



# Newsletter-20

Mysore Chapter July 2005

## Quarterly Report from Chapter (April 05 to June 05)

Oral coaching classes commenced for Intermediate Group 1 from 06<sup>th</sup> July 2005

**Career counseling:** In the Career fest conducted by Rotary Mysore South East in Nanjaraja Bahadur Chatra Mysore.

### Committee Meetings:

SL	Date	Members Attended
1	17.04.05	H.M.Dattatri, D D Bhat, K., K. Sarina Chouta Harish, S. Bhadrinarayanan
2	22.05.05	C.K.Sabareeshan, H.M.Dattatri, D D Bhat, S. Bhadrinarayanan, Jayalaksmi A, Kiran kumar.
3	29.05.05	C.K.Sabareeshan, H.M.Dattatri, D D Bhat, S. Bhadrinarayanan, Jayalaksmi A, Kiran kumar. K. Sarina Chouta Harish, M C Bansali

SL	Date	Students Study Circle Meetings
1	03.04.05	Evidence Act
2	10.04.05	Tax Law
3	17.04.05	Indirect Tax
4	24.04.05	Queries on Tax laws
5	01.05.05	General Queries
6	08.05.05	General Queries
7	15.05.05	General Queries
8	22.05.05	General Queries Company Law
9	29.05.05	General Queries Company Law
10	12.06.05	Exam Orientation & Motivation
11	19.06.05	People Management
12	26.06.05	Retaining Customers

**Seminar:** Full Day Seminar on Arbitration and Trademarks, Patents and Copyright on 20.05.05 in Hotel Sandesh The Prince. Speakers: Mr. Keran Javali, Advocate and Mr. Shreyas Jaisimha, Advocate. Participation: 30

### Wise Words...

A turtle makes progress when it sticks its head out ...

# Digital Signatures

Harish b. n. CS Student



The Information Technology Act was passed in the year 2000 and is applicable to the whole of India. Information Technology, in a broad sense, connotes that technology which is connected with information. With technological advancement, Digital Signatures - "A New Type Of Electronic Signatures" is coming in the forefront. In a layman's language, Digital Signatures is use of some distinct digits in place of one's signature.

According to The IT ACT 2000, Digital Signature means "Authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with relevant provisions".

Digital signatures are a way to ensure the integrity of a message or other data using public key cryptography. Like traditional signatures written with ink on paper, they can be used to authenticate the identity of the signer of the data. However, digital signatures go beyond traditional signatures in that they can also ensure that the data itself has not been altered. This is like signing a check in such a way that if someone changes the amount of the sum written on the check, an "Invalid" stamp becomes visible on the face of the check.

Digital Signatures is safer than a hand written one, as it can't be forged. If the parties on the last page sign a contract, there's no way to find whether other pages have been tampered with. But

Digital Signatures on the same contract will ensure that original contract is intact and not even a single letter is changed

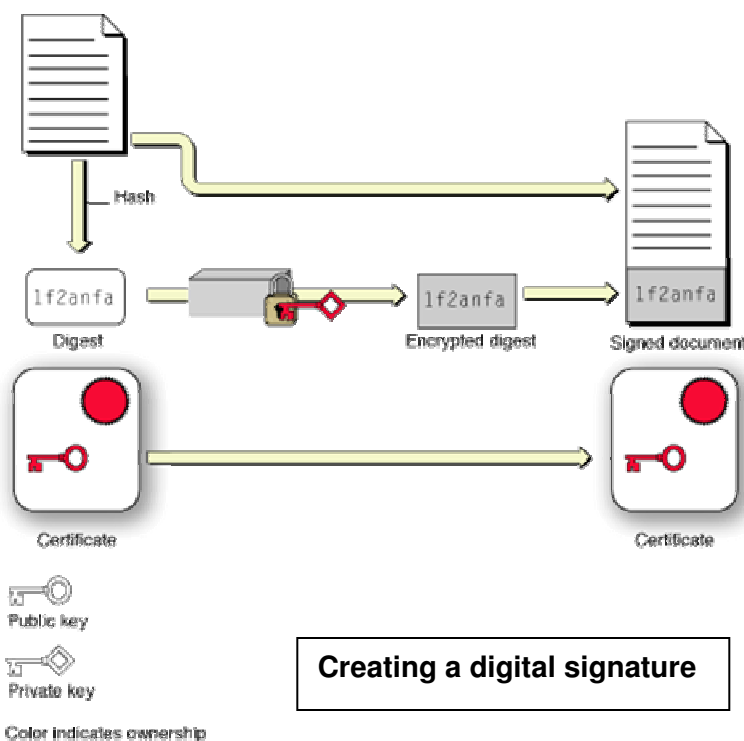
## DIGITAL SIGNATURES - why do we need it?

