

Digital India Act Potential For An Internet-Savvy Future

Summary

India's tryst with transformation in digitalisation has been thriving. However, with the rise of emerging tech, such as blockchain and AI, and the prospects of Web 3.0, India demands to acclimatise its legal framework to protect its citizens and businesses as the concept of Digital India ushers into a new era via the Digital India Act.

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India's Planned Digital Ecosystem

The Indian government is in the process of developing a legal and executive framework supplementing India's foray into the digital future. These plans include:



India's IT History







Global Average Data Costs

Per Gigabyte





*Map not to scale

India's Internet Usage



India's Internet Users & Penetration Rate (as of Jan 2022)





Indian Social Media & Online Transaction Penetration



India's UPI Transaction Volume (as of Jul 2022)

Source: NCPI



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Cyber Incidents & Internet Shutdowns

- India has been witnessing large-scale cybercrimes since the launch of the Internet, reaching close to 1.5 mil cases, as reported by CERT-In, in 2021.
- India is also among the top 5 countries to be victimised by cybercrimes, as per the FBI, below the US, UK, and Canada.
- A major business disruptor in India's cyberspace is the internet shutdown imposed by various state governments to curb misinformation. As per reports, the Indian economy lost more than \$2.8 billion as a result of 129 internet outages in 2020.

Internet Shutdowns (until 2022)

Source: Varied Sources



Cyber Incidents Reported (until Jun 2022)







Intro To Digital India Act

Following overwhelming outcry, the Indian government decided to withdraw the Personal Data Protection Bill, 2022, after years of planning. The government announced the development of a brand-new Digital India Act (DIA), complete with a data governance policy framework, cybersecurity rules and standards, and a new data protection law to replace the existing IT Act of 2000. In addition, the government has suggested the establishment of the India Data Management Office (IDMO) to develop, monitor, and amend the National Data Governance Framework Policy. Previously, the Union government announced the India Data Accessibility and Use Policy 2022 in Feb 2022. However, after receiving widespread criticism for its proposal to monetize citizens' non-personal data, it chose to defer the policy while it attempted to remedy the issue.

- innovation and technology ecosystem



Note: Technology Intermediaries are those tech players in the ecosystem that have over 5 million registered users in India



What Can Be Expected Of DIA?

According to reports, the proposed law aims to include the entire digital ecosystem, from social media platforms and Over-the-Top (OTT) platforms to online apps and the famed metaverse, as well as blockchain-based crimes or offences. It is expected to cover a variety of issues, including cybersecurity, cyber incidents, intermediary governance, and social media regulation. It will do so following sectoral regulations, as it anticipates regulators approaching the digital era in conjunction with stakeholders. Although this report cannot confirm all of the new changes until the Parliament's Winter Session, a few potential impacts include:

Regulations

- As the DIA seeks to address misinformation and incitement of violence in the internet domain, a greater emphasis on privacy, data localisation for crucial data, content moderation, and cyberbullying surveillance are all on the horizon.
- The DIA is also expected to put protections in place to protect children and women.
- It has the potential to influence large tech companies such as Google, Facebook, Twitter, Amazon, and Facebook, with concerns raised about intellectual property rights, corporate operations, and revenue.
 - For example, if a specific Twitter account or Facebook page is proven to be disseminating misinformation or inciting violence, the law may allow the government to temporarily restrict it for 24 hours.
- DIA also intends to make data from tech behemoths available to Indian startups.
- While drafting the proposed Digital India Act, the Ministry of Electronics and Information Technology (MeitY) is reported to be researching similar frameworks in Singapore and Australia, as well as Europe's General Data Protection Regulation (GDPR).

- other purpose.





• The DIA would define and govern technologies including 5G, metaverse, blockchain, and cryptocurrency.

• According to reports, under DIA, Indian users will be able to grant specific permissions to the apps they use and subsequently withdraw those permissions, as well as direct the apps not to keep or use their data for any

 Following the recently proposed revisions in the Competition Amendment Bill 2022, which might penalise digital companies for exploiting private user data for their gain or enforcing unfair business practices, the DIA is also expected to have an impact on Competition Law.

• According to reports, the DIA will oversee net neutrality, online privacy, social media platform algorithmic accountability, and emerging technologies such as blockchain and artificial intelligence.

• The DIA will be responsible for the whole digital environment, from social media platforms to the metaverse and Web2.0, Web3.0 crimes and offences.

• Like the data privacy clauses in the withdrawn data protection bill, the DIA is reportedly looking to oversee OTT platforms, internet intermediaries, crypto assets, and blockchain enterprises, among others.

Shortcomings In The Current Framework





Assessment



Possible Regulatory Overhauls

Medium to High Likelihood

- High possibility of the proposed legislation improving on existing regulations in areas such as electronic signature addition to crimes/offences.
- the legal aspects of electronics and IT, especially in fields such as emerging tech (blockchain & AI)
- Medium likelihood of the proposed law taking a 'one-size-fits-all' approach in regulating big tech intermediaries

Platform Regulations Medium to High Likelihood

- other publishing intermediaries.
- Medium likelihood of proposed law directing OTT platforms to assume the role of self-regulators, providing rules on content classification, age verification procedures, and other matters.
- Medium likelihood of proposed law taking more cognisance of citizen's personal data, directing social media platforms and other tech intermediaries to ensure data localisation, setting up data servers within the borders.

Business Impacts & Privacy Medium to High Likelihood

- to safeguard the right of citizens.
- Medium likelihood of legislation to boost India's startup ecosystem via knowledge sharing mechanisms, IP sharing, anonymous data sharing, among others.
- Medium likelihood of proposed law having provisions on privacy compliances, data principal rights, data sharing, confidentiality, and other security criteria, as a separate data protection law may be developed.



validity, standards for e-documents, and introducing more efficient mechanisms for adjudicating contraventions, in

• Medium likelihood of the proposed legislation being consistent with current and future sectoral regulations overlapping

• High likelihood of stringent misinformation and cyber-bullying regulations to be placed on social media websites, and

• High likelihood of tech intermediaries role being curtailed to that of platform providers, by curbing user data accumulation



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