



## Clarification on Geospatial Guidelines

The Department of Science and Technology (“DST”) had issued guidelines on the acquisition and production of geospatial data and services, including maps (“Guidelines”) on February 15, 2021<sup>1</sup>. These Guidelines were published in supersession of all previous policies issued by the Government of India and significantly liberalised the mapping industry and democratised existing data sets.

Under the Guidelines, a Tech Sub-Committee was constituted to advise on and make recommendations relating to the gaps in the implementation of the Guidelines, among other things.

DST has now approved to implement the Tech Sub-Committee’s recommendations and in furtherance of that, published an office memorandum dated November 28, 2022 titled ‘Clarification/Compliance points in pursuance to Geospatial Guidelines dated February 15, 2021’ (“Clarification”). The Clarification is primarily with regard to collection and use of geospatial data by foreign entities.

Summarised below are some key points under Clarification:

### 1. Revised definition of Indian entity:

In addition to the requirement of the entity being an Indian owned and/or controlled company, it must also be one where 51% or more of the shareholding rests with Indian citizens or persons of Indian origin.

### 2. Conditions for data exchange with foreign entities

Clarification prohibits the transfer of mapping data or its derived products with quality finer than the prescribed thresholds to the servers of foreign entities in India or abroad. Foreign entities can license data finer than the thresholds from Indian entities through Application Programming Interfaces (APIs) only, without these passing through or being processed by their server for serving the customers in India.

In order to serve their Indian users, foreign entities’ client software can query Indian mapping entities, which will serve only the derived products<sup>2</sup> that satisfy both the spatial data thresholds and not contain any negative attribute<sup>3</sup>.

### 3. Obligations of Indian Mapping Entities

In cases where Indian mapping entities share derived data with foreign entities, an obligation is imposed on them to ensure that such data is degraded to being coarser and less accurate than the threshold levels. They must also ensure

<sup>1</sup> For a detailed analysis, please refer to the [JSA Update of February 19, 2021](#).

<sup>2</sup> Products that have been generated or processed based on original raw data, which are coarser than prescribed thresholds and free from negative attributes.

<sup>3</sup> The negative list of attributes includes attributes that must not be marked on any Map i.e., no person or legal entity will identify or associate any location on a map with a prohibited attribute.

that such data is carefully randomized with biases such that it is impossible to reconstruct higher precision and accuracy information even with a large dataset.

In addition to that, Indian mapping entities must also ensure that they enter into a legally binding contract under Indian law with such foreign entities with an undertaking that such foreign entities will (a) only use the map data for the purposes outlined in the contract; (b) be subject to geospatial policies, guidelines; and (c) under no circumstance, accidentally or otherwise, reverse engineer and either try to assemble partial or entire data sets, or generate high resolution or accuracy data than what has been given or permitted.

#### 4. **Creation and storage of data by foreign entities**

Foreign entities are expressly prohibited from capturing geospatial data or creating or generating maps and other geospatial products at a value finer than the prescribed thresholds.

While they are permitted to generate and serve maps and imagery layers using a combination of satellite imagery, internal mapping tools and user inputs, the Clarification mandates that such data generated must be degraded, without the possibility of reverse engineering to be finer than the prescribed thresholds.

As for geospatial derived products that are coarser than the prescribed thresholds, the Clarification permits their storage on the cloud. However, it is mandated that when such products are being served to users in India, at least one copy must be locally stored in a cloud located in India.

#### 5. **Clarity on thresholds vis-a-vis foreign entities**

The general overarching principle under the Guidelines has been that foreign entities cannot capture data that is finer than the prescribed thresholds. The Clarification provides the numerical value for ascertaining the accuracy threshold and the resolution threshold. It further provides some additional points for explaining the prescribed threshold values. Some notable points include:

- (a) Foreign entities are prohibited from providing services in India with service accuracy better than the thresholds and from capturing data with an accuracy better than the prescribed thresholds;
- (b) Foreign entities must refer all the data captured and services provided in India to the Indian Reference System<sup>4</sup>;
- (c) Foreign entities are required to ensure that any data they receive from Indian entities is devoid of any granular data. They must also ensure that the data so received must not have been made using equipment capable of collecting finer accuracy data.
- (d) Foreign entities are, however, permitted to work with data accuracy better than the prescribed thresholds, so long as this is done within the premises of their Indian collaborator, which is physically located in the Indian territory.

#### 6. **Introduction of terms ‘general nations’ and ‘countries of concern’**

Notably, there appears to be a lack of clarity with respect to the terms ‘general nations’ and ‘countries of concern’ under the Clarification. For instance, the Clarification grants the liberty to foreign entities from *general nations* to continue to generate and serve maps and imagery layers, so long as the data generated is below the prescribed thresholds and is degraded to prevent reverse engineering. Further, entities that are a company of concern or owned by residents or citizens from *countries of concern* are prohibited from engaging in mapping or distribution or having access to any geospatial data as defined from Indian mapping entities. However, there is no indication as to which countries are categorised as general nations or countries of concern.

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<sup>4</sup> as defined by the Survey of India.

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### This Prism has been prepared by:



**Probir Roy Chowdhury**  
Partner



**Yajas Setlur**  
Partner



**Kavya Pankaj**  
Associate



**Moushami Nayak**  
Associate



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