Chetwani: **Newsletter Head**

Trishna Agrawalla: **Design Head**

## Writers

Pratyush Singh

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Arunima Raman

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Kalyani Kiran

Alok Singh Mourya

Souwick Saha

Bhavya Bhaskar

Maithili Dubey

Anushka Guha

## Growth & Development

Anjali Dhakad

Subhasis Sahoo

Aditya Sarkar



# WHAT HAVE WE DONE?

# LEXTECH IN 2024



## LexTech in Conversation with Tushar Mehrishi | LexTech | NLUO |

Click here to read more

## Single Credit Course on Legal Foundations for Technology - March 2024

March saw the launch of a dynamic three-day intensive course on the Legal Foundations for Technology, expertly led by Prof. Nikhil Naren. The course covered cutting-edge topics such as data protection, AI, and cybercrime, giving participants the tools to navigate the increasingly complex digital legal world. Prof. Nikhil, an Assistant Professor at Jindal Global Law School, brings a wealth of experience from his time at Symbiosis Law School, Noida, Scriboard, and Queen Mary University of London, where he completed his LLM on a prestigious Chevening Scholarship. The course was a huge success, setting the stage for more such enriching experiences.

## LexTech's First Article Writing Competition

on  
Emerging Areas in Legal-Tech and Innovation

in collaboration with



Nishith Desai ASSOCIATES

VIDHI Centre for Legal Policy

SCC TIMES

## LexTech in Conversation with Tushar Mehrishi - January 2024

Kicking off the year with a bang, LexTech hosted an insightful virtual session featuring Tushar Mehrishi, a tech law guru whose career journey has been nothing short of inspiring. From his early days in corporate law to his pivotal roles at Google and Airbnb, and now as a partner at Your Virtual Legal Counsel, Tushar shared invaluable advice on navigating the tech law landscape. His life mantra—"You can plan life but always remember that life has its own plan"—encapsulated his decade-long journey through the ever-evolving world of tech law, leaving everyone motivated and ready to take on the challenges of 2024!



## First Article Writing Competition - June 2024

June 2024 marked a milestone with the launch of our First Article Writing Competition, a collaboration with Nishith Desai Associates, Vidhi Centre for Legal Policy, and SCC Times. This competition invited participants to explore groundbreaking themes at the intersection of law and technology, such as AI, blockchain, and cybersecurity. With the promise of prestigious internships and publication opportunities for the winners, it offered a fantastic platform for academic and professional growth. We were overwhelmed by the response—over 160 registrations poured in from top law schools across the country. Each submission showcased exceptional quality and creativity, making the evaluation process both rewarding and challenging. The competition truly set the stage for intellectual engagement, inspiring both participants and the team alike!

# LEXTECH IN 2024

Alongside pushing new boundaries, LexTech proudly continued its flagship talk show and monthly newsletter, keeping the community engaged and informed with the latest developments at the intersection of law and technology.



## TechTales: From Code to Courtroom - August 2023 – Present

Since its inception, TechTales: From Code to Courtroom has become a cornerstone of our tech law initiatives, offering cutting-edge discussions on AI, FinTech, TMT, and online gaming laws. This series has ignited a wave of enthusiasm among students, solidifying NLUO's position as a leader in tech law education.

We were especially thrilled to host Ms. Kriti Trehan, Founder of Data & Co-Law & Policy Advisors and Former Global Payments & Privacy Lead at Netflix, for our first-ever offline TechTales session—marking a milestone in the series! Following that, we had the honor of welcoming Ms. Siboney Sagar, Senior Principal Counsel at Disney Star and Founder of Resolve - The Effective Dispute Resolution Forum. Both sessions were packed with invaluable insights, and we can't wait to unveil our equally thrilling lineup for the upcoming year!

## Monthly Newsletter - August 2023 – Present

Since its redesign, our monthly newsletter has become an essential resource for the legal community, offering curated global updates on tech law. Providing both professionals and students with timely insights, the newsletter has been widely praised for its role in enhancing accessibility to the latest developments and emerging trends in technology law.

We're excited to share that the newsletter continues to receive positive feedback, solidifying its place as a trusted source of knowledge. These milestones highlight our dedication to advancing the intersection of law and technology, empowering the next generation of legal professionals to lead in an ever-evolving digital landscape.