The following issues answer the need for Digital Signatures:

1. Authentication.
2. Confidentiality.
3. Integrity
4. Non-repudiation.

Digital Signatures are gaining popularity due to following reasons:

- (a) Digital certificate can be used to access membership-based websites automatically without the need for user name and password.



(b) It enables the recipient to ensure that sender has sent the data the data has not been changed or tampered with.

(c) It enables others to send private messages to the person who has Digital Signatures. No other person would be able to read the private message.

### The Nitty-Gritty Of digital signatures In India

The IT ACT 2000 has authorized the Controller Of Certifying Authorities (CCA) to issue licenses and regulate the working of Certifying Authorities (CA). A detailed procedure has been prescribed for making an application for appointment of Certifying Authorities (CA). Inter alia, the applicant should have the prescribed net worth and the necessary infrastructure. Further, a detailed audit is carried out to ascertain its eligibility. To invite more players, the mandatory bank guarantee has been slashed to Rs.1 crore from Rs.10 crore. The fee for acquiring digital signatures would also come down with the growth in subscriber base.

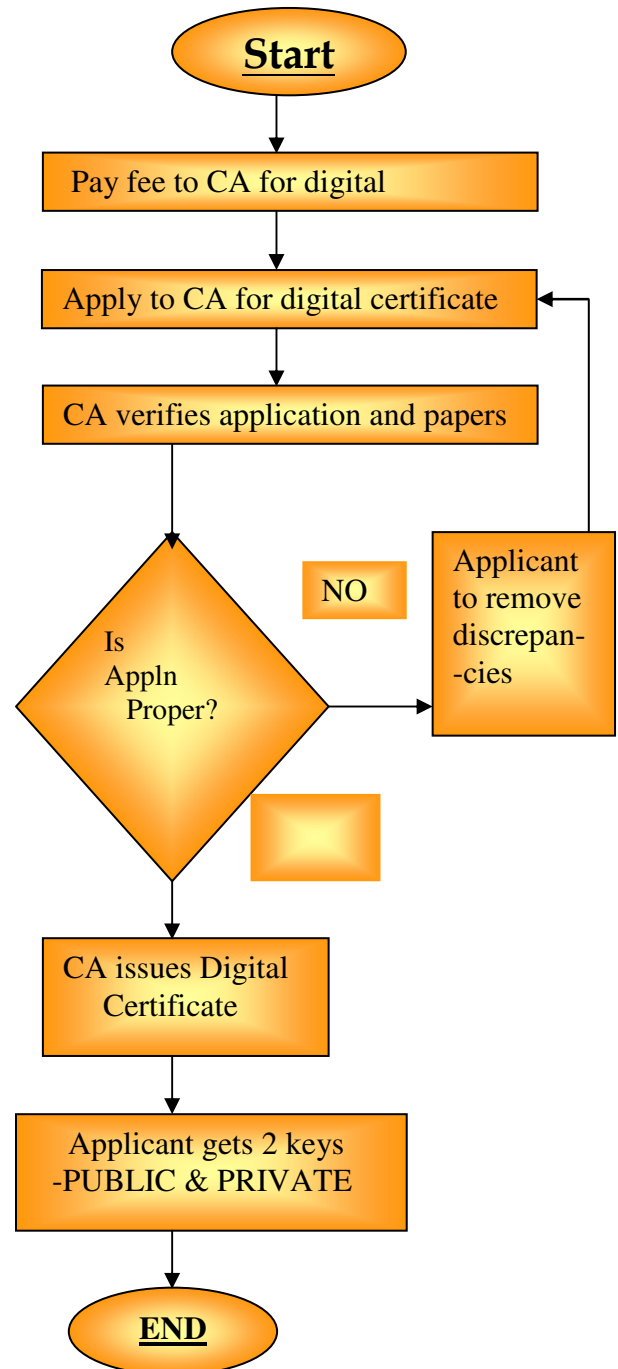
A Certifying Authority issues a digital certificate to individuals or organizations to enable them to prove the authenticity of data sent electronically. When a CA issues a certificate for a digital signature to a person it basically authorizes the person to use the digital signature as he uses his manual signature. But there is a basic difference. Whereas manual signature can be put anywhere, a digital signature can only be used for the purpose for which it has been issued. CCA maintains a National Repository of Digital Certificates (NRDC) containing all the certificates issued by the CA's in the country .At present, Safescrypt, Tata Consultancy Services, National Information Center And MTNL are major CA's authorized to issue digital signatures

