



MODEL GST LAW

Meaning and scope of
supply



Supply- Definition -Section -2(92)

- Supply shall have the meaning as assigned to it in **section -3.**

- 1) **Supply includes (Section -3)**
 - a) all forms of supply of goods and/or services
 - such as sale, transfer, barter, exchange, license, rental, lease or disposal **made or agreed to be made for a consideration** by a person in the **course or furtherance of business**, (see next slide)contd.



Section-2(17)-“Business” includes –

- a) any trade, commerce, manufacture, profession, vocation or any other similar activity, whether or not it is for a pecuniary benefit;
 - b) any transaction in connection with or incidental or ancillary to (a) above;
 - c) any transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
 - d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
- contd.....



Contd.....

- e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
- f) admission, for a consideration, of persons to any premises; and
- g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation

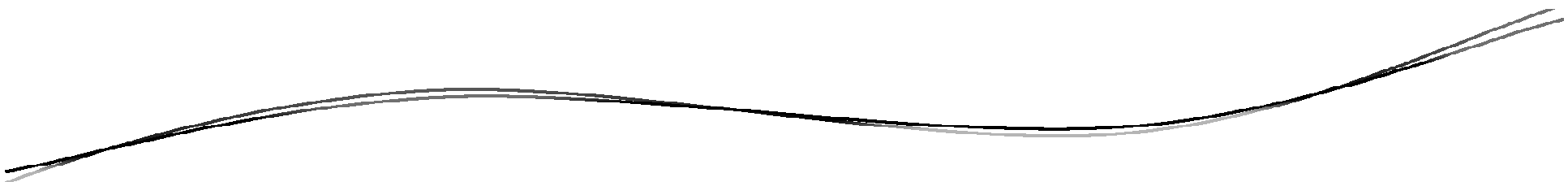


3(b) Importation of **service**,

- whether or not for a **consideration** and
- whether or not in the **course or furtherance of business**, and

3(c) a supply specified in **Schedule I**, (see next slide)

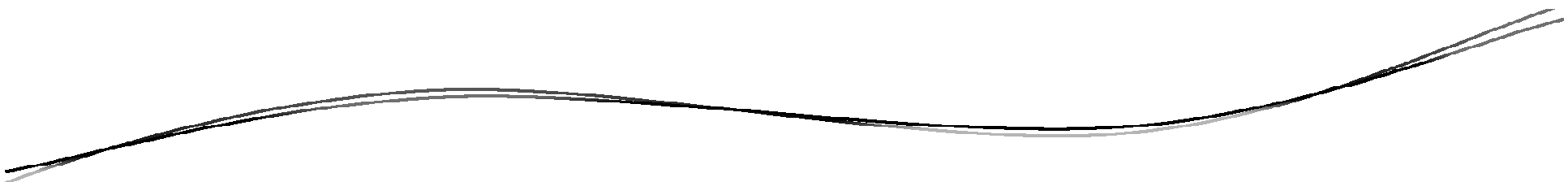
- made or agreed to be made without a consideration.



SCHEDULE I

MATTERS TO BE TREATED AS SUPPLY WITHOUT CONSIDERATION

- 1) Permanent transfer/disposal of business assets.
- 2) Temporary application of business assets to a private or non-business use.
- 3) Services put to a private or non-business use.
- 4) Assets retained after deregistration. ...contd.

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- 5) Supply of goods and / or services by a taxable person to another taxable or non taxable person in the course or furtherance of business.
- Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods.



3(2) **Schedule II**, (see next slide) - in respect of matters mentioned therein,

- shall apply for determining what is,
- or is to be treated as a **supply of goods or a supply of services**.

3(2A) Where a person acting as an agent who,

- for an agreed commission or brokerage,
- either supplies or receives any goods and/or services on behalf of any principal,
- the transaction between such principal and agent shall be **deemed to be a supply**.