NOVEMBER 2024  
EDITION

## MONTHLY NEWSLETTER

LEXTECH: CENTRE FOR  
LAW, ENTREPRENEURSHIP  
AND INNOVATION



# INDUSTRY UPDATES



**This year, the tech law  
community moved fast  
on an average of 12 updates  
per month**

**Here are your favourite highlights!**



# TECHNOLOGY, MEDIA AND TELECOMMUNICATIONS

The landscape of Technology, media and entertainment and telecommunications (TMT) laws in India is undoubtedly undergoing a significant evolution. TMT companies are the building blocks of transformation and will continue to drive economic recovery and our post-pandemic future. Recent months have seen not only groundbreaking developments across various sectors but also proactive regulatory responses aimed at addressing the rapidly shifting business environment. From the regulation of social media platforms and tech giants to the ex-ante framework, intermediary guidelines, and judicial interpretations - substantial progress has been made. These developments are expected to have a profound impact on how businesses in the domain operate and caters to their customers. While a lot remains unanswered and the field is still evolving, the industry has witnessed some notable updates this year that are worth examining!



## DIGITAL COMPETITION BILL - THE INDIAN EX-ANTE FRAMEWORK

India's Draft Digital Competition Bill ("Draft DCB") seeks to address challenges posed by Big Tech's dominance in the digital economy, targeting Core Digital Services ("CDS") like search engines, social media, and advertising platforms. Enterprises offering such services and meeting the financial and user thresholds are designated as Systemically Significant Digital Enterprises ("SSDEs"). Interestingly, the user threshold set at 10 million is notably low for India's vast 900-million-strong internet user base, risking the inclusion of smaller platforms and stifling innovation. This contrasts with the European Union's Digital Markets Act ("DMA"), which applies to firms impacting 45 million users. The Competition Commission of India ("CCI") is empowered to designate SSDEs and impose compliance obligations. However, its discretionary authority, coupled with vague guidelines, may lead to overreach and arbitrariness, undermining the Bill's objectives. Ex-ante measures in the Draft DCB aim to pre-empt anti-competitive practices, but stakeholders like Google and Amazon, warn of potential harm to innovation and consumer welfare, drawing parallels to challenges under the DMA in the EU. Moving forward, the Draft DCB should customize its framework to align with India's digital economy while revising user thresholds to focus on truly dominant players. Balancing regulation with innovation and implementing checks on the CCI's powers will be key to ensuring a fair and effective digital competition landscape.



## GOOGLE'S ANTITRUST CASE

In a landmark ruling, a U.S. District Court found Google guilty of maintaining an illegal monopoly over internet searches, violating antitrust laws. The case, filed by the Department of Justice and state attorneys general, highlighted Google's exclusive contracts with device manufacturers to secure its default search engine status, effectively marginalizing competitors. With Google controlling over 89% of the search market and leveraging its dominance to inflate digital ad prices, the court's decision could reshape the digital landscape.

This verdict may weaken Google's grip on search and advertising, opening doors for its competitors. It could also accelerate AI-driven innovations in search engines and reshape digital advertising practices, providing consumers with diverse, privacy-conscious choices. Tech giants, including Amazon and Meta, face similar scrutiny, indicating a shift in antitrust enforcement. The ruling signals a pivotal moment for Big Tech regulation, likely improving transparency, competition, and consumer choice while deterring monopolistic practices across the industry.

## BOMBAY HIGH COURT ON IT RULES AMENDMENT IN KUNAL KAMRA V. UNION OF INDIA

The Bombay HC struck down a portion of Rule 3 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("the Rules"), declaring it unconstitutional. It was allowed the central government to establish 'fact check units' ("FCU") to flag 'fake, false or misleading' information about any business of the central government. The rules allowed the government to act as an arbiter of truth and could lead to censorship, thereby having a chilling effect on free speech by discouraging individuals and media platforms from posting content critical of the government. Moreover, the rule consisted of vague and undefined terms like "fake" and "misleading" which could be misused to suppress legitimate criticism of the government, raising concerns over potential abuse of power and censorship. The government could explore independent, third-party fact-checking bodies that could ensure checks and balances, reducing the risk of censorship. Further, amendments that consist of clearly defined terms and establish guidelines for the identification and removal of such content, may provide a more constitutionally acceptable framework.

