



USINDIA  
Business Council

**NASSCOM**<sup>®</sup>

**Nishith Desai** Associates  
LEGAL AND TAX COUNSELING WORLDWIDE

## TRENDS IN TECHNOLOGY AND E-COMMERCE IN INDIA:

Legal and Tax Issues

### TENTATIVE PROGRAMME

**DAY 1: THURSDAY, MAY 14, 2015**

#### M&A IN TECHNOLOGY IN INDIA

12:00 PM - 01:00 PM      **REGISTRATION AND LUNCH**

01: 00 PM - 01.15 PM      **INTRODUCTION**

**Nishith Desai**

Founder and Managing Partner, Nishith Desai Associates

01:15 PM - 02:30 PM

**PANEL I – CROSS BORDER M&As IN THE INDIAN TECHNOLOGY SECTOR: STRUCTURING AND TAX ISSUES**

- Typical Structures for M&A in India
  - Direct Acquisition
  - Indirect Acquisition
- Innovative Structures
  - Externalization
  - Depositary Receipts
- Use of Intermediate Jurisdiction for Acquisitions
- Tax Issues in M&A
  - Tax impact on sellers including credit availability of tax paid in India
  - Tax impact on buyer including withholding tax issues
  - Transfer pricing issues

#### PANELISTS

**Connie Chen**

Director - Legal, Cisco

**Puneet Shivam**

Head – US, Avendus Capital Inc

**Vaibhav Parikh**

Partner - Technology, Private Equity Practice and M&A,  
Nishith Desai Associates

**Nishchal Joshipura**

Partner - Private Equity and M&A Practice,  
Nishith Desai Associates

**Mahesh Kumar**

Co-Head - International Tax Practice, Nishith Desai Associates

**Mansi Seth**

Head - US Office, Nishith Desai Associates

02:30 PM - 02:45 PM

**COFFEE BREAK**

02:45 PM - 02:55 PM

**INTRODUCTION TO THE FICCI DELEGATION**

**Dr. Didar Singh**

Secretary General, Federation of Indian Chambers of Commerce and Industry

02:55 PM - 03:40 PM

**PANEL II – CROSS BORDER M&As IN THE INDIAN TECHNOLOGY SECTOR: DUE DILIGENCE**

- Importance and Issues to look for in diligences in India
- Typical findings in diligence of Indian companies
- Risk Mitigation for issues found post diligence
- Case studies

**PANELISTS**

**Anil Advani**

Managing Partner, Inventus

**Simone Reis**

Co-Head - M&A Practice, Nishith Desai Associates

**Huzefa Tavawalla**

Co-Head - International Commercial Laws Practice,  
Nishith Desai Associates

03.40 PM - 04.25 PM

**PANEL III – CROSS BORDER M&As IN THE INDIAN TECHNOLOGY SECTOR : EMPLOYEE AND IP ISSUES**

- HR law issues in M&A
- Employee transfer issues
- IP and employee issues
- IP transfer issues (including where IP is created with government or university grants)

## PANELISTS

### **Guissu Raafat**

Employment Counsel, Visa

### **Sonia Baldia**

Partner, Kilpatrick Townsend & Stockton LLP

### **Stephan Eberle**

Assistant General Counsel & Practice Head, SVB Financial Group

### **Gowree Gokhale**

Partner - TMT and Intellectual Property Laws Practice,  
Nishith Desai Associates

### **Vikram Shroff**

Head - International HR Law Practice, Nishith Desai Associates

04:25 PM - 04:40 PM

## COFFEE BREAK

04:40 PM - 05:30 PM

## PANEL IV – CROSS BORDER M&As IN THE INDIAN TECHNOLOGY SECTOR: DEAL TERMS, EXIT RIGHTS AND ENFORCEABILITY

- Indian trends for key deal terms, such as:
  - Liability cap
  - Basket
  - De-minimis
  - Indemnities
  - Earn-outs
  - Escrows
- Dealing with minority shareholders
- Exit Mechanisms
- Enforceability of key deal terms

## PANELISTS

### **Poornima Sampath**

Senior Attorney, Intel Capital

### **Riaz Karamali**

Partner, Pillsbury Winthrop Shaw Pittman LLP

### **Vaibhav Parikh**

Partner - Technology, Private Equity Practice and M&A,  
Nishith Desai Associates

