

Attn: GUY LIPERT

Thought for the month

*Men are born to
succeed, not to
.. .*

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Note from the Editor

The rapid development of the Internet and e-commerce has led to the emergence of a new kind of business, namely the "virtual business". This virtual business contemplates no territorial boundaries, paper-free transactions and instant access to a worldwide market.

Our focus in this edition of the newsletter has thus been to consider some of the legal implications of the emerging concept of a virtual business. The Indian Government and several regulatory bodies in India have been forced to recognize this concept by developing new rules in addition to providing for amendments of several existing Acts, regulations and bye-laws. We provide an in-depth analysis of some of these amendments and regulations as well as the tax implications of e-commerce in India.

The Securities and Exchange Board of India (SEBI) has recently approved of on-line broking or, as is more commonly known in India, 'e-broking'. The recent guidelines issued by SEBI in this regard have grabbed the attention of the financial sector in India.

The Schedules to the Information Technology Bill, 1999 (IT Bill) attempt to amend the Evidence Act, the Indian Penal Code, the Reserve Bank of India Act and the Bankers Books Evidence Act so as to give legal recognition to electronic records and to provide punishments for related offences.

Our article on the tax implications of the IT Bill analyses how the provisions of the IT Bill will bring about changes in income tax assessment, making life easier for the assessee.

The legal snapshots, our regular feature, cover an array of topics, and deals with some of the main features of new rules, regulations and guidelines made by various governmental authorities in the past two months.

As always, we hope that you enjoy this edition of our newsletter and we look forward to your comments and suggestions.

- Rajesh N. Begur, Editor, Legal Eye

E- broking

- RAJESH N. BEGUR, PARTNER, A.R.A. LAW

The Indian regulatory authorities have, on January 31, 2000, finally ushered in *Internet-based trading* or e-broking, as is commonly known. The usage of Internet in trading of securities is likely to develop the market immensely. Internet-based trading takes place either through the Alternate Trading System ('ATS') or by Order Routing Systems ('ORS'). In India, the Securities & Exchange Board of India (SEBI) has chosen to adopt the ORS route. ORS can only be introduced on a stock exchange recognised u/s 2(f) of the Securities Contract Regulation Act, 1956 ('SCRA'). This is in compliance with section 12 of the SEBI Act, 1992.

In an ORS, a client's order is routed to the recognised stock exchange's trading system for execution of trade. Only brokers who are registered as per SEBI (Stockbrokers and Sub-brokers) Rules, 1992 and SEBI (Stockbrokers and Sub-brokers) Regulation, 1992 are permitted to offer and introduce Internet-based trading. Furthermore, since such client orders are routed through a member of a stock exchange and executed on a recognised stock exchange, the same is in compliance with section 13 of SCRA as well.

The stock exchanges are in turn required to ensure compliance of the following conditions:

1. *Approval from respective stock exchanges:* Such registered brokers are required to obtain prior written permission from the respective stock exchanges before introducing such services. Such applications are to be either approved or rejected within a period 30 days
2. *Net worth requirement:* Minimum net worth of Rs. 5 million is required. If a group of brokers desires to offer this service collectively then the net worth criteria as prescribed by the respective stock exchange will apply.
3. *Operational and system requirements:* The stock exchange has to ensure that the operational integrity, system capacity, qualified personnel, written procedures and signature verification/authentication mechanism are in place.
4. *Client-Broker relationship:* These guidelines also stipulate compliance with: (i) "know your client" requirement; (ii) providing the investor with adequate investor information; (iii) Entering into a comprehensive agreement between the clients and the broker - care should be taken that the salient conditions/terms prescribed by the stock exchanges are incorporated; (iv) Establishing investor redressal mechanism, risk management etc.; (v) cross trading between clients is strictly prohibited. All orders must be offered to the market for matching.
5. *Contract notes:* SEBI stipulates that contract notes should be issued to clients, as per existing regulations and bye-laws, within 24 hours of the trade execution. Amendments need to be made to issue electronic contracts as prevalent in some other countries.
6. In addition to the above, emphasis is also laid on network security protocols and interface standards, system operations and standard for web interfaces, etc.