## WIKIPEDIA ORDERED TO DISCLOSE ANONYMOUS EDITORS IN ANI CASE

The Delhi High Court directed Wikipedia to take down an article covering its litigation with Asian News International ("ANI") and disclose the details of anonymous editors accused of posting defamatory content. ANI, a prominent Indian news agency, filed a ₹2 crore lawsuit against WikiMedia Foundation, alleging malicious statements accusing ANI of being a propaganda tool for the government and spreading fake news. The court viewed WikiMedia's article criticizing the single judge's order as a breach of the sub-judice principle, leading to its removal. Additionally, the IT Act grants intermediaries "safe harbour" protection under Section 79, shielding them from liability if they observe due diligence and comply with takedown notices. However, courts have extended this to mandate user disclosures, citing the need to address frequent violations. Critics argue such actions undermine privacy and internet freedom, but courts emphasize regulation within constitutional limits to address misuse of digital anonymity.

# ONLINE GAMING

The online gaming industry continues to set benchmarks, with growing user bases, record-breaking revenues, and ambitious expansions signaling its unstoppable momentum. From global acquisitions to new game launches drawing millions of players, the sector has firmly established itself as a heavyweight contender in entertainment and technology. Yet, while the business side keeps leveling up, the legal framework remains stuck in a frustrating tutorial stage. This year we're still circling the same unresolved questions like: is online real money gaming about skill or chance? Meanwhile newer issues demand equal attention such as those related to intellectual property in this industry. The last real milestone in online gaming legislation came with the IT Act, 2000, through the Information Technology (IT) Amendment Rules of 2021/2023. These rules formally defined online gaming and introduced a plan for self-regulatory boards (SRBs) to oversee both free and real-money games (RMGs) across India. It was a solid step in the right direction. However, with no SRB in sight and no clear-cut rules separating games of skill from games of chance, the industry remains stuck in a holding pattern, waiting for the next move. At this rate, we might see GTA VI before seeing our questions answered about online gaming. Nevertheless, the industry has witnessed some notable updates this year that are worth examining:



## ONLINE GAMING REGULATORY APPROVAL FACES DEADLOCK

The appointment of self-regulatory bodies (SRBs) for the online gaming industry has hit a major roadblock, with MeitY now stepping in to handle the approval process directly. Initially proposed as part of the 2021 amendments to the Information Technology Rules, SRBs were meant to certify online real-money games, ensuring transparency and distinguishing lawful gaming operations from illegal betting. These independent bodies were also expected to maintain updated records of permissible games and provide clarity to businesses and consumers alike. However, delays in forming these bodies, combined with concerns over taxation and other regulatory hurdles, have left MeitY to take charge. While this move might offer short-term solutions, it undermines the original intent of empowering independent SRBs and risks creating overregulation. The absence of industry collaboration in the process could discourage innovation and push gaming companies to rethink their involvement in the Indian market.

## CCPA ISSUED ADVISORY AGAINST ILLEGAL BETTING AND GAMBLING ADVERTISEMENTS

CCPA issued an advisory under the Consumer Protection Act, 2019, prohibiting the advertising, promotion, and endorsement of illegal activities, including online betting and gambling. The advisory aimed to address the financial and socio-economic risks these activities pose, particularly to younger audiences, and held advertisers, manufacturers, publishers, social media platforms, influencers, and celebrities accountable for violations. It reinforced Clause 9 of the Guidelines for Prevention of Misleading Advertisements, 2022, which bans the promotion of products or services deemed illegal under existing laws, such as gambling prohibited by the Public Gambling Act, 1867. It emphasizes that endorsing or promoting such activities is equivalent to participating in them, attracting strict legal scrutiny and broadens accountability across all advertising mediums.



## US SENATE PASSES KIDS ONLINE SAFETY ACT

The US Senate has passed KOSA, a bill designed to protect minors from harmful online content by imposing a "duty of care" on intermediaries and gaming platforms. It includes measures such as age-gating, enhanced verification, restrictions on financial transactions in games, and the prohibition of addictive features, autoplay, and manipulative notifications. It also limits geolocation tracking and online interactions with minors while regulating gambling ads targeted at them. Despite facing criticism and protests over potential overreach, KOSA's focus on balancing safety with stakeholder concerns provides a model for India to tackle its own challenges in protecting minors online while ensuring tech companies are held accountable.

