PRS Capsule October 2019

Key Highlights of PRS

- Economy
  - Revised procedure for strategic Disinvestment of CPSEs
  - Framework for Issuing Depository Receipts
  - OCI permitted to enrol in National Pension Service
  - Banks to Lend to Infrastructure Investment Trusts
  - Cyber Security Framework for KYC registration agencies
  - Scope of CSR Spending Increased
- Health and Family Welfare
  - Draft Bill to prohibit e-cigarettes
  - Draft Notification to Regulate All Medical Devices as Drugs
  - Guidelines for Evaluation of Nanopharmaceuticals
- Agriculture
  - Draft Seeds Bill to Replace the Seeds Act, 1966
- Information and Communication Technology
  - Revival Plan for BSNL and MTNL
  - Telecom Companies to Pay Outstanding Dues of Rs 92,000 Crore
  - National Counter Rogue Drone guidelines
  - TRAI Releases Recommendations on Registration of Other Service Providers

Economy

Revised procedure for strategic Disinvestment of CPSEs

- The Union Cabinet approved changes in the procedure for **strategic disinvestment** of **Central Public Sector Enterprises (CPSEs).**
- As of now strategic disinvestment process will be initiated by a **Consultative Group,** which consists of the Secretaries of:
  - The Department of Investment and Public Asset Management (DIPAM)
  - The administrative Ministry of concerned PSU.
  - The Ministry of Corporate Affairs
  - The Department of Public Enterprises
  - CEO, NITI Aayog
- Earlier, **NITI Aayog** was responsible for identifying CPSEs for strategic disinvestment and advising on the number of shares to be sold.

Framework for Issuing Depository Receipts

- Recently, the central government has amended the **Depository Receipts Scheme,** 2014 to include the **International Financial Services Centre** in India as a permissible jurisdiction under the scheme.
- Apart from that, the **Securities and Exchange Board of India (SEBI)** notified the framework for the issue of **depository receipts.**

- Depository receipts are **foreign currency-denominated instruments** listed on an international exchange.
- These are the instruments issued by a foreign depository and transferred to a domestic custodian (entity holding the securities).

Depository Receipts Scheme, 2014.

- Under the framework, only listed companies (companies registered in India and listed on the stock exchange in India) are permitted to issue securities for the purpose of issuing depository receipts. The listed companies are subjected to certain conditions.
    - For example: Any director or promoter of the company should not be a wilful defaulter or a fugitive economic offender, and can not be debarred from accessing the capital market by SEBI.
- Existing holders of securities will also be eligible to transfer their securities for issuing depository receipts. The conditions for listed companies will also apply to existing holders.
    - Listed companies can issue or transfer securities for the purpose of issue of depository receipts only in permissible jurisdiction.
    - The list of permissible jurisdiction is notified by the central government from time to time.
- Permissible jurisdiction for issuing depository **receipts** include only members of the **Financial Action Task Force** (for example Japan, United States, Germany, and China).

OCI permitted to enrol in National Pension Service

- The **Pension Fund Regulatory and Development Authority** (PFRDA) has permitted **overseas citizens of India** (OCIs) to enroll in the **National Pension Scheme.**
    - The national pension scheme is a voluntary, contribution-based pension scheme, which aims to provide old age security to Indian citizens.
- The annuity or accumulated savings under the scheme may be repatriable (that is, it can be moved outside India) subjected to the guidelines under the **Foreign Exchange Management Act, 1999.**
- A foreign national (except foreign nationals from Bangladesh or Pakistan) can register for OCI if they were:
    - Eligible to become a citizen of India at the commencement of the constitution,
    - A citizen of India on, or at any time after the commencement of the constitution
    - Belonging to a territory that became a part of India after 15th August 1947,
    - A child or grandchild of such a person.

Banks to Lend to Infrastructure Investment Trusts

- The **Reserve Bank of India** (RBI) has permitted banks to lend to Infrastructure Investment Trusts (InvITs).
    - InvITs, are instruments that work like mutual funds. InvITs are designed to pool small sums of money from a number of investors to invest in assets (infrastructure projects) that give cash flow over a period of time.
        - Part of this cash flow would be distributed as dividends back to investors.
    - **So far, banks were only permitted to invest in units of InvITs, but not lend to them.**
- The lending will be subjected to certain conditions. These include:
    - Banks should not lend to those InvITs where any underlying special purpose vehicle is facing financial difficulty.
    - Banks should put in place a board-approved policy on exposures to InvITs which should cover sanctioning conditions, and monitoring mechanism, among other details, and
    - Banks should undertake an assessment of all critical parameters including the sufficiency of cash flows to ensure timely debt servicing.
    - Further, the audit committee of the board of the banks should review compliance to the above conditions on a half-yearly basis.