#### NOTE:

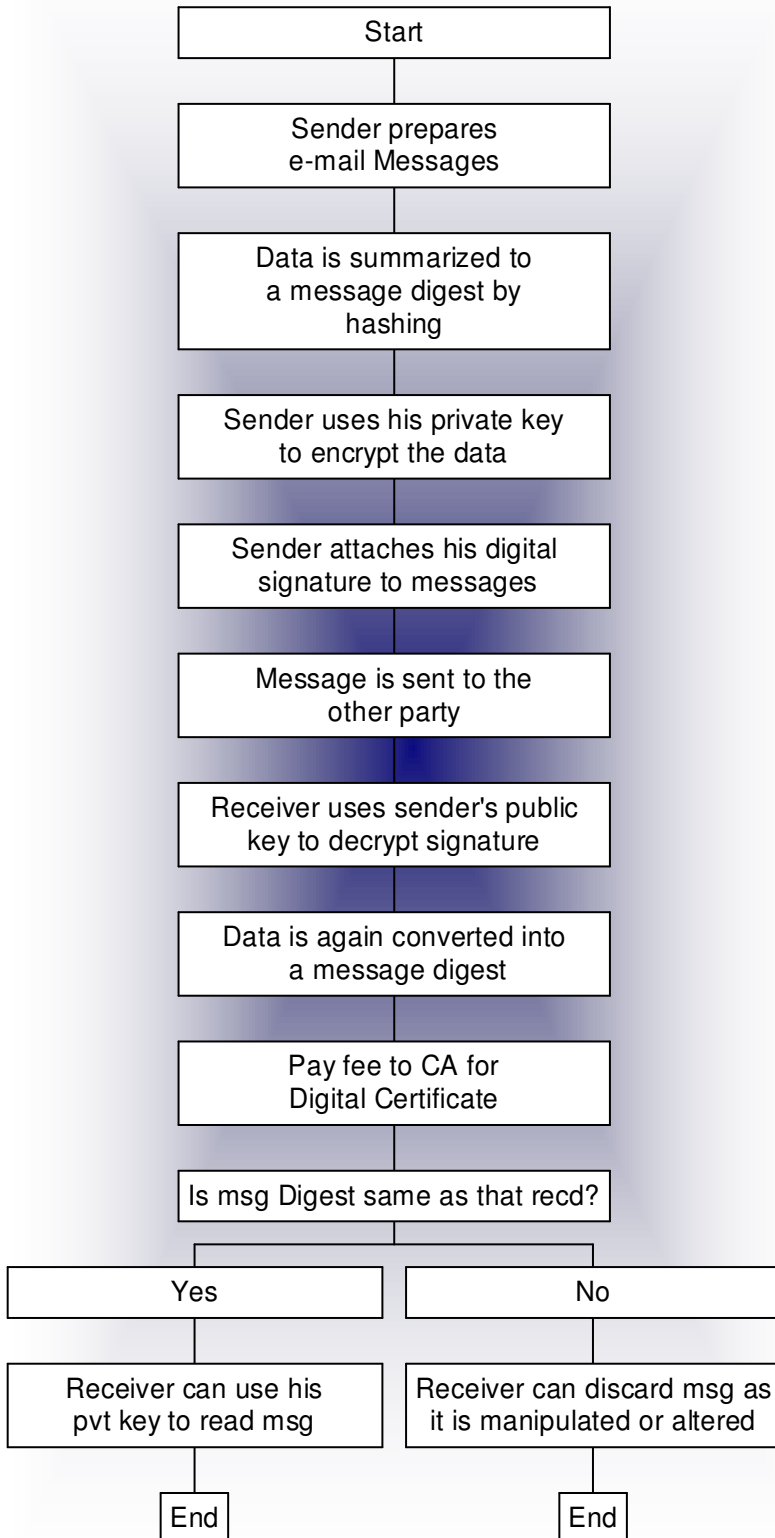
- 1) A "Public key" means the key pair, used to create a digital signature.
- 2) A "Private key" means the key pair, used to verify a digital signature.

