
MOOT PROBLEM

1. The Republic of Oxyonia is a developing economy which gained its independence from colonialism in the mid-twentieth century, prior to which it had been an agrarian economy. A number of economic reforms in the industrial sector post liberalization of the economy resulted in increased foreign investments in this sector. Although, the government promoted privatization of property, yet major industries in the field of oil, gas and power were state-owned and made heavy investments in research and developing latest technologies.
2. Alset Pvt. Ltd. has been established as a private limited company under the Companies Act, 2013 with its registered office in New Equatoriana. It is primarily known for manufacturing cars and keeping pace with cutting edge technology to provide high tech cars to its customers. Along with technology, the safety of the Alset cars is something that Alset considers a critical priority and invests heavily in. It has worked with the government at various occasions in joint campaigns regarding road safety. Alset's slogan '*Safety First*' in combination with its statistically safest cars have won Alset a trust from people that no brand has ever managed to accomplish. Recently, Alset has been expanding the scope of its business by trying hands-on new technology-related elements such as smartwatches and smartphones. For this purpose, Alset has lately established various subsidiaries.
3. On January 1st, 2017, as a new-year surprise to the Oxyonians, Alset unleashed the Model A that they have been working on for years. They invested heavily in this car and were eager than ever to launch it in the Oxyonian market. It was a new brand of internet-enabled autonomous cars. The people of Oxyonia loved the new car as it was part of the latest

innovations currently running only in the developed nations. The unique selling point (“**USP**”) of the car was that it could automatically communicate with the GPS and the Internet to not just navigate to the exact location but also assist in driving so as to automate the entire drive with the driver required only to constantly supervise and monitor the car. The car utilized technologies such as Light Detecting and Ranging (“**LIDAR**”) sensors, radar sensors, cameras, computer mapping systems that allowed it to read the environment, including the shape of the roads, traffic, and driving conditions, and perform key dynamic driving tasks. The car was automated to accommodate a combination of multiple functions such as adaptive cruise control, lane centring, steering, braking and acceleration that helped the car dodge obstacles and traffic and avoid collisions.

4. For the first time, Alset changed its slogan specifically for the Model A, from ‘*Safety First*’ to ‘*Just Let Go!*’, ‘*Leave the driving to it!*’ and ‘*It’s not a car, it’s an experience!*’. The advertisements of Model A on TV showed the driver playing board games with the passengers behind with his seat turned 180 degrees such that he is facing the back seats, taking selfies, reading books and indulging in other behaviours that would absolutely be considered as both unrealistic and fatal while driving a traditional car, all this while the Model A car is seen to be safely driving itself. Never before had the country witnessed the confidence Alset showcased in its advertising and propagating the Model A particularly with its slogans.
5. Rarisia is a city in the state of Mediterraneo which is generally believed to consist of conservative families running on their family businesses which explain their naivety in terms of technology. Mr. Dhanraj Dhani, 45 years old is one such resident of Rarisia who owns and runs a jewellery business which naturally happens to be his family business and is a man of luxury. He owns various multiple items that are considered a sign of luxury and had his

hands on diverse luxury goods ranging from rare antiques to the latest technology. Dhanraj has been amongst the very loyal customers of Alset for long as he can remember and like other customers, his trust in Alset has been unshakable since the very beginning. However, when earlier in 2017 he came to know about the Model A, surprisingly he was very skeptical of this new technology and the claims that Alset was making about Model A through its advertisements. Nevertheless, being a man of luxury, he went ahead and bought the Model A on February 20th, 2017 and issued a registered driving license from the Regional Transport Office in accordance with the applicable laws.

6. On 1st March 2017 Dhanraj took the first drive of the Model A. At first he would be extremely cautious while driving the car especially when the self-drive mode was on. As days went by his confidence in the car grew stronger he would now take the car to his office, following his normal routine and he would simply be amazed at how precise and efficient this technology is. As a routine, he would get ready by 7.30 am and leave for his morning breakfast at *Jani Locha House*. After breakfast, he would reach his office at around 9 am. Prior to the Model A, he would take a cab to drive him to the *Gordhan Thal* often at around 1.30 pm, but now he had the comfort of his car which would automatically take him for lunch while he would choose to concentrate on his work over the phone. He often had his favourite *kachoris* and *samosas* at the Haldiram Sweets & Bakery at around 5.30 pm, which was nearby his office, but he would still take his car since he would choose to let the car take over totally. He would close his shop by 9.30 pm and leave for his dinner at The Grand Bhagawati where he would have multi-cuisine items. After having grand dinner, he would leave for his home which would take him around 30-40 minutes.

