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# GNOSIS

*Victoriam Legalis - Advocates & Solicitors | Newsletter*



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We here, at Victoriam Legalis, believe in continuous learning and growth, and agree that one way to do the same is to keep up with the developments and changes taking place around us.

We live in an Information Age, and while there is no dearth of knowledge and information, we, through this newsletter, hope to give you a consolidated account of relevant updates and developments.

In light of the same, we present to you the first issue of our newsletter, which we hope, you find beneficial!

Happy Reading!



# Media and Entertainment

## 1. Significant Increase in Patents Granted by IIT Bombay Reflects Remarkable Growth in Intellectual Property Rights

IIT Bombay, an esteemed Indian Institute of Technology, experienced a noteworthy surge in patent filings during the period of 2021-22, with a total of 131 patents filed. Impressively, 96 of these patents, accounting for over 73 percent, were successfully granted, indicating a substantial improvement compared to the mere 23 percent granted six years earlier in 2016-17. Additionally, IIT Bombay has witnessed consistent growth in various aspects of Intellectual Property Rights (IPR) applications, encompassing patents, trademarks, designs, and copyright, resulting in an increased number of granted applications. In the year 2016-17, out of 116 applications, only 27 patents were granted, but since then, the trend has consistently shown an upward trajectory.

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## 2. India Positioned 42nd in Global IP Index, Emerging as a Leader in IP-Driven Innovation

According to the recently published International IP Index by the U.S. Chambers of Commerce, India has secured the 42nd spot out of the 55 prominent global economies. The report highlights India's potential to spearhead the emerging markets worldwide, as it endeavours to reshape its economic landscape through innovation driven by intellectual property (IP).

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## 3. Delhi High Court Grants Interim Injunctions in Favor of Dabur India Against Trademark Infringement

Dabur India Pvt. Ltd., the leading manufacturer of ayurvedic medicines and healthcare products in India, holds registrations for the trade dress and packaging of their cough syrup 'HONITUS'. Dabur took legal action by filing applications for interim injunctions against Good Luck Ayurveda Pvt. Ltd. and Vibcare Pharma Pvt. Ltd. in two separate lawsuits. The Delhi High Court examined both cases and determined that the packaging and trade dress of MADHU JOSHANDA AYURVEDIC COUGH REMEDY and NURACUFF-AYURVEDIC MEDICINE FOR COUGH RELIEF were identical and misleadingly similar to that of HONITUS. The court found that Dabur had presented a strong initial case of trademark and copyright infringement against the defendants. Considering the circumstances, the court granted interim injunctions, restraining the defendants from using any trademark or trade dress that resembled or caused confusion with Dabur's registered trademark HONITUS or its well-known packaging until further notice.

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#### **4. Court Overturns Trademark Rejection, Recognizing Existing Registrations**

The Examiner of Trademarks in Delhi passed an order rejecting a trademark application for the mark "VIRTUOUS RETAIL" under Section 9(1)(b) of the Act, stating that it lacked distinctive character and lacked supporting documents. The owner of the mark appealed the decision, arguing that their company already possessed a registered word mark in the same class. The Court, upon review, overturned the initial order, ruling that the Trademarks Office was not justified in refusing the registration of the mark/logo in question. This was because the appellant had multiple registrations, including the mark/logo and other related marks in various classes.

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# Technology and E-Commerce Updates

## 1. Garuda Aerospace and Ninjacart Collaborate to Provide Affordable Drone Technology for Indian Farmers

In a strategic alliance, Garuda Aerospace, a drone manufacturer specializing in the agritech sector, and Ninjacart, an agritech e-commerce startup, have joined forces to introduce cutting-edge drone technology to farmers throughout India. This partnership aims to provide farmers with accessible and affordable options for utilizing advanced drones in their agricultural practices. By offering short-term financing solutions, Garuda Aerospace and Ninjacart seek to enable farmers to embrace the latest drone technology without financial burden.

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## 2. Sibly Collaborates with MoneyWide to Provide Instant Personal Loans to its 7 Million Users

Sibly, a micro-savings platform boasting a user base of 7 million, has announced a partnership with MoneyWide, a fintech lending platform. Through this collaboration, Sibly users will have access to paperless and instant personal loans at the phygital branches of Sibly. The goal of this partnership is for Sibly to disburse over 10,000 loans worth Rs 100 crore by FY24. This announcement follows Sibly's recent acquisition of myPaisaa's advanced new-age chit platform, worth \$7.5 million.

