



**IT For Change, IPCIDE and nasscom**

**Scoping a new law for India's digital economy**

**A joint roundtable on the proposed Digital India Act**

**28<sup>th</sup> April 2023 | Concept Note**

On 9<sup>th</sup> March 2023, the Minister of State for the Ministry of Electronics and Information Technology (**MEITY**), Mr Rajeev Chandrasekhar held a [public consultation](#) to formally announce that the Information Technology Act of 2000 (**IT Act**) will be replaced with a new Digital India Act (**DIA**). He also laid out, in a [presentation](#), some initial views on its contents.

This comes after almost a year of news reports citing [several official](#) and [unofficial sources](#) stating that the Government was deliberating on a new [comprehensive legal framework](#) for digital technologies & business models – or, in other words, to bring in a new law on “digital regulation” in India. This suggests that the need for such a framework has been long felt.

The presentation invites discussion on many important topics that may be taken up as part of the proposed DIA, including:

- To review, subsume, and update the IT Act, including its delegated legislation.
- To orient digital regulation around “openness, trust & safety and accountability”.
- To enable innovation and shape the future of technologies.
- To encourage digital governance & ease access to government and public services.
- To bridge regulatory gaps posed by contemporary and emerging digital technologies.
- To “future-proof” digital regulation by adopting a “principles- and rules-based” approach.
- To recognise new digital rights and uphold constitutional rights in digital contexts.
- To set up a new adjudicatory system for disputes & crimes involving digital technologies.
- To establish new institutional and coordination structures for digital regulation.

The DIA is part of a larger package of proposals from the Central Government to introduce new “digital laws and policies” for India (including, e.g., the draft Telecommunication Bill, the draft Digital Personal Data Protection Bill, the proposal to amend the IPC to address cybercrimes, the proposal for a new Digital Competition Bill, the draft National Data Governance Policy, or the proposed National Cybersecurity Policy, etc.).

The vision of the Government is for all these laws and policies to act as catalysts for the Prime Minister's [Digital India Goals of 2026](#). Taken together, these laws have the potential to modernise India's legal framework for digital regulation and provide the expressways for digital adoption and innovation, while building guardrails of trust, safety, and accountability.

We are at the starting line of this policy exercise. MEITY has stated that the next step will be to examine relevant international reference points and build on their initial views to frame a set of “principles” for the DIA, before releasing a draft law. To inform this step and move from the initial views in the presentation to identify priorities and analyse them in greater detail, **IT for Change, IPCIDE, and nasscom have come together to host this roundtable on the proposed DIA.**

The aim for this roundtable is to bring together views and perspectives from a diverse set of representatives across civil society, industry, policy practitioners, and academics. While the issues that will arise in this legislative exercise are deeply interrelated, we have divided the program into five sessions to bring some structure to the discussion. We will follow Chatham House Rules for this consultation.

<b>AGENDA</b>	<b>28<sup>th</sup> April 2023, 11:00 AM to 6:15 PM</b>
<b>11:00 – 11:30 AM</b>	<b>Registration</b>
<b>11:30 – 11:45 AM</b>	<b>Opening remarks</b>
<b>11:45 AM – 12:45 PM</b>	<p><b>Session 1: Designing the Act: Opportunities and challenges</b> The framing of the DIA affords us an opportunity to reimagine policymaking and regulation of digital technologies for the future. This session will explore the challenges to address and directions to consider. Questions to examine include:</p> <ul style="list-style-type: none"> <li>• What does a “principles &amp; rules-based approach” entail, and what guardrails are required for “futureproofing” such an approach?</li> <li>• How will the DIA interact with other existing and proposed laws and how do we better ensure cross-sectoral cohesion and coordination?</li> <li>• How do we approach supervision &amp; enforcement, keeping in mind best practices of regulatory governance?</li> <li>• What should be the guiding principles for the adjudicatory mechanisms envisioned for the Act?</li> <li>• How can the Act balance between flexibility required to regulate future technologies and avoiding legal uncertainty?</li> </ul>
<b>12:45: PM – 1:45 PM</b>	<b>Lunch</b>
<b>1:45 PM – 2:45 PM</b>	<p><b>Session 2: User rights, harms, and redress</b> The IT Act has been the primary site for discussing how to protect users of the internet, digital services, and technologies so far. This session will explore how the DIA can realise and extend rights and protections online. Questions to examine include:</p> <ul style="list-style-type: none"> <li>• What harms to end-users should be on the legislative agenda?</li> <li>• How can harms arising from the use of contemporary and emerging technologies be regulated with legal certainty?</li> <li>• What should the purpose and design of “digital rights” be and should these be framed in the context of “users” or “citizens”?</li> <li>• What could a coherent and horizontally applicable set of digital rights look like?</li> <li>• How can the Act safeguard user rights and provide remedies for user harm? What will redressal of harms look like in the law?</li> <li>• How should the Act safeguard children’s rights and protect them from harm?</li> </ul>
<b>2:45 PM – 3:45 PM</b>	<p><b>Session 3: Intermediary liability &amp; platform regulation</b> The regulation of online services in India has taken place through the concept of “intermediary” under the IT Act. This session will explore how the DIA can learn from the experience gained from the IT Act. Questions to examine include:</p> <ul style="list-style-type: none"> <li>• How should intermediaries be defined and classified?</li> <li>• What activities/aspects of intermediaries should the DIA cover?</li> <li>• What should accountability frameworks for platforms involve? Which entities will govern decisions on accountability?</li> <li>• How should we balance considerations of safe harbour provisions and the regulation of illegal and harmful content?</li> <li>• What are the norms around due diligence that need focus?</li> </ul>

