

## Highlighting Inclusive and Practical Mechanisms to Protect Children Data

### Introduction

Digital technology-driven data-based services have become a part of daily lives for most consumers. They have benefited consumers in multi-faceted ways, and dependency has increased in a post-COVID world. However, digital services also pose risks to consumers, especially children, on various issues, including inadequate privacy and data protection. Accordingly, protecting children's data has been given special attention under the Personal Data Protection Bill 2019 (PDPB).

### Problematique

While the provisions in the PDPB have the right intention, few lacunas have been observed in them, which may result in unintended adverse consequences. These include:

First, the threshold for classifying a data principal as a child has been fixed at 18 years. Unreasonably high age thresholds for access to data-driven services may unfairly exclude young consumers and prevent them from benefitting from the opportunities provided by such services.

Second, the proposed provisions also require data fiduciaries to obtain the consent of the child's parents or guardian before processing personal data. Such provisions, perhaps inadvertently, seem to equate privacy of a child, adolescent, and young adult by having universal parental consent requirements. It needs to be considered that in countries like India, young users of the internet may possess greater technology literacy than their parents and guardians.

Third, the provisions require data fiduciaries to verify the age of children before processing their data, while the manner for such age verification would be specified by regulation. The PDPB empowers the proposed Data Protection Authority (DPA) to specify Codes of Practice (CoP) in this regard. There is a lack of clarity on how age verification would be practically implemented. Considering global technological developments are important in this regard, deploying user-friendly and privacy-protecting age verification

techniques enables young users to navigate cyberspace confidently.

Lastly, providing for blanket prohibitions on tracking and behaviour monitoring of children may hinder child safety measures being implemented by data fiduciaries. Such fears are also growing in other jurisdictions implementing similar provisions, given that it is likely to restrict data fiduciaries from using software that scans for Child Sexual Abuse Material (CSAM), as well as for online predatory behaviour. Accordingly, there is a need to check the importance of providing certain valid exemptions from this provision.

### CUTS Study

Given that the provisions proposed in the PDPB, while intending to benefit, may cause inadvertent harm to consumers, it becomes imperative to understand the perspective of children and guardians or parents, which would help in framing provisions that further consumer welfare. CUTS is undertaking this study with the objectives mentioned below.

### Proposed Objectives

The study would be conducted in pursuit of the following objectives.

- Examine the need for having different age thresholds for the use of data-driven services;
- Assess if there is a need for a blanket requirement of guardians or parents' consent for children's usage to digital services;

- Assess emerging global technologies for enabling least intrusive means of age verification; and
- Assess the adverse impact of blanket restrictions on tracking and behaviour monitoring of children.

## Methodology & Approach

### Secondary Research

Existing literature by relevant stakeholders would be studied and analysed for a better understanding of approaches of children data protection, gaps and potential unintended consequences of proposed provisions under the PDPB, global technological developments on age verification, and safe monitoring of children behaviour. It will help frame appropriate India-specific hypotheses to be tested through a survey of children and guardians or parents.

### Survey of Children and Parents

A questionnaire would be prepared to test the hypothesis, which would be administered online (in light of the ongoing pandemic) to an appropriate number of respondents from urban, as well as select peri-urban, and rural areas, across India.

### Data Analysis

The data collected from the survey would be analysed in line with the hypothesis to be tested and the project's objectives. Along with highlighting the possible impact of proposed provisions of the PDPB, perspective on age verification methods, and behaviour tracking for specific purposes, appropriate recommendations will be made, to ensure that policy objectives are met with minimal adverse impact on stakeholders.

### Discussion with stakeholders

Relevant stakeholders would be reached out to for understanding their perspective on age thresholds, regulation on tracking and behaviour monitoring of children, and manner of age verification.

## Envisaged Outputs

- Report/Presentation of findings of the survey.
- Video recording of interviews/webinars with different stakeholders.
- Clause-by-clause amendments to relevant sections of the PDPB
- Paper on global technological developments for age verification
- Media coverage (press release and/or op-eds) at the end of the study

## Envisaged Outcomes

The findings from the study will be submitted to the Joint Parliamentary Committee on the PDPB, thereby aiding them in making an informed decision on issues pertaining to children's data protection. Furthermore, the findings will remain relevant beyond the project period. They would also be useful for the DPA, for laying down regulations and codes of practices pertaining to children's data protection. The evidence generated will also aid in conducting advocacy and dissemination and building a narrative for an informed, inclusive, and participative approach towards children's data protection.

## Project Duration

The duration of the study is for a period of four months.

