

Measuring the Impact of Data Localisation on Consumers



A workshop entitled ‘*Measuring the Impact of Data Localisation on Consumer*’ was conducted as a part of CUTS project ‘*Consumer Impact Assessment of Data Localisation*’ at New Delhi on June 21, 2019. Participation was witnessed from various civil society organisations, industry players and associations, Ministry of Electronics and Information Technology, independent experts, Economic Advisory Council to Prime Minister, etc.

A welcome address was delivered by Amol Kulkarni of CUTS, followed by iteration of the need for taking consumer perspectives and interests into consideration while deliberating upon any laws and/or regulations pertaining to digital economy.

The importance of filling the research gap of the missing consumer perspective with respect to impact of data localisation was mentioned. A broad overview of the methodology adopted for

the evidence-based study was also given, through a presentation. Various queries of respondents were clarified pertaining to the methodology and scope of the study.

A questionnaire prepared for gauging the qualitative and quantitative inputs for subject experts and service providers was introduced. A quick walk through of the same was provided, and queries/clarifications of participants were addressed.

A qualitative discussion on various aspects of data localisation also took place. The following important points were raised by participants:

1. The main objectives of data localisation were believed to be fair competition amongst foreign and domestic service providers, along with ensuring access to data for law enforcement agencies. Reforms in competition law and policy, and strengthening of multilateral agreements

along with exploring something similar to the Cloud Act were pitched to meet these objectives, which would be less intrusive to data localisation. The G20 platform was considered an appropriate platform for the same.

2. Service providers signing undertakings of not sharing data of Indians with other governments was also pitched as an alternative to data localisation. Huawei's example was cited in this regard.
3. Need for an enabling environment for local data storage, along with appropriate incentives was considered as a more efficient alternative to mandating data localisation by legislation. However, counter arguments were also discussed in this regard, as it was opined that incentivisation would only provide an option to service providers to store data within India, which may or may not be taken by them. It was also opined that fiscal incentives have not worked, which is why local storage of data has been mandated. It was also pointed out that several large digital firms are already storing Indian citizen's data in India.

4. Regulatory capacity in India was also thought of requiring some revisiting, considering the complex nature of data governance. Furthermore, a need for having supplementary laws and procedures for law enforcement agencies access to data was also considered necessary.
 5. Various implications of data localisation were discussed such as societal impact, national security, fair market competition, trade law perspectives etc.
 6. Need for exploring a 'carrot and stick' model was mentioned.
 7. Consumer choice was also considered as an important parameter while deliberating data localisation. Government's role in protecting consumer rights on such issues in light of their under-capacity and lack of awareness was also considered as an imperative.
- A vote of thanks was delivered, and filled questionnaires were collected from participants. They were also urged to provide their suggestions on the questionnaire, as well as potential respondents, post the event.



Advocacy

CUTS Submission on the Draft National e-Commerce Policy

CUTS submitted its comments to the Department of Promotion of Industry and Internal Trade (DPIIT) on the Draft National e-Commerce Policy 2019. The various highs and lows of the draft policy have been given below.

Broadly, the draft policy was considered to be poorly drafted, having elements of overlaps, ambiguities and overreach. The guiding principles of the policy were also amiss in the draft. Various aspects of the policy were thought of needing greater deliberation. These include: international negotiations of e-commerce; competition policy perspective; and impact on evolving technologies etc.

However, the draft policy does well on various aspects, such as granting infrastructure status to data centres, server farms etc., providing a time frame to allow industry to adjust to data localisation (without getting into the merits of data localisation itself), introducing anti-counterfeit and antipiracy measures etc.

On the contrary, few pertinent issues which may require to be revisited are: overreach of the draft policy, and its scope going beyond the Srikrishna Committee findings, ambiguities in the definition of data, data deemed to be a national asset, scope and application of sharing community data with start-ups and firms, pushing data localisation, regulatory overlaps, uneven playing field between domestic and foreign service providers through FDI and inventory model norms, missed opportunity of laying consumer protection principles in e-commerce transactions.

Enhancing CONASC and CSO Participation in Energy Sector

CUTS International and Bask Research Foundation, with the support of Shakti Sustainable Energy Foundation (SSEF), has been implementing a project entitled 'Capacity Building of Electricity Consumers' that aims at creating awareness among the rural electricity consumers in six blocks of Rajasthan spread across districts of Chittorgarh, Sawai Madhopur, Bikaner and Jodhpur about their rights and responsibilities.

