



Global Data Alliance Input to the UK Department for International Trade on Trade with India

August 2021

The Global Data Alliance¹ welcomes the opportunity to provide input to the UK Department for International Trade on current trading arrangements with India. The movement of data is critical for the services that sustain global commerce, protect consumers from fraud and counterfeit products, improve health and safety, and promote social good. The ability to move data across borders responsibly also contributes to the workforce's ability to remain productive through teleworking, virtual collaboration, and online training, as well as remotely delivered health care and other services.² Maintaining trust in the data regime and enabling data to flow across borders should be a primary objective for the UK Government in any future trading arrangements with India.

Various aspects of the call for input are very important to Global Data Alliance members, and comments on those issues are being communicated through different submissions, and we ask that you kindly consider them. This submission respectfully presents our specific views regarding cross-border data flows, as this is the focus of the Global Data Alliance.

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Do you know whether your members have faced, or are currently facing, challenges when attempting to trade or invest between the UK and India?

The Global Data Alliance supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade. Over the past few years, India has worked to develop and update its legislative framework governing digital economy. In particular, several initiatives purport to lay a strong foundation for robust personal data protection and support data-driven innovation (see respectively the Personal Data Protection Bill - 2019 and the Non-

¹ The Global Data Alliance is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. The Alliance supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade. Alliance members include BSA members and Abbott, American Express, Amgen, AT&T, Citi, ExxonMobil, FedEx, ITB360, LEGO, Lumen, Mastercard, Medtronic, Panasonic, Pfizer, RELX, Roche, UDS Technology, United Airlines, Verizon, and Visa.

These companies are headquartered across the globe and are active in the advanced manufacturing, aerospace, automotive, consumer goods, electronics, financial services, health, media and entertainment, natural resources, supply chain, and telecommunications sectors, among others. BSA | The Software Alliance administers the Global Data Alliance. For more information on the Global Data Alliance, please see: <https://www.globaldataalliance.org/downloads/aboutgda.pdf>

² Primer "Cross-border data transfers and Remote Work," <https://globaldataalliance.org/downloads/10052020cbdtremotework.pdf>

Personal Data Governance Framework). These initiatives also contain unclear definitions of various categories of data and regulatory requirements that disproportionately impede or restrict data flows, posing substantial challenges to companies that operate internationally and rely on cross-border data flows to provide innovative products and services. Restrictions on the cross-border transfer of data in the form of local storage and processing requirements do not advance personal data protection goals or innovation goals, and trigger unintended consequences. For example, the Directive on Storage of Payment System Data in 2018, was enacted without proper industry consultation or a transparent process. Other requirements would create mandatory data sharing requirements that would likely have a chilling effect on data innovation. Innovation would be better served by voluntary arrangements through a framework that incentivizes and facilitates data sharing among entities.

The challenges associated with this approach fall both on UK and global companies that operate in India as well as onto enterprises based in India - including small and medium-sized organizations. We urge the UK Government to seek safeguards against these requirements that disproportionately impede organizations' ability to move data across borders.

For more details, please see Global Data Alliance's comments to India's Joint Parliamentary Committee on the Personal Data Protection Bill, 2019 and to the Ministry of Electronics and Information Technology on the Revised Report by the Committee of Experts on Non Personal Data Governance Framework, respectively available at:

<https://www.globaldataalliance.org/downloads/02252020IndiaGDAcmtsPDP2019.pdf> and <https://www.globaldataalliance.org/downloads/01292021gdanpd.pdf>.

Please provide as much detail of these difficulties as possible including how significant they were in terms of impact

Cross-border data transfers power innovation and growth across the globe and all sectors of the economy — from manufacturing and farming to local start-ups and service providers. Data transfers enable the digital tools and insights that are critical to enabling entrepreneurs and companies of all sizes, in every country, to create new kinds of jobs, boost efficiency, drive quality, and improve output.

Data localization mandates typically require a company to store certain data, such as personal data, on local servers, whereas cross-border data transfer restrictions often place unreasonable restrictions on transferring data beyond territorial boundaries. Measures that disproportionately restrict the movement of data across borders or mandate data localization therefore create unnecessary costs, difficulties and uncertainties that hamper business and investments:

- These measures hurt local companies by preventing them from accessing innovative technologies, which can preclude local industry from participating in global supply chains and accessing customers in foreign markets;
- They may require companies to set up additional processing and storage facilities locally, thereby duplicating infrastructure and increasing operating costs;
- Goods and services that use data in various phases of their lifecycles are more competitive if they can use data from around the world;
- In addition, because data transfer restrictions create a significant burden on the implementing country's overall competitiveness, they also undermine the country's attractiveness as a destination for investment and R&D;
- They may lead to conflicts of laws as other countries may impose similar but contradictory requirements concerning the movement of data across border.

- They also undermine data security and put local businesses at a competitive disadvantage.

For more details, see for instance the Global Data Alliance submission to the International Trade Select Committee, UK House of Commons – Call for Evidence on Digital Trade and Data (<https://www.globaldataalliance.org/downloads/02122021gdaukparltdigiradedata.pdf>).

We will note that in addition to data privacy, other digital domestic policy issues that impact the digital economy include cybersecurity, emerging technologies (e.g., artificial intelligence), encryption and protection of intellectual property. Digital trade chapters are an important feature of forward-looking trade agreements such as the United States–Mexico–Canada (USMCA) and the UK’s approach based on CP-TPP advances a number of important commitments in this direction. In light of the Global Data Alliance’s focus on data transfer and localization issues, the comments in this submission are limited to matters relating to cross-border data flows.

What, if anything, would you like the Government to do about the issues you have outlined above?

It will be imperative the Ministry of International Trade works to include strong provisions relating to cross-border data transfers, data localization, and the applicability of these rules across all sectors of the economy in a potential United Kingdom-India Free Trade Agreement. Data transfers are critical to economic activities across the UK in all sectors, from aerospace and advanced manufacturing to transportation and telecommunications. Cross-border data transfers enable the digital tools and insights that are critical to enabling our UK operations to create jobs, boost efficiency, drive quality, and improve output.

By pursuing such provisions, the UK will enhance the ability of its businesses and other organizations to operate globally. Advancing these forward-looking provisions with India could also play a positive ripple effect more broadly in the APAC region and in the multilateral setting of the World Trade Organization.

Of the three priorities you have selected, which one is the most important and why?

(Priorities selected: h) Financial services i) Digital) The Global Data Alliance strongly believes that it is in both the UK’s and India’s interest to foster cross-border data transfer provisions into a future FTA. The cross-sectoral application of data localization and data transfer rules, including to the financial sector, which is typically addressed in a separate financial services chapter, will be an important feature of this agreement.

How many members/businesses does your group represent in total?

As of July 2021, the Global Data Alliance counts 46 corporate members (list available [here](#)).

Does your organisation have a presence in, or operate in, India?

The Global Data Alliance is administered by BSA | The Software Alliance which runs a public policy office in New Delhi.

Please briefly explain the extent of your organisation's presence and/or operations in India.

The Global Data Alliance was set up in 2020 and since then regularly advocates before the Indian government and policy makers on a number of issues impacting cross-border data flows. All our submissions are accessible through the Global Data Alliance website <https://globaldataalliance.org/>.

Where is your organisation primarily based?

The Global Data Alliance is administered by BSA | The Software Alliance, whose headquarters are in Washington, DC (United States).

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