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## 3. US Cybersecurity Official Expresses Concern Over China-Russia Information Exchange in Cyberspace

General Paul Nakasone, the head of the US Cyber Command and director of the National Security Agency, has raised deep concerns about the trading of information between China and Russia in cyberspace. In an interview with The Straits Times, General Nakasone highlighted the close association between the two countries in sharing information. This observation comes at a time when top US officials have accused Beijing of potentially providing arms to support Russia's invasion of Ukraine, prompting speculation about collaboration between China and Russia in the cyber realm.

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## 4. China's Cyberspace Regulator to Conduct Cybersecurity Assessment of Micron Technology Products

In light of the ongoing dispute over chip technology between Washington and Beijing, China's cyberspace regulator has announced its intention to carry out a cybersecurity review of the products offered by Micron Technology Inc, a U.S. memory chip manufacturer. The Cyberspace Administration of China (CAC) stated that this measure aims to ensure the security of the supply chain for critical information infrastructure, mitigate potential hidden risks, and protect national security. The announcement was made in a concise statement by the CAC.

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# Fashion & Sports Law Updates

## 1. South African Government Probes Fast-Fashion Giant for Potential Tax Policy Exploitation

Paraphrased Description: The South African government is currently investigating the operations of a popular fast-fashion company following complaints from local fashion trade groups. The concerns revolve around the possibility that the company, known for its collaboration with Christian Siriano, may be taking advantage of tax policies to avoid higher tariffs. This issue bears resemblance to the de minimis loophole in the United States, which permits duty-free entry for shipments valued at \$800 or less. In response, Shein, the fast-fashion giant in question, has stated that it adheres to all local laws and regulations in the countries where it operates. Concurrently, Shein faces a new challenge from its Chinese competitor, Temu, which gained significant attention in the United States with its affordable clothing line, notably during the Super Bowl. Shein has initiated legal action against Temu in the U.S. District Court of Illinois, marking a notable clash between these fast-fashion rivals.

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## 2. Europe Takes the Lead in Tackling Fast Fashion Waste with New Legislation

Paraphrased Description: Europe is set to become the first region worldwide to address the environmental issues posed by fast fashion by introducing new laws on March 30. The fashion industry, which currently operates with minimal regulations, generates vast amounts of waste, with an estimated truckload being burned or buried every second. To combat this problem, a report published by Eunomia, advisors to the European Commission, suggests that textile and fashion retailers should be subjected to a fee for each item they sell, specifically intended to manage waste. This approach could necessitate a significant reevaluation of clothing design, emphasizing durability, repairability, and recyclability. Additionally, Eunomia proposes the implementation of specific targets to promote the reuse and recycling of fashion items alongside the fees.

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## 3. Texas Senate Passes Bill Expanding Restrictions on Transgender Athlete Participation

Paraphrased Description: The Texas Senate, under Republican control, has granted approval to a bill on Wednesday that imposes limitations on the ability of transgender athletes to join college sports teams. This legislation builds upon a previous law from 2021, which already prohibits K-12 public school students from participating in sports teams that align with their gender identity. The bill will now progress to the Texas House, where a majority of state representatives have already expressed their support for similar measures. During the Senate floor discussion on Tuesday, Senator Mayes Middleton, a Republican from Galveston, emphasized the refusal to acknowledge the biological differences between men and women, referring to it as a denial of a fundamental truth. Middleton stated that the purpose of the bill is to ensure that every woman in the state has a fair opportunity to excel in athletics based on achievements, asserting that the legislation safeguards this opportunity.

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#### 4. Swiss Agents Challenge FIFA's Player Agent Regulations

Paraphrased Description: FIFA, the international governing body for football, is facing yet another legal dispute regarding its newly implemented regulations for player agents. This time, a group of Swiss agents has approached the federal competition commission in Switzerland, seeking intervention against the FIFA Football Agent Regulations. These regulations, being phased in this year, aim to limit the fees earned by agents from player salaries and transfers. FIFA has made significant efforts over the years to regulate the player agent industry, which it believes extracts excessive amounts of money from the sport. In 2022 alone, agents reportedly earned \$622 million from international transfer deals. While prominent agencies have earned substantial sums from high-profile transfers involving players like Erling Haaland and Paul Pogba, the Swiss group challenging FIFA primarily operates in the lower tiers of the global market. According to Fabio Babey, a lawyer representing the Swiss agents, the players they typically represent compete in the second or third divisions of Swiss football and have relatively lower market values. The FIFA rules, scheduled to take full effect in October, establish a maximum limit of 10% on agent earnings from transfer fees when representing the selling club.