	<ul style="list-style-type: none"> <li>• What kind of platform responses should we expect if they are held accountable?</li> </ul>
<b>3:45 PM – 4:15 PM</b>	<b>Tea Break</b>
<b>4:15 PM – 5:15 PM</b>	<p><b>Session 4: Digital infrastructure &amp; public services</b></p> <p>The IT Act dedicates a chapter to e-governance. This session will explore how the DIA can continue and build on this task in the modern era of digital government and public goods. Questions to examine include:</p> <ul style="list-style-type: none"> <li>• How could the DIA enable, promote, and orient the provision of electronic governance services towards delivering public value?</li> <li>• How can India strengthen its Digital Public Ecosystem including Digital Public Goods/Infrastructure/Platforms/ Services and ensure they are open, trusted, safe, accountable?</li> <li>• How can the DIA ensure the resilience and sustainability of interconnected critical digital infrastructure across the public and private sectors?</li> </ul>
<b>5:15 PM – 6:15 PM</b>	<p><b>Session 5: Cybersecurity &amp; law enforcement assistance</b></p> <p>The IT Act provides much of the legal foundation for cybersecurity and law enforcement agency (LEA) access to data in India. This session will explore how the DIA can modernise, bolster the effectiveness of, and promote trust and privacy in relation to this foundation. Questions to examine include:</p> <ul style="list-style-type: none"> <li>• How can a framework for cybercrime offences be formulated for India to address emerging forms of cybercrimes, especially against women and children?</li> <li>• How can DIA work in tandem with the IPC, CrPC, and Evidence Act, to enable effective prosecution of cybercrimes?</li> <li>• What can the desired outcomes be on cybersecurity regulation?</li> <li>• Should there be a parent law for CERT-IN &amp; NCIIIPC? If yes, what should it look like?</li> <li>• What should the design principles be to establish a modern framework on LEA access, technical assistance, &amp; encryption?</li> </ul>

### About ITFC

IT for Change is an NGO based in Bengaluru, India and aims for a society in which digital technologies contribute to human rights, social justice and equity. Our work in the areas of education, gender, governance, community informatics and internet/digital policies push the boundaries of existing vocabulary and practice, exploring new development and social change frameworks. Details on our research and advocacy can be accessed at [www.itforchange.net](http://www.itforchange.net).

### About IPCIDE

The ICRIER Prosus Centre for Internet and Digital Economy (IPCIDE), set up jointly by the Indian Council for Research on International Economic Relations (ICRIER), one of India's premier economic think tanks, and Prosus Services B.V., the largest consumer Internet company in Europe, is focused towards building policy evidence to shape the next phase of India's digital transformation. The overarching objective of an efficient, inclusive and sustainable digital economy in India is being met through high-quality research, prominent networking events and resource banks that collectively assist in policy debate and design. We bring together stakeholders from the private sector, academia and government to develop thought leadership and enable the process of evidence-based policy making in India. The Centre also collaborates with other institutions, both inside and outside India, to deliver high quality research and assist policy formulation. The Centre's activities are mentored by a group of eminent academics, policy makers and industry representatives. For more information, visit <https://icrier.org/ipcide/>

### About nasscom

Nasscom is the premier trade body and chamber of commerce of the technology products and services industry in India and comprises over 3000 member companies including both Indian and multinational organisations that have a presence in India. Established in 1988, we help the technology products and services industry in India to be trustworthy and innovative across the globe. Our membership spans across the entire spectrum of the industry from start-ups to multinationals and from products to services, Global Service Centers to engineering firms. For more information, please visit [www.nasscom.in](http://www.nasscom.in).