Cyber Security Framework for KYC registration agencies

- The **Securities and Exchange Board of India (SEBI)** released a framework on cyber security and cyber resilience for KYC (Know Your Customer) registration agencies.
- These are entities registered with the SEBI (under the KYC Registration Agency Regulations, 2011) which maintain KYC records of investors.
- SEBI noted that these agencies should have a robust cyber security and resilience framework since they perform an important role in maintaining KYC records of customers in security markets.
- Cyber security frameworks include measures and processes intended to prevent cyber-attacks and improve cyber resilience.
    - Cyber-attacks are attempts to compromise access or reliability of computer systems, networks and databases. Cyber resilience is the ability to prepare and respond to such attacks, continue operations during them, and recover from them.

Key features of the framework include:

- **Comprehensive policy:** KYC registration agencies should formulate a comprehensive cyber security and resilience policy which should include processes to:
    - Identify critical risks
    - Protect critical assets
    - Detect cyber-attacks
    - Respond and recover from such incident
- **Governance:** KYC registration agencies should designate a senior official as a chief information security officer.
    - The board of such KYC agencies should constitute a technology committee consisting of experts. This committee will review the implementation of cyber security policy on a quarterly basis.
- **Access control:** Access to registration agencies' systems, applications, databases should be provided for a defined purpose and a defined period. Physical access to critical systems should be restricted to the minimum and be monitored through controls such as CCTV cameras and card access systems.
- **Sharing of information:** Quarterly reports containing information on cyber-attacks and threats, and measures taken to mitigate vulnerabilities should be submitted to SEBI.

Scope of CSR Spending Increased

- Under **Corporate Social Responsibility (CSR)** certain companies are required to spend at least 2% of their average net profits in the last three years on projects which relate to activities specified in Schedule 7 of the Companies Act, 2013.
- This schedule contains eleven entries, which includes contributions towards the activities related to the eradication of poverty, and environmental sustainability.
- One of the entries allows CSR contributions to technology incubators located in central government approved academic institutions.
- This entry has been amended. The amended entry permits CSR contributions to:
    - Incubators funded by central or state government, or any agency or public sector undertaking of central or state government,
    - All Indian Institutes of Technology,
    - National Laboratories and certain autonomous bodies engaged in conducting research in science, technology, engineering and medicine, and aimed at promoting Sustainable Development Goals.

Health and Family Welfare

Draft Bill to prohibit e-cigarettes

The Ministry of Health and Family Welfare released the **'Draft Prohibition of Electronic Cigarettes (Production, Manufacturing, Import, Export, Transport, Sale, Distribution, Storage, and Advertisement) Bill, 2019'.**

- The Bill prohibits the production, manufacture, trade, storage, and advertisement of electronic cigarettes.
- An **Ordinance to prohibit e-cigarettes** was promulgated on September 28, 2019.

Salient Features of the Draft Bill

- **Electronic cigarettes:** The Bill defines electronic cigarettes (e-cigarettes) as electronic devices that heat a substance (natural or artificial) to create vapour for inhalation.
    - These e-cigarettes may contain nicotine and flavours, and include all forms of electronic nicotine delivery systems, heat-not-burn products, e-hookahs, and other similar devices.
- **Punishment:**
    - Any person who contravenes these provisions will be punishable with imprisonment of up to one year, or a fine of up to one lakh rupees, or both.
    - For any subsequent offence, the person will be punishable with imprisonment of up to three years, and a fine of up to five lakh rupees.
- **Storage of e-cigarettes:** No person is allowed to use any place for the storage of any stock of e-cigarettes.
    - If any person stores any stock of e-cigarettes, he will be punishable with imprisonment of up to six months, or a fine of up to Rs 50,000, or both.
- Once the Bill is enacted, the owners of existing stocks of e-cigarettes will have to declare and deposit these stocks at the nearest office of an authorised officer.
    - Such an authorised officer may be a police officer (at least at the level of a sub-inspector), or any other officer as notified by the central or state government.

Draft Notification to Regulate All Medical Devices as Drugs

The Ministry of Health and Family Welfare has released a draft notification to regulate all medical devices as drugs under the **Drugs and Cosmetics Act, 1940.**

- **Medical Devices:** According to the Central Drugs Standard Control Organisation, medical devices are devices intended for internal or external use in the diagnosis, treatment, mitigation or prevention of disease or disorder in human beings or animals.
- They may be specified from time to time by the central government. Currently, there are 36 notified medical devices in India including heart valves, bone cements, and scalp vein sets.

The notification seeks to include all devices, including instruments, implants, and appliances which assist in:

- Diagnosis, prevention, or treatment of any disease, injury, or disability,
- Investigation, replacement, or modification of the anatomy,
- Supporting life,
- Disinfection of medical devices,
- Control of conception, under the definition of drugs.

