

Info Capsule

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❖ Latest @ ICSI

Feedback on Company Forms in MCA21-V3 Portal

As you are aware, the Ministry of Corporate Affairs w.e.f. August 31, 2022 migrated filing of 9 Company Forms from MCA 21 V2 to V3 Portal.

The Ministry of Corporate Affairs w.e.f. January 23, 2023, has launched second set of Company Forms covering 56 forms on MCA21-V3 Portal for filing purposes. The list of all 56 Company Forms is available on MCA website.

The Institute of Company Secretaries of India, in its attempt to further facilitate the stakeholders and ensure smooth transition and implementation, is sharing your feedback to the Ministry of Corporate Affairs (MCA) on regular basis. Such feedback is constantly and closely monitored by MCA at all levels for timely resolution.

We request you to share your inputs/ issues/suggestions on filing of Company Forms in MCA V3 at the link given below:

<https://forms.gle/m5NGoCbt4TibuD196>

We thank you for your continued support and hope for association in the future as well.

❖ Securities Laws and Capital Market

• SEBI's SMART ODR platform open to all market participants to register (August 16, 2023)

All market participants can now open an account on the SMART Online Dispute Resolution (ODR) platform, which went live earlier this month. Smart ODR can be accessed through the URL <https://smartodr.in/login>. This is the regulator's attempt to combine online conciliation and online arbitration for resolution of disputes in the securities market. Market Participants have been advised to complete the entire registration procedures within the timelines as prescribed in the SEBI circular dated July 31, 2023.

For details:

<https://www.moneycontrol.com/news/business/markets/sebis-smart-odr-platform-open-to-all-market-participants-to-register-11204231.html>

• Kamlesh Varshney, Amarjeet Singh to join SEBI as whole time members (August 17, 2023)

The government on August 16, 2023, Wednesday, appointed Kamlesh Chandra Varshney and Amarjeet Singh as whole-time members to the board of SEBI. While Varshney, a 1990-batch officer of the Indian Revenue Service, is a joint secretary at the department of revenue, Singh is serving as an executive director at the capital markets regulator. In two separate notifications, the department of economic affairs of the finance ministry said both the appointments are for three years from the date of assumption of charge or until further orders, whichever is earlier. The new members will fill in the vacancies created by the retirement of Ananta Barua and SK Mohanty.

For details:

<https://economictimes.indiatimes.com/news/india/kamlesh-varshney-amarjeet-singh-to-join-sebi-as-whole-time-members/articleshow/102781172.cms?from=mdr>

❖ **Banking**

- **RBI launches उद्गम - UDGM - Centralised Web Portal for searching Unclaimed Deposits (August 17, 2023)**

The Governor, Reserve Bank of India launched a Centralised Web Portal उद्गम UDGM (Unclaimed Deposits – Gateway to Access inforMation). This portal has been developed by RBI for use by members of public to facilitate and make it easier for them to search their unclaimed deposits across multiple banks at one place. The Reserve Bank of India had announced the development of a centralised web portal for searching unclaimed deposits as part of the Statement on Developmental and Regulatory Policies dated April 06, 2023. The launch of the web portal will aid users to identify their unclaimed deposits/accounts and enable them to either claim the deposit amount or make their deposit accounts operative at their respective banks. Reserve Bank Information Technology Pvt. Ltd. (ReBIT), Indian Financial Technology & Allied Services (IFTAS) and participating banks have collaborated on developing the portal.

For details:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=56216

- **Fair Lending Practice - Penal Charges in Loan Accounts (August 18, 2023)**

Reserve Bank has issued various guidelines to the Regulated Entities (REs) to ensure reasonableness and transparency in disclosure of penal interest. Under the extant guidelines, lending institutions have the operational autonomy to formulate Board approved policy for levy of penal rates of interest. It has been observed that many REs use penal rates of interest, over and above the applicable interest rates, in case of defaults / non-compliance by the borrower with the terms on which credit facilities were sanctioned. On a review of the practices followed by REs for charging penal interest/charges on loans, RBI has issued instructions for adoption by REs.

