

Examining the Scope of Behaviour Monitoring and Targeted Advertisement of Children and Suggesting an Optimum Regulatory Approach

Background and Context

In August 2023, the Indian government enacted the Digital Personal Data Protection (DPDP) Act, of 2023 to safeguard individuals' digital personal data.¹ Section 9 of the Act focuses on the processing of personal data of children under 18 by data fiduciaries, with sub-section 9(3) prohibiting "tracking or behavioural monitoring of children or targeted advertising directed at children." However, ambiguities exist regarding the scope of "behavioural monitoring" and "targeted advertising", raising concerns about the accessibility of Internet services for children.

A complete ban on behavioural monitoring could significantly impact basic internet services that rely on such practices as personalised content recommendations, adaptive learning platforms, and real-time content. Further, these broad prohibitions may inadvertently hinder platforms from effectively using data-driven tools to minimise harmful content and online predatory behaviour,² exposure to inappropriate content,³ fraud prevention,⁴ and reportedly prevent better grievance redressal.⁵

However, it also raises concerns about privacy and the potential misuse of personal data. Ethical concerns arise from the potential for behavioural monitoring to infringe on children's autonomy and development, as constant surveillance can lead to self-censorship and anxiety.⁶ Privacy concerns include the risk of data breaches and unauthorised access to sensitive information, which could have long-term impacts on a child's digital footprint.⁷ Furthermore, the lack of clarity surrounding targeted advertising also necessitates a closer examination of its scope and associated risks.

In response to these regulatory challenges, CUTS is undertaking a comprehensive project to identify the scope of subsection 9(3) of the DPDP Act

across various sectors, focusing on children's behavioural tracking and targeted advertising. Through qualitative and quantitative analysis, the project aims to ascertain how behavioural monitoring and targeted advertisements concerning children are conducted online. It will also explore whether these practices facilitate essential internet services for children and the potential adverse impacts of these practices on children's online experience if such services were unavailable. Furthermore, the project seeks to identify safeguards to prevent excessive behavioural monitoring and targeted advertising, thereby effectively safeguarding children's privacy, data security, and overall well-being.

Objectives

- Examine the scope and implications of sub-section 9(3) of the DPDP Act, 2023
- Analyse the potential effects of behaviour monitoring on children and the impact of its prohibitions on essential internet services
- Identify the scope and practices of targeted advertisement aimed at internet users below 18
- Assess attitudes and perceptions of internet users below 18 towards behavioural monitoring and targeted advertisements.

Approach and Methodology

Secondary Research

A thorough literature review of current practices regarding children's use of digital technologies, harms, behaviour tracking, targeted advertisement, and legal regulations in the global context will be conducted. This will include the pros and cons of behaviour tracking, including beneficial personalisation and conditions and purposes for which behaviour tracking should be allowed. This will help in identifying sectors in India that significantly serve children, pinpointing key concerns and challenges, and informing the research strategy and tools

Identifying Key Indicators

Develop key indicators to assess the impact on consumers under 18 years across identified sectors, integrating qualitative and quantitative measures to evaluate the potential consequences of banning behavioural monitoring.

Expert Consultation

Expert consultations will complement the survey with parents and engage legal scholars, child rights advocates, technology specialists, government officials, and sector representatives. Insights gathered will explore the effects of data processing bans on child consumers and seek to identify permissible purposes and conditions for behavioural monitoring and targeted advertising.

Focus Group Discussions with Internet Users between 16 to 20 Years

To complement the expert consultation, focus group discussions (FGDs) with young users of identified services will be conducted. These group discussions will provide insights on consumer preference and engagement along with unforeseen consequences, and provide a qualitative analysis of the impact of ban behaviour monitoring and targeted advertisement.

Survey of different stakeholders

To gather evidence-based findings of stakeholder perceptions, comprehensive surveys will be conducted targeting internet users below 18 years, educators, legal professionals, child rights advocates, and technology specialists to help identify common concerns and areas requiring further regulatory attention.

Validation and Feedback

Data gathered from expert consultations and FGDs will be synthesised to form initial findings and recommendations. These will then be shared with subject matter experts and sector representatives for validation and feedback. Their input will be integrated into the final report to enhance and refine proposed solutions.

Project Report

The research findings, analysis, and recommendations will be consolidated into a comprehensive final report. This report will be disseminated to stakeholders and used for advocacy purposes. It may outline permissible purposes and conditions for permitting behavioural tracking and targeted advertisements, as well as defining criteria for verifiably safe consent and the age threshold beyond which such practices could be allowed.

Envisaged Output

- A detailed report assessing how prohibitions of behavioural monitoring impact essential internet services across various sectors, along with the scope of targeted advertisement. This will also address the concerns and risks that these practices pose to children.

Envisaged Outcomes

- Improved understanding and clarity on the scope of behavioural monitoring and targeted advertisement among stakeholders
- Informed policy and regulatory frameworks to policymakers to refine regulations, ensuring effective protection of children's online privacy while fostering innovation in digital services

Endnotes

- ¹ Available at: <https://www.meity.gov.in/writereaddata/files/Digital%20Personal%20Data%20Protection%20Act%202023.pdf>
- ² Available at: <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1082&context=research>
- ³ Available at: <https://academic.oup.com/policy-press-scholarship-online/book/22399/chapter-abstract/182665940?redirectedFrom=fulltext>
- ⁴ Available at: <https://predikdata.com/big-data-for-fraud-prevention/#:~:text=This%20process%20can%20occur%20both,translating%20the%20findings%20into%20insights>
- ⁵ Available at: <https://www.adlittle.com/en/insights/report/resolving-customer-complaints-digital-era>; <https://www.medianama.com/2022/12/223-dpdp-bill-2022-grievance-redressal-views/>
- ⁶ Available at: <https://thequantumhub.com/navigating-childrens-privacy-and-parental-consent-under-the-dpdp-act-2023/>
- ⁷ Available at: <https://corporate.cyrilamarchandblogs.com/2023/08/children-and-consent-under-the-data-protection-act-a-study-in-evolution/>

