



## Foundation of Data Protection Professionals in India

[Not for Profit, Section 8 Company limited by guarantees: CIN No: U72501KA2018NPL116325]  
Registered Office: No 37, "Ujvala", 20<sup>th</sup> Main, BSK first Stage, Second Block, Bangalore 560050  
Web: [www.fdppi.in](http://www.fdppi.in): E Mail [fdppi@fdppi.in](mailto:fdppi@fdppi.in): Ph: 08026603490: Mob: +91 8310314516

June 21, 2021

To

The JCPDB Cell  
Loksabha Secretariat  
Government of India  
New Delhi

### **Sub: Personal Data Protection Bill 2019-A suggestion**

Dear Sir

I refer to the PDPB 2019 where Section 37 provides that

#### **Power of Central Government to exempt certain data processors.**

"The Central Government may, by notification, exempt from the application of this Act, the processing of personal data of data principals not within the territory of India, pursuant to any contract entered into with any person outside the territory of India, including any company incorporated outside the territory of India, by any data processor or any class of data processors incorporated under Indian law."

We suggest that a minor modification may be made in the section as follows:

#### **Power of Central Government to exempt certain Data Fiduciaries or data processors**

"The Central Government may, by notification, exempt from the application of this Act, the processing of personal data of data principals not within the territory of India, pursuant to any contract entered into with any person outside the territory of India, including any company incorporated outside the territory of India, by any data fiduciary or data processor or any class of data fiduciaries or processors incorporated under Indian law."

#### **Reason**

1. The section relates to the protection of privacy of citizens of countries other than India which is not a constitutional requirement.
2. The Privacy of the data principals not within the territory of India are protected by the Data Protection laws of the respective countries and hence PDPA would be an overlapping law in respect of processing of such data.

3. There are many companies established in India for whom PDPA is applicable as per Section 2(A)(b) even if the data is processed outside India.

Hence Companies established in India having data processing centers abroad and processing data of citizens outside India would need to be compliant with the Indian law though they would also need to be compliant with the other foreign law both because of its establishment in the other country and for the reason that they process the data of the citizens of other countries.

The overlapping provision therefore may be avoided.

We request you to consider this suggestion at the time of finalization of the Bill.

Regards

Yours faithfully



Na.Vijayashankar

Chairman

CC: Ministry of Electronics and Information Technology