For details:

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12527&Mode=0>

❖ **Market Watch**

Stock Market Indices as on 18.08.2023	
S & P BSE Sensex	64948.66 (-202.36)
Nifty 50	19310.15 (-55.10)

Foreign Exchange Rates as on 18.08.2023 (https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
83.09	90.43	105.74	.5721

❖ **Business and Economics News**

• **Ministry of Heavy Industries organizes Conference on Annual Performance Review of CPSEs (August 17, 2023)**

Ministry of Heavy Industries (MHI) organized a conference on Annual Performance Review of Central Public Sector Enterprises (CPSEs) on August 17, 2023. This review is part of the Ministry's ongoing efforts to evaluate the efficacy of CPSEs towards fulfilling their core objectives. The conference was chaired by Union Heavy Industries Minister, Dr. Mahendra Nath Pandey. Minister of State for Heavy Industries, Shri Krishan pal Gurjar, CMDs of the CPSEs under the Ministry and senior officials of MHI participated in the Conference.

The work area of the MHI mainly includes Automotive Sector, engineering, heavy electrical and capital goods sectors. As far as CPSEs under MHI are concerned, it is a vast field of work ranging from household salt, tea, watches, cement, paper making to infrastructure projects. BHEL, one of the Maharatnas, under MHI works in the field of Power Sector, Transportation, Defence and Space. The performance review was conducted using the Memorandum of Understanding (MoU) evaluation system, which reflects a company's performance in relation to its stated goals and objectives. The MoU evaluation has helped CPSEs focus on achieving results, and has enabled them to better align their efforts with the Nation's priorities.

For details:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1949899>

• **Extension of last date to receive comments/counter comments on TRAI's Consultation Paper on 'Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services' (August 18, 2023)**

Telecom Regulatory Authority of India (TRAI) released a Consultation Paper on 'Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services' on 07.07.2023. The last date for receiving written comments on the issues raised in the Consultation Paper invited from stakeholders was fixed as 04.08.2023 and for counter comments by 18.08.2023. On the request of stakeholders for extension of time for submission of comments, the last date for submission of written comments and counter comments was extended up to 18.08.2023 and 01.09.2023 respectively.

Keeping in view the request of stakeholders for further extension of time for submission of comments, it has been decided to extend the last date for submission of written comments and counter comments up to 01.09.2023 and 15.09.2023 respectively.

For details:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1950080>

❖ **Pronouncement**

July 13, 2023	Telefonaktiebolaget LM Ericsson (PUBL) vs. Competition Commission of India & Anr	High Court of Delhi W.P.(C) 8379/2015
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When a patent is issued in India, and the patentee asserts rights, can the Competition Commission of India (CCI) inquire into the actions of such patentee in exercise of its powers under the Competition Act, 2002?

The Hon'ble High Court inter alia observed that in our opinion, Chapter XVI of the Patents Act is a complete code in itself on all issues pertaining to unreasonable conditions in agreements of licensing of patents, abuse of status as a patentee, inquiry in respect thereof and relief that is to be granted therefor.

In reconciling the two statutes, the subject matter that is in focus is not merely anti-competitive agreements and abuse of dominant position, which both the Patents Act (in Chapter XVI) and the Competition Act (in Sections 3 and 4) deal with. The subject matter that is relevant for this assessment is anti-competitive agreements and abuse of dominant position by a patentee in exercise of their rights under the Patents Act.

On this issue, there is no scope of doubt beyond the pale of doubt that the Patents Act is the special statute, and not the Competition Act. It is also a fact that Chapter XVI of the Patents Act is a subsequent legislation as compared to the Competition Act.

Therefore, when assessed, by the maxim generalia specialibus non derogant or by the maxim lex posterior derogat priori, the Patents Act must prevail over the Competition Act on the issue of exercise of rights by a patentee under the Patents Act. Even assessed by the rigours of Ashoka Marketing Ltd & Anr. v. PNB & Ors., (1990) 4 SCC 406, which require the conflict to be resolved by reference to the purpose and policy underlying the two enactments and the clear intendment conveyed by the language of the relevant provisions therein, the Patents Act must necessarily prevail over that of the Competition Act.

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu,

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