

Pharma & Healthcare Update

September 20, 2019

PROHIBITION OF E-CIGARETTES: END OF ENDS?

The President of India has promulgated an ordinance on Prohibition of Electronic Cigarettes (production, manufacture, import, export, transport, sale, distribution, storage and advertisement) Ordinance, 2019 after the same was approved by the Union Cabinet (“**Ordinance**”).¹ On the other hand, the categorisation of Electronic Nicotine Delivery Systems (“**ENDS**”) as ‘drugs’ under the Drugs and Cosmetics Act, 1940 (“**D&C Act**”) remains an issue yet to be decided upon by various High Courts in India.

From a legal standpoint, ENDS find themselves in a regulatory limbo worldwide. Regulation varies across countries and even states, ranging from no regulation at all to blanket bans. In India, the regulatory status of ENDS has been in question since 2015, with regulators having taken opposing stands on the topic over time. An order by the High Court of Delhi² in March 2019, staying a communication (“**Communication**”) issued by the Director General of Health Services (“**DGHS**”)³ and a circular issued by Central Board of Indirect Taxes and Customs (“**Circular**”)⁴, banning ENDS, had previously brought the issue to the forefront.

Please find a detailed analysis on ENDS [here](#).

– Riya Chopra, Darren Punnen, Vyapak Desai & Dr.Milind Antani

You can direct your queries or comments to the authors

¹ Available at: < <http://egazette.nic.in/WriteReadData/2019/212582.pdf>.> last accessed on September 19, 2019.

² M/S Focus Brands Trading (India) Private Limited v. Directorate General of Health Services and Ors: W.P.(C) 2688/2019, Order dated 18.03.2019.

³ Communication of the Director General of Health Services dated February 22, 2019.

⁴ Central Board of Indirect Taxes and Customs, Circular dated November 27, 2019 available at < [http://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2018/Circular-46-2018 Customs.pdf](http://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2018/Circular-46-2018%20Customs.pdf) > last accessed September 18, 2019.

⁵ Minutes of the 56th Meeting of Drugs Consultative Committee (June 2019), p.3.; See also, AL Johnson et al., *Flavored Tobacco Product Use in Youth and Adults: Findings From the First Wave of the Path Study* (2013-2014), *Am J Prev Med.*, 53(2), p. 139-151.

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

New Age of Franchising

June 20, 2025

Life Sciences 2025

June 11, 2025

The Tour d'Horizon of Data Law Implications of Digital Twins

May 29, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

April 01, 2025

**SIAC 2025 Rules: Key changes &
Implications**

February 18, 2025