FDI in E-commerce

Currently, FDI in E-commerce is restricted to only 49%. There is a proposal to increase FDI to 100% shortly.

E-commerce Act

As stated in the February issue of Legal Eye, this bill was passed by both Houses of Parliament and awaits the assent of the President and a notification to put it into effect as an Act. We expect this to happen by the third week of May. Passage of this proposed legislation is expected to give a fillip to E-broking in the country. ❖

Information Technology Bill, 1999

- ANOOSHREE CHAKRAVORTY, ASSOCIATE, A.R.A. LAW
- STATIRA RANINA, ASSOCIATE, ARA LAW

In the last issue of Legal Eye, we had highlighted some of the main features of the Information Technology Bill, 1999 (the Bill) which was introduced in the Lok Sabha in December 1999. The Bill has also amended the provisions of several existing Acts, such as the Indian Penal Code, the Evidence Act, etc.

This article explores the schedules to the IT Bill which deal with the amendments to the Indian Penal Code (IPC), the Indian Evidence Act, the Bankers Books Evidence Act and the Reserve Bank of India Act. The basic thrust of these amendments is to legally recognise and include “electronic records” within the scope of a “document”. *Electronic record* has been defined in the IT Bill to mean “*data, record or data generated, image or sound stored, received or sent in an electronic form*”.

Chapter XI of the IT Bill deals with the offences and penalties under the Bill. However, the offences contemplated under this chapter are limited and do not envisage the entire gamut of offences that may be perpetuated through such a vast and so far unregulated medium. As such the offences listed under chapter XI are: tampering with computer source code, publication and transmission of obscene information in electronic form, mis-representation to the Controller or Certifying Authority, breach of confidentiality and privacy, publication of false Digital Certificate or publication of Digital Certificate for fraudulent or unlawful purposes. The amendments are therefore aimed at bringing offences related to IT, but not provided for in Chapter XI, within the ambit of criminal law.

The First Schedule

The first Schedule deals with the amendments to the IPC. The schedule lists out a number of sections where the word “document” is to be substituted by the phrase “document or an electronic record”. Significant changes have been made to Section 464 of the IPC, whereby a person is said to make a false document or a false electronic record if he (1) dishonestly or fraudulently makes, signs, seals or executes a document, makes or transmits any electronic record or makes any mark with the intention of causing it to be believed that such document or electronic record was signed, transmitted or executed by a person who he knows did not sign, transmit or execute it; (2) without lawful authority, dishonestly or fraudulently alters a document or electronic record; and (3) dishonestly or fraudulently causes any person to sign, seal, affix his digital signature, execute or alter any document or electronic record knowing that the person by reasons such as insanity or intoxication or due to the deception perpetuated, is unaware of the nature of the document or electronic record.

Section 474 states that whoever has a document or electronic record in his possession knowing it is forged and intending to use it fraudulently or dishonestly as a genuine document, shall be punishable under section 474. The problem here lies with (i) proving that the person in possession of a false electronic record had the *knowledge* of its falsity; and (ii) proving his *intention* to use it fraudulently or dishonestly. Mere possession is not enough to prove forgery under section 466 read with section 474.

Whereas section 474 is the penal provision for both sections 466 and 467, the amendment talks only of section 466. Which implies that the Bill contemplates court proceedings, public registers, etc. in electronic form, but not wills, adoption papers, powers of attorney to make or transfer valuable securities, receive moneys, etc.

The Second Schedule

Through various amendments to the Indian Evidence Act 1872, electronic records can now be termed as “evidence”. Of special relevance are the amendments made to the Act vis à vis digital signatures and proof of the veracity of electronic records.

The amendment stipulates that, subject to the conditions stipulated, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be a document and therefore admissible as evidence. In proceedings where a statement in evidence for admissibility of the electronic record is required, a certificate from “a person occupying a responsible official position in relation to the operation of the relevant device” is deemed to be sufficient.

Except in the case of a secured digital signature, if the digital signature of any subscriber is alleged to be affixed onto an electronic record, then the veracity of such digital signature needs to be proved.