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# Corporate & Commercial Law Updates

## **1. Bombay High Court dismisses petition by Air India Employees Union alleging their ‘right to occupy’ allotted accommodations after privatization**

The petitions were filed by All India Service Engineers Association, Aviation Industry Employees Guild, and Air Corporation Employees Union (‘Petitioner Unions) representing employees working in Air India Limited (AIL), Air India Engineering Services Limited, and Air India Airport Services Ltd (Respondent Companies) challenging the order dated 12-10-2022 wherein the Central Government declined to make a reference to Central Government Industrial Tribunal (CGIT) under section 10 of Industrial Disputes Act, 1947, inter alia holding that housing is not a term of employment and that therefore the demand cannot be considered as an industrial dispute. A Division of S V Gangapurwala, CJ., and Sandeep V Marne, J., did not interfere with the impugned order as the grievance regarding the alleged right to occupy the premises will be dependent on the terms and conditions of leave and license agreements and thus, open to be decided in appropriate proceedings.

## **2. Bursting of the tyre is not an ‘Act of God’**

Bombay High Court refuses to exonerate the insurance company from paying compensation In an appeal filed by The New India Assurance Co. Ltd. (appellant), challenging the order passed by the Motor Accident Claims Tribunal, Pune wherein the Tribunal awarded compensation to the insurance company considering negligence of driver of the offending vehicle, S G Dige, J., partly allowed the appeal and upheld the negligence of the driver. The Court noted that the dictionary meaning of “act of god” is “an instance of uncontrollable natural forces in operation”. It refers to a severe, unanticipated natural event for which no human is responsible. Thus, the bursting of tyre cannot be termed as an act of God. It is an act of human negligence like high speed, under inflated or over inflated tyres, second-hand tyres, temperature etc. The driver or owner of the vehicle must check the condition of tyre before travelling, thus, burst of tyre cannot be termed as a natural act, it is due to human negligence.

## **3. Entry of authorised Bank employee in secured property premises for taking possession doesn’t fall under “House Trespass”: Calcutta High Court**

The Court observed that to hold the petitioners criminally liable of a cognizable offence; the petitioners should have possessed the intention and knowledge of their trespassing any property of others and intimidating the occupiers therein, and also, intimidating them with the same intention and knowledge. The Court opined that it is clear that the property in question was the secured asset with the bank and the bank has already exhausted legal formalities for taking possession of the same, therefore, it cannot be said that the petitioners have made an unlawful entry. Relying on Standard Chartered Bank v. V. Nobel Kumar, (2013) 9 SCC 620, the Court accepted the contentions of the petitioners that the only remedy available to the borrower is an appeal under the provisions of the SERFAESI Act, 2002 and not a criminal proceeding against the petitioners.



#### **4. Party cannot be held liable for failure of bank in sending money by RTGS; Calcutta High Court directs to issue discharge certificate**

While allowing a writ petition praying to refund of penalty amount, Bibek Chaudhuri\*, J., held that the petitioners cannot be held liable for the failure of the bank in not sending the money by RTGS and directed respondent to refund the penalty amount. The Court observed that a taxpayer was mandated to make payment of the amount payable within 30 days from the date of this statement, but Rule 7 was amended “on or before the 30th day of June, 2020” was substituted in place of “within a period of 30 days from the date of its issue”. The Court also noted that when a procedural law is amended, it takes effect retrospectively. The Court observed that Rule 7 requires that the amount of tax is to be deposited electronically and since electronic transfer means transfer by NEFT or RTGS where the amount is immediately credited to the respondent authority, therefore, the petitioners cannot be held liable for the failure of the bank in not sending the money by RTGS on 30-06-2020. The Court allowed the writ petition and directed the respondents to accept the payment of tax dated 30-06-2020 3 and issue discharge certificate in favour of the petitioners. The Court quashed the imposition and recovery of penalty by the respondent authorities and directed them to refund the penalty amount in 4 weeks.







