

Event Report

Measuring the Impact of Data Localisation on Consumers

June 21, 2019, New Delhi

Summary of Discussion

Opening Remarks

The event kickstarted with a round of introduction of the participants. Participation was witnessed from various civil society organisations, industry players and associations, Ministry of Electronics and Information Technology, independent experts, Economic Advisory Council to PM, etc.

A welcome address was delivered by the chair, 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, especially in India.



Project Overview

CUTS project entitled 'Consumer Impact Assessment of Data Localisation' was introduced. The project brief can be accessed [here](#). 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 (available here). The following clarifications were provided to questions raised by participants:

1. Sample size of the subsequent consumer survey – to be finalised post data analysis of the findings from the inputs of subject experts and service providers. Nationwide survey is envisioned. Reference was also made to previous sample sizes of our surveys on data privacy, and over-the-top (OTT) services.
2. Impact studies of other countries which have mandated data localisation – the study was mentioned to be India specific. However, findings of studies from other countries could be kept in mind while answering the questionnaire.
3. Taking a sector-specific approach in industry and consumer consultations, and exploring consumer reactions to restrictions on transfer of different types data, and interplay thereof.

Questionnaire Filling

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 the participants were addressed. The following notable queries were responded to:

1. Literature review of other countries – study being India focussed was mentioned. However, respondents were free to answer the questionnaire from their own perspectives, based on their own individual readings and knowledge.
2. Long, medium- or short-term perspective – it was clarified that a medium-term perspective (five years) was to be taken while answering the questionnaire, i.e. it was to be assumed that impact of data localisation was to be measured after a period of five years have elapsed since data localisation.
3. Sector-specific issues – it was clarified that the questionnaire needs to be filled within the scope of the draft Personal Data Protection Bill. However, service providers were free to fill the questionnaire on the basis of mandated and/or laws and regulations applicable to them.

4. Important definitions – participants were informed that definitions and scope of important terms for the purpose of the study, were mentioned as footnotes and endnotes.
5. Need to target some key stakeholder groups – like technical teams of technology service provider.

The questionnaire was filled subsequently.

Discussion on Data Localisation

A qualitative discussion on various aspects of data localisation were discussed. The following important points were raised by the 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 perspective.
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.

Vote of Thanks

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.

For any queries/clarification, please free to reach out to Sidharth Narayan, Assistant Policy Analyst, CUTS International, at sid@cuts.org