SCHEDULE II

MATTERS TO BE TREATED AS SUPPLY OF GOODS OR SERVICES

1) Transfer

- a) Any transfer of the title in goods is a supply of goods.**
- b) Any transfer of goods or of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services.**
- c) Any transfer of title in goods**
 - under an agreement which stipulates that property in goods will pass at a future date**
 - upon payment of full consideration as agreed, is a supply of goods.**

.....contd.



Contd...

2) **Land and Building**

- a) Any lease, tenancy, easement, licence to occupy land is a **supply of services**.
- b) Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a **supply of services**.

3) **Treatment or process**

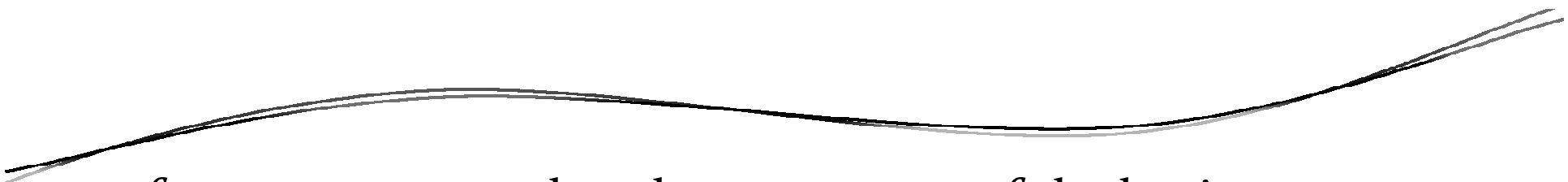
- Any treatment or process which is being applied to another person's goods is a **supply of services**.

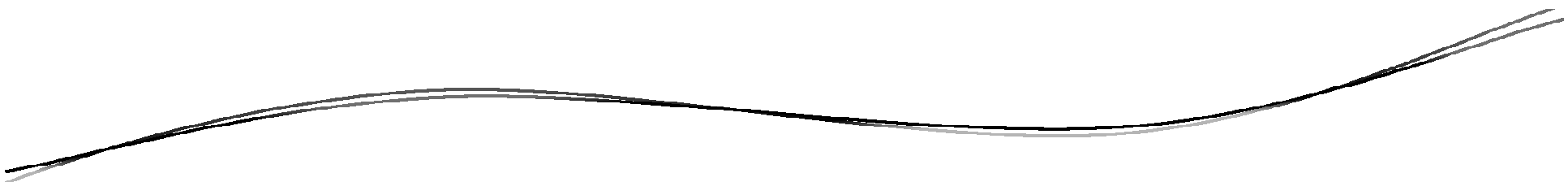
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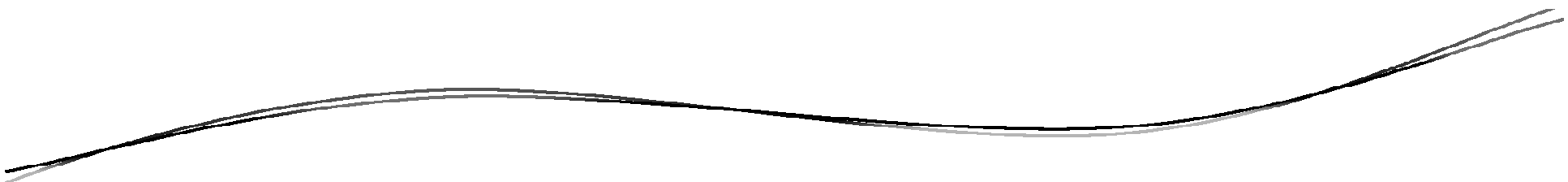


