**TBA Bulletin #26**

**Week gone by- February 09-15, 2021**

Big one for BFSI- SC has observed that pledged shares holders cannot be considered as financial creditors and in a different case excluded ex-related parties from CoC under Section 21 of IBC.

ARBITRATION- Changes to the Arbitration Law get approval at the Lok Sabha. Foreign arbitrators are welcome in India.

Amazon – Future group are in an unrelenting legal exchange. The next hearing is on February 26.

TECH – EVs on Indian roads has taken a huge leap forward as Tesla set to open manufacturing unit in Karnataka and the week keeps on getting worse for Donald Trump as his twitter gets banned permanently.

CYRPTOCURRENCY- Elon Musk’s Tesla invests in Bitcoin to the extent of USD 1.5 Billion.

America’s oldest bank is all set to adopt bitcoins as a form of currency but the situation India remains same as Govt moves forward with implementation of full ban on cryptocurrency. Tesla has granted its blessing to Bitcoin by investing in 1.5 $ billion worth of Bitcoin.

Amazon keeps on widening its wings as it starts fresh pantry delivery within 2hrs from delivery to customers

DATA PRIVACY- sector remains active with action as Twitter lookalike Koo falls into deeper controversy as it now been accused of leaking personal data of users.

**BFSI**

**NATIONAL**

**Supreme Court says pledge holders are not financial creditors**

* In an important judgment, the Supreme Court has held that a beneficiary of pledged shares will not be considered a financial creditor under the Insolvency Code. A three-judge bench led by Justice Ashok Bhushan observed that a pledge cannot be equated with a guarantee. As such, on receiving a pledge in its favour, a person will only become a secured but not a financial creditor. And so, it cannot form part of the creditor’s committee, the court said.
* The judgment will also cover transactions which involve mortgage, hypothecation or a charge, Ajay Shaw, partner at DSK Legal, said. Lenders who wish to make a claim as a financial creditor must also ensure that any security is coupled with a guarantee, he said. This can be achieved through a separate contract of guarantee or by incorporating a clause in the security agreement which qualifies as a guarantee.

Link: [Link](https://www.bloombergquint.com/law-and-policy/insolvency-law-pledge-holders-are-not-financial-creditors-supreme-court-says)

**Supreme Court provides purposive interpretation to exclude ex-related parties from CoC under Section 21 of Insolvency of Bankruptcy Code**

* The SC in***Phoenix Arc Private Limited v. Spade Financial Services Limited****,*recently decided an interesting and pertinent issue under the Insolvency & Bankruptcy Code, 2016 (IBC). **The issue**was related to the interpretation of Section 21 of the Code, which provides for constitution of the Committee of Creditors (CoC)
* The Supreme Court was called upon to decide whether the status of a related party is to be tested in “*praesenti*” or whether it relates back to the transaction through which the financial debt was incurred.

Link: [Link](https://www.barandbench.com/columns/section-21-ibc-supreme-court-purposive-interpretation-ex-related-parties-coc)

**ARBITRATION**

**NATIONAL**

**Changes to arbitration law get Lok Sabha nod**

* Foreign arbitrators are welcome in India, the government said as the Lok Sabha passed a Bill to amend the arbitration law to ensure that all stakeholders get an opportunity to seek unconditional stay on enforcement of arbitral awards where the agreement or contract is “induced by fraud or corruption”.
* The Bill intends to replace an ordinance issued on November 4, 2020. Responding to a debate on the Bill, the minister said, “India welcomes arbitrators from any nationality.”
* Bill was passed by a voice vote and a statutory resolution opposing the ordinance was rejected by the House.

Link: [Link](https://indianexpress.com/article/india/changes-to-arbitration-law-get-lok-sabha-nod-7186439/)

**Amazon-Future**

**The Delhi High Court had on Feb 8 stayed an order on status quo of the deal and ruling that statutory authorities cannot be restrained from acting in accordance with the law**

* Amazon on Feb 10 approached the Supreme Court against Future Group's $3.4 billion retail assets sale to Reliance Industries. The E-commerce giant termed a Delhi High Court judgment revoking a previous single judge decision blocking the deal "illegal" and "arbitrary", reported *Reuters*.
* The DHC order is,  an interim one and the next hearing is on 26 February.
* Scheme of arrangement has already received approval from CCI and no objection from SEBI and bourses, following which it had approached NCLT Mumbai on 26 January.

