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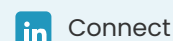
KEY HIGHLIGHTS OF THE FISCAL BUDGET 2081/82 (2024/25) FOR THE ICT SECTOR

The Government of Nepal presented its annual budget for the fiscal year 2024/25 on 28 May 2024. The Budget has allocated a total of Rs. 73.50 billion to the Ministry of Communication and Information Technology. Key highlights of the budget for the ICT sector are:

(A) Information Technology Decade

The decade of 2081-91 BS has been declared as the 'Decade of Information Technology' by the government, aiming to export IT services worth NPR 3 trillion and generate 1.5 million direct and indirect employment opportunities in the IT sector. The plan includes developing Nepal as a hub of information technology.

To facilitate this, IT parks will be operated with high-speed internet, electricity, and security infrastructures using available government and private buildings in the Kathmandu Valley and Butwal, offering cost-free places for workstation operations. Additionally, a multi-story structure will be developed to operate an IT hub in Charkhal, Dillibazzar, Kathmandu, through a public-private partnership. The government has allocated NPR 170 million to establish a Knowledge Park at Khumaltar, Lalitpur. There will also be upgrades to government data centers, regulation of private ones, and efforts to ensure the secure and reliable storage and use of electronic data.

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Our Observations

A report by IIDS states that, Nepal's total IT service export had already reached USD 515 million in 2022, with a growth of 64.2% over a year. It contributed 1.4% to the GDP and 5.5% to the foreign exchange reserves. In 2022 alone, a total of 14,728 IT freelancers in software development and technology and 51,781 IT-enabled Services freelancers engaged in IT services export. The goal of generating NPR 3 trillion in revenue and creating 1.5 million jobs, while ambitious, is not unattainable. To achieve these targets, Nepal must focus on implementing necessary policy reforms.

Recommendations

(a) Product Oriented Sector: Nepal should evolve from exporting IT services developing and exporting IT products to foster intellectual property (IP) development, generate high- skilled jobs, and reduce the sector's reliance on labor arbitrage. It requires a focus on strengthening innovation and entrepreneurship to support startups and provide them access to resources and funding.

(b) Employee Stock Ownership Plan (ESOP): Given the world-wide prevalence of ESOPs in the IT sector, formulation of clear legislative guidelines will enable Nepalese companies to effectively hire and retain the talent needed for its growth as well as to enhance employee and company performance.

(c) Intellectual Property: To foster growth in the IT sector, government should prioritize updating the existing intellectual property laws. The current legislation, which broadly covers protection for "computer programs," is inadequate for the rapidly evolving digital landscape. Revising these laws to provide specific protections for emerging technologies such as Artificial Intelligence (AI), advanced robotics, Internet of Things (IoT) etc. is crucial. This revision should clearly define IP rights for software, source code, platforms, and licensing models, among others. Formulating a robust IP protection regime can stimulate innovation, attract investment, and position Nepal's IT sector for global competitiveness.

(d) Flexible Investment Laws: Government is providing flexibility by permitting establishment of branch offices of Nepalese IT companies in foreign countries to facilitate the export of IT-related services. This reform should escalate further and allow the IT sector to also invest outside of Nepal to help them (i) expand their businesses outside of Nepal, (ii) access foreign capital and human resources, and (iii) allow them to be part of growing startup ecosystem of mature foreign markets. Likewise, telecommunication service laws need to be updated to reflect (i) the shift from voice to data-centric telecommunication service delivery models, (ii) challenges in digital content regulation to balance freedom of expression with prevention of hate crimes (iii) the need for appropriate regulatory approach to the AI revolution that is right around the corner.

(B) Digital Nepal Framework

The IT sector is set to become a catalyst for national economic growth. Government has allocated NPR 590 million to facilitate amendments, implementation, and oversight of the Digital Nepal Framework 2019 (DFN). To further support the IT industry, there will be a rebate on dividend tax if profits are capitalized. Youth studying IT at the undergraduate or graduate level will benefit from internship opportunities in IT industries. Broadband internet access will be provided to all ward offices, community schools, and health institutions to reduce the digital divide in underserved sections, regions, women, and communities. Additionally, digital banking, roaming banking, and mobile banking services will be intensively used to offer banking services in remote and rural areas. E-assessment and "faceless" audits will be implemented to ensure a fair, transparent, and modern tax audit and investigation process. Public bodies will prioritize the use of domestically developed software, and e-governance will be promoted to enhance the efficiency of public services.

Our Observations

As per the National Population and Housing Census Report 2021, internet access in Nepal at the household level varies significantly by geography: 43% in hilly regions, 35% in the Terai region, and a mere 17.4% in the mountainous areas. Nepal's general literacy rate is 76.3%, financial literacy is 57.9%, and digital literacy is around 31%, according to a 2022 survey by the Nepal Rastra Bank (NRB). Digital divide caused by lack of access to affordable internet and digital literacy remain prevalent in many parts of Nepal. Likewise, Government's initiatives such as digital signatures, Nagarik App, National ID card, and digitalization of government services, have not quite lived up to their promise.