## CENTRE'S PANEL FOR ONLINE GAMING REGULATORY COMPLIANCE

The Union Government plans to establish an inter-departmental authority to tackle tax evasion and regulatory malpractices in India's online gaming sector, aiming for uniform rules amid fragmented state and central laws. Under the CGST Act, 2017, gaming companies face scrutiny for misclassifying games to avoid the 28% GST on deposits, with ₹1,10,531.91 crore in outstanding taxes pursued. Offshore platforms exploiting loopholes and blockchain further hinder enforcement. The proposed panel, including agencies like the ED and RBI, seeks to address tax evasion, money laundering, and compliance gaps. If successfully implemented, this initiative could streamline regulations, promote responsible gaming, and foster sustainable growth in the sector.

## WINZO V GOOGLE

WinZO Games has accused Google of anti-competitive practices, including selectively listing certain Real Money Gaming ('RMG') apps like DFS and Rummy on its Play Store while excluding others and using sideloading warnings that allegedly harm developers' reputations. The Delhi High Court ruled these warnings as standard security measures under IT Rules, 2021, not targeting specific developers. Meanwhile, the CCI flagged Google's dominance in app stores, operating systems, and advertising, citing favouritism in app inclusion and ad policies that limit market access for non-DFS/Rummy developers. The most important takeaway here is that resolving these disputes needs clear regulations, fair certification, and balanced enforcement.

# FINTECH

The Indian financial sector had pivoted to modern technologies a long time back, and the Reserve Bank of India ('RBI') maintains its reputation of a staunch administrator up to date with the growing technologies. This was yet another year where tech sprawled across the financial space and chasing its pace, RBI and other bodies also undertook various exercises aimed primarily at Accessibility and Regulating developing technologies. Actions focused towards ease of transactions came to light, where bodies identified and catered to the needs of diverse stakeholders. While RBI eased people's way through card network choices, NPCI took actions directed towards delegated payment mechanism for minors and senior citizens. Banks and NBFCs were allowed to issue Pre Paid Instruments ('PPI') for public transport. Finally, RBI released its accessibility guidelines in November, to specially tend to the needs of the specially abled. Further, we saw efforts that meant to harness the grey areas of developing technologies and newer financial instruments of the digital age. USA brought to fore its rule to supervise big tech payments and Digital wallets, and here at home, RBI took notice of the laisse faire NBFC finance market by its norm on Peer-to-Peer transactions. New age technologies like AI, Machine learning, Digital Lending and Electronic Trading Platforms were discussed and opinions were sought.



## INCREASED ACCESSIBILITY

In March, RBI issued its circular regarding card network choice. Previously, the choice of network for a card issued to a customer was decided by the card issuer (bank/non-bank) and was linked to the arrangements that the card issuers have with card networks in terms of their bilateral agreements. Now, users can opt for their choice of card network. This does not apply to card issues with their own card network and small issuers (less than 10 lakhs). NPCI introduced 'UPI Circle' to assist users without bank accounts. This provides users with two categories - Full delegation and Partial delegation. Full delegation allows secondary users to do the complete transaction, while partial allows one to initiate, subject to completion by the primary user. With increased accessibility, this provides a considerable upper limit for transactions. Pre-Paid Instruments, an example of which is your metro card, can be now issued by your Banks and NBFCs too. To provide convenience, speed, affordability, and safety of digital modes of payment to commuters for transit services, RBI has made this option accessible to aforementioned financial organizations. This can materialize into an all purpose card catering to transit services, toll collection and even parking. Following up on all of its commitments to accessibility, in November, RBI issued its new guidelines highlighted the need of evaluation by Payment system participants ('PSPs'). They are mandated to modify in line with standards set by Ministry of Finance and RBI's 2015 circular on Customer Service in Banks. PSPs are to submit a detailed report to the RBI within a month.