### Contents of a Digital Signature Certificate

1. Serial number (which distinguishes it from other digital certificates).
2. Signature Algorithm Identifier (which identifies the algorithm used by Certifying Authority to sign the digital signature certificate)
3. Issuer name (name of the CA who issued digital signature certificate).
4. Validity period of the digital signature certificate



## How to use Digital Signatures?



5. Name of the subscriber (whose public key the certificate identifies).
6. Public Key information of the subscriber.

### Limitations of Digital Signatures:

1. The Digital Signatures are much more secure and safe but even their use cannot guarantee 100% safety from hacking and forgery.
2. Use of Digital Certificates means recurring cost for the users as they are issued for a particular duration. Thereafter, they have to be renewed on payment of necessary fee.
3. Different authorities prescribe use of different Digital Signatures. For example NSDL requires the assesses to obtain separate signatures for filling TDS returns electronically
4. The cost of issue is a major dampener on the use of digital signatures, particularly because it happens to be a cost of the recurring nature.
5. Obtaining separate digital signatures for different entities is also a major irritant.

### Future of Digital Signatures:

Online transactions such as transfer of funds in bank accounts, buying and selling, making application for and renewal of licenses, paying fines and bills of utilities are gaining popularity. In the not distant future, it would be mandatory to do some of the transactions electronically using DIGITAL SIGNATURES.

As a live example, *the INCOME TAX Dept first made e filing of TDS returns through authorized TIN facilitation centers mandatory for companies. In the next stage, they have been recently given the facility of filing e-TDS returns online from one's own computer using DIGITAL SIGNATURES.* In due course of time, this would also be made mandatory. Thus use of DIGITAL SIGNATURES can lead to a quantum jump in electronic transactions as it addresses the concerns of the transacting parties as to confidentiality, integrity, authenticity and non-repudiation.

# Legal Roundup

## A. Income Tax

### Clarification as to Circular and Notification

Circular issued by the Board is not a 'Notification', which are issued under Chapter V of Finance Act, 1994. Advance Ruling cannot be sought on a question based on a circular issued by Board.

IN RE: Jason James Clemens 2005 (181) ELT 16 (AAR)

## B. Sales Tax

Vide above notification, the Karnataka Government reduced the tax rate payable under sec 5 of the KST Act to 4% on the sale of :-

- a. Diesel, Light Diesel Oil, Super Light Diesel Oil and Furnace Oil including Low Sulphur Furnace Oil (LSFO) to an industrial unit (engaged in either manufacturing or processing) located in the State for use by such unit in its captive power generation set; and
- b. Furnace Oil, Light Diesel Oil, Low Sulphur Heavy Stock (LSHS), Lubricants and Naptha, Liquid Petroleum Gas to an industrial unit located in the state for use by such unit as consumables

**Subject to the condition that all the provisions relating to taxation of industrial inputs u/s 5A of the said act, in the same dealer will give a declaration in form 37.**

### ***VAT development so far in Karnataka...***

1. The Karnataka VAT Act has been notified to be effective from 1.4. 2005
2. The Final VAT Rules were notified on 31.03.2005 to be effective from 1.4.2005
3. For the purpose of definition of capital goods, a limit of Rs.10L has been notified under section 2(7) of KarVAT Act.

4. Industrial inputs and IT products have been notified for the purpose of taxing the same at 4%.
5. All inputs used in the business relating to liquor and cement used as input in business relating to pipes and fittings are not entitled to input tax credit.
6. The composition rate for works contract under VAT is fixed at 4%.
7. The Karnataka Sales Tax Act is retained only in respect of petrol, aviation fuel, motor spirits and sugarcane.
8. The rate of interest payable under KST Act, Professional tax Act, KTEG Act, STE Act and VAT Act has been reduced from 2% pm to 1.25% pm.
9. The time for preferring revision petition under KST Act and VAT Act before High Court has been increased from 120 days to 180 days.