### **Nishchal Joshipura**

Partner - Private Equity and M&A Practice,  
Nishith Desai Associates

### **Simone Reis**

Co-Head - M&A Practice, Nishith Desai Associates

## DAY 2: FRIDAY, MAY 15, 2015

### DOING E-COMMERCE BUSINESS IN INDIA

01:45 PM - 02:00 PM

#### INTRODUCTION

**Nishith Desai**

Founder and Managing Partner, Nishith Desai Associates

02:00 PM - 02:15 PM

#### PANEL I – OVERVIEW OF THE TECHNOLOGY AND E-COMMERCE SECTOR IN INDIA

- Regulatory landscape for the e-commerce sector in India
- Various business models used in the e-commerce space, e.g. B2B, B2C and e-commerce platforms
- Investor challenges in view of the regulatory landscape
- Evolving deal structures

**Vaibhav Parikh**

Partner - Technology, Private Equity Practice and M&A,  
Nishith Desai Associates

02:15PM - 02:30 PM

#### PANEL II – DISCUSSION ON OPEN INTERNET

**David Conrad**

CTO, ICANN

02:30 PM - 03:30 PM

#### PANEL III – PANEL DISCUSSION: REGULATORY AND LEGAL ISSUES IN E-COMMERCE BUSINESSES IN INDIA

- Enforceability Issues
  - Enforceability of online contracts
  - Applicability of Indian law on offshore e-commerce companies with client base in India?
  - Can consumers approach Indian courts irrespective of the governing law and dispute resolution clauses?
- Intermediary Safe Harbors
  - Who are treated as intermediaries? How and when are intermediaries protected?
- Content related issues
  - In view of the recent uproar in online distribution of objectionable content in India, what precautions should be taken?

- User Generated Content
  - Are websites liable for User Generated content?
  - Does ownership and liability go hand in hand?
- Privacy Concerns
  - What are the compliances for collection and transfer of personal data?
  - Treatment of cross border transfers of personal information
  - How are “do not disturb” regulations implemented? Are social media apps excluded?
- Carriage laws
  - OTT - latest regulatory updates
- Domain names and trademarks
  - How to protect domain names and trademarks?

#### PANELISTS

##### **Sharon Matsumura**

Deputy General Counsel, Intuit

##### **Vaibhav Parikh**

Partner - Technology, Private Equity Practice and M&A,  
Nishith Desai Associates

##### **Gowree Gokhale**

Partner - TMT and Intellectual Property Laws Practice,  
Nishith Desai Associates

##### **Rakhi Jindal**

Co – Head Privacy and Commercial Laws Practice,  
Nishith Desai Associates

03:30 PM - 03:45 PM

**COFFEE BREAK**

03:45 PM - 04:30 PM

**PANEL IV – PANEL DISCUSSION:LEGAL ISSUES RELATED TO PAYMENTS AND TAXATION OF E-COMMERCE BUSINESSES IN INDIA**

- Payment Systems
  - How is India treating virtual currency?
  - Bitcoins: Are they legal in India
  - What are the online payment options?
  - Recent issues faced by e-commerce companies

- Competition Law Issues
  - Mega sales
  - Anti-competitive arrangements
  - Safe harbors
- E-commerce taxation
  - Taxation of intangibles
  - Permanent establishment risks
  - Applicability and availing of treaty benefits
- Government policies
  - Lobbying and dealing with government officials

#### PANELISTS

**Gowree Gokhale**

Partner - TMT and Intellectual Property Laws Practice,  
Nishith Desai Associates

**Simone Reis**

Co-Head - M&A Practice, Nishith Desai Associates

**Mahesh Kumar**

Co-Head - International Tax Practice, Nishith Desai Associates

04:30 PM - 05:00 PM

**PANEL V – OPEN HOUSE DISCUSSIONS ON ISSUES TO BE CONSIDERED WHEN OPERATING INDIA FOCUSED E-COMMERCE BUSINESSES**

Discussion will be led by

**Nishith Desai**

Founder and Managing Partner, Nishith Desai Associates

05:00 PM - 05:30 PM

**PANEL VI – PATENT LANDSCAPING: STUDY OF INTERNET OF THINGS & NEW AGE TECHNOLOGIES**

**Shaurir Anand**

Chief Marketing Officer, IPpro