



International Bar Association
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Legal Practice Division (LPD)

Dear Friends,

We are at the halfway mark of the year 2021! Hard to imagine, but true.

The month of June brought us not only to mid-year, it also brought relief throughout many regions worldwide in terms of Covid-related trauma. In India, the distress is on the wane: vaccination is picking up pace (I got my second shot in June!), and hopefully, the world will soon be in travel mode again.

Travel is essential for the success of our Section's in-person conference scheduled for October 11 - 12, 2021. The IBA Intellectual Property, Communications and Technology Law Section, which prefers to move beyond online events, is proposing an in-person conference in the last quarter of the year. Whether this works out or not, all constituent Committees, including ours, are working towards making the event a reality. I seek your active support towards this end, therefore do let me have your views on the proposal to hold an in-person meeting in London in October.

Locally, I have been engaged in matters relating to Safe Harbour for intermediaries and publishers of news, current affairs, and entertainment content. In India, we have been encountering several issues that involve the new gatekeepers of the internet - online social media platforms. Shadowing the amazing positives of the internet are reports of its inherent drawbacks, such as fake news, hate speech, child pornography, illegal lobbying, ransomware attacks, terrorist recruitment, religious intolerance, sale of personal, and such other data, on the dark net.

Several of the above issues were sought to be addressed in the new [Safe Harbour law](#). In February 2021, India notified its new intermediary rules, which came into force (after certain extensions) on 10 June, 2021. In the interim, the rules have come up against challenges in various courts, and attracted media attention, the expectation being that the multifarious compliances would be done away with and the erstwhile Safe Harbour would hold sway with minimal compliance. Big Tech elicited interesting reactions: they challenged certain provisions in court while agreeing to comply with the rules, in principle, to continue to avail of Safe Harbour.

As may be expected Big Tech has an impressive influence in the Indian digital ecosystem, especially since post-Covid and its consequential lockdowns. I believe that India is following a global trend in making Big Tech accountable and take on more responsibility. In the past, Big Tech was able to avoid responding to the Government of India if it did not have a presence in India. The cumbersome Mutual Legal Assistance Treaties (MLAT) provided a respectable escape! Now, however, they are required to have a physical presence in India as well as

officials responsible for compliance. The arguments extended by Big Tech, operating as intermediaries, that data is held outside of India, and data access requests would need to follow the MLAT process, no longer carry weight. With Court challenges, media outcry and everything in between, India's new Safe Harbor law has truly created a bang.

It will be interesting to hear from all of you on how your respective countries are dealing with Safe Harbour. For instance, Germany's new social media law, *Netzwerkdurchsetzungsgesetz*, makes platforms liable for the content they carry. What about other countries? How far is the internet regulated where you are? Or, rather, how free is the internet? Do you follow a 'did-not-know' standard to the 'ought-to-have-known' standard for social media intermediaries? Do send in your thoughts, comments and observations of what is happening in your countries/regions.

Stay safe and do remain in touch.

Warm regards,

Sajai Singh
Chair, IBA Technology Law Committee

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