Some of the assumptions made by the amendments regarding electronic record and digital signatures are:

- All electronic records kept by the Official Gazette are presumed to be genuine as long as the records are kept as per law and produced from proper custody;
- Electronic records purporting to be an agreement containing digital signature, shall be presumed to have been concluded by affixation of the Digital signatures;
- In any proceeding involving a secure electronic record, the Court shall presume that the record is unaltered unless the contrary is proved.
- In any proceeding involving a secure digital signature, the Court shall presume that the signature was affixed by the subscriber with the intention of signing or approving the record unless the contrary is proved;
- The Court shall presume that the information listed in a Digital Signature Certificate is correct (except as information described as subscriber information which has not been verified) if the certificate was accepted by the subscriber, unless the contrary is proved;
- The Court may presume that an electronic message forwarded by the originator to the addressee corresponds with the message as fed into his computer for transmission; there is however no presumption as to the person by whom the message was sent;
- The digital signature on electronic records kept in proper custody, purporting or proved to be five years, shall be presumed to be the digital signature of the person who affixed it or a person authorised by him in this behalf.

The Third Schedule

The Bankers Books Evidence Act has been amended by the Bill to include printouts of data stored in a floppy disc, tape or any other form of electromagnetic storage device.

It further stipulates, through insertion of Section 2A, that in order for a printout to qualify as a “certified copy”, the printout should be accompanied by certificates from the principal accountant or branch manager and the person in charge of the computer system.

The Fourth Schedule

The amendment to the Reserve Bank of India Act, 1934 is with reference to the empowering the Central Board to make regulations regarding the conditions, rights and obligations of the participants in transfer of funds through electronic means.

The intentions behind the amendments are laudable, but how effective these will be are yet to be tested. The problem lies firstly with the inherent difficulties that are part and parcel of criminal laws, that of proving “knowledge” and of proving “mens rea” or intention to commit the offence. The alternative may be to bring the offence within the ambit of civil laws, do away with the requirement of proving mens rea and shift the burden of proof onto the defendant. Moreover, in most cases of electronic offences, the aggrieved party would be geared more towards seeking injunctions and high quantum of damages rather than enforcing

penal consequences such as incarceration against the offender. Secondly, it is not possible to determine the extent and nature of offences that may be perpetuated vis à vis the electronic media which is itself in a stage of rapid development. The need as of now is to keep definitions wide, create awareness amongst the judiciary and the rest of the legal community and deal with each offence on a case to case basis. ❖

Impact of IT Bill on Income Tax Act and its benefits

- PRIYARANJAN SINGH SEKHON, ASSOCIATE, A.R.A. LAW

Information technology (IT) has grown tremendously over the past few years and many areas and issues have emerged which require some form of regulation. The recent Information Technology Act, 1999 (the "Bill") seeks to provide legal recognition and thereby finally accord legal sanction and regulate transactions carried out by means of electronic data interchange in the newly emerged information technology sector. The Bill is divided into various chapters to cover most aspects of IT.

The First, Second, Third, and Fourth Schedules to the Bill amend the Indian Penal Code, 1860, the Indian Evidence Act, 1872, the Banker's Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934. The Bill does not seek to amend any other legislation at present and hence, it is necessary to examine the impact of the Bill on various other existing legislation since IT is here to stay and like law, is soon going to enter into and have a major impact on all aspects of our life. This note is the first in a series examining the impact of the Bill on various legislation seeking to examine the benefits thereof and set forth the role of the Bill in the future and how it is going to affect the way we lead our lives.

As stated above, apart from the apparent impact on the IT sector, the Bill also has certain ramifications on existing legislation such as the Income Tax Act, 1961 (the "Income Tax Act"). Hence, although the Bill covers various areas, the scope of this article is restricted to only those provisions that would have a bearing on the Income Tax Act such as Chapter III of the Bill which deals with Electronic Governance and covers Sections 4,5,6,7,8,9, and 10 of the Bill and Chapter IV which deals with Attribution, Acknowledgment and Despatch of Electronic Records, and Sections 11, 12, and 13 of the Bill.