The time for preferring revision petition under KTEG Act before High Court has been increased from 60 days to 120 days.

Notification No. FD 210CSL 2004, Bangalore dated 07th February 2005 (2005) 58 KLJ-St 65

## C. Customs

### EOU - Procedure for fast track clearance

The fast track clearance procedure shall apply only to eligible EOUs having status holder certificate under FTP. The areas in which Fast Track clearance available are as follows:

1. Self Sealing of containers
2. Factory stuffing
3. Examination of goods at the Gateway port
4. Clearance of rejects
5. Export of samples
6. Temporary removal of capital goods and parts
7. Installation of Fax/computers
8. DTA Sales of finished goods

Personal carriage of gems & jewellery for export promotion tours

M.R.(D.R.) Circular No.12/2005-Cus dated 4.3.2005

### **Advance Rulings Regulations - Salient features**

New procedure known as 'Authority for Advance Rulings (Customs, Central Excise and Service Tax) Procedure Regulations, 2005' [AARUL (CEST) Procedure Regulations, 2005] has been notified. Brief features are as follows:

- 1) Applications relating to Service tax has been included
- 2) Provision for reopening of hearing in a case prior to the pronouncement of order by Authority is prescribed.
- 3) Applicant can now seek amendment of a question on which an advance ruling is sought.
- 4) The Authority may also appoint an advocate as Amicus Curiae to assist it in an application

Withdrawal of application beyond the stipulated 30 days time may be allowed by the Authority in its discretion

Trade Notice No. 8/2005, dated 21-2-2005

### **DEPB Scheme Extended**

The Central Government has extended the period of exemption from payment of customs duty on imports effected under the Duty Entitlement Pass Book (DEPB) Scheme to 30/9/2005.

(Notification No 31/2005 dt. 30/03/2005)

### **Target Plus Scheme**

The Central Government has issued a notification providing for exemption from payment of customs duty on imports against a duty credit certificate issued under the Target Plus Scheme of the Foreign Trade Policy 2004-2009.

(Notification No 32/2005 dt 08/04/2005)

### **Case Laws**

The Tribunal has held that if all essential parts of a product are imported in completely knocked down condition and presented together at the same time for assessment, the imported parts would be classifiable as the complete product in terms of Rule 2(a) of the Rules of Interpretation.

(Goel Private Ltd. Vs. CC (2005 (121) ECR 231)

The Tribunal has held that in terms of Rule 3 (c) of the Rules of Interpretation, where an item is classifiable equally under more than one heading of the Customs Tariff, it is to be classified under the heading which occurs last in numerical order.

(Hi-Tech Computers Vs. CC (2005 (67) RLT 621)

The Tribunal has held that the transaction value of imported goods cannot be rejected on the basis of price reports published in industry trade journals.

(Vazir Polymers Vs. CC (2005 (182) ELT 99)

### **Foreign Trade Policy**

The Central Government has clarified that in cases of defaults in export obligation, the decisions of the Settlement Commission as regard the customs duty and interest thereon should be complied with by the Licensing Authority. However, the Authority has the power to decide on the imposition of penalty, where considered necessary, in terms of Section 11 of the Foreign Trade (Development & Regulation) Act, 1992.

(Policy Circular No. 25/2004-2009 dt. 30/03/2005)

The Central Government has amended the validity period of import licenses/ permissions/ certificates etc issued during the period 01/04/2004 to 31/08/2004 in order to bring such periods in conformity with the periods specified under the Foreign Trade Policy 2004-09, which was announced on 31/08/2004.

(Public Notice (No. 2 (RE-2005)/2004-09 dt.20/04/2005)

## D. Service Tax

### Case laws

the Supreme Court has upheld as valid and constitutional, the law imposing service tax on those availing the services of goods transport operators and clearing and forwarding agents.

(Gujarat Ambuja Cement Limited Vs Union of India [(2005) 1 STJ 991])

The Tribunal, has held that transfer of technology is not a service chargeable to service tax under the heading of Consulting Engineer services.

(CCE Vs Valeo Friction Material India (P) Limited [(2005) 1 STT 7])

## E. Excise

### New 8 digit Central Excise Tariff

All Central Excise Tariff headings would have Harmonized System of Nomenclature (HSN) based on from six digit to eight-digit classification code from 28-2-2005.