7. He had a great time with the Model A car as he would now choose to utilize the time that was previously consumed in driving to more productive use by surfing on the internet about new marketing models. He was a fashionista and would often buy his work suits from Raymond, ties from Louis Vitton, shirts from Ralph Lauren, casuals from Zara, watches from Mont Blanc, shoes from Dolce & Gabbana, located in the 6th Lane Street Market; which was not in the vicinity of his office, so he had to take time out of his busy schedule on weekends and take the pain to drive on busy streets to buy apparels. Although he was not tech-savvy, yet he enjoyed buying the latest widgets and gizmos and would often visit iVenus to check out the latest Apple gadgets. Model A simplified all his problems as he would just have to enter the location in the navigation system and the car would take him to the desired location while he would just sit back and work in the car itself.
8. On 1st May, he received a feedback call from Alset Pvt. Ltd. regarding the experience of Model A and he was extremely satisfied with the experience of this new technology. The customer care representative enquired whether he logged into the mobile application named, Model A Experiencez to enhance his already good experience of Model A, to which Dhanraj replied in negative. The representative explained to him about logging into the Model A application which could be downloaded from the App Store and asked him to look into the User Manual and other attached documents. He immediately searched for the Manual which he found in the boot of the car, however, he could not understand technical words used like “*artificial intelligence*” and “*internet-of-things*”. He agreed to the notice and logged into the device for an enhanced experience.
9. He downloaded the Model A Experiencez and encountered a notice, in the form of a click-wrap agreement to which he agreed without reading, in anticipation of enhancing his experience, he logged into the device. The



login required details like name, age, sex, marital status, contact details, address, etc. After successful login, the car saved these details and would communicate with Dhanraj and greet him whenever he entered the car. It had also enabled speech recognition and could listen and respond to all the requests made by Dhanraj like playing his favourite music or auto-start the car after hearing his command or show him business news. One fine day right before placing his usual breakfast order at *Jani Locha House*, he was surprised to hear his car place his order to the restaurant person in exactly his voice tone and stammered similar to how he talked. Dhanraj was very pleased with the enhanced experience of this high-end technology and would spend the majority of his day in the car where now he would work and chat with his friends, yet would not worry about driving or handling the car. The car would itself order food for him and play his favourite music. With time, his confidence on the abilities of the car grew to the extent that he would stretch back and relax on the driving seat with his hands behind his head or would have video chat or take a selfie in excitement all when the car would drive itself. He began to believe that the advertisements that he regularly saw on the TV were true in real life.

10. Dhanraj would vividly remember how the car itself managed to spot obstacles before him along with braking and accelerating in the precise measures and with precise timings to improve speed without having the hassle of any erratic behaviour by the vehicle. He would often say to himself that the car drives itself better than any driver he has ever hired. By the end of May, Dhanraj started to use the car in his long business trips which involved driving more than 100 miles at a stretch. Dhanraj, now no longer had to enter the navigation every time he entered the car, the car on its own would take him to *Jani Locha House* in the morning and then to his office, at lunchtime it would straightaway take him to *Gordhan Thal* and order his

lunch meanwhile he would concentrate on work and after closing of the office hours, would directly take him to The Grand Bhagwati and then to his home without any command or communication from him.

