Digital India Act, 2023

Why in news?

The recent announcement of the Digital India Act, 2023 (DIA) represents a significant step towards establishing a future ready legal framework for the country's burgeoning digital ecosystem.

Status of Internet Usage in India
• **India -** In January 2022, India had 658.0 million Internet users. • As per Statista, the Internet penetration rate in India was 47.0% of the total population in early 2022. • India is the 2nd largest online market in the world, behind China. • It is due to the increasing affordability of smartphones, the expansion of mobile broadband networks, and the government's efforts to promote digital literacy. • The nature of internet usage has also evolved, with the emergence of various intermediaries and the proliferation of new forms of user harm, such as cyberstalking, trolling, and doxing.

What are the key provisions of the Digital India Act?

It replace the two-decade-old Information Technology Act of 2000 which regulated personal data.

- **Applicability-** The Bill applies to processing of digital personal data within India where such data is collected and outside India if the data is for offering goods or services in India.
- **Consent -** Personal data may be processed only for a lawful purpose after obtaining the consent of the individual.
- **Rights of data principal**- It includes the right to
  - Obtain information about processing
  - Seek correction and erasure of personal data
  - Nominate another person to exercise rights in the event of death or incapacity and
  - Grievance redressal
- **Duties of Data Principals**- Data Principals must not
  - Register a false or frivolous complaint
  - Furnish any false particulars or impersonate another person in specified cases
  - Violation of duties will be punishable with a penalty of up to Rs 10,000.

- **Obligations of data fiduciaries**- Data fudiciary must
  - Make reasonable efforts to ensure accuracy and completeness of data
  - Build reasonable security safeguards to prevent a data breach
  - Inform the Data Protection Board of India and affected persons in the event of a breach
  - Erase personal data as soon as the purpose has been met and retention is not necessary for legal purposes
- **Data Protection Board of India-** It will be established by the Central Government for
  - Monitoring compliance and imposing penalties
  - Directing data fiduciaries to take necessary measures in the event of a data breach
  - Grievance redressal
- **Appeal-** The decisions of the board can be appealed to *Telecom Dispute Settlement and Appellate Tribunal.*

To know more about the Digital Personal Data Protection Bill 2023, click here

How significant is the Act?

- **Dynamic evolution**- It encompasses several pivotal clauses that mirror the dynamic evolution of the digital environment, addressing its multifaceted challenges and opportunities.
- **Safety and Trust**- It placed a strong emphasis on online safety and trust, with a commitment to safeguarding citizen's rights in the digital realm.
- **Responsible utilisation**- It recognised the growing importance of new-age technologies such as artificial intelligence and blockchain and provides guidelines for their responsible utilisation.
- **Ethical principles**- It aims to not only encourage the adoption of these technologies but also to ensure that their deployment is in line with ethical and legal principles.
- **Accountability-** DIA has adequate mechanisms for accountability in the use of technologies like AI.
- **Responsible player**- The forward-looking stance of the act aims to position India as a responsible player in the global technology landscape.
- **Open internet**- It upholds this concept striking a balance between accessibility and necessary regulations to maintain order and protect users.
- **Strict KYC norms**- The DIA mandates stringent Know Your Customer (KYC) requirements for wearable devices, accompanied by criminal law sanctions.
- **Safe harbour principle**- It contemplates review of this principle which presently shields online platforms from liability related to user-generated content, indicating a potential shift in online accountability standards.
- **SARAL**- The Act is concise and **S**imple, **A**ccessible, **R**ational and **A**ctionable **L**aw as it
  - Uses plain language
  - Contains illustrations that make the meaning clear
  - Has minimal cross referencing

Principles of DIA 2023

- **Consent-** It is for the transparent use of the data.
- **Purposeful limitation-** The use of personal data only for the purpose specified at the time of obtaining consent from the Data Principal.
- **Data minimisation-** Collection of only as much personal data as necessary to serve the specified purpose.
- **Data accuracy-** It is to ensure the data is correct and updated.
- **Storage limitation-** It is to store data only until it is needed for the specified purpose.
- **Safety-** It is for reasonable security and safeguards.
- **Accountability-** Through adjudication of data breaches and breaches of the provisions of the act and imposition of penalties for breaches.

What are the challenges of DIA?

- **Affects the ease of doing business -** Stricter regulations, particularly in emerging technologies, could impact entrepreneurial initiatives and deter foreign investments.
- **Violates Article 19-** The review of the "safe harbour" principle, which shields online platforms from liability for user-generated content could impact the *freedom of expression*.
- **Effectiveness** - The DIA's success hinges on effective enforcement, which will require substantial resources, expertise, and infrastructure.
- **Balancing the multiple stakeholders** - Balancing the interests of various stakeholders, including tech giants, while ensuring the protection of citizen rights, poses a significant challenge.
- **Monitoring**- Though DIA is a progressive move, its implementation warrant vigilant monitoring and adaptability to avoid unintended consequences.

What lies ahead?

- The DIA is a crucial step towards ensuring a secure, accountable, and innovative digital future for India.
- It represents a forward-looking approach to regulation in an age of constant change and has the potential to shape the country's digital landscape for generations to come.
- As consultations continue, it will be interesting to see how this proposed legislation evolves and plays out in the dynamic digital arena.

References

1. The Hindu- Digital India Act shape the country's future
2. Statista- Internet usage in India
3. PRS- Personal data protection bill 2023



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