Section 4 of the Bill provides legal recognition of electronic records and sets out that, in all such instances where the law at present requires that any information be in written/typed or printed form, it would suffice if the information is rendered in an electronic form provided it is accessible for subsequent reference. Similarly, **section 5** of the Bill provides legal recognition to digital signatures in all such cases where the law at present requires documents/information to be signed or authenticated by a signature.

Section 6 of the Bill provides that where any law requires the submission of forms, applications or any other documents or the issue or grant of any license, permit, sanction or approval or the receipt or payment of money in a particular manner to or from the Government and governmental agencies, such requirement shall be deemed to have been fulfilled if the same is effected by the use of electronic records and digital signatures, subject to the relevant rules.

Section 7 of the Bill states that if any law provides for the retention of any documents, records or information for a specific period, then it would stand satisfied if such records, documents or information are in electronic form subject to the qualifications set out in Section 7. Further, Section 7 also provides for the maintenance of such records in a particular manner which would enable them to remain unaltered and easily accessible and retrievable. Hence, defenses such as destruction or corruption of the said documents by viruses or system failures, by persons maintaining such records, would be unacceptable.

Section 8 of the Bill provides the Government the authority to publish rules, regulations, orders, bye-laws and notifications in electronic form where law currently prescribes that the same be published in the Official Gazette.

Section 9 of the Bill provides that Sections 6, 7 and 8 shall not confer a right upon any person to insist that the Government or any governmental agency should accept any document in electronic form or effect any monetary transaction in electronic form. This is a limiting provision and as set out further, limits some of the rights conferred by the Bill. **Section 10** of the Bill confers on the Central Government the power to make and prescribe the rules in respect of digital signatures.

Section 11 of the Bill deals with the attribution of electronic records and sets out that an electronic record can be attributed to the originator only if it was either sent by the originator, by a person authorised by the originator in respect of that electronic record or by an information system programmed by the originator to operate automatically. The Bill thus lays down the foundation for validating messages and electronic records. **Section 12** of the Bill deals with the acknowledgement of receipt and sets out the circumstances under which acknowledgements would be valid. Section 13 of the Bill deals with the time and place of despatch and receipt of the electronic record.

These provisions of the Bill would have a direct impact on certain provisions of the Income Tax Act as briefly discussed below.

Section 44AA of the Income Tax Act requires that certain persons carrying on profession or business are required to maintain such books of accounts with such particulars and other documents as may enable the Assessing Officer to compute the total income of the said persons. Section 44AA also prescribes that such accounts and documents require to be maintained and kept for such periods as prescribed by the Income Tax Rules (which is a period of 8 years). If the Bill were to be passed, all such records would be capable of being maintained in electronic form by virtue of Sections 4 and 7 of the Bill. The Bill would do away with the need to maintain paper records and other documents. However, as the Income Tax Department insists on original documents, problems would arise. However, Section 7 of the Bill is subject to Section 9 of the Bill. Hence, maintenance of the books of accounts under Section 44 AA of the Act in electronic form for the prescribed period cannot be insisted upon as a right by the assessee.

Section 140 of the Income Tax Act provides that the return filed by persons shall be signed and verified by various classes of persons as set out in the section. With the Bill being passed this procedure could also be complied with by electronic means by virtue of Section 5 of the Bill. The requirement for signatures and verifications under Section 140 of the Act is thus largely diluted by Section 5 of the Bill and would also result in the saving of a considerable amount of time and effort on the part of the assessee in filing returns. By virtue of Section 6 of the Bill when the assessing officer under the Act calls for certain documents the same can be submitted by the assessee in electronic form. However since this right under Section 6 is also subject to the provisions of Section 9 of the Bill the Assessing Officer would have the discretion not to accept electronic submission of such documents by the assessee but insist on the documents being in a physical form.

Although Sections 11, 12 and 13 are quite comprehensive in nature, they leave some room for private arrangements between parties to determine acknowledgement, receipt and time and place of despatch. This could prove to be a hindrance for the income tax authorities in determining certain issues such as where the income arises, a debt being due, the place of certain acts being done, contracts executed and performed etc, in the process of assessing a person's income. In the long run, such decisions would have to be made on the basis of facts and circumstances and the provisions of Sections 11, 12 and 13 do not seem to be helpful enough.