- 11.** By November 2017, Dhanraj began experiencing something strange with the Model A. The route which the car would generally take which also happened to be the most efficient route was replaced with other long and sometimes difficult and inconvenient routes. These routes would generally run across streets that were filled with specific retail outlets that happened to match the shopping preferences such as that of luxury items that Dhanraj was fond of. Other times, it would be the outlets of the products manufactured by the other subsidiaries of Alset or any other random outlets which were specific and repetitively seen on altered routes. Whenever the car passed by such shops and streets, the car would display the advertisements on the monitor and make him aware of his favourite items by reminding him of purchasing the same. The car would detour him to the 6th Lane Street Market and 20th Lane Street Market, where such high-end products were sold, which would waste his time reaching the office or for his business meetings. Although he enjoyed this experience of Model A, he would frequently face the difficulty of wastage of his crucial time and would often get irritated over repeated reminders by the car about his favourite luxuries whenever he came across the shops.
- 12.** On the fateful evening of 17th July 2018, the city of Rarisia experienced unusually heavy yet unprecedented rainfall. After an exhausting day at work, Dhanraj was travelling in his Model A back home. Interestingly, the car again did not take the usual route and routed itself to a more crowded street surrounded by shopping centers, markets, and various advertisement sources. He began deliberating why the car would not take the normal route home and choose unwisely to take such a street when all of a sudden a lady

abruptly appeared right in front of the car. The next thing he knew was that the car hit a motorcycle driven by one Dhruval wearing a helmet. To his utter surprise, the Model A failed to brake when the lady was clearly right before the car but instead at the last moment, just before hitting the lady, steered towards the right to collide with the motorcycle. In order to avoid hitting the lady, the Model A steered automatically towards the right to deliberately hit the said motorcycle. Alternatively, the Model A could have steered left to hit another motorcycle carrying an elderly woman without wearing a helmet. There was no other alternative possible for the Model A to choose apart from colliding with either of these three persons. It was noted that because the Model A was programmed to cause the least harm during such situations and resultantly it decided to hit Dhruval on the motorcycle wearing safety gear.

13. During the course of this entire event, Dhanraj was entirely disengaged to control the car in any way. The accident report concluded that both the Model A and Dhanraj failed to brake the car when the lady appeared abruptly on the heavy trafficked road and the toxicology report indicated that the lady was heavily intoxicated with alcohol. The victim was a manager at a prestigious IT firm and had to be admitted for two months in the Hospital. As a result of the same, Dhruval sued Mr. Dhanraj and the insurance company at the Motor Accidents Claims Tribunal for an amount of Rs. 20,00,000/- claiming *inter alia* his medical expenses, loss of income, damage to his motorbike, pain and suffering. The Tribunal decided the award in favour of Dhruval and divided the compensation amount between the insurance company and Mr. Dhanraj equally. The insurance company paid the due amount decided by the Tribunal. However, Mr. Dhanraj aggrieved by the decision of the Tribunal, appealed to the High Court of Mediterraneo and the High Court confirmed the award of the Tribunal and

dismissed the appeal with costs. He further appealed to the Supreme Court of Oxyonia and the matter is listed for hearing.

14. In return, Mr. Dhanraj filed a suit at the State Consumer Disputes Redressal Commission of Rarisia for Rs, 60,00,000/- claiming *inter alia* the harm caused on grounds *inter alia* that the car was defective in nature and Alset had indulged in false advertising. The State Commission found no merit in the suit of Mr. Dhanraj and passed the judgment in favour of the company. Dhanraj aggrieved by the decision of the State Commission appealed to the National Commission and the National Commission also agreed with the order of the State Commission and disposed of the appeal. A distraught Dhanraj after consulting with his lawyer appealed to the Supreme Court of Oxyonia where the matter is currently pending for hearing.
15. On 1st January 2019, the nationwide media was flooded with reports claiming that Alset has been using the personal data of its customers to personalize advertisements displayed in the car and even to adjust a vehicle's route, in the name of providing enhanced experience so that it passes retail outlets which may match a user's imputed preferences. In the light of tremendous evidence against it, Alset conceded to this fact but maintained that there was nothing illegal concerning its actions. Since Alset had come into an infamous light, multiple cases involving Alset's Model A accidents began surfacing.
16. Being such a loyal customer of Alset, Dhanraj was outraged by the massive loss of countless hours and inconvenience caused to him by the Model A taking the altered routes. Dhanraj filed a complaint with the Data Protection Authority of India (“**DPAI**”) for claiming compensation for breach of his privacy. The DPAI dismissed the complaint on grounds that the consent was lawfully obtained and there was no harm to Dhanraj. As a result, Dhanraj filed a special leave petition before the Supreme Court of Oxyonia

claiming compensation *inter alia* for breach of personal data provided by him. The Supreme Court of Oxyonia, realizing the gravity of the ramifications of the autonomous vehicle, clubbed the appeal from the High Court of Mediterraneo, the National Commission and the special leave petition under the Supreme Court Rules, 2013.

