

# Education Sector Hotline

August 04, 2021

## EDTECH RUMBLINGS IN CHINA AND WHAT IT COULD MEAN FOR INDIA

News is rife with the recent regulatory clampdown on EdTech, more specifically online tutoring, in China. The sudden change in regulatory landscape directed at for-profit online tutoring entities to move to not-for-profit structure, and limiting foreign control and investments, has drastically hit the fortunes of many large homegrown EdTech platforms and foreign investors alike. As uncertainty looms over China's Edtech market, questions arise about the stability of investing in Indian EdTech ecosystem as well. Can India do a China? The answer in our view is a clear No for reasons discussed in this article.

To begin with, India is the world's largest democracy. This means that decisions, especially those impacting economy and business, can't be taken at the drop of a hat. Each legislative change, whether at federal or state level, is deliberated in the parliament or state legislature, and is made after following a thorough process of law. At times, there are several oppositions to the proposed law as well, which could result in the proposal being referred to an expert committee for comments and revisions. Even the opposition parties, and public at large (if the draft is open for public comments) have a chance to have their say. Thus, law making process in India is transparent and process driven. Further, even if a law is enacted, there is also an opportunity to challenge it in court of law. For instance, certain provisions of the recent rules issued under India's Information Technology Act, 2000<sup>1</sup>, have been challenged in courts across in India on grounds of being ultra vires and unconstitutional<sup>2</sup>. Thus, the opportunity to question, reason, challenge, and even get a law struck out on legitimate grounds always exist in India.

Secondly, tutoring has been a part and parcel of Indian education system since forever. There are many offline tutoring centers across the country. Some even rose up to be large conglomerates with investor funding. Certain Indian states do have regulations for offline tutoring classes<sup>3</sup>. However, these are light touch regulations, which require registration of coaching centers or prescribe minimum infrastructure requirement for safety and the like. If offline tutoring is going to stay, the chances of suddenly banishing an online tutoring business are, in the very least, remote. Any such online tutoring specific norms would be against the right to equality vis-a-vis offline models, and right to practice any profession, or to carry on any occupation, trade or business guaranteed under the Constitution of India.

Further, the recent regulatory changes in the India, specially for the higher education, give a sneak peek into the government's mindshare - which is to have light but tight regulations, and make India a favorable place for investments and growth. To elaborate, until 2018, India did not have regulations with respect to online degree programmes. This resulted in several questions being raised about validity of online degree programmes. To clear this cloud of uncertainty, the government released the University Grants Commission (Online Courses or Programmes) Regulations, 2018, which allowed certain categories of universities in India to take their degree courses completely online. The pandemic setting in early 2020 accelerated the demand for online learning. This promoted the regulators to release a revamped version of the regulations in 2020<sup>4</sup>, to facilitate ease of offering degrees online. Infact, on the heels of statutory regulatory for technical education has also permitted certain technical courses to be offered online.

It's no surprise that EdTech market in India is super hot right now. The past month has witnessed several successful Tech company driven IPOs. Some of EdTech companies are already planning their own IPO's.

The reasons behind the recent crackdown in China appear to be a complicated mix of control and geo-politics. With the market size and growth opportunities India has to offer, we may find more capital moving to the Indian Ed Tech ecosystem.

— Aarushi Jain & Vivek Kathpalia

You can direct your queries or comments to the authors

<sup>1</sup> Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

<sup>2</sup> Foundation for Independent Journalism & Ors. v Union of India & Anr. WP (C) 3125/2021 & CM APPL 9491/2021, Live Law Media Pvt. Ltd. & Ors. v Union of India WP (C) No. 6272 of 2021

<sup>3</sup> Example: Karnataka Tutorial Institutions (Registration & Regulation) Rules, 2001, AP Education Act, Bihar Coaching Institute (Control & Regulation) Act, 2010, Uttar Pradesh Regulation of Coaching Act, 2002,

<sup>4</sup> University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020

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