

# Inputs to the draft EDS Bill and the e-district implementation guidelines

*IT for Change,13-02-12*

## Introduction:

The draft Bill opens up some important possibilities; if digital means can be used to deliver services in a completely transparent, accountable and efficient way, much can change in India. There are many important public services, and many important 'parts' of other services<sup>1</sup>, that can be fully digitised. Some examples of this are, application for services, authentication services like certificates/ records, some kinds of authorisations, work flow tracking and status of applications, and some kinds of payments. **It will be a significant achievement if all these services (or parts thereof) can be delivered through digital means, which can bring enormous transparency, accountability and efficiency gains.**

If this alone is the intention of the EDS Bill, the major concern we have is not with the language of the draft Bill per se, but with what we see in the implementation intent that can be judged from a reading of the **e-district guidelines**. These guidelines mandates that once services are identified for electronic delivery – significantly, social welfare services, including ration cards, as well as RTI services come under the mandatory category – **these services will be delivered 'in electronic mode only to the citizens from a fixed cut off date'**. One can well judge the reaction that this provision will elicit from most actors working with and for marginalised groups.

**But perhaps the draft Bill should first be judged on its own language alone. Hence, we go over specific issues through a Section by Section examination.**

## Section 2 .Definitions:

*“(a) “assisted access” means assistance to access electronic services; ”*

*“(g)“electronic service delivery” means the delivery of public services or other services through electronic mode including, the receipt of forms and applications, issue or grant of any licence, permit, certificate, sanction or approval and the receipt or payment of money”*

## Comment :

In its definition of “electronic service delivery and assisted access”, the Bill glosses over the question of the implications of right to information for electronic delivery of services. The Right to Information Act 2005, requires all governance related information to be put out in the public domain, except some clearly mentioned categories of information. At present this right is exercised through a pull mechanism, requiring specific requests for information. With EDS, however, the most important information required by the citizen will be digitally available in real time. This, we understand, will be used for developing real time automated Management Information Systems (MIS). However, citizens' right to information should be as important a design principle for EDS as would be the requirements for new digital MISes. This means that the Bill needs to acknowledge explicitly that helping citizens access information pertaining to service delivery must be a part of

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<sup>1</sup> It is important to make a distinction between a whole service being digitally delivered and a part of it being so delivered. In case of most services, only some part can be digitised and delivered online. It is with regard to these services requiring hybrid delivery system that the opportunity of electronic delivery based process re-engineering is being used to set up privatised delivery systems, which is our biggest concern here.

“assisted access” and the information obligation must be recognized as a part of the process of “electronic service delivery”

### **Section 3. Delivery of public services through electronic mode:**

*The Central Government, the State Government and public authorities shall deliver all public services by electronic mode within five years of the commencement of this Act except such services,-*

*(a) which cannot be delivered electronically;*

*(b) which can be delivered electronically but the Central Government or the State Government or public authority, as the case may be, notifies not to deliver electronically for the reasons to be specified in such notification:*

#### **Comment:**

If the intent is only that all those services, or such parts of services, that can be fully digitised should be delivered through the electronic mode, then this should be made explicit in the draft. The Bill must not become a way to try and beat everything into fitting to a digital form, which can do great damage to the framework of governance in India. **Therefore, the bill must clearly specify that all public services will be delivered by electronic mode, within 5 years of the enactment of the Bill, in addition to their being available through other means.**

Moreover, the exception clause to the digitisation of services, in Section 3, is quite impractical. It will be quite laborious, and somewhat impractical, for the governments to keep issuing notifications to the effect that services like PDS, health, education, NREGA, social counselling, agriculture extension and so on cannot be delivered electronically. By not going into the issue of 'those *parts* of services that *can* be delivered electronically' – perhaps in a gung-ho spirit of all or nothing – the draft Bill does damage to the positive aspects of the Bill since departments are likely to simply declare that most of their services cannot be delivered electronically (implicitly taking the defence that they cannot be 'entirely' delivered online.). Rather than having to make exception notifications, the “competent authorities” ( as defined under the Act) in consultation with the Central and State Commissions set up under the Act, could be asked to notify, what services, and what parts of other services, can and thus *must* be delivered electronically, before the five year cut-off.