Issues for the Court's consideration:

- a. Whether the Respondent is liable to pay compensation for the accident dated 17th July 2018?
- b. Whether the Respondent is liable to pay compensation for the violation of provisions of *inter alia* the Consumer Protection Act, 1986?
- c. Whether the Respondent is liable to pay compensation for the violation of provisions of The Oxyonian Personal Data Protection Act, 2014?

The list of issues provided is not exhaustive in nature and the participants have the liberty to include further issues as they desire.

Note:

The Parliament of the Republic of Oxyonia amended the Motor Vehicles Act, 1988 by way of Motor Vehicles (Amendment) Act, 2014 to include testing and commercial sale of autonomous vehicles. For the purposes of the moot problem, The (Indian) Personal Data Protection Bill, 2018 was enacted as The (Oxyonian) Personal Data Protection Act, 2014 by the Parliament of the Republic of Oxyonia in the year 2014 in accordance with the Constitution of Oxyonia, 1949. The laws of the Republic of Oxyonia are *in pari materia* to the laws of the Union of India.

ANNEXURE I:

DATA PROTECTION NOTICE

Alset Pvt. Ltd. (“**We**”, “**Us**”, “**Our**”) respects your privacy and is committed to protecting your personal data. This Privacy Notice (“**Notice**”) will inform the data principal (“**You**”) as to how we look after your personal data when you interact with any of the online forums, registration forms, sign-up forms, other digital activities carried (“**Activities**”), any data you may provide through the Model A Experiencez and describes how we process your personal data. All the personal data, including any sensitive personal data, is stored and processed in accordance with applicable data protection laws and the Alset Pvt. Ltd. Privacy Policy. You must read this notice together with any other privacy notice or fair processing notice we may provide on specific occasions when we are collecting or processing personal data about you so that you are fully aware of how and why we are using your data. This privacy notice supplements the other notices and is not intended to override them.

You acknowledge and agree that his/her personal data may be processed in accordance with this Notice. Processing of personal data is, amongst others, necessary for us to be able to communicate with you and send you special offers, promotions and/or newsletters. Further information may be provided where necessary when you apply for a specific product or service.

1. Scope of this Notice:

1.1 This Notice applies to all our entities and third parties that may process your personal data in connection with the experience of Model A.

2. Collection of personal data:

2.1 We collect and use your personal data to the extent necessary in the framework of our activities and to achieve a high standard of personalised products and services. We may collect various types of personal data about you, *inter alia* contact information; however, we never ask for personal data related to your racial or ethnic origins, political opinions, religious or philosophical beliefs, trade union membership, genetic data or data concerning your sex orientation, unless it is required through a legal obligation.

2.2 In addition, we automatically collect certain information via cookies when you browse our webpage, including for example your IP-address and information about the pages visited. You can read more about our use of cookies by reading our Cookie Notice available here.

3. Purpose of collection:

3.1 The personal data we collect from you is used *inter alia* to enable us to provide you with any of our services, to communicate with about special offers, promotions, events and news about our products and services, to personalise our marketing and to provide you with customer service and communicate with you in respect of consumer grievances and redressal.

4. Failure to provide personal data:

4.1 Where we need to collect personal data by law, or under the terms of a contract and you fail to provide that data when requested, we may not be able to perform the contract and may be exonerated of any legal consequences arising out of such contract.

5. Disclosure of personal data:

5.1 We may disclose your personal data to other companies within the Alset group of companies. We may also disclose your personal data to third parties who help us

who provide us with a wide range of office, administrative, information technology, production, payment, or business management services, and who are required to comply with this policy to enhance the experience of driving Model A. Some of these third parties may be located outside the jurisdiction from which you accessed the database. These third parties are required by us, at all times, to provide appropriate levels of security for your personal data. They are bound by legal agreements to keep your personal data private and secure and to process your personal data only in accordance with our specific instructions.

