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December 06, 2021

Shri Ajay Prakash Sawhney
Secretary
Ministry of Electronics and Information Technology

Subject: Serious Concern of the Electronics Hardware Manufacturers on the draft Personal Data Protection Bill, 2019 under consideration by the Joint Parliamentary Committee (JPC).

References:

- **“Platforms as publishers, penalties, checking electronic hardware may figure in draft data Bill”, article in *The Indian Express* dated 23.11.2021.**
- **“Here are 7 things you should know about Data Protection Bill”, article in *Moneycontrol* dated 29.11.2021.**

Respected Sir,

Greetings from MAIT, the apex industry association for Electronics & ICT H/w!

We write to you to express our concerns stemming from the contents of the above-mentioned articles published on the 23rd and 29th of November 2021, respectively. The articles suggest that the Joint Committee of Parliamentarians (JCP) may recommend widening the scope of Personal Data Protection Bill to include electronic hardware manufacturers and that new clauses may be added to empower the DPA to regulate hardware manufacturers through monitoring, testing and certification of products.

The articles are purportedly based on the recommendations of the JCP which have not been made public so far. The media reportage seems to suggest that the JCP may recommend that the government should establish a mechanism for the formal certification process for all digital and IoT devices to ensure the integrity with respect to data security.

While we have not had the opportunity to review the JCP's Report, we would like to draw your attention to the concerns of the industry, that if there is any merit in the findings of the articles, hardware manufacturers would be subjected to additional burdensome compliances and testing requirements. We believe that these additional requirements will go against the interests of the electronics industry at large as there would be several technical obstacles that will emerge from the said mandate.

The said wide ambit was not a part of the first draft issued in 2017 and later in 2019. In light of this, we request that the Ministry undertakes a consultative process with industry to deliberate upon the practical feasibility of the requirements and the industry is given an opportunity to present its view on the said matter.

Our country aspires to be a 5 trillion-dollar economy by 2025. Electronics manufacturing, exports and participation in the global supply chain will significantly help achieve the objective. The electronics hardware manufacturers are already regulated by Ministry of Electronics and

Information Technology, Ministry of Communications, Ministry of Consumer Affairs and Ministry of Home Affairs. They are already subject to prescribed certifications, tests, standards, which are considered important and relevant from security, functioning, inter-operability perspective. Adding an additional layer of compliance, as well as a new authority, may prove to be detrimental and onerous by impacting the ease of doing business for the industry. This also has the potential to dampen the growth prospects as laid out in the National Policy of Electronics 2019.

As per various industry estimates there will be 50 billion IoT devices by 2030. With rapid technological advancements, every hardware will be an IoT device and digitally connected soon. The testing of hardware devices is an extremely complex technical process - the feasibility of which is yet to be examined. Additional certification for such products, especially at a large scale, would be onerous and time consuming. This has the potential to delay the entry of a wide range of electronic products into the Indian market. In addition, modifications made by the user/third parties, and the testing of such products poses the concern of unreasonable liability on manufacturers. It is suggested that given the complexities involved, the security and technical aspects governing the hardware should be handled by the nodal Ministry itself, as opposed to by the DPA.

Globally, there are no such security and testing requirements in place from a data security perspective. Introducing such a requirement in India will result in inconsistencies and onerous obligations for multi-national companies who will have to comply with additional testing only for the Indian market. This will increase costs and compliances and go against the ease of doing business for these companies in India. In addition, such requirements will be extremely burdensome some start-ups and smaller players who may have to re consider their business models to comply.

Government has framed policies like PLI, NPE 2019 which have and are helping transform the country into a competitive manufacturing destination. The aim is also to encourage investments and build capacity of a scale to be a lead contender in the global supply chain process. Additional onerous requirements, as may be recommended by the JPC may have ramifications with the potential to neutralise the impact of policies which have just started yielding results.

We understand that the JCP plans to table their report in the ongoing Winter Session of the Parliament. As our nodal Ministry we request MeitY that the industry's concerns are shared with the members of JCP. It is our request that urgent consultations on these recommendations be held and that we are provided with an opportunity to provide our suggestions as inclusion of ICT H/w was also not a part of the draft circulated for stakeholder consultations by MeitY or JPC and our members are deeply concerned that such a wide sweep inclusion, if considered could result in onerous compliances and obligations for actions beyond their control.

In the interim, **we request that the issue of hardware manufacturers being considered as data fiduciaries not be included in the report and the Bill.**

With regards,



George Paul
Chief Executive Officer

CC: Dr. Rajendra Kumar, Additional Secretary, MeitY