## REGULATION DEVELOPING TECHNOLOGIES

In recent times, NBFCs have been discovered to be the vehicle of many irregularities in the financial market. RBI through its directions has tightened the norms for NBFC-P2P Transactions. Under the amended directions, NBFCs have to disclose borrower consent in such transactions. They have to disclose the losses borne by lenders on principal and interest. These were few among the many others which have been incorporated to increase transparency. In the international arena, USA finalized the rule which aims to provide supervision to Consumer Financial Protection Bureau ('CFPB') over key areas of digital payment sector. The rules provided an oversight on privacy, surveillance and debanking considerations, and aim to prevent errors and fraud. This significant regulatory development brought several digital payment platforms and digital wallets—offered by tech giants such as Apple Pay, Google Pay, and PayPal—under the CFPB's direct oversight. SEBI's new guidelines impose stricter regulations on use of AI and Machine learning by intermediaries in financial markets. While this is much appreciated, the lack of provisions for AI-specific issues, such as unintentional regulatory breaches by self-learning algorithms, may require future refinements to ensure comprehensive governance. RBI issued its Draft Guidelines on 'Digital Lending- Transparency in Aggregation of Loan Products from Multiple Lenders'. The previous prevalent practice among intermediaries of digital lending was that until the later stages of the process, the lender's identity may remain undisclosed to the borrower. This has been done away with compliance requirements like full disclosure on the websites and prohibition on use of 'dark patterns' in the interface. RBI issued its draft Master Directions authorizing Electronic Trading Platforms, with the aim to facilitate access to offshore ETPs offering permitted INR products, resulting in an expanded option for security portfolios in India. The eligibility criteria is conformity to all applicable laws and regulations, including FEMA, 1999. Other requirements like experience, technology infrastructure have also been listed. RBI holds the power to grant and revoke a platform license.

# ARTIFICIAL INTELLIGENCE

This year witnessed an unprecedented pace of legislative developments and discourse of law concerning Artificial Intelligence across jurisdictions. While western nations adopted a consolidated EU AI Act to regulate the field, this development was not limited to the western world. In April, the Shura Council in Bahrain undertook a legislative exercise to control the effects of AI. Nations also attempted to curb menaces caused by AI-supported tech. Deepfakes were countered by targeted legislation in the UK, Singapore, and certain USA states like California. While these were diverse examples of national and continental laws, the Council of Europe also adopted an international treaty on AI. The same month of March saw the UNGA resolution on AI. In another international legislation, around 60 nations signed the REAIM Seoul Blueprint, a non-binding document, on responsibilities concerning AI in military use. Incidentally, the year also saw businesses adopting and leveraging AI, while being oblivious to the infringements done in the grey areas of jurisprudence. Opposing stakeholders and judicial authorities were also prompt to take cognizance and bring them to trial. While most cases are still sub judice, they certainly highlight the most pressing issues of concern.



## NATIONAL LEGISLATIONS ACROSS THE GLOBE

National laws concerning AI followed the unanimous theme of securing overall control over the effective and safe use of AI. For this, the EU AI Act introduced its provisions according to risk categories, being high risk, limited risk, and minimal risk. These risk assessments were delineated according to the coverage intensity of technologies, i.e., games and spam filters as low risk and financial and insurance systems as high risk. While the EU Act is concerned with ex-ante risk management, the Bahrain Act primarily banks on penalties against AI-related misconduct. Interestingly, in this wave of legislations, we saw some instances where the legislators went beyond expectations and had to be brought back, like when the California governor had to veto a contentious AI safety bill that proposed a 'Kill Switch' for AI interfaces.

## COUNTERING DEEPFAKES

The government took actions against deepfakes, with the proposed British amendment attacking the root by criminalizing the creation of sexually explicit deep fakes. The effect of deepfakes on elections was assessed in California and Singapore, with both jurisdictions coming out with their legislations. While the Californian legislation covered dynamic aspects by provisions like the labelling of social media posts and intermediary involvement, the Singapore legislation restricted its scope to prescribing regulations to only the prospective candidates.

## DEVELOPMENT OF INTERNATIONAL LAW

On the international turf, while the UNGA resolution shied away from addressing the pressing issue of AI in military implements, this was specifically addressed by the REAIM Seoul Blueprint. While the Blueprint was an unbinding document, the Council of Europe brought to the fore the world's first internationally binding treaty on AI. The provisions in the section prescribe a risk-based approach to AI governance. It recognizes that regulating AI is not similar to other traditional areas with evolving technologies and other aspects.

## PERSONALITY RIGHTS

A collateral benefit of an enhanced awareness and scrutiny of AI uses was that authorities across borders realised the importance of personality rights and protections against improper use, especially in the light of AI. While in USA the Californian state implemented its famous "NO FALES" Act, Indian High courts took cognizance and protected personality rights of multiple celebrities. While it is a different debate that personality rights shouldn't be restricted to celebrities, we hope that the Indian courts would catch up soon.