## Hospitality & Real Estate

### **1. Stamp Duty is only payable for additional area purchased under Re-development Agreement”: Bombay High Court**

In a batch of petitions questioning the law regarding stamp duty levied on Permanent Alternate Accommodation Agreements (‘PAAA’) or Development Agreement (‘DA’) or a Redevelopment Agreement under the Maharashtra Stamp Act, 1958, the Division Bench of G.S. Patel and Neela Gokhale, JJ. held that stamp duty must be paid only on the additional area purchased during redevelopment. The Court made it clear that the interpretation in the present matter shall not be confined to the facts of these cases. The Court scrutinized the specific provisions of Maharashtra Stamp (Amendment) Act, 2021 under which Article 5 relates to every kind of agreement or a record of an agreement or memorandum of an agreement and Article 5 (g-a). The Court said that such an agreement is treated on par with a conveyance under Article 25 of the Maharashtra Stamp Act, 1958. It further pointed towards Chapter II of the Act dealing with instruments that are liable to stamp and Sections 4, 5 and 6 pertaining to multiplicity.

### **2. Delhi High Court dismisses PIL filed seeking directions to draft and implement a comprehensive scheme to address the grievances of home buyers availing home loans**

A PIL filed by the Court on its own motion by converting a letter of Vinod Kumar Naugain wherein the issuance of directions are sought to the Central Government to draft and implement a comprehensive scheme to address the grievances of home buyers availing home loans, including those buyers who haven’t been given possession of their flats by their builders and are still paying monthly instalments towards EMI payment, and are thus, unable to claim tax benefits on the payment of such monthly interest amounts. A division bench of Satish Chandra Sharma, CJ., and Subramonium Prasad, J., dismissed the plea as there is a proper regimen available to redress the grievances of a home buyer and in view of the Master Circular dated 01-07-2015, titled as “Master Circular – Loans and Advances – Statutory and Other Restrictions”, and “Master Circular – Housing Finance” issued by the Reserve Bank of India. The petition further seeks issuance of directions to the government to formulate a comprehensive scheme for extending tax benefit vis-à-vis the payment of interest and principal amount of EMI as extends to those home buyers that have already gained possession of their dwelling units/homes. The Complainant also alleged that the builders misuse the provisions of Insolvency and Bankruptcy Code, 2016, by resorting to declaration of insolvency in order to escape payment of dues to their creditors, who include home buyers and to this extent. The Court opined that the guidelines specify that the housing loans sanctioned to individuals who invest in housing projects are linked to the stages of construction of housing projects. However, it cannot be said that it is the banks’ responsibility to get the project completed and the bank cannot assume the role of the builder to complete the project. When the projects proponent defaults in completing a project, it is always open for the banks to approach the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 for getting an Insolvency and Resolution Professional appointed and to take measures to ensure that project is revived, and the project is completed because the banks are also anxious to recover their money.



### **3. Allure of Artificial Intelligence**

Artificial Intelligence (AI) is having a moment under the sun with technologies like ChatGPT coming into the limelight, and hospitality is not far behind. AI has not only improved the overall efficiency of these establishments but has also enhanced the guest experience by providing accurate information in their preferred language. Chatbots powered by ChatGPT can provide accurate information to guests in their preferred language, thereby improving the overall satisfaction of guests. This technology also enables businesses to offer 24/7 customer support, which is a crucial aspect of the hospitality industry. ChatGPT will certainly optimise operations by automating routine tasks such as handling guest queries. Bookings made through ChatGPT will be the new way going forward. New technologies like ChatGPT, have a significant impact on the hospitality industry. ChatGPT and similar AI-powered chatbots and virtual assistants are transforming the way hotels and other hospitality businesses interact with guests and handle customer inquiries,” says Gavin Jeddo, Founder & Director, STAAH. One of the key impacts of ChatGPT in hospitality is enhanced guest engagement and improved customer service. ChatGPT can handle a wide range of guest inquiries, such as room reservations, service requests, and general information, providing quick and accurate responses 24/7.

### **4. The Anam Mui Ne is the first Vietnamese resort to makes its mark in Small Luxury Hotels (SLH) collection**

Hotels must undergo a stringent vetting process and conform to the highest standards of luxury and guest wellbeing before being accepted into the SLH’s characterful collection of intimate spaces in unusual places. Headquartered in London with offices worldwide, SLH represents 520 hotels in more than 90 countries that are anti-chain and anti-same and offer secluded, discrete options. Benefits for SLH’s travelling members include discounts on bookings, early check-in and late check-out, complimentary breakfast, and room upgrades, and more. The resort has a ban on single-use plastics and has implemented an array of measures to reduce its carbon footprint ranging from solar power and locally sourced ingredients. Laundry water is recycled to water the gardens. Straws, bags, and bathroom amenities are biodegradable. The resort’s eco-friendly key cards are also made of wood that’s been sourced from sustainably managed forests.