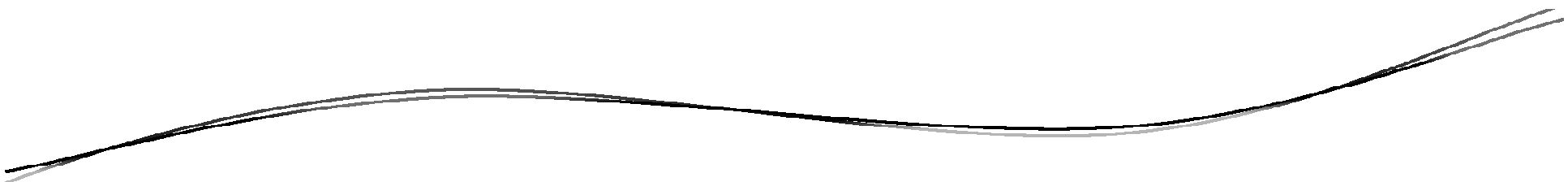
4) **Transfer of business assets**

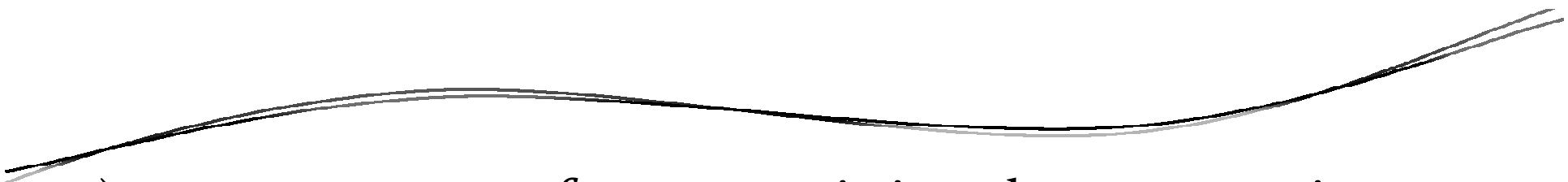
- a) Where goods forming part of the assets of a business
 - are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets,
 - whether or not for a consideration,
 - such transfer or disposal is a **supply of goods** by the person.
- b) Where, by or under the direction of a person carrying on a business,
 - goods held or used for the purposes of the business
 - are put to any private use or are used, or made available to any person for use,contd.

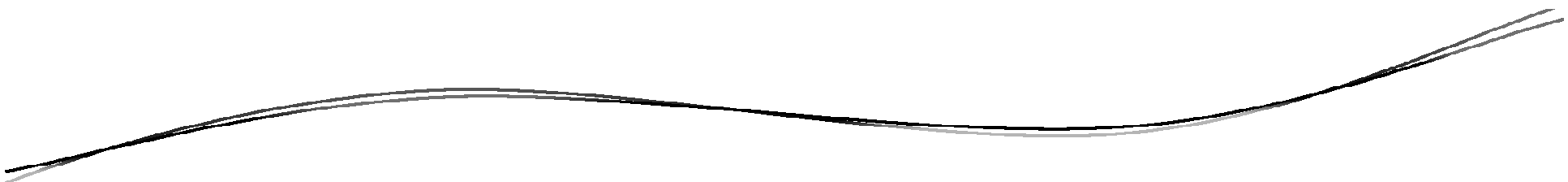
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- for any purpose other than a purpose of the business,
 - whether or not for a consideration,
 - the usage or making available of such goods is a **supply of services.**
- 3) Where any goods, forming part of the business assets of a taxable person,
- are sold by any other person who has the power to do so to recover any debt owed by the taxable person,
 - the goods shall be **deemed to be supplied** by the taxable person in the **course or furtherance of his business.**
- 4) Where any person **ceases** to be a taxable person,
- any goods forming part of the assets of any business carried on by him
 - shall be deemed to be supplied by him in the course orcontd.