## TRAINING OF AI ENGINES

In the start of this year, the New York Times ("NYT") had initiated a legal action against OpenAI and Microsoft, alleging that OpenAI used numerous articles of The NYT for training ChatGPT, without taking authorization from them or providing any remuneration in return. In the last quarter, a similar action was pursued in India, when Asian News International ('ANI'), an Indian news agency, had brought the ChatGPT parent OpenAI to court regarding copyright infringement. While most of such cases are still sub judice, including the Indian litigation, an interesting observation came when a New York federal judge liberated OpenAI of similar charges. The court notes that when a question is asked to ChatGPT, it looks into its repository and synthesizes relevant information into an answer. The court in its reasoning almost equated AI operations to the functioning of the human mind. The ultimate result of these repeated actions is visible when OpenAI started guarding its fort and officially partnering with knowledge resources where its AI models can be trained. It has amended its Opt-Out policy, which now extends to all providers of content over the internet who seek to remain outside ChatGPT's knowledge base.



# DATA PRIVACY

Since the Supreme Court's Puttaswamy judgment recognized the right to privacy as a fundamental right, the focus on safeguarding this essential freedom has intensified. In today's world, where people seem to trust AI-generated content more than their project partners, the stakes for data privacy are sky-high (quite literally, if you consider SpaceX's ventures). Data privacy isn't just about protecting human rights and individual autonomy, which everyone undoubtedly deserves; it's also about the severe consequences of neglecting it. Data has become the new currency, fueling an unrelenting race to gather more of it. With news of massive leaks making headlines daily, the reality is clear: one moment, someone holds everything; the next, their life unravels faster than a poorly kept password. Governments worldwide are prioritizing data privacy, focusing on protecting sensitive information and empowering individuals. Brilliant innovations in data privacy highlight growing awareness and collective effort to simplify the process for everyone. For instance, recently, DSCI partnered with Idfy to launch PriView, an app to draft consent compliance notices for data fiduciaries. The challenge with data privacy, however, isn't a lack of regulation—it's compliance. Many organizations are still grappling with how to meet these standards without stumbling into costly penalties. Change is happening, but it's undeniably slow. Until the dust settles, the best course of action is to treat personal data with the same care you'd reserve for your favorite Harry Potter book: don't trust just anyone with it, keep it secure, have a failsafe ready in case something goes wrong, and most importantly, never underestimate its value. Still, this year has seen some promising advancements in the field, marking another step toward a future where data privacy isn't just an ideal but a practical reality!

## DELAY OF IMPLEMENTATION IN DPDPA RULES

It's been over a year since the release of DPDPA Rules was promised by the government, but delays have continued to push its release. Meanwhile, concerns about these rules keep cropping up, making the situation even murkier. For instance, concerns regarding transparency and accountability under the RTI Act have raised alarms during inter-ministerial consultations. As NITI Aayog pointed out, the proposed amendments to Section 8(1)(j) of the RTI Act under the DPDPA would weaken the public's right to information. By expanding the definition of "personal information" and removing the discretion of officials to assess larger public interest, the amendments would prioritize privacy over transparency, undermining the democratic accountability enabled by the RTI Act. This creates significant hurdles for public access to critical information, with no clear mechanism to balance privacy rights with transparency. Similarly, concerns have emerged from the journalistic community regarding the Act's implications on press freedom. The Editors Guild of India highlighted the lack of exemptions for journalistic activities, which would force journalists to obtain consent for data processing, stifling investigative work and whistleblower reporting. Additionally, the provision allowing the government to compel data disclosure from fiduciaries poses a grave risk to the confidentiality crucial for investigative journalism. Without clear exemptions or mechanisms balancing privacy with press freedom, the Act could significantly hamper the ability of the press to hold power accountable. Such a significant delay has left all stakeholders in the worst possible position, where they know they need to revamp and change but still don't know how to do this due to a lack of clarity on the mechanisms to be implemented. For example, the age-gating mechanism required under Section 9(1) of the DPDPA mandates that companies obtain verifiable parental consent before processing personal data of children. However, the Act does not prescribe any specific procedure for verifying such consent, leaving companies to formulate their mechanisms based on global standards like the GDPR or COPPA. The GDPR requires reasonable efforts to confirm parental consent for children under 13, while COPPA suggests methods like video verification or financial transaction checks. In the absence of similar guidelines under the DPDPA, stakeholders face uncertainty about what would qualify as compliant. Section 9(5) adds to the complexity by requiring data fiduciaries to process children's data in a manner that is "verifiably safe" to gain exemptions from obligations, with no clarity on how the government will evaluate compliance. This regulatory ambiguity leaves companies at risk of liability, either due to non-compliance or arbitrary enforcement. The anticipation only builds, and while it has been too long hopefully the eventual release will make it all worth the wait.

