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Roundtable

Non-Personal Data Governance and its interface with Personal Data Protection (Emerging Trends in India and the EU)

24th September, 2022

Hosted by: Jindal Global Law School

A Roundtable on ‘Non-Personal Data Governance and its interface with Personal Data Protection (Emerging Trends in India and the EU)’ was organized in 2022. The event aimed to assess the risks and issues which arise in attempting to achieve a balance between privacy risks and the factors restraining innovation. The roundtable also discussed how personal and non-personal data interact with each other and the difficulties faced by regulators in enforcing strict characterization of non-personal data and personal data in case of FinTech sector. Speakers discussed that there was no clear-cut definition of personal data and non-personal data and thus a distinction between them is not clear. It was discussed that the risk of re-identification through linkage was unpredictable and one could never for sure say that non personal data will not become personal data. While the interface of non-personal data with personal data is understood as a continuum, would one be better off by setting objective characteristics for determining non-personal data, for instance, based on non-discriminatory harm principle? If not, would it be counter-productive to adopt a watertight classification? The speakers discussed data sharing models and mooted the idea of having a data sharing regime. It was discussed how data privacy regulation could counter the impact of Big Tech, and whether there were any lessons India could take home from the implementation of other laws such as the GDPR. The feasibility of sectoral regulation or overarching comprehensive horizontal legislation was discussed. Speakers discussed that the regulation must have a nuanced sectoral outlook. However, since harmonizing between the sectors would be a challenge, a comprehensive

horizontal regulation would be needed to support sectoral regulation. Speakers discussed that there are important factors to consider while drafting data protection legislation such as socio-economic factors given that privacy is not inherent in Indian culture, the education of the citizens on privacy matters is important as they may be unaware of their rights and responsibilities, and the data fiduciaries may face difficulties in implementing the provisions such as the right to be forgotten. The example of UK was discussed which has digressed from the GDPR. Similarly, India may want to consider socio-economic issues such as expense, practicality and population while drafting its data protection legislation.