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ROLE OF CORPORATE LAWS IN REGULATING ONLINE MARKETPLACES AND DIGITAL PLATFORMS

“Law and Technology should run simultaneously, to have a society with good governance and access to justice”.

Laws are designed to protect rights of an individual, who are bound to adhere it. One of the major rising segments of law is corporate law which deals with separate legal entities incorporated by individual/group of individual to earn profit made out of it.

Online marketplaces and digital platforms are website or electronic based applications (app), which transmit information with respect to goods and services among its users. Digital platforms such as E-education platforms, E-commerce platforms, search engines, online social media platforms, E-auction platforms, online gaming or gaming platforms, E-payment gateways, E-business & E-branding and its websites and other E- service platforms are under the governance of Technology laws, which is Information Technology Act, 2000 (IT Act, 2000).

In the era of digitalization, business affairs as entrepreneur or service provider have been elongated towards digital presence to promote and conduct their business, and for this purpose, business regulatory needs to follow technology laws and needs to implement measures for security and policies. Which lead to another sphere of crime, which is, cyber crimes such as cyber frauds, viruses, data theft, data breach, cyber violence, ransom ware attacks, transaction breach and others, for which remedy is civil and criminal liabilities and regulatory actions.

Currently in India, IT Act 2000 including Digital Media Ethics Code and Intermediary Guidelines, Sensitive Personal Data or Information (SPDI) Rules, Indian Computer Emergency Response Team (CERT), Certifying Authorities Rules, and Cyber Appellate Tribunal are

regulating laws and bodies for the act and omission committed in digital world. However, rapid changes in technologies raise questions towards its insufficiency, incompleteness and non compatibility with international standards.

Emergence to regulate digital market platforms has been necessitated in the Report of the Standing Committee on Finance (2022-23) by following animating principles of the Digital Markets Act (EU Regulations, enforced in the EU competition regime to tackle dominance of big tech enterprises in a digital sphere), wherein report suggested to implement a mechanisms such as systemically important digital intermediaries (SIDI) (to designate sizeable online platforms), to classify gatekeepers, to focus on ex-ante regulations or pre requisites of digital entities, and also recommended to prohibit practices of exclusive contracts by SIDIs, self-preferencing, anti-steering clauses, data usage, bundling or tying. Major point of the report is the classification of digital intermediaries for their ex-ante regulations.

In DMA of EU, gatekeepers are classified as companies, which operate Core Platform Services (CPS) consisting of E-intermediation services, E- search engines, E-social networking services, video-sharing platform services, web browsers, virtual assistants, advertising services, operating systems, cloud computing services, number-independent interpersonal communication services. Illustration, YouTube as a video-sharing platform and advertising service provider falls under the purview of CPS.

Need to regulate these platforms are network effects, consumer base (social network services with zero price markets and advertising services), subscription based services (streaming platforms like Netflix, Amazon Prime with no dominant entity). Wherein, consumers consider the quality of services (worth of cost) instead of user base due to which consumers switch services to incentivize. To provide equal treatment among competitors, regulations need to be imposed.

New technologies like the Internet of Things (IoT), AI, cloud computing and block-chain have been emerged for which legal framework is required to regulate its risk and challenges. Therefore, in March, Minister of State (Mr. Rajeev Chandrasekhar) of Ministry of Electronics and Information Technology (MEITY) has announced a future-ready legislation i.e. Digital India Act, which will replace IT Act, 2000. This Indian Legislation will provide global coverage legal

framework for emerging digital ecosystem and constitute online safety, open internet, transparency, trust and accountability and also provide regulations for new technologies such as AI and block chains and with that it will also comprise Digital Personal Data Protection Act, National Data Governance Policy, Digital India Act Rules and Cyber Crimes amendments in IPC. For the purpose of preventing cyber crimes, shielding personal and sensitive data, ameliorating incident response.

Globalization along with digitalization necessitates India to build its legal framework to align with international safety and standards and its obligations along with best practices measures. Which ease cross-border data flows, international cyber security frameworks, cooperation in cyber crime investigations and political relations.

So, the roles of corporate laws in regulating digital world are data privacy, data protection, cyber security, prevention from cyber crimes, ease in business and its activities, ethical trade and services (code of ethics), well implemented legal remedies (grievance redresses mechanism), self-regulatory mechanisms (guidelines to follow), safe environment, transparency, accountability, good governance in business, non-dominance (no monopoly), and others. And also, protect rights of citizens and freedom on social media platforms by enhancing safety, privacy and security.

The main purpose of corporate laws is to corporate, balance or manages the interests of key stakeholders such as consumers, corporation, big techs, commerce, government and civil society. To run efficiently and effectively, every corporation need to adhere laws and regulation governing them. And for the purpose of online marketplace and digital platform, businesses should ensure the protection of interest of its key stakeholders.

Era of digitalization should be encouraged for benefiting society such as in better livelihood, education, health, environment and public administration.