## DATA PRIVACY LAWS V GENERATIVE AI - A TOM & JERRY GAME?

Generative AI models like ChatGPT became popular for their ability to generate vast content, but they faced significant data privacy issues. In March, Italy's Data Protection Authority (Garante) temporarily banned ChatGPT for breaching GDPR. The concern stemmed from the lack of consent for using personal data to train the model and the absence of legal grounds for processing such data. The ban was lifted after OpenAI addressed concerns about users' rights to decline data usage for training, but OpenAI's privacy practices still didn't fully comply with GDPR standards. In May, an NGO called noyb filed a similar complaint in Austria, highlighting ChatGPT's inability to correct misinformation. This issue raised concerns under both the GDPR and India's DPDPA, as they both aim to protect personal data and grant individuals the right to correct inaccuracies. ChatGPT's inability to rectify misinformation pointed to the broader issue that AI models, once trained, cannot alter their data, which conflicts with data privacy laws. In June, the Irish Data Protection Board halted Meta's AI rollout over transparency issues and data usage concerns. Meta's updated privacy policy allowed personal data, including from third parties, to be used for AI purposes without clear user consent, violating GDPR's transparency and consent requirements. The opt-out system treated non-objection as implicit consent, violating the right to erasure. Similarly, India's Digital Personal Data Protection Act (DPDPA) only applies to consent-based data and excludes publicly available data, allowing companies like Meta to use it freely, exposing a major privacy gap. AI technologies must adapt to legal frameworks rather than expect laws to accommodate them. Issues like false information and selective compliance with privacy laws, including GDPR and DPDPA, highlight the need for stricter regulation. While "machine unlearning" techniques are being explored, they remain ineffective in addressing incorrect data. Creating AI tools without training datasets or excluding personal data is impractical, necessitating robust solutions. One such attempt was made recently by the EDPB, which issued an opinion under GDPR, emphasizing the importance of understanding AI intricacies to establish legal standards. The EDPB clarified that AI models trained on personal data may not always be anonymous, requiring case-by-case assessments to determine if data can be extracted or inferred. Supervisory authorities must ensure compliance with data minimization principles and evaluate claims of anonymity. Controllers can rely on legitimate interests under GDPR Article 6(1)(f) if they demonstrate necessity, maintain documentation, and avoid overriding data subjects' rights. While anonymized AI models are exempt from privacy rules, developers must prevent misuse of data. The EDPB's opinion balances innovation and data privacy by allowing exemptions for using personal data in AI training. While its strict compliance standards may hinder AI development, it sets a foundation for governments to refine AI regulations globally.

## META'S PAY OR CONSENT MODEL: SETTING AN UNSUSTAINABLE PRECEDENT

The European Consumer Organisation, along with consumer protection authorities, challenged Meta over its pay or consent model, which offered users in the EU, Switzerland, and the European Economic Area the option to pay for an ad-free experience. This move, intended to comply with evolving privacy regulations like the GDPR and the Digital Market Act, raised concerns over privacy violations. While Meta's service allowed users to opt-out of personalized ads by subscribing, it also meant non-subscribers' data would be processed for targeted advertising. Despite the European Data Protection Board's 2022 ruling that contract-based consent is insufficient for behavioral advertising, Meta's model sparked fears it could set a troubling precedent, compelling users to pay for privacy and undermining GDPR protections.



## CCI'S LANDMARK ORDER AGAINST WHATSAPP'S PRIVACY POLICY

The CCI in a landmark decision penalized WhatsApp for abusing its dominant position under the Competition Act, 2000, following its 2021 policy update that allowed data sharing with businesses using Meta's services for targeted advertising. Users had no opt-out option and faced functionality restrictions for non-compliance, while WhatsApp clarified that personal chats remained protected. The update raised concerns under the DPDPA, particularly about the lack of explicit, revocable consent, inadequate transparency, and potential misuse of sensitive data. While the DPDPA was not yet in force, the IT Act, 2000, and IT Rules, 2021, permitted intermediaries to require consent for service use, but coercive consent methods were criticized. The CCI's decision required WhatsApp to stop data sharing with Meta and issue clearer notices about data use, aligning with global resistance to Meta's policies. Meta was urged to adopt more user-friendly policies to regain trust and address its weakening global position. Ironically, in April, WhatsApp and Meta challenged the IT Rules, 2021, in the Delhi High Court. The rules require social media platforms to trace chats and identify the first originator of information when directed by the judiciary, raising concerns about user privacy, particularly for WhatsApp's end-to-end encryption. WhatsApp argued that complying would compromise user privacy and break E2EE, risking the loss of intermediary protections under the IT Act. The government defended the rules, stating they were necessary to combat fake news and national security threats while WhatsApp maintained that compliance would undermine privacy protections. It was also pointed out by the government that breaking encryption is not the only method and that intermediaries should try developing other methods which comply with the law as well as remain privacy friendly. WhatsApp will do well to remember - change always starts at home.