**Link**: [Link](https://www.livemint.com/news/india/futurereliance-deal-illegal-and-arbitrary-amazon-tells-supreme-court-11613042230540.html)

**TECHNOLOGY**

**INTERNATIONAL**

**Donald Trump’s twitter account to stay banned forever according to Twitter CFO**

* As the second impeachment trial of his presidency unfolds, there’s another bit of bad news for the former president. In a new interview on CNBC’s Squawk Box, Twitter Chief Financial Officer Ned Segal gave the decisive word on how the company would handle Trump’s Twitter account long term.
* Responding to a question about what would happen if Trump ran again and was elected to office, Segal didn’t mince words.
* Twitter banned Trump from its platform one month ago citing concerns about the “risk of further incitement of violence.” Trump’s role in instigating the deadly attack on the U.S. Capitol ultimately sealed his fate on his platform of choice, where he’d spent four years rallying his followers, amplifying conspiracies and lambasting his critics

Link: [Link](https://link.techcrunch.com/click/22908513.368373/aHR0cHM6Ly90ZWNoY3J1bmNoLmNvbS8yMDIxLzAyLzEwL3R3aXR0ZXItdHJ1bXAtYmFubmVkLWZvcmV2ZXIvP3V0bV9tZWRpdW09VENuZXdzbGV0dGVyJnRwY2M9VENkYWlseW5ld3NsZXR0ZXI/5f493dd1c20fa911c40beffcB5ab23f3b)

**Facebook oversight board says other social networks welcome to join if the project succeeds**

* The board co-chair said that if the project proves to be a success, “other platforms and other tech companies are more than welcome to join and be part of the oversight that we will be able to provide.”
* Thorning-Schmidt emphasized that a broader vision for this kind of moderation body would happen well in the future, but the board’s current mission was to move away from policy decisions getting made in a “closed box” at the company.
* Facebook’ Oversight Board is currently facing the hugely consequential case of whether to reinstate former President Donald Trump who was removed from Facebook after inciting the violent mob that attacked the U.S. Capitol in early January.
* Five of the group’s 20 members will evaluate the Trump case, though the board will not disclose which members evaluate which cases. Once the five reach their decision, the broader board must pass the decision in a majority vote. The board’s verdict is expected within the next two months.

Link: [Link](https://link.techcrunch.com/click/22919465.364322/aHR0cHM6Ly90ZWNoY3J1bmNoLmNvbS8yMDIxLzAyLzExL2ZhY2Vib29rLW92ZXJzaWdodC1ib2FyZC1vdGhlci1zb2NpYWwtbmV0d29ya3MtYmV5b25kLWZhY2Vib29rLz91dG1fbWVkaXVtPVRDbmV3c2xldHRlciZ0cGNjPVRDZGFpbHluZXdzbGV0dGVy/5f493dd1c20fa911c40beffcB4373e022)

**Tesla to set up electric car manufacturing plan in Karnataka says CM Yediyurappa**

* Tesla Inc will set up an electric car manufacturing unit in Karnataka, said chief minister BS Yediyurappa in a statement. The statement was a part of release listing benefits for the southern state under the Union Budget 2021. "American firm Tesla will open its electric car manufacturing unit in Karnataka," Yediyurappa said in a statement in Kannada.
* In January, billionaire Elon Musk's company set up a subsidiary named Tesla India Motors and Energy Pvt. Ltd in Bengaluru. It registered office at Lavelle Road, a business district in Bengaluru, with a paid-up capital of  ₹1 lakh and an authorized capital of  ₹15 lakh, a Registrar of Companies (RoC) filing showed.
* The filing mentioned the Indian unit has three directors including David Feinstein, who is currently a senior executive at Tesla, according to his LinkedIn profile.

Link: [Link](https://www.livemint.com/companies/news/tesla-to-open-manufacturing-unit-in-karnataka-says-cm-yediyurappa-11613233617627.html)

**Google signs 76 million dollar deal with French publisher for news snippets in search**

* The agreement between Google and the Alliance de la presse d'information generale (API), a lobby group representing most major French publishers, was announced previously, but financial terms had not been disclosed.
* The move infuriated many other French outlets, which deemed it unfair and opaque. Publishers in other countries will scrutinize the French agreement, the highest-profile in the world under Google's new program to provide compensation for news snippets used in search results.
* The French documents seen by Reuters include a framework agreement in which Google will pay $22 million (roughly Rs. 160 crores) annually for three years to a group of 121 national and local French news publications after signing individual licensing agreements with each.