The Bill would definitely have a beneficial impact on the income tax assessment process since the process would be simplified and a lot of wastage of paper, time and money would be curbed should the provisions of the Bill become law. However in certain areas such as those covered by Sections 11, 12, and 13, the Bill is not very clear and that is where the potential obstacles lie as far as the assessment process is concerned. It would, however, be up to the Income Tax Department to accept the simplified procedure set out by the Bill and integrate it into the assessment process to ensure a speedier and smoother assessment and filing of returns. ❖

Copyright Act review panel formed

The core group, which has been working on changes to the Copyright Act, has been expanded to include performers and representatives of the book industry, including among others the Authors Guild of India. One of the changes the group has to consider is matching two new treaties of the World Intellectual Property Organisation (WIPO):

- the WIPO Copyright Treaty – seeks to make circumvention of technology like encryption, an offence; provides protection to databases; makes breaking into protected networks or web sites and changing them an offence; and
- the WIPO Performances and Phonograms Treaty (WPPT) – gives performers extra rights over their work; grants performers the right of reproducing, distributing, renting and making their work available. The performer's permission will be required before a recording company can copy or distribute the performance.

India is already TRIPS (trade related intellectual property)-compliant as far as the copyright law is concerned. In the fresh amendments passed by Parliament last December, the period of protection of performances has been extended from 25 to 50 years and covers foreign nationals in India as well.

An important feature was the provision on reverse engineering and decompilation of software. This allows Indian companies to deconstruct protected software solely for making it compatible with their own software, even if the owner declines permission for them to do so. ❖

Foreign buyout limit hiked

The government has increased the ceiling under the automatic route for overseas investments from US\$15 million to US\$50 million for Indian companies. It has also extended the liberalised norms for acquisitions abroad through swaps of ADRs/GDRs to companies in information technology, entertainment, software, pharmaceuticals, bio-technology and other sectors which will be notified later. Companies in these sectors can now make foreign acquisitions worth up to US\$100 million in a single year through stock swaps. They will also be allowed to make foreign acquisitions worth up to 10 times their export earnings in the preceding year, as reflected in the audited balance sheet.

Proposals for direct investment up to a total of US\$50 million in a joint venture or wholly-owned subsidiary abroad by a public/private limited company will be entitled to automatic route approval without prior reference to RBI, subject to the company having made profits in the preceding three years and the proposal's being related to its core activity.

The investment ceiling under the automatic approval route for investment in Myanmar (Burma), Nepal and Bhutan will also be raised. The revised ceiling will be notified later.

The existing value limit of US\$15 million has been raised to US\$50 million under the fast track route of investments out of EEFC balances permitted by authorised dealers. ❖

FII's investing through Mauritius

On 31st March 2000, in a move that created a flutter in the markets, the Income Tax Department, Mumbai slapped a demand notice of several million rupees on 11 foreign institutional investors (FIIs) investing through Mauritius. The tax authorities allege that the FIIs were using Mauritius as a tax-avoidance platform, and were not eligible for benefits under the Indo-Mauritius Double Tax Avoidance Treaty (DTA) as they

could not be deemed to be "resident" in Mauritius, i.e. the actual, effective management of these FII's was not in Mauritius.

These 11 FII's had mainly used a two-tiered structure to invest into India to avoid the payment of capital gains tax. In such a structure, a single investor from a country would set up a wholly owned subsidiary in Mauritius, which in turn would invest in India.