Recommendations

a. Meaningful Connectivity: Government should focus on ensuring meaningful connectivity through strategic implementation of the Rural Telecommunication Development Fund (RTDF) to improve broadband internet access, adoption, and affordability. Mitigating prohibitive costs, lack of access to device, and insufficient awareness or skills could assist in achieving such goals. The budget has imposed a 5% excise duty on laptop making it an even more costly purchase for customers. Institutions such as the Federation of Computer Association Nepal (CAN Federation) have also requested the government to revisit this decision for the benefit of the ICT sector.

b. Public-private partnerships: Nepal's private sector has been at the forefront of digital transformation. Government should leverage the private sector's expertise through public-private partnerships and craft policies that foster a supportive environment for stakeholders to actively contribute to DFN initiatives.

c. E-governance: There has been a long-standing demand for digitized government services in Nepal, and the government has started working on the blueprint for E- governance. Key aspects to ensure successful E-governance include data unification and sharing between government entities, preventing data duplication, ensuring data security, establishing robust infrastructure, and developing capable human resources.

(C) Data Protection and Cybersecurity

The government aims to achieve policy stability and ensure high-speed, reliable internet access, data security, and intellectual property protection. To facilitate the adoption of emerging technologies, a comprehensive legal framework will be formulated. Additionally, there will be a focus on the development, promotion, and regulation of artificial intelligence to drive innovation and growth in the tech sector.

Our Observations

Nepal was ranked in the 94 th position in the Global Cybersecurity Index 2020 (ITU). Further, Nepal ranks 150 th in the AI Readiness Index. The current regulatory framework for data protection in Nepal is outdated and insufficient to adequately ensure security of personal and sensitive information. Additionally, the IT Bill mandating strict data localization requirements to specific sectors without addressing the gap in data security further risks discouraging international companies from operating in Nepal.

Recommendations

a. Reframing Data Privacy Laws: To achieve the aim to develop Nepal as a 'Digital Hub', domestic regulatory frameworks should be aligned with international principles of data protection (such as the GDPR) especially in the context of regulation in relation to cross- border transfer of data, establishing separate regulatory authority for data protection, cybersecurity, and international cooperation etc.

b. Lawful Interception: The interception mechanism in the IT Bill should explicitly define the specific body authorized to permit interception (a judicial authority), the purposes for which it may be authorized, and the procedures to be followed, in order to ensure clarity.

c. Regulating AI: While the government aims to regulate AI and data privacy, a question remains, how prepared is the government to implement AI to develop public digital infrastructure? Nepal's 150 th ranking among 193 countries in the AI Readiness Index underscores this concern. To address this, the focus should be on three major pillars, (i) Government (strategic vision to develop and govern AI with strong internal digital capacity to support adaptability in the face of new technologies), (ii) Technology Sector (high innovation capacity, environment that fosters entrepreneurship and ensures substantial R&D funding), and (iii) Data & Infrastructure (high-quality data availability and the necessary infrastructure to support and deliver AI tools to citizens).

(D) Digital Platforms and E-commerce

The government plans to systematize the ethical use of social media, including the regulation of advertisements on digital platforms. In addition, there will be a restructuring of postal services to develop them into an e-commerce hub, enhancing their role in the digital economy.

Our Observations

Nepal's 'partly free' status in Freedom House's 'Freedom in the World' report (57 out of 100) highlights concerns over political rights and civil liberties. The 2023 TikTok ban, widely seen as infringing on freedom of expression, risks deterring establishment of international platforms in Nepal, and prompting use of unauthorized VPNs, further posing security and data risks. Nepal currently regulates social networks through the Directive for Regulating the Use of Social Network, 2023 (the "Social Media Directive"), and oversees OTT platforms with the 11th amendment to the National Broadcasting Rules, 1995 (the "OTT amendments"). Despite Government's intent to regulate digital platforms, weak implementation persists.

Recommendations

a. Stakeholder discussion and international practices: It is vital for the government to collaborate and consult with industry stakeholders prior to enforcing stringent regulatory measures like the current Social Media Directive and OTT amendments. Creating a conducive business environment while implementing regulatory standards is of utmost importance to support the growth of the sector.

b. Revisit E-Commerce Bill: Restructuring the postal service can address delivery issues, but revisiting the existing E-Commerce Bill, 2080 is also necessary. Nepal needs business-friendly laws that support SMEs and MSMEs, particularly those using social media to run e-commerce businesses. The focus should be on fostering consumer trust and encouraging growth in e-commerce. For example, the E-Commerce Bill needs to reflect the following key provisions:

- Rights and duties of businesses running solely via social media platforms and online marketing.
- Control/remedy mechanism in the event of data breach, as e-commerce platforms have been through such incidents in the past.
- Removal of imprisonment as punishment to avoid discouraging establishment and operation of e-commerce business/platforms.

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