# Litigation & Dispute Resolution

## 1. Central Government may take appropriate decision to ban cow slaughtering in India and declare cows as 'protected national animal': Allahabad High Court

In an application filed under Section 482 of the Code of Criminal Procedure Code, 1973 ('CrPC') to quash the charge sheet as well as entire proceeding of a case under Section 3 read with Sections 5 and 8 of Uttar Pradesh Prevention of Cow Slaughter Act, 1955 ('Act of 1955'), Shamim Ahmed, J. said that it does not appear that no offence has been made out against the accused, thus it refused to quash the charge sheet as well as entire proceeding of case under Act of 1955. It also said that it hopes and trusts that the Central Government may take appropriate decision to ban cow slaughtering in the country and to declare cows as 'protected national animal'. The Court said that we are living in a secular country and must have respect for all religions. In Hinduism, the belief and faith are that cows are representative of divine and natural beneficence and should therefore be protected and venerated. The cow has also been associated with various deities. The cow is the most sacred of all the animals of Hinduism. Further, it said that in the late 19th and 20th century, in India, a movement to protect cows arose that strove to unify the citizens by demanding that the Government should ban cow slaughter with immediate effect in the country.

## 2. Newborn baby includes both 'full term' or 'pre-term'

Bombay High Court directs payment of insurance claim In a writ petition seeking declaration of entitlement to recovery of all expenses incurred for treatment of newborn twin babies under the insurance policy, seeking mandamus to the insurance company for disbursing the amount, the Division Bench of G.S. Patel and Neela Gokhale, JJ. held the distinction between a 'new-born' and a 'premature baby' or a baby born 'pre-term' unreasonable and unjust, and directed the insurance company to pay the claim of Rs 11,05,953 to the petitioner. The Court found the distinction of newborn and premature babies unreasonable and commented that "the distinction between a 'new-born' and a 'premature baby' or a baby born 'pre-term' is also baseless as a new-born baby can be one which is born 'full term' or 'pre-term'. A full-term baby does not become more 'newer' any more than a 'pre-term' baby becomes an 'earlier born' or, to make it even more pointed, 'old born'." The Court supported these lines with Clause 29 of circular dated 22-07-2022 issued by the Insurance Regulatory and Development Authority of India ('IRDAI') defining the term 'new-born baby' as "a baby born during the policy period and aged up to 90 days.", further clarified through circular dated 12-10-2022. The Court held the insurance company's rejection of petitioner's claim contrary to law, unreasonable, arbitrary and liable to be set aside. Thus, the Court directed the insurance company to honour the petitioner's collective claim of Rs.11,05,953 with an interest @9% p.a. from the date of claim till actual payment.



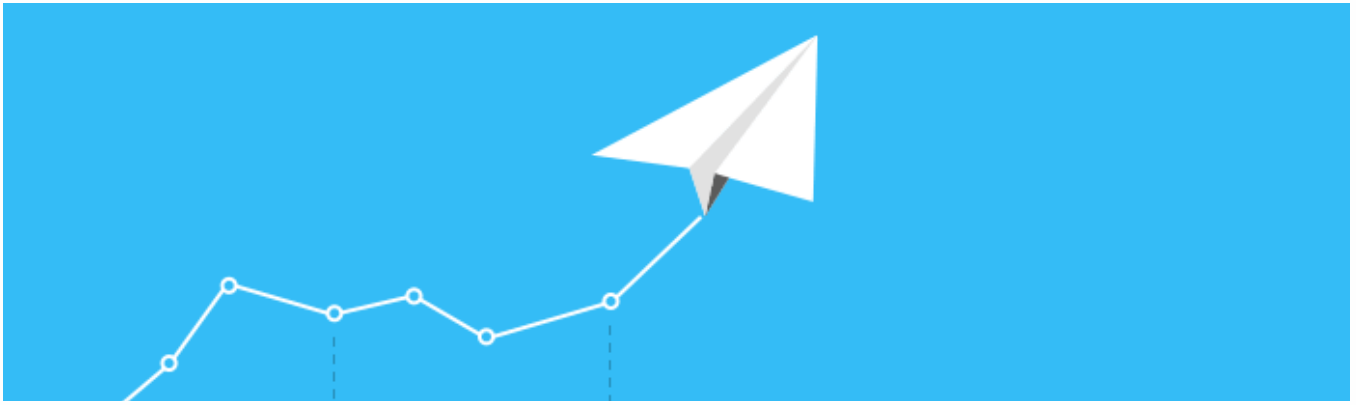
### **3. Bombay High Court: Mere existence of the slightest probability of confusion in case of medicinal product marks requires that the use of such mark be restrained**