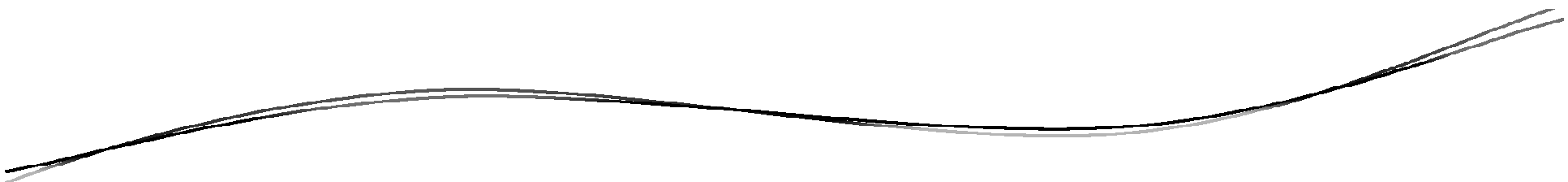
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- furtherance of his business immediately before he ceases to be a taxable person, unless—
 - the business is transferred as a going concern to another person; or
 - the business is carried on by a personal representative who is deemed to be a taxable person.
 - 5) The following shall be treated as “**supply of service**”
 - a) **renting** of immovable property;
 - b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer,contd.

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- wholly or partly, except where the entire consideration has been received after issuance of completion certificate,
 - where required, by the competent authority or before its first occupation, whichever is earlier.
 - **Explanation.-** For the purposes of this clause-
 - (1) the expression "**competent authority**" means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:-

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- i. an **architect** registered with the Council of Architecture constituted under the Architects Act, 1972; or
 - ii. a **chartered engineer** registered with the Institution of Engineers (India); or
 - iii. a **licensed surveyor** of the respective local body of the city or town or village or development or planning authority;
- 2) the expression "**construction**" includes additions, alterations, replacements or remodeling of any existing civil structure;

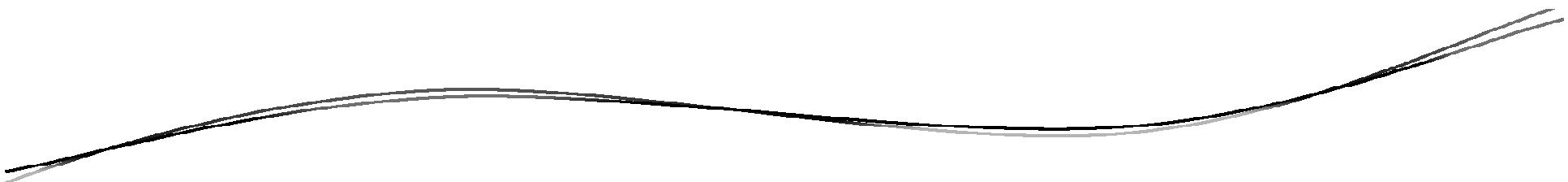
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- c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
 - d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
 - e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
 - f) **works contract** including transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
 - g) **transfer of the right to use** any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and
.....contd.

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- h) supply, by way of or as part of any service or in any other manner whatsoever,
 - of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption),
 - where such supply or service is for cash, deferred payment or other valuable consideration.
 - 6) The following shall be treated as **supply of goods**
 - a) supply of goods by any **unincorporated association** or **body of persons** to a member thereof for cash, deferred payment or other valuable consideration.



3(3) Subject to **sub-section (2)**, the Central or a State Government may,

- upon recommendation of the Council,
- specify, by notification,
- the transactions that are to be treated as—
 - i. a supply of goods and not as a supply of services;
or
 - ii. a supply of services and not as a supply of goods;
or
 - iii. neither a supply of goods nor a supply of services.

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- 4) Notwithstanding anything contained in **sub-section (1)**,
- the supply of any **branded service** by an **aggregator**,
 - as defined in **section 43B**, (see next slide)
 - under a brand name or trade name owned by him
 - shall be deemed to be a **supply of the said service** by the said **aggregator**.

