Key Highlights from the 1st Digital India Dialogue on the Digital Personal Data Protection Act 2023

On 20 September 2023, the Ministry of Electronics and Information Technology ("**Ministry**") conducted the inaugural round of discussions concerning the implementation of the Digital Personal Data Protection Act, 2023 ("**DPDPA**"). This consultation, engaging industry stakeholders, was conducted to deliberate on the implementation timeline and process for the DPDPA. It was also to provide the Ministry's thought process on the route map for implementing this newly enacted law. The key takeaways arising from this discussion are as follows:

1. **Release of draft rules pursuant to the DPDPA**: Draft rules proposed to be released in the next 4 to 6 weeks. Drafts of key rules (i.e. rules that are essential to operationalize the law) may be issued earlier (e.g. rules relating to consent mechanism) as compared to the other rules.
2. **Notification of the Data Protection Board of India**: The Data Protection Board of India (i.e. the adjudicatory body to be set up under the DPDPA) is proposed to be constituted within the next 30 days.
3. **Graded approach for compliance with the DPDPA depending on the type of organisation**: Transition timelines are proposed to be extended taking into account the level of digitization, data protection compliance maturity, etc. The broad plan appeared to be as follows:
    a. Government entities (including State level entities) that have lower levels of digitization will get more time to transition to the DPDPA regime.
    b. Entities such as early-stage start-ups, 'micro, small and medium enterprises' (MSMEs) and certain select categories of organisations (eg certain healthcare institutions) will get longer time to comply with the DPDP Act.
    c. All other types of organisations will have to present a strong case to the Ministry if they want an extended transition time to comply with the DPDPA.

    [Important Note: If any organisation (or type of organisation) intends to seek longer compliance period, a compelling case needs to be made out and submitted to the Ministry within the next seven days clearly mentioning the rationale for seeking extension and also the exact time extension sought.]
4. **Graded approach for compliance with the DPDPA depending on the type of compliance**: Transition timelines are also proposed to be extended depending on the type of compliance. Provisions of the DPDP Act that would require major engineering effort (eg obtaining verifiable parental consent for handling children's personal data) may be allowed more time from a compliance timeline perspective.
5. **Aspects to be discussed whilst deliberating on draft rules**: It was informed that during the consultation process for the draft rules, aspects such as categorisation of fiduciaries as 'significant data fiduciary' will also be deliberated upon. Also, it was mentioned that discussions concerning 'consent managers' and thresholds for determining what may be deemed 'detrimental to children's well-being' will be held during the rule-making consultation process.

Overall, the intent of the Ministry appears to be to move at a brisk pace with the formation of the Data Protection Board of India, the rule making process and also the DPDPA implementation process. Organisations should accordingly pace up their preparations to be compliant with the DPDPA.

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