

ROUND TABLE DISCUSSION ON

TOWARDS A REGULATED DATA ECONOMY: GETTING THE IMPLEMENTATION RIGHT

Wednesday, 26th September, 2018 | Electronics & Computer Software Export Promotion Council (ESC), 155, Okhla Industrial Estate Phase 3 Rd, Okhla Phase III, Okhla Industrial Area, New Delhi

INTRODUCTION

The Draft Personal Data Protection Bill, 2018 proposes a framework to secure the informational privacy of citizens. The idea seems to be in line with the New India 2022, Digital India, Make in India and last but not the least, right to privacy being acknowledged as a fundamental right by the Supreme Court. The Bill brings in a new paradigm based upon fiduciary relationship. It assigns variable rights and duties upon the stakeholders in furtherance of its objective to foster the relationship of trust in order to safeguard privacy. In this backdrop, it is vital to develop an understanding of key aspects of the Bill, and thinking through its implementation. The scope, functionality and compliance with rights and duties therein require a holistic assessment.

For instance, the proposed framework is drawn upon with an underlying assumption of data being tradeable and the need to protect the privacy therein. The doctrine of *Caveat Emptor* places the onus on a consumer to perform all due diligence before placing trust on service providers. In same spirit, the *Product Liability* provisions requires a service provider to take utmost care in collecting and using customer data. Interaction between these principles and their execution will determine how the relation between data principals and fiduciaries will evolve in near future. Focus on the form of compliance rather than its spirit might result in defeating the intent.

Further, the institutional constraints within the digital ecosystem at present, which the Bill seeks to address need to be assessed, in light of existing regulatory capacities and constraints therein. The Bill explicitly expresses its intent to have a collective culture in furtherance of free & fair digital economy. While right intent, ill-prepared execution of the proposed framework might result into uncertainties, inconsistencies and imposition of unreasonable costs on stakeholders.

Implementation of several other aspects of the Bill needs to be explored further. These include: users' rights of portability and being forgotten, classification of data in different categories, obligations of significant data fiduciaries, exemptions to state, and right to information of citizens. A careful balance is needed considering costs and benefits to individuals, society and economy.

The Roundtable Discussion organised by CUTS International in association with The Dialogue aims to discuss and discern the fundamentals of data driven ecosystem, intent and aspirations of the stakeholders' vis-a-vie the proposed legal framework, regulatory and institutional architecture, and implementability thereof. The Roundtable will invite views & suggestions from a multi-stakeholder community, and submit them for consideration by the government in building the Indian data protection law and process of reforms in the interest of development of a strong and contextually relevant data protection framework.

FLOW OF SESSION

9:30AM - 9:50AM	Registration & Networking Tea/Coffee
9:50AM - 10:00AM	Brief Introduction
10:00AM - 12:00PM	Session 1: Rights & Responsibilities of Data Principal, Obligations of Data Fiduciary, User Rights Focus Areas- <ul style="list-style-type: none">• Consent architecture• Grievance redressal mechanism• Enhanced personal entitlements- User rights
12:00PM - 12:15PM	High Tea
12:15PM - 2:15PM	Session 2: Regulatory architecture & Institutional uncertainties Focus Areas- <ul style="list-style-type: none">• Data Protection Authority/ Data audits/ Data Protection Officer• Governance and surveillance• Data Ethics- A marriage of Privacy and Data Protection• Localization
2:15PM	Lunch

LIST OF SPEAKERS

- Varun Kapoor IPS, (ADGP) Director PRTS Indore
- Mandeep Singh Puri - ESC India
- Ashutosh Chadha, Group Director, Govt. Affairs and Public-Policy - Microsoft
- Anubhuti Kaul Bhrany, Govt Relations Head - HP
- Anant Padmanabhan - Centre for Policy Research
- G. Srinivas - Cyber Cell, Ministry of External Affairs
- Vineeta Dixit - Google
- Pratyush Prabhakar -Consultant, Ministry of Commerce
- Tridivesh Singh Maini - Assistant Professor, Jindal University
- Rohan Mitra - Govt Relations Head, Adobe
- Gautam Vohra - Hike
- Priyanka Mago - Hike
- Avinash Ramachandra - Amazon *
- Sarvjeet Singh - Centre for Communication Governance, NLU Delhi
- Tripti Poddar, Consultant, The Dialogue
- Osama Manzar - Founder, DEF
- MEITY*
- Adnan Ansari - Associate Principle, Albright Stonebridge Group
- Vaibhav Chaudhury - Associate Director, Uchicago Centre in New Delhi
- Dr. Seema Sharma, Economics Chair, IIT Delhi
- Anja Kovacs - Internet Democracy
- P. Balaji - Director, Regulatory Affairs, Vodafone India
- Divya Dwivedi - Policy Head, UKIBC
- Bhairav Acharya - Facebook *
- Amol Kulkarni - CUTS International
- Swati Punia - CUTS International
- Siddharth Narayan - CUTS International
- Kazim Rizvi - Founder, The Dialogue
- Smitha Krishna - Centre for Communication Governance, NLU Delhi
- SFLC *

* TBC