### **Section 4. Duty of competent authority :**

*“The competent authority, while introducing services in an electronic mode, shall-*

*(a) simplify and improve the existing process and forms relating to such services in such manner as may be prescribed;*

*and*

*(b) provide assisted access to such services, in such manner as may be prescribed.”*

#### **Comment :**

The Bill glosses over the nature of the assisted access to be provided by the competent authorities responsible for digitising service delivery. Reading this section together with the Bill's definition of

public service<sup>2</sup>, that allows for the delivery of a public service through a (private) service provider<sup>3</sup>, the Bill seems to be affirming the move towards making the **Common Service Centres (CSCs) as the centre-piece of the proposed service delivery changeover (already attempted by the e-district guidelines)**. This itself should not be problem as long as the CSCs are simply points of access to the Internet – assisted or otherwise – and there is no legal/official status of the assisting intermediary, the CSC agent. However, this is not the case as most services – even from the categories that we described as digitisable – require an intermediary to do an authorisation function on the behalf of the citizen, or on the behalf of the public agency or both. The draft bill seems to be strategically silent on this very important class of services, and the involved processes.

Moreover, most services will further involve some element of physical delivery – which is even more clearly a monopolistic function than authorisation – for instance, distribution of ration cards that may have been prepared and delivered as a result of a largely online process. (The Department of Information Technology's website does mention 'issue of ration card' as a service to be delivered through the e-district project.) Such a 'physical component' will be involved in a very large number of services. Again, there is no mention in the draft ESD Bill about how this part of the delivery system will be handled.

Certainly, it would be logical to hand over monopolistic functions such as authorisation and physical delivery to the panchayats instead of a private service provider. However, this has been passed over, even in the present Common Service Centre scheme – instead, the private agents have been given authorisation to even undertake notary functions in some states, such as Chattisagrh. The only plausible reason behind this is the emphasis on preserving the CSC business model, which seems to be overriding all other concerns, at the moment.

It would be a loss indeed, if the EDS bill chooses to preserve the CSCs over all other governance concerns. Instead, we hope the EDS bill opts to recognise the principle of subsidiarity on which the constitutional provisions regarding the *panchayati raj* are based requires that all public services that *can* be delivered by panchayats *should* be delivered by *panchayats*.

This means that the EDS bill should make it mandatory for competent authorities to put in place **the adjunct delivery end arrangements that enable panchayats to be the point of delivery**. If corruption is feared in *panchayat* based delivery of services, the same can be true of a private player. If it is found useful to provide alternative and competing channels of service delivery, it is possible that some local public interest bodies/ organisations be given the 'notary' powers, in addition to *panchayats*, for facilitating such services that are only dependent on this level of mediation. As for those services that involve some component of physical delivery – and thus are completely monopolistic – there may not be any option other than just the *panchayats* delivering them. Sound monitoring and oversight mechanisms need to be built within the public sector to ensure effective service delivery and to check against corruption. Online transparency systems should be an essential and easily achieved element of an EDS architecture, which aspect, however, does not receive the kind of treatment that it requires in the current Bill. If most of the relevant workflow is visible not only to the higher officials but also to the public over the Internet, it should have significant accountability-enforcing impact.

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2 Section 2(m) “public service” means any service or part thereof being provided to any person by the Central Government and the State Government or public authority either directly or through any service provider and includes the receipt of forms and applications, issue or grant of any licence, permit, or certificate, sanction or approval and the receipt or payment of money by whatever name called in a particular manner;

3 Section 2(n) “service provider” means any individual, agency, company, partnership firm, sole proprietor firm or any such other body or agency which has been authorised by the Central Government and the State Government to offer services through electronic mode;

## **Section 6. Notification of Grievance Redressal Mechanism.**

*“ Every competent authority shall notify a Grievance Redressal Mechanism for the redressal of grievances under this Act, within such time and in such manner as may be prescribed. ”*

### **Comment :**

It would be important to point out that there must be a common Grievance Redressal Mechanism that addresses cases pertaining to the non digitised public services as well.

## **Section 8. Constitution of Central Electronic Service Delivery Commission and Section 15. Constitution of State Electronic Service Delivery Commission.**

### **Comment :**

Through this bill, there is the creation of a dedicated structure for monitoring the manner and quality of delivery of electronic services. When there would be many services that are wholly or partly delivered in a non-digitalised manner, the question of addressing issues in delivery of such services becomes equally important, in an integrated manner with that of digitised service delivery. The move to instead create a separate structure for managing electronic service delivery seems ill thought-out.