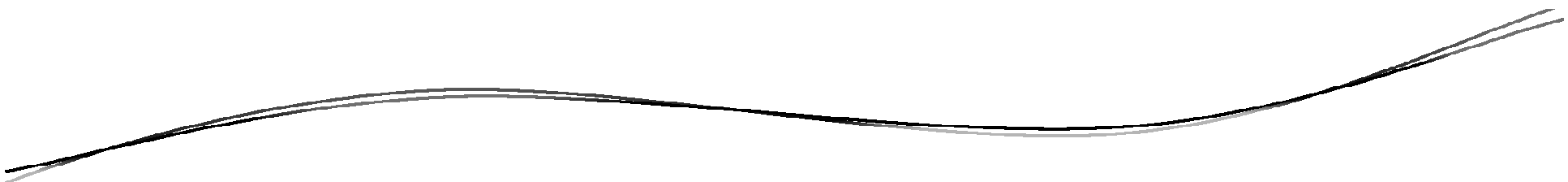


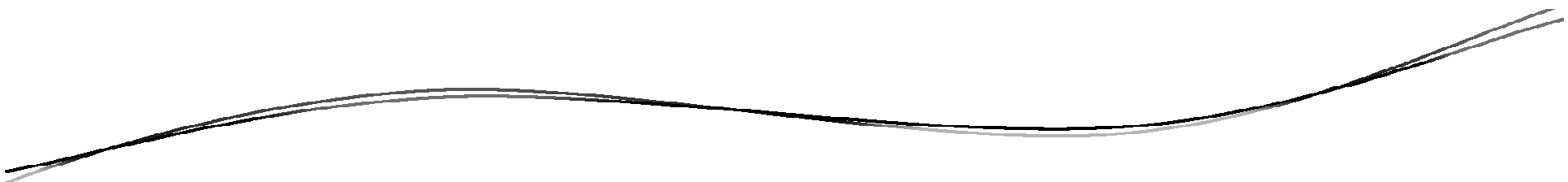
ELECTRONIC COMMERCE

43B. Definitions

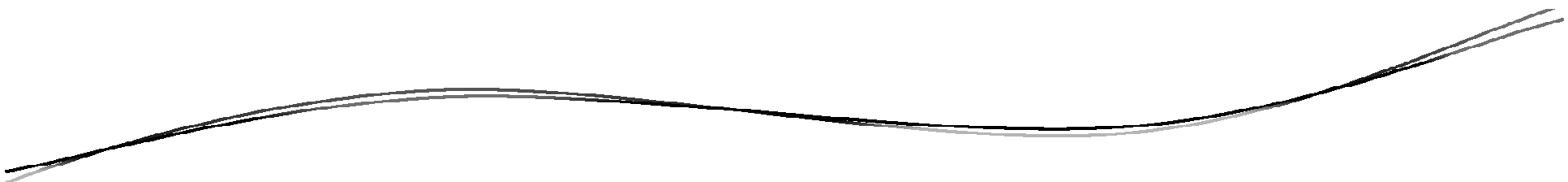
In this Chapter, unless the context otherwise requires, -

- a) **‘aggregator’** means a person, who owns and manages an electronic platform, and by means of the application and a communication device, enables a potential customer to connect with the persons providing service of a particular kind under the brand name or trade name of the said aggregator;

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- b) **‘brand name or trade name’** means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some other person using the name or mark with or without any indication of the identity of that person;
- c) **‘branded Services’** means services which are supplied by an electronic commerce operator under its own brand name or trade name, whether registered or not;



d) **‘electronic commerce’** shall mean the supply or receipt of goods and / or services, or transmitting of funds or data, over an electronic network, primarily the internet, by using any of the applications that rely on the internet, like but not limited to e-mail, instant messaging, shopping carts, Web services, Universal Description, Discovery and Integration (UDDI), File Transfer Protocol (FTP), and Electronic Data Interchange (EDI), whether or not the payment is conducted online and whether or not the ultimate delivery of the goods and/or services is done by the operator;

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- e) **‘electronic commerce operator’** shall include every person who, directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection there with but shall not include persons engaged in supply of such goods and/or services on their own behalf