Link: [Link](https://gadgets.ndtv.com/internet/news/google-search-news-french-publications-usd-76-million-deal-alliance-de-la-presse-dinformation-generale-afp-2369645)

**Amazon workers begin voting in landmark US union push**

* Workers at an Amazon warehouse in Alabama have begun voting on whether to form the first American union at the e-commerce giant, an effort that could pave the way for further unionisation in the United States at one of the world's most powerful companies.
* Employees at its BHM1 facility in Bessemer, Alabama, notified authorities of their plan to unionise in November

Link: Link

**BITCOIN-CRYPTOCURRENCY**

**NATIONAL**

**India will move ahead with complete ban on cryptocurrency**

* India will go ahead with a complete ban on investment in cryptocurrencies, while providing existing investors a transition period to exit their holdings.
* Cryptocurrency isn’t fiat currency backed by the Reserve Bank of India and its usage in all forms will be banned through the new law that will be introduced in Parliament, a senior Finance Ministry official said on condition of anonymity. This would include a ban on transacting directly via foreign exchanges.
* The official, however, said the ban won’t be enforced overnight and cryptocurrency investors will be given a transition period of three-to-six months after the implementation of the new law to liquidate their investments.
* The government has listed The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021, for introduction in the ongoing Budget session of Parliament.
* Cryptocurrency exchanges responded with a lawsuit in the Supreme Court in September and won respite in March 2020.

Link: [Link](https://www.bloombergquint.com/business/intent-on-ban-india-to-give-transition-time-to-crypto-investors-bq-exclusive)

**INTERNATIONAL**

**America’s oldest bank set to treat digital currencies like any other asset**

* Bank of New York MellonCorp. , the nation’s oldest bank, is making the leap into the market for bitcoin, a sign of broader acceptance of the once-fringe digital currency
* It will hold, transfer and issue bitcoin and other cryptocurrencies on behalf of its asset-management clients. Custodians like BNY Mellon keep track of money managers’ assets—whether they are physical things like real estate or cash housed in an account with another bank—storing some themselves while attesting to the existence of others.
* “Digital assets are becoming part of the mainstream,” said Roman Regelman, chief executive of BNY Mellon’s asset-servicing and digital businesses.
* It is a big step for Wall Street’s back-office banks, whose concerns over regulatory, legal and stability risks left them reluctant to come into direct contact with crypto markets.
* BNY Mellon isn’t the first big-name financial firm to declare its interest in digital assets. Fidelity Investments announced plans in October 2018 to store and trade bitcoin and ether, another digital currency, and a year later won regulatory approval to operate its crypto business in New York

Link: [Link](https://whatsnews.cmail19.com/t/d-l-qlukdll-trykudyhli-k/)

**Tesla Bitcoin**

**Tesla announced the $1.5 billion worth of bitcoin investment early Monday in a regulatory filing with the U.S. Securities and Exchange Commission (SEC) as part of its annual earnings report.**

* Tesla said that subsequently it had invested $1.5 billion in bitcoin since January and might "acquire and hold digital assets from time to time or long-term." It might also invest in alternative reserve assets including gold and other digital assets, according to the filing.
* The digital nature of bitcoin also made it subject to the threat of cybersecurity attacks or errors that may result in private keys needed to access the cryptocurrencies being lost or destroyed.

**Link:** [Link](http://url4336.noreturn.nikkei.info/ls/click?upn=Zg38KYKGFx2oOxNFPUW6Vh4RNl33JgW3NheG4JLnkiRoELC8v-2BerXSGVLHmyULsakRPd-2FN3GQ7AkUZg5K37RZdYAQGlv-2FjtgdYYeis5RXfFqgFdKKIhKhfkmLqOEaADHEiJ9ovittNsJspi2cSCKi1pUGASkesmj7nede-2FhbQcm0tbnsnxRda-2Fub6Z3XHp3dfDYRkuMl-2BHEEEi25Tmk1XHwVVR0a17Dpu7Ku-2B0013wToAKASLH-2Fk-2BIHNthzVJXgiMjrLwjLvTKTg0CT1gZDji-2FyHZWx9xe0jjjLszK0IK1cmUJti6nRLUmVVvGTNz8b4uEJTKXbX5cckYDtcjp25pObVEzQ6iN66csjhiQVQoPoAWyLTzntwzpv4UXZgWxR2Z48v9ZM-2Frn6NOwJJmF7cNw-3D-3DzRzH_1l18l2gTd8dZNhb4qMk8t1FEqo6m6H12pCGkmPtk0WN-2F4dGGT96X0N1zp615K9Dbjr8S-2BHIma9L8pFoSPqWIaE9P1Ue1cQr6Kh-2B-2FCWHdjpOo9VygVKeer80nlRBCmd1SlJH221sqCE2MVkaGQtDhZW844Gxs5IlgnhmwHftfVpvUzTm1GSAtoLJAa-2BApS-2FltQ8He93DC4dJJOtagdNH0-2Bf7hLF3rRRSvaRb2PieMoc5VM1M4K26GmWH7zOn-2FdikcwuxKZ5g-2FE8FeO-2FL2Rsv7Ruy5PspGChfZrjKkQLyKnvELS0aAry2m-2BJNv5AT3O0-2FUEr0ZdC5LVTjduTP0JGSKP2NM6xiTCPl7bbc65dMHiiCBbFWAcOSDBw6DScaoetovxzf-2B-2FhlHZIcM5jw5Y7juGj-2BnRVIn7Mte8hO1Ry92JZwnpOFT17drJsuSgwkB5HWq08kRnpFNpwZgzzu8NLRC9whrdb06nRn-2BaYJ-2FtNZjVqw-3D)