Consumer Assistance Cells (CONASCs) would be established in these six blocks to assist consumers on grievance redressal process, educate them about their rights and responsibilities and create healthy local electricity ecosystem by working with local electricity administration.

It is in this context, a two-day training workshop was organised for CONASC partners and representatives of civil society organisations at Jaipur on June 07-08, 2019 to create their capacity about grievance redressal process, standard operating procedures and basics of electricity sector for effective future engagement with

consumers and distribution company (Discom) officials.

There were nine sessions conducted over a wide range of relevant issues for participants, who would use this learning to support electricity consumers at the grassroots. External experts were invited, including consumer expert Manish Mehta; Jaipur Vidyut Vitran Nigam Limited Official P L Gupta; and the Deputy Director of the Ombudsman Office, D K Jain.

The workshop was interactive, with continuous feedback from participants on areas which required in-depth explanation, or on grassroots level issues that are not directly addressed by regulations. Practical sessions were also conducted, where participants went through the process of writing a letter requesting grievance redressal on an issue, and another session where they calculated the electrical load from a number of appliances provided in a household.

Participants emphasised on the need of such initiatives in the sector in future as well so that there is effective participation of consumers.



Exploring the Transition to Electric Mobility in Jaipur

CUTS International along with Bask Research Foundation and World Resources Institute India (WRI India) organised a one-day roundtable on 'Exploring the Transition to Electricity Mobility in Jaipur City' at Jaipur on May 25, 2019. The initiative is supported by Friedrich Ebert Stiftung India (FES India) as part of the project entitled 'Green Growth and Energy Transformation'. The initiative is aimed at developing a 'Low Carbon Mobility Framework' for Jaipur city.

The objective of the roundtable was to identify relevant stakeholders and their role in Electric Vehicle (EV) adoption in Jaipur city and, challenges and opportunities surrounding this transition. The event saw participation from various corners providing critical insights. Public sector participation was anchored by representation from Jaipur Municipal Corporation (JMC), Rajasthan State Road Transport Corporation (RSRTC), Jaipur City Transport Services Limited (JCTSL), Regional Transport Office (RTO) and Jaipur Vidyut Vitran Nigam Limited (JVNL).

The roundtable also received participation from experts belonging to industry, academia, financial bodies and institutions active in mobility space. An auto union representative was also present to provide driver's perspective pertaining to electric mobility.

The opening remarks during the session were provided by Bipul Chatterjee, Executive Director, CUTS International. He highlighted the issue of air pollution and its relation with transport sector due to heavy use of carbon intensive fuels. He pointed out that EVs could have an instrument role in alleviating issue of air pollution in Indian cities and also contributing to Sustainable Development Goals at bigger scale.

The discussion was divided into four sessions covering wide range of issues related to mobility planning and trends in Jaipur, experiences from EV adoption in other cities of country, challenges related to EV adoption and identification of stakeholders for such adoption.



Publication

Bill Blow-up

Draft Personal Data Protection Bill 2018

In the light of Supreme Court of India's Puttaswamy Judgement declaring the right to privacy as a fundamental right, the Ministry of Electronics and Information Technology (MeitY) had constituted a Committee of Experts under the Chairmanship of Justice B.N. Srikrishna (the committee) to draft a proposed legislation, with the objective of protecting personal data as an essential facet of informational privacy.

Accordingly, the Committee drafted the Draft Personal Data Protection Bill 2018 (the Bill), which has been handed over to Ravi Shankar Prasad, Hon'ble Minister of Electronics and Information Technology, but is yet to be introduced in the Parliament. The Bill was released in public domain and comments were invited from interesting stakeholders.

CUTS has already submitted its comments on the Bill to MeitY, based on primary and secondary research. A few pertinent issues requiring special attention have been highlighted in this document.





Publication

Newsletter

Spotlight

Ups Downs in India's Digital Transformation in the Last Five Years

A new, monthly publication by CUTS International entitled, 'Spotlight' brings a snap analysis on topical policy issues of general interest, with the objective of keeping readers informed and igniting conversation. The plan is to cover a wide and cross-cutting range of subjects including competition law and policy, economic regulation, data governance, future of jobs, energy, and urban mobility, among others. The first edition of Spotlight gives a brief story of the 'Ups & Downs in India's Digital Transformation in the Last 5 Years'.

