

TECHNOLOGY INSIGHT

[Revisiting India's New Geospatial Policy](#)

[EU's Market In Crypto Assets Regulations](#)

[IRDAI Permits Tech Enabled Solutions](#)

[Section 69A, IT Act: Krafton's BGMI Banned](#)

[Advertising Campaigns Protected Under IP Laws](#)



Revisiting India's Geospatial Guidelines

What is Geospatial Data?

Geospatial Data essentially refers to location based information and comprises of data about the "natural or man-made, physical or imaginary features whether above the ground or below, boundaries, points of interest, natural phenomena, mobility data, weather patterns, statistical information, etc."

The Policy

In February last year, the Department of Science and Technology, Government of India, released the Guidelines for acquiring and producing Geospatial Data and Geospatial Data Services including Maps. The citizen-centric Guidelines deregulated and liberalised the acquisition and production of geospatial data. The Guidelines dispensed with the requirements of prior approvals, licensing and security clearances for acquisition and production of geospatial data, geospatial data services, and maps. The preamble of the Guidelines recognised geospatial data as forming an integral part of modern digital ecosystem and critical for unlocking economic, social and environmental opportunities for sustainable growth and development of the country. It observed geospatial data to be critical to the success of modern industry offering location-based services such as e-Commerce, delivery and logistics, and urban transport while also being essential for more traditional sectors of the economy such as agriculture, construction and development, and mines and minerals.

In addition to deregulating the then existing legal

framework, the Guidelines also provided for setting up of an institutional framework for geospatial information management and necessary policy formation and implementation.

The Vision

The Guidelines were passed with the vision that Geospatial industries will flourish in an enabling policy and legal framework and India will have a coherent national location data framework by 2030.

A year later...

Late last month, MapMyIndia announced the launch of its 360-degree panoramic street view functionality named Mappls Realview. The announcement came alongside Google's launch of its street view functionality associated with its google maps services allowing users to explore any geographical area with a 360-degree panoramic street level images, a project it first launched in India in 2011 only to be later banned due to security concerns. For its said functionality, Google is said to have partnered with Genesys and Tech Mahindra to license and secure geospatial data.

As per Journals of India (www.journalsofindia.com), the size of the Indian Geospatial market in 2020 as per one industry estimate was INR 23,345 Crore including INR 10,595 Crore of export which is likely to grow to INR 36,300 Crore in 2025.

As intended, the Guidelines do seem to be moving towards its envisioned goals of atmanirbhar bharat and ease of doing business.

However, with deregulation, it remains to be seen how domestic companies compete with tech giants such as the likes of Google that already have a well established global infrastructure for geospatial data use.

Markets in Crypto Assets Regulations

Late last month, European Union officials agreed on the Markets in Crypto Assets Regulations, popularly being referred to as 'MiCA'. The Regulation is aimed at protection of crypto users and balancing investment products with financial risks by establishing uniform rules of crypto asset issuers and service providers.

The Regulations are sought to be made applicable to the entire EU superseding national frameworks and laws on the subject.

The Regulations primarily seek to regulate and govern stable coins.

What are stablecoins?

Stablecoins are separate class of regulated crypto currency that are not financially volatile and stable. This stability is achieved by pegging the coin/crypto to a reserve asset or a fiat currency where such asset or currency is collateralised for every coin issued.

IRDAI permits tech enabled solutions

IRDAI through its press release dated 06.07.2022 has permitted general insurance companies to introduce tech enabled concepts for the Motor

Own Damage Cover comprising of 'Pay As You Drive', 'Pay How You Drive' and floater policy for vehicles belonging to the same individual owner for two wheeler and private cars.

In a 'Pay as you drive' cover, the premium for the policy varies based on the distance a vehicle has travelled. Prior to the above press release, the distance covered by the vehicle was inconsequential in determining the premium payable, i.e. premium payable for a vehicle having covered 5,000 kms would be the same as that of a vehicle having covered a distance of 80,000 kms.

A 'Pay How You Drive' coverage is a form of tech enabled telematics based coverage where the insurance policy is premised on how a car has been driven.

While sectoral incorporation of tech enabled solutions are most certainly the need of the hour and as such, the press release is a step in the right direction, a line of caution also needs to be drawn keeping in view the emerging pitfalls of technologies such as the Artificial Intelligence that often form the basis of tech enabled solutions. There are increasing reports of bias in AI driven solutions. The standard application of AI models have also raised concerns in recent past with complaints of them not being able to adequately adapt to varying demographics.

Law in Action

In exercise of its powers under Section 69A of the Information Technology Act, 2002, the Government of India has banned Krafton's Battlegrounds Mobile India game citing, inter alia, concerns related to national security. Pursuant to Government Orders, both Google and Apple have taken down the application from their respective stores.

Intellectual Property Rights

Advertising Campaigns protected under IP Laws

The Delhi High Court was recently faced with the issue whether elements of an advertising campaign are capable of being protected under intellectual property laws. In its judgment dated 07.07.2022 in the case of Bright Lifecare Pvt Ltd vs. Vini Cosmetic Pvt Ltd and Anr. (CS Comm. 144 of 2022), the Hon'ble Court has observed that: "The manifestation of an idea into an expression in an advertising campaign is a long process which involves not only 'sweat of the brow' but even more. It requires an understanding of the product, its qualities, features, what is to be highlighted, manner of highlighting the product, capturing of the theme, weaving of a story, adding creative elements, deciding on endorsees, how to capture the story, shooting of the video and other imagery, studio set up and finally connecting the entire campaign to the consumer."

However, a mere idea behind the commercial is not protectable. Only the elements of expression

incorporated in the commercial are protectable. Parties which manufacture and sell products expend enormous time, effort, energy and investment in creation of advertising campaigns. They usually engage creative agencies and advertising agencies who render them the services for making these campaigns. Such campaigns are a result of painstaking effort of creative directors, artists, lyricists, slogan writers, cartoonists etc., who work in collaboration with marketing teams for making such campaigns. Thus, these campaigns and commercials are extremely thought out, deliberate and also determine the success/failure of a product. Even a ten second commercial involves enormous creativity and originality. Thus, an advertising campaign including commercials are undoubtedly protectable under intellectual property law."

The Court further observed that while adjudicating IP rights in an advertisement campaign, the Court has to see not merely the individual elements that have been alleged to be copied and whether they can be monopolised or not but the overall effect of the commercial on an ordinary viewer.



E 10 SF Defence Colony
New Delhi - 110024



asp@sinhapartners.com
www.sinhapartners.com



+91 11 41 046 911
+91 11 40 536 008