**FOOD AND BEVERAGE**

**NATIONAL**

**Amazon to integrate pantry within fresh store in India and deliver goods within 2 hours**

* Amazon is set to integrate its Pantry services within its Fresh store in India. Until now, Amazon Pantry and Amazon Fresh were two separate sections within the app or the website. While the former encompassed mostly dry groceries, bulk-buy items, and super-saver packs, the latter comprised items that could be delivered to a customer within a short notice, including daily groceries, perishables, and household products. Amazon on Friday announced that the Pantry will be integrated within Fresh store in the next few weeks.
* The integration will help customers enjoy a simplified grocery-shopping experience, Amazon said. Earlier, customers would often add items to their cart that would get divided between Pantry and Fresh, that would lead to different delivery times for different products depending on the store. Now, you can expect to order anything from food to pet products and get it delivered at once.

* Customers can also opt for free two-hour delivery for all orders over Rs. 600. In cases of orders below that amount, an extra delivery fee of Rs. 29 will be levied. Customers can also schedule their delivery by choosing from multiple slots available from 6am to midnight.

Link: [Link](https://gadgets.ndtv.com/internet/news/amazon-fresh-pantry-integration-india-app-website-two-hour-delivery-details-2369327)

**DATA PRIVACY**

**NATIONAL**

**Koo, Indian twitter lookalike is exposing data according to French hacker**

* koo, an Indian microblogging platform that offers a Twitter-like experience in Indian languages, has been accused of exposing its users' personal data by French security researcher Robert Baptiste, who goes by the pseudonym Elliot Alderson (@fs0c131y on Twitter). Baptiste said that he spent 30 minutes on Koo at the request of users on Twitter and found that the microblogging platform was exposing sensitive information of its users, such as email addresses, names, gender, and more. He also posted a series of tweets to detail his findings about Koo. The new Indian social media platform recently gained some traction after Twitter refused to block some accounts related to the ongoing farmers' protest at the request of the government.

Link: [Link](https://gadgets.ndtv.com/social-networking/news/koo-indian-twitter-user-data-leak-elliot-aldreson-robert-baptiste-twitter-piyush-goyal-2368059)

**INTERNATIONAL**

**EU regulators urges ban on surveillance based ad targeting**

* The European Union’s lead data protection supervisor has recommended that a ban on targeted advertising based on tracking internet users’ digital activity be included in a major reform of digital services rules which aims to increase operators’ accountability, among other key goals.
* The European Data Protection Supervisor (EDPS), Wojciech Wiewiorówski, made the call for a ban on surveillance-based targeted ads in reference to the Commission’s Digital Services Act (DSA) — following a request for consultation from EU lawmakers.
* The intervention by Europe’s lead data protection supervisor calling for a ban on targeted ads is a powerful pre-emptive push against attempts to water down legislative protections for consumer interests.
* Online advertising, recommender systems and content moderation are the areas the EDPS is particularly concerned about.

**Link:** [Link](https://link.techcrunch.com/click/22908513.368373/aHR0cHM6Ly90ZWNoY3J1bmNoLmNvbS8yMDIxLzAyLzEwL2V1cy10b3AtcHJpdmFjeS1yZWd1bGF0b3ItdXJnZXMtYmFuLW9uLXN1cnZlaWxsYW5jZS1iYXNlZC1hZC10YXJnZXRpbmcvP3V0bV9tZWRpdW09VENuZXdzbGV0dGVyJnRwY2M9VENkYWlseW5ld3NsZXR0ZXI/5f493dd1c20fa911c40beffcB5077f5cd)

*The weekly roundup is only for information purposes. Nothing contained herein is, purports to be, or is intended as legal advice and you should seek legal advice before you act on any information or view expressed herein.*

*Endeavoured to accurately reflect the subject matter of this alert, without any representation or warranty, express or implied, in any manner whatsoever in connection with the contents of this. This isn’t an attempt to solicit business in any manner.*

*Source Credits: Mint, Bloomberg, TechCrunch, The Wall Street Journal, NDTV Gadget360, Nikkei Asia Review*