<http://cuts-international.org/spotlight/Spotlight-1-ups-and-downs-in-indias-digital-transformation-in-the-last-5-years.htm>

Representations



- Sidharth Narayan participated in an Open House Discussion on Telecom Regulatory Authority of India's (TRAI) Consultation Paper on 'Regulatory Framework for Over-The-Top (OTT) Communication Services' at New Delhi on May 20, 2019.
- Sidharth Narayan participated in an event 'Unleashing the Potential of the Digital Communications Policy 2018', organised by IIM-A Idea Telecom Centre of Excellence, at New Delhi on May 17, 2019. He spoke as a panellist in the session 'Governance of Emerging Technologies & Markets'. He also attended an event 'Empowering Women Economically through Women's Collective', organised by SATTVA, with support from Bill and Melinda Gates Foundation, at New Delhi on May 03, 2019.



Advocacy through Media

Hyperlink a Grand Alliance

The Economic Times, June 21, 2019

By Pradeep S Mehta and Robert D Atkinson

With two of largest economies in the world — the European Union and China — developing their own digital economy frameworks and governance systems, and seeking to export those to their respective spheres of influence, the US and India risk being isolated.

<http://cuts-wdc.org/Media-hyperlink-a-grand-alliance.htm>

Indo-US trade irritants: Negotiation not retaliation

The Quint, June 20, 2019

By Pascal Lamy and Pradeep S Mehta

Since the US announcement of its withdrawal of benefits to India under the Generalised System of Preferences on March 04, 2019, there is speculation that Indo-US trade relations may plunge into a downward spiral.

<http://cuts-wdc.org/Media-what-should-the-role-of-g-20-countries-be-in-reforming-the-wto.htm>



Advocacy through Media

How distributed renewable energy could ease discom distress, improve power supply

Financial Express, May 30, 2019

By Udai S Mehta and Anurag Mishra

Distributed renewable energy (DRE) is over a US\$100bn business opportunity for India, as per a report by Clean Energy Access Network. But harnessing any such potential requires unambiguous understanding of its role in country's development ambitions. The discussion on relevance of DRE in India often gets clogged between its competitive vs complementary nature with respect to traditional means of providing clean energy access.

www.cuts-ccier.org/Article-how-distributed-renewable-energy-could-ease-discom-distress-improve-power-supply.htm

Leave no one behind', the agenda for Modi Sarkar 2.0

Mint, May 26, 2019

By Pradeep S Mehta

The last general elections broke all caste barriers and people overwhelmingly voted for Narendra Modi and his candidates. There were two remarkable things, among others, that Modi said in his victory speech that struck me. First, he pointed out that only two 'castes' will remain in the country, the poor and those contributing to alleviating poverty. While national security played a key part of the winning narrative, economic security and freedoms must be the new mantra of the government in office.

www.cuts-ccier.org/Article-leave-no-one-behind-the-agenda-for-modi-sarkar.htm

If lateral entry of experts helps better governance, why not lateral exit too?

Asian Age, May 16, 2019

By Pradeep S Mehta

The Union Public Service Commission announced nine candidates as lateral entrants to serve as joint secretaries in various ministries of the Government of India. This was a milestone event in the government's efforts to bring in administrative reforms...But much more needs to be done and if we want better governance and performance, we need lateral entries at levels both higher and lower than joint secretary levels. This needs to be coupled with exits? weeding out of the deadwood in the system.

www.cuts-ccier.org/Article-if-lateral-entry-of-experts-helps-better-governance-why-not-lateral-exit-too.htm

An optimal way to usher small businesses into the digital age

Mint, April 26, 2019

By Pradeep S Mehta

Globally, the role of digital platforms in the internet economy is increasingly coming under scrutiny. Key concerns relate to exploitation of consumer data and behaviour by platforms without appropriate consent and privacy protocols. Another set of concerns relate to misinformation, surveillance, accountability and the disproportionate size and influence of platforms. All these primarily focus on the user side of the equation. But often overlooked is how they deal with service providers.

www.cuts-ccier.org/Article-an-optimal-way-to-usher-small-businesses-into-the-digital-age.htm