5.2 We may also disclose your personal data:

- a. to any party as required or permitted by applicable law;
- b. to any third parties whom we may contact, in connection with your current and/or past employment or engagements, to solicit feedback; and
- c. to a prospective buyer, in the event that we anticipate the sale of all, or the relevant portion, of our business.

6. International transfers of personal data:

6.1 We are a global company that uses the internet to collect and process your personal data and this naturally involves the processing and transmission of personal data across borders. We may transfer your personal data to jurisdictions other than the jurisdiction in which you are based, but we will do so only for the purposes described in this Notice. When we transfer your personal data to other jurisdictions, we do so in accordance with the requirements of applicable law. We will only transfer your personal data to countries that have been deemed to provide an adequate level of protection for personal data by the Data Protection Authority of India (“**DPAI**”).

7. Retention of personal data:

7.1 We will retain your personal data for a reasonable period of time required in order to comply with applicable laws and regulations concerning our operational requirements, such as proper account maintenance, facilitating client relationship management, and responding to legal claims or regulatory requests.

7.2 To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements. In some circumstances, we may anonymize your personal data for research or statistical purposes in which case we may use this information indefinitely without further notice to you.

8. Legal Rights:

8.1 You have the right to make a written request to be informed whether or not we hold or process any of your personal information (by emailing info@alset.com). In your written request, you may request that we:

- a. provide you with details of your personal information,
- b. provide access to, or copies of, your personal data that are processed by us,
- c. the purpose for which it is processed,
- d. the right to request information regarding the source of your personal data, if those personal data were not collected directly from you;
- e. where you have given your consent for the processing of your personal data, you have the right to withdraw your consent at any time, subject to the condition that we are provided with a notice of intention to withdraw in an appropriate form as available on our website and an adequate compensation for the discontinuance of processing data to be decided by our Data Protection Officer (“**DPO**”).

- f. the recipients of such information, the existence of any automated decision making involving your personal information, and what transfer safeguards we have in place;
- g. rectify any errors in your personal information;
- h. the right to request information about the existence of, and an explanation of the logic involved in, the significance of, and any envisaged consequences of, any automated processing of your personal data that has a legal effect, or a significant effect, on you;
- i. delete your personal information if our continued processing of such information is not justified or required;
- j. transfer your personal information to a third party;
- k. object to automated decision-making and profiling based on legitimate interests or the performance of a task in the public interest (in which event the processing will cease except where there are compelling legitimate grounds, such as when the processing is necessary for the performance of a contract between us);
- l. object to processing for purposes of scientific, historical research and statistics;
- m. complaint about the processing of your personal data to the DPO or the DPAA.

8.2 You may exercise any of these rights, to the extent that they are available to you under applicable law, using the contact details provided above in this Notice and/or contacting us in your country of residence. This does not affect your statutory rights. Your decision to exercise any of these rights will not affect your application and will attract no sanction or penalty of any kind.

9. Data security:

9.1 We have put in place appropriate security measures to prevent your personal data from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. We use third-party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to run our activities. Where practical, we seek to obtain confidentiality agreements that are consistent with this Privacy Notice and that limit others' use or disclosure of your personal information.

10. Grievance Redressal:

10.1 You may contact our DPO for any grievances arising out of the Notice and such grievance shall be resolved expeditiously.

11. Changes to this Notice:

11.1 Please note that our Privacy Policy is reviewed periodically and we reserve the right to modify the Privacy Notice at any time without notice. Any changes to this Notice will be published on our webpage and in addition, any material changes hereto will be notified to you directly by e-mail if we have your contact details; however, we encourage you to periodically review this page for the latest information on our privacy practices.

12. Contact Information:

We are the data fiduciary in respect of any personal data that we process about you pursuant to applicable data protection laws, including the Personal Data Protection Act, 2019. If you have any comments or enquires related to this Notice, please do not hesitate to contact us at:

Alset Pvt. Ltd.

Madsen House,

Unit No. 1998, 18th Floor, Tower-9 (Wing F),

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