In this context, the Ministry has released draft rules to amend the **Medical Devices Rules, 2017** which provide for the registration of all medical devices other than the 36 devices already notified.

Guidelines for Evaluation of Nanopharmaceuticals

The Ministry of Science and Technology has released **guidelines for evaluation of nanopharmaceuticals** in India.

The guidelines intend to provide a regulatory pathway for nanopharmaceuticals in India.

- **Nanotechnology** deals with the development and use of techniques to study materials which are in the nanoscale range (a nanometer is one billionth of a meter).
- **Nanopharmaceuticals** is an emerging area that combines nanotechnology with biomedical and pharmaceutical science.
    - It has several potential applications in diagnostics and therapeutics as the technology can

be used to improve drug delivery by better targeting disease sites and provides higher efficacy.
    - These guidelines seek to ensure quality, safety and efficacy of nanopharmaceuticals, along with encouraging commercialisation of nanotechnology based inventions.
    - They do not apply to conventional drugs with products containing microorganisms or proteins, which are naturally present in the nanoscale range.

Key features of the guidelines include:

- Safety requirements as specified in the Second Schedule of the New Drugs and Clinical Trials Rules, 2019 will be applicable for nanopharmaceuticals.
- A case-by-case approach should be adopted for evaluating the quality, safety and efficacy of nanopharmaceuticals as it will depend on various factors such as biological nature, availability of data on pharmaceutical ingredients.
- The rationality for development of a nanopharmaceutical should be clearly stated. Further, the advantages and disadvantages of nanopharmaceuticals in comparison to conventional drugs should be demonstrated through studies.

Agriculture

Draft Seeds Bill to Replace the Seeds Act, 1966

The Ministry of Agriculture and Farmers' Welfare has released the **draft Seeds Bill, 2019.**

The draft Bill seeks to regulate the quality of seeds during their production, distribution, sale, import, and export. The proposed Bill seeks to replace the **Seeds Act, 1966.**

Key features of the draft Bill include:

- **Registration:** All varieties of seeds being sold for the purpose of sowing or planting must be registered, except farmers' varieties.
    - **Farmers' varieties** are varieties which have been traditionally cultivated and evolved by the farmers in their fields, or are similar to varieties which farmers have common knowledge.
    - Seeds produced by farmers, other than those for sale under a brand name, are also not required to be registered.
    - **Transgenic varieties of seeds** (which are developed by modifying the genetic composition of other varieties) can be registered only after applicants obtain a clearance under the Environment (Protection) Act, 1986.
- **Standards:** The central government may notify minimum limits of germination, genetic and physical purity, and seed health for any seed variety.
    - Additional standards may be specified for transgenic varieties. These standards will not apply to seeds produced by farmers, other than those for sale under a brand name.
- **Compensation to farmers:** If a registered variety of seed fails to perform to the expected standards (as disclosed by the producer, distributor, or vendor), the farmer can claim compensation from the producer, dealer, distributor or vendor under the **Consumer Protection Act, 1986.**
- **Offences and penalties:** Persons who contravene any provision of the Bill and sell seeds which do not conform to the specified standards will be punished with fine between Rs 25,000 and one lakh rupees.
    - Persons furnishing false information regarding standards, misbranded seeds, or supplying seeds which are spurious or not registered, will be punished with up to one-year imprisonment, or with a fine of up to five lakh rupees, or both.

Information and Communication Technology

Revival Plan for BSNL and MTNL

The Union Cabinet approved a revival plan for BSNL and MTNL. This plan seeks to address the financial distress of these PSUs, and enable them to provide quality and reliable services.

Key features of the revival plan are as follows:

- **Merger of BSNL and MTNL:** The Union Cabinet has given in-principle approval for the merger of BSNL and MTNL.
- **Allotment of 4G spectrum:** 4G spectrum will be allotted to both the PSUs.
    - The central government will fund the cost of spectrum allotment to these PSUs.
- **Reduction in debt burden:** The central government will provide sovereign guarantee to both PSUs for raising long-term bonds of Rs 15,000 crore.
    - The funds raised by this exercise will be used for restructuring the existing debt and, partly meeting capital as well as operational expenditure requirements.
    - Both the PSUs will monetise their assets.
    - The funds received from monetisation will be used in meeting capital and operational expenditure requirements.
- **Reduction in salary burden:** To reduce the salary burden of both PSUs, they will offer a Voluntary Retirement Scheme (VRS) to their employees, aged 50 years and above.
    - The cost of the VRS scheme will be provided by the central government.
    - In addition, the central government will also cover costs towards pension, gratuity and commutation of benefits.

Telecom Companies to Pay Outstanding Dues of Rs 92,000 Crore

The **Supreme Court** decided a case in relation to revenue sharing between telecom companies and the Department of Telecommunication (DoT).

