



REPORT OF THE GROUP OF EXPERTS ON PRIVACY

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The Report identifies key privacy issues while keeping in view the international landscape of privacy laws, global data flows and predominant privacy concerns with rapid technological advancements and proposes a detailed framework that serves as the conceptual foundation for the Privacy Act for India. The five salient features of such a framework: (i) Technological Neutrality and Interoperability with International Standards; (ii) Multi-Dimensional Privacy, including privacy-related concerns around data protection on the internet and challenges emerging there from, appropriate protection from unauthorized interception, audio and video surveillance, use of personal identifiers, bodily privacy including DNA as well as physical privacy, which are crucial in establishing a national ethos for privacy protection; (iii) Horizontal Applicability both to the government as well as to the private sector; (iv) Conformity with Privacy Principles drawn from best practices internationally, and adapted suitably to an Indian context, with the intention to provide the baseline level of privacy protection to all individual data subjects. The fundamental philosophy underlining the principles is the need to hold the data controller accountable for the collection, processing and use to which the data is put thereby ensuring that the privacy of the data subject is guaranteed; and (v) Co-Regulatory Enforcement Regime, like establishment of the office of the Privacy Commissioner, both at the central and regional levels as the primary authority for enforcement of the provisions of the proposed Privacy Act.

PSA view – Currently there are several national programs (like Unique Identification number, NATGRID, CCTNS, RSYB, DNA profiling, Reproductive Rights of Women, Privileged communications and brain mapping) that have increased the collection of citizen information by the government either through statutory requirements or through e-governance projects. This has led to the concerns on their impact on the privacy of persons. This information ranges to health, travel, taxes, religion, education, financial status, employment, disability, living situation, welfare status, citizenship status, marriage status, crime record, etc and there is no comprehensive policy speaking to the collection of information by the government. This has led to ambiguity over who is allowed to collect data, what data can be collected, what are the rights of the individual, and how the right to privacy will be protected, the extent of personal information being held by various service providers, and especially the enhanced potential for convergence that digitization carries with it is a matter that raises issues about privacy. In light of this, the Report seems to provide a ray of hope towards formulating a privacy policy.

JWG Report on Engagement of Private Sector on Cyber Security

The Government of India has set up a JWG under National Securities Council Secretariat engaging private individuals to make significant contribution towards strengthening cyber security. The idea is to enter into a Public Private Partnership i.e. representatives of both the government and private sector will work together.

The JWG will work on aspects including institutional framework, capacity building in the area of cyber security, development of cyber security standards, augmentation of testing and certification facilities of IT products. The intent is to have a permanent JWG which will be advised by Joint Committee on International Cooperation and Advocacy on various cyber security issues. The key recommendations of the report include creating Information Sharing and Analysis Centre in various industries by the private sector which will coordinate with Computer Emergency Response Teams set up under the Information Technology Act, 2001 ("IT Act"). To provide training in law enforcement agencies in cyber crime investigations and cyber forensics. To promote and disseminate cyber security awareness among the public at large and establish an Institute of cyber security professionals in India.

PSA's View – India is in dire need to address the hazards existing in the Indian cyberspace. Although, the IT Act talks of ways to handle cyber attacks, more emphasis has to be laid on strengthening cyber security. Given the fact that private sector has more expertise in the area of information technology, it is only logical on the part of the government to collaborate with private sector in overcoming the threats from cyber attacks and tightening cyber security in India. This endeavor on part of the government to collaborate with private sector to bolster up cyber security should prove beneficial to everyone in the cyberspace.

TRAI asked to check monopolies in cable TV sector

The Minister of Information and Broadcasting, Mr. Manish Tewari, in a statement to the media stated that he has asked the MIB to make a reference to the TRAI to come up with measures for checking the existence or creation of monopolies in the cable TV sector. This announcement has been made in light of the digitization drive undertaken by the government which has now entered its second phase. According to media reports, the announcement is not in light of the dominance created by a few players in a few select states, but in order to create a transparent architecture for empowering the end consumers to have the freedom to choose the operator of their choice.

PSA's View – The announcement by the minister of MIB is definitely a step in the correct direction. With Multi System Organizations garnering more domination in terms of scale in a few states like Punjab, a step to check monopolies will keep the digitization program of the government in line with its primary objective, i.e. to offer power of choice to the customers. However, since competition and any anti-competitive measures or study fall under the realm of the Competition Commission of India ("CCI"), it will be interesting to see how any action by the TRAI bears fruit with the Anti-trust regulator in tow. In such a case, the best course of action would be for the TRAI and the CCI to work together in ascertaining whether or not monopolies exist in this sector and if they do, then the CCI must suo motu propose the means for controlling the monopolies.

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