In a petition filed by Macleods Pharmaceuticals Limited (petitioner) challenging the order passed by the Intellectual Property Appellate Board (respondent 2) ('IPAB') directing deletion of registered trademark 'OFLOMAC' registered by Sun Pharmaceuticals (respondent 4) for medicinal and pharmaceutical preparations falling in class-5 under the provisions of Section 57 of the Trade Marks Act, 1999, a division bench of Gangapurwala, CJ., and Madhav J Jamdar, J., held that there is no patent error in the impugned decision and is in the interest of the general public as the mark concerns medicinal / pharmaceutical product. It is because confusion in the case of a non-medicinal or a non-pharmaceutical product may only cause economic loss to the person, but on the other hand, confusion in terms of medicinal or pharmaceutical products may have a disastrous effect on health.

### **4. All unilateral appointments of arbitrators are not invalid: Calcutta High Court**

While deciding an application filed under S. 14 of the Arbitration and Conciliation Act, 1996 (the Act), for termination of the mandate of the Sole Arbitrator, Moushumi Bhattacharya\*, J. held that the de jure or de facto termination of mandate of an arbitrator under S. 14 of the Act must not only be assessed in light of the proviso to S. 12(5) but also with reference to the express agreement entered into between the parties or any waiver by the parties subsequent to the dispute having arisen between the parties. The Court observed that the pleadings filed by the petitioners before the Arbitrator constitute an express agreement as required under the proviso to S. 12(5) of the Act. Moreover, the exchange of Statement of Claim and Statement of Defence/affidavit in the present proceeding by the petitioner and respondent no. 1 respectively fulfils the requirement of S. 7(2)(e) of the Act which provided that the existence of an arbitration agreement in case it is alleged by one party and not denied by the other by way of exchange of statements of claim and defence.





# Start-Up Advisory & Consultancy

## 1. New Delhi Hosts the 2023 International Symposium on Health Technology Assessment

On March 10, 2023, the second International Symposium on Health Technology Assessment (ISHTA) took place in New Delhi. The event was organized by Health Technology Assessment in India, under the Department of Health Research, Ministry of Health and Family Welfare (MoHFW), Government of India (GoI), in collaboration with WHO India Country Office and the Center for Global Development. The symposium focused on the theme of "Affordability, Availability, and Accessibility of Healthcare Technologies through Evidence from Health Technology Assessment (HTA) for Universal Health Coverage."

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## 2. Parag Gupta Joins CollegeDekho as Chief Financial Officer

CollegeDekho, an ecosystem for higher education services, has appointed Parag Gupta as its new Chief Financial Officer. In his role, Gupta will be responsible for leading the company's finance department and providing strategic guidance to the CEO and the company board. With over twenty years of experience in industries such as internet, e-commerce, fintech, banking, and telecom, Gupta brings a wealth of expertise as a chartered accountant. Prior to joining CollegeDekho, he has held CFO positions in notable organizations including Hourr, PayPal, Nimbuzz, AT&T, and Spectra.

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## 3. Indian Startup Funding Trends: Signs of Improvement Amidst Funding Crunch and Layoffs

Indian startups, similar to their global counterparts, are currently grappling with challenging times due to a funding crunch and significant layoffs. This trend is evident from weekly, monthly, and now quarterly funding reports for the first three months of 2023. However, amidst these difficulties, there are signs of improvement. According to data compiled by Fintrackr, a total of approximately 260 startups announced their funding during Q1 2023. Among these, 229 deals with disclosed transaction details amounted to a total funding of \$3.4 billion. Additionally, there were 31 startups that did not disclose the specifics of their funding transactions. This data suggests both the challenges faced by Indian startups and the positive development of increased funding activity during the quarter.

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## 4. Supertails Launches Henlo, a Homegrown D2C Brand, Offering Baked Dry Food for Dogs

Supertails.com, a petcare startup leveraging technology, has introduced a line of baked dry food for dogs under its own direct-to-consumer (D2C) brand, Henlo. The primary objective of this launch is to educate pet parents about the significance of effective nutrition and its impact on their pets. The manufacturing of the new Henlo product has commenced in India, with plans to expand production by 40 times over the next two years. This expansion is expected to create numerous employment opportunities and contribute to the government's Make in India initiative, according to Supertails.

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## Get in Touch

We hope you enjoyed reading the newsletter, and we would love to hear your thoughts on what you want to be covered in our next edition!

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