As a result of this move, the sensex fell heavily, recording the second biggest crash after the crash in 1992, causing panic in the markets. Compelled to take rapid corrective action, the Finance Ministry issued a statement on 6th April, 2000 to the effect that capital gains by FII's, who hold a certificate of residence from the Mauritian government, would be taxed in only in Mauritius. This would ensure that all investments made by FII's would continue to be exempt from capital gains tax under the DTA. ❖

Proposed amendments to Advocates Act and CPC

- STATIRA RANINA, ASSOCIATE, A.R.A. LAW

The Law Commission has recently issued a 'Law Commissions Working Paper' proposing amendments to the Advocates Act (the 'Act') and the Civil Procedure Code (CPC). The proposed amendments are as follows:

Proposed amendments to the Act:

- Entry of foreign law firms to be permitted;
- Expansion of the definition of practice;
- Multi-disciplinary partnership to be introduced;
- Periodic renewal of registration of advocates based on a continued education program.

Proposed amendments to the CPC

- No appeal lies before a division bench. Matter reaches SC directly;
- Summons to be served within 30 days of filing the suit;
- Summons can be delivered by courier, speed post, fax or even e-mail. Suit will stand dismissed on failure to serve summons;
- The defendant has 30 days to file his written statement;
- The court can refer a case before it for various modes of alternate dispute resolution, if it feels that such a mode is suitable;
- The power of the Court to allow time for any time-bound act has been restricted to 30 days.
- The judge is not allowed to grant more than three adjournments in each case;
- The power to record evidence has been conferred on a Commissioner appointed by the Court;
- All documents have to be filed with the plaint or the written statement.

The proposed amendments to the Act and to the CPC created an uproar within the legal community, which has already gone on strike several times in opposition of the proposed amendments. The amendments which have received the most criticism from the legal community have been the entry of foreign law firms, expansion of the definition of "practice" and the periodic renewal of registration of advocates based on a continued education programme. ❖

LEGAL SNAPSHOTS

Registration of immovable assets mandatory

The Union Cabinet has decided to make registration of immovable property compulsory and restrict the registration to the state where the property is located. It has also decided to amend three laws – the Registration Act, the Transfer of Property Act and the Indian Stamp Act. The Indian Stamp Act has been amended to levy 90% stamp duty for contracts. Also, documents relating to property transactions will now require passport-sized photographs and fingerprints.

It is hoped that this will bring transparency to the property business and restore clear titles and ensure that freehold ownership is available to property owners. ❖

Private placement to more than 50 investors to be treated as public issue: SEBI

The Securities & Exchange Board of India (SEBI) has suggested that the Dept. of Company Affairs amend the Companies Bill such that private placements to more than 50 investors will be treated on par with public issue for disclosure purposes. The amendment is said to have been incorporated in the new Bill.

As private placements of fresh equity and the resulting investments cannot be monitored easily, SEBI is planning to ensure that shares privately placed with select investors have a gestation period before they are listed on the exchanges. ❖

Automatic approval for FDI up to Rs 600 crores

The Reserve Bank of India (RBI) has said that the automatic approval route for foreign direct investment (FDI) and investment by non-resident Indians (NRI) and overseas corporate bodies (OCB), will be available where the total sum does not exceed Rs 600 crores (approx. \$150m). Automatic approval will not be available for industries which are on the restricted list or covered by a sectoral cap. According to the RBI notification, investment by non-residents through both the FDI and NRI/OCB route in export-oriented units, export processing zones and software technology parks would be fully eligible for the automatic route. ❖

SEBI plans single rate of margins

The Securities & Exchange Board of India (SEBI) is likely to bring down the current level of margins on scripts. They are also planning to opt for a single rate of margins for all scripts except in times of unusually high volatility in specific scripts.

SEBI is also proposing to increase the circuit breaker system on scripts to 12%, but this would require more time as the exchanges are currently not technically ready to implement it.

SEBI would continue to add scripts into the rolling settlement format where share transactions were settled on a daily basis. ❖

TRAI to review tariff plan

The Telecom Regulatory Authority of India (TRAI) has decided to review implementation of the plan for re-balancing long-distance tariffs through an increase in rentals and reduction in call charges for subscriber trunk dialing and international subscriber dialing. ❖

NBFCs to get 3 years to bring in domestic partners

The Finance Ministry relaxed the foreign investment guidelines for non-banking finance companies (NBFCs), whereby operating companies have been given the freedom to bring in domestic partners over a period of three years and the domestic partner need not be a domestic NBFC but could be the public. As a result of this relaxation, foreign NBFCs have a three-year period to scout around for a domestic partner, failing which they could divest a minimum of 25% equity in the operating company in favour of the public. The relaxations were made since foreign NBFCs had complained that they were unable to bring in a domestic partner despite the various relaxations given to them. ❖

SEBI eases public offer norms

The Securities and Exchange Board of India (SEBI) has relaxed public issue norms by bringing about the following changes:

- Knowledge-based companies in the media, entertainment and telecom sectors now permitted to offer a minimum of 10% shares to the public through the initial public offerings (IPOs).