C.B.E. & C. Circular No. 808/5/2005-CX., dated 25-2-2005

Departmental Circulars - When the circulars are contrary to law declared by Supreme Court, such circulars lose their validity and they become non est. Departmental circular vis-à-vis supreme court decision taking different view on the same subject - matter referred for clarification by Supreme Court bench of similar strength of Judges which gave earlier interpretation.

CCE, Bolpur vs Ratan Melting & Wire Industries 2005 (181) ELT 364 (SC)

The Tribunal has held that credit is admissible on capital goods which were

initially used in the manufacture of exempted goods but were subsequently used in the manufacture of dutiable goods.

Arvind Mills Ltd. Vs. CCE (2005 (182) ELT 362)

The Tribunal, has held that inputs damaged or rendered unfit during the course of manufacture would constitute waste and hence credit is not deniable on such inputs.

Lumbini Beverages Pvt. Ltd. Vs CCE (2005 (67) RLT 317)

The Tribunal, has held that credits are not admissible on inputs lying in stock on the date on which the final products were exempted from duty.

CCE Vs Carritt Moran & Co (P) Ltd (2005 (67) RLT 627)

## F. Miscellaneous

### Environmental Law

The petitioner, a company engaged in the manufacture of Diesel General Sets, filed a writ



THE FIRST DAY AT THE NEW JOB WAS GREAT!  
I SENT MY RESUME TO 56 COMPANIES FROM  
MY NEW E-MAIL ID AT THE OFFICE.

petition before the High Court, seeking quashing of a notification amending the Environment (Protection) Second Rules, 2002. By the said notification, the permissible noise limit fixed for Diesel Generator Sets was changed. According to the amendments, noise from diesel generator set must be controlled by providing an acoustic enclosure or by treating acoustically at the manufacturing stage.

The notification was assailed on the ground that, rules are violative of the provisions contained in Articles 14, 19 and 21 of the Constitution of India in so far as they fix standard noise limit of 75 dB(A) for all diesel generator sets up to 1000 KVA irrespective of location for use and capacity.

The petition was dismissed with the observations that the state was authorized to make provisions for reducing the noise level at the manufacturing stage itself.

Jackson and Company Vs. Union of India (UOI)  
and another, 2005

## RBI

*Establishment of Liaison Offices in India by Foreign Insurance Companies*

The RBI vide the above circular notifies that general permission is granted to Insurance Companies incorporated outside India to establish Liaison Offices in India provided they have obtained prior approval from the Insurance Regulatory and Development Authority (IRDA), to establish Liaison Offices in India. The granting of permission is subject to certain conditions specified by the Insurance Regulatory and Development Authority (IRDA). Further, the General Permission is granted under the provisions of the Foreign Exchange Management Act, 1999 and is without prejudice to the permissions and approvals, if any, required to be taken by such insurance companies incorporated outside India under any other law in force.

Circular No. A.P.(DIR Series) Circular No.39  
Dated 25.04.2005

## Labour Law

The appellant/workman had been transferred to different places, however he kept on applying for

leave, as a result he hardly had any accumulated leave. Even the medical leave had been exhausted. Since appellant did not report for duty after expiry of leave, action was taken against him as per a bipartite agreement, arrived at between the management and the workers. He was dismissed from service. Labour Court directed reinstatement of the appellant but without backwages.

Workman and the management filed separate writ petitions against the order, both single judge and a division bench dismissed the petitions. Cross appeals were preferred before the Apex Court.

The Apex Court allowed the Managements appeal, it was observed that action had been taken against the workman only after giving a reasonable opportunity of being heard, as such there was no infirmity in the order.

Viveka Nand Sethi Vs. Chairman Jammu and  
Kashmir Bank Limited and others 2005

## **Four Key Forces Shaping the Future**

Find out what's changing - **By Bruce Tulgan**

**Here** are some changes companies are rapidly moving toward in the first few years of the 21<sup>st</sup> century—and possible adjustments to make in your own work attitudes.

1. Established institutions must be completely flexible because markets are chaotic and resource needs are unpredictable.
2. Because established institutions are in a state of constant flux, individuals must be fiercely self-reliant.
3. The growing information tidal wave presents us all with an infinite array of options, so there is no *one* way to think about or do anything any more.
4. As the pace of change accelerates, the only relevant time frame is just-in-time.