## A SPACE TO WATCH AS IT EVOLVES: AUSTRALIA'S NEW REFORMS

Australia had a productive year in terms of data privacy, with two major legal changes introduced. However, the public has expressed doubts about the effectiveness of both reforms. Firstly, it introduced the Privacy and Other Legislation Amendment Bill 2024, marking the first major changes to the Privacy Act in nearly five years. While the Bill strengthens enforcement powers, introduces a statutory tort for serious privacy invasions, and adds tiered penalties, it falls short of a comprehensive overhaul. The reforms balance privacy with minimal regulatory burden on businesses but leave gaps, such as vague consent requirements, exemptions for small businesses, and a broad definition of "serious" privacy invasions. The lack of stronger data control mechanisms for individuals and limited protections for organizational negligence raise concerns about the Bill's effectiveness. It also introduced strict regulations banning children under 16 from using social media or creating new accounts, with a law requiring platforms to verify users' ages. Platforms failing to comply could face fines up to \$50 million. The law mandates age verification methods that do not involve collecting sensitive personal data, with privacy safeguards such as destruction of user data after verification. However, potential issues include AI tools that may still collect data, and verification methods like biometrics could be bypassed by VPNs. The law exempts messaging and gaming apps, but it raises concerns about free speech, compliance costs, and unclear definitions. While intended to protect children from the harms of social media, some argue this might push them to unregulated online spaces. Alternatives like regulating content or introducing parental consent exemptions could better balance safety and privacy. Irrespective of these doubts, this move remains significant and should be monitored closely, since this one-of-a-kind ban might end up setting some global precedents.



A dark purple background featuring a network of glowing purple lines forming a circuit board pattern. Small, glowing purple spheres are scattered along these lines, some forming small clusters. The overall effect is futuristic and high-tech.

# WHAT'S COMING?



# LEXATHON: THE TECH LAW CONCLAVE

We are thrilled to introduce Lexathon, an extraordinary 3-day event hosted by LexTech – Centre for Law, Entrepreneurship, and Innovation at National Law University Odisha, from 7th to 9th March 2025. Lexathon is set to be a groundbreaking confluence of ideas, innovation, and interaction at the dynamic intersection of law, technology, and startups. This event promises to bring together brilliant minds—students, entrepreneurs, technologists, and legal professionals—to shape the future of tech law and entrepreneurship. At the heart of Lexathon is an array of thoughtfully curated activities.

The Startup Pitch Competition offers budding entrepreneurs a stage to present their transformative ideas, gain mentorship, and even secure funding opportunities. The Ideathon fuels creativity, featuring expert-led sessions that demystify the journey from ideation to scaling a successful venture.

Meanwhile, the Paper Presentation competition delves deep into pressing issues like AI, FinTech, and data privacy, fostering academic discourse and innovative solutions. This is complemented by Panel Discussions that bring together leading voices to tackle challenges in startup compliance, intellectual property, and evolving regulatory landscapes.

Adding another layer of excitement is the Policy-Making Competition, where participants will craft actionable legal frameworks for emerging technologies. Finally, the BizTech Quiz combines intellectual rigor and fun, testing participants on their knowledge of pivotal trends in law and technology.

We invite you to support and celebrate this initiative that promises to shape tomorrow's leaders and disruptors. If your organisation or you believe that your ideas align with our potential, then please reach out to us at [Lexechenluo.ac.in](http://Lexechenluo.ac.in) in this regard to explore collaborations for our upcoming Lexathon!

# FOR COLLABORATIONS OR FEEDBACK PLEASE CONTACT US AT:

**LexTech Unwrapped offers just a sneak peek into our activities. If you or your organization think we'd be a good fit for your journey in law, technology, and entrepreneurship, please reach out to us. We look forward to hearing from you!**



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