- Book building norms were rationalised by SEBI which has now permitted companies to raise the entire money in the primary market through the book-building process;
- Book-runners discretionary quota has been reduced from 75% to 60%. This portion could be allotted only to institutional investors. Of the remaining 40% of the bookbuilt portion, 15% should be allocated to non-institutional investors applying for more than 1,000 shares. The balance 25% is to be allotted to small investors on a pro rata basis. ❖

DoT to permit private companies to set up gateways

The telecom commission has decided to do away with the policy of allowing only Internet Service Providers (ISPs) to set up gateways for international connectivity on the following terms and conditions:

- International gateway to be used only for carrying Internet traffic;
- Private gateway providers must connect the routers with the monitoring facility of intelligence agencies like Intelligence Bureau and RAW - the security agencies can then keep a 24-hour watch on the gateways;
- Monitoring equipment will have to be provided by gateway operators.

The Centre for Development of Telematics (C-DOT) has been nominated by the Department of Telecommunications DoT for installation of monitoring equipment at the gateways. ❖

NHB prescribes norms for housing finance companies

The government, through the National Housing Bank (NHB), has prescribed housing norms for housing finance companies (HFCs). The primary purpose of this move is to regulate the housing finance sector along the lines of the banking sector so that non-performing assets can be kept in check. The following norms have been prescribed by the NHB:

- HFCs debarred from lending against their own shares;
- HFC cannot lend more than 15% of its owned fund to a single party, 25% for a single group of parties;
- Investment ceiling of 15% on owned funds in the shares of a single company, 25% for single group companies;
- HFCs should furnish half-yearly returns to NHB within the first two months after the close of the half yearly period. ❖

RBI eases entry norms for banks into insurance

The Reserve Bank of India (RBI) has removed the mandatory requirement for banks to have non-performing asset levels of one percentage point below the industry average to get into the insurance sector. Further, banks have now also been allowed to retain up to 10% equity in an insurance firm. The revised guidelines state that the net worth of the bank should be more than 500 crores and that the maximum stake a bank can hold in a joint venture will be 50%. No additional stake can be picked up by subsidiaries or associates. ❖

Meet the A.R.A. LAW Team

In each issue, we will be profiling one person who is part of A.R.A. LAW. They will also be sharing their experience of working at A.R.A. LAW.

LEKHESH N. DHOLAKIA enrolled as an Advocate with the Bar Council of Maharashtra in 1992. He is a qualified Solicitor since 1996. Lekhesh was articled with a leading law firm in Mumbai, where he mainly worked on structuring offshore investments in India, due diligence, mergers and amalgamation and other corporate matters. He also has experience in civil litigation concerning constitutional law, commercial, intellectual property and arbitration law. Lekhesh joined A.R.A. LAW in March 1997. His assignments at A.R.A. LAW include evaluating and advising on the legal implications and feasibility of mergers & acquisitions (M&A's), take-overs, corporate restructuring and offshore funding strategies. This is what Lekhesh has to say about working at A.R.A. LAW.

Working in A.R.A. is very challenging. Being a new law firm, it takes just that much more to establish confidence in people that A.R.A. stands for quality and efficiency. Overall, it is team effort that has earned A.R.A. recognition, which, in my belief, precedes its eventful existence.

Personally, it has been an advantage in terms of developing professional skills, and with three years of gainful experience with A.R.A., there is a sense of achievement and purpose. If the reflections of the past three years are any indication, the year 2000 and beyond hold a lot of promise. ❖

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