In its judgement, the Court upheld the interpretation of the term “Gross Revenue” taken by the DoT and directed telecom companies to pay all outstanding dues and penalties.

- This is estimated to be approximately Rs 92,000 crore.

What is the Issue?

- Under the **National Telecom Policy, 1999,** telecom companies are required to pay an annual license fee in the form of a revenue share to the DoT.
- This license fee forms a part of the terms and conditions of the license agreement signed between the telecom company and the DoT and was set at 8% of the company’s gross revenue.
- Various telecom companies and the DoT filed a case before the Supreme Court asking it to interpret the definition of “Gross Revenue” under the license agreements.
- The telecom companies argued that the DoT had illegally included various elements of income in the definition of gross revenue which do not accrue from the operations under the license.
- These include dividend income, interest income on short term investments, and discounts on calls.

National Counter Rogue Drone guidelines

The Ministry of Civil Aviation released the **National Counter Rogue Drone guidelines.** The guidelines seek to highlight the potential threat from the unregulated use of drones, and the measures to mitigate such threats.

- Drones (for civil use) are classified by their maximum take-off weight, as follows:
    - Nano (less than or equal to 250 gm)
    - Micro (between 250 gm and 2 kg)
    - Small (between 2 kg and 25 kg)
    - Medium (between 25 kg and 150 kg)
    - Large (greater than 150 kg)

Key features of the guidelines include:

- **Defines Rogue Applications:** While the illegal use of micro drones may be limited to photography and surveillance, the small to large drones may be misused for carrying explosives with surveillance capacities.
    - Such misuses may also include:
        - Delivering weapons
        - Airspace interference
        - Attacks on people or property
        - Conveying signals and propaganda messages
        - Delivery systems for weapons of mass destruction
- **Types of Rogue Drones:** Drones used for illicit targeting may include:
    - **Autonomous drones** (controlled by on-board computers to navigate to a fixed target),
    - **Drone swarms** (several drones controlled together as one unit),
    - **Stealth drones** (these can reduce their radar signature making it difficult to detect them).
- **Countering rogue drones:** An effective system to counter such drones should be able to detect and continuously track drones with certain peculiarities such as:
    - Minimal infrared signatures,
    - Limited radio frequency,
    - Low acoustic emissions.

However, challenges to detecting such drones include difficulty in differentiating regular and rogue drones, and less reaction time.

- **Institutional set up:** Multiple agencies (such as Ministries of Defence, Home Affairs, Civil Aviation) are involved in protection against sub-conventional aerial threats.
    - Therefore, a Steering Committee should be set up at the national level to evolve a counter rogue drone framework, and advise the concerned Ministries.
    - The Committee will also regulate commercial civil drone applications in the country.
    - It will include members from the:
        - Indian Air Force
        - Ministries of Home Affairs and Civil Aviation
        - Intelligence agencies
    - It will be assisted by an Implementation Committee for regular monitoring of threats, and implementation of the counter rogue drone measures.

TRAI Releases Recommendations on Registration of Other Service Providers

The **Telecom Regulatory Authority of India (TRAI)** released recommendations on terms and conditions for the registration of Other Service Providers (OSP).

OSPs are companies which provide various application services such as tele-banking, telecommerce, call centre, and other IT-enabled services.

- For example, a Business Process Outsourcing company is an OSP.
- They avail telecom resources including telephone connectivity, internet bandwidth and, domestic and international leased lines, from authorised Telecom Service Providers.
    - Therefore, they are required to register with the Department of Telecommunications (DoT) for offering services in the country.
- Currently, to register, OSPs are required to pay a registration fee, and furnish various information such as certificate of incorporation, information about directors, and nature of the business, among others.

The salient features of the recommendations are as follows:

These recommendations aim to address the various issues related to the registration of OSPs.

- **Scope of registration:** In March 2019, TRAI had noted that advancement in technology has led to the widening of the scope of terms such as ‘other IT enabled services’.
    - This has caused the scope of application services defined for OSP registration to become quite broad.

    - Further, there is no distinction between the service for one's own use and the service for a customer/other companies.
    - Therefore, TRAI has increased the scope of OSP to cover almost all IT-based services under its definition.
- **Waiver of bank guarantee requirement:** Currently, sharing of infrastructure between domestic and international OSPs is permitted with prior approval from DoT.
    - The sharing is allowed only between entities of the same company. The OSPs are required to provide a bank guarantee for this purpose.
    - The OSPs may also employ persons who work from home.
    - OSPs are required to seek permission from DoT and provide a bank guarantee for extending the Work from Home facility.
    - **TRAI has recommended that the requirement of bank guarantee should be waived in both cases.**

PDF Refernece URL: https://www.drishtiias.com/printpdf/prs-capsule-october-2019