

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
LOK SABHA
UNSTARRED QUESTION NO. 3478
TO BE ANSWERED ON: 08.08.2018

PRIVACY OF USER DATA

3478. SHRI T. RADHAKRISHNAN:
KUNWAR HARIBANSH SINGH:
DR. SHRIKANT EKNATH SHINDE:
DR. PRITAM GOPINATH MUNDE:
SHRI SUDHEER GUPTA:
SHRI DHARMENDRA YADAV:
SHRI ADHALRAO PATIL SHIVAJIRAO:
SHRI KUNWAR PUSHPENDRA SINGH CHANDEL:
SHRI BIDYUT BARAN MAHATO:
SHRI GAJANAN KIRTIKAR:
SHRI ANANDRAO ADSUL:
SHRI ASHOK SHANKARRAO CHAVAN:
SHRI SHRIRANG APPA BARNE:
SHRI S.R. VIJAYAKUMAR:
SHRI S. RAJENDRAN:

Will the Minister of ELECTRONICS AND INFORMATION TECHNOLOGY be pleased to state:

- (a) whether huge chunk of data is being generated on smart phone and if so, the details thereof;
- (b) whether the data collated by mobile application over a period of time can be used to profile people which poses a risk to data privacy and if so, the details thereof;
- (c) whether the existing framework for protection of personal data of telecom consumer is sufficient and if so, the details thereof and if not, the reasons for the same;
- (d) whether Telecom Regulatory Authority of India (TRAI) has made recommendation that all entities that process personal user data should be brought under a data protection framework and if so, the details thereof along with the response of the mobile operators thereto;
- (e) whether the Government had set up a committee under Justice B. M. Srikrishna to deliberate on a data protection framework for the country which has submitted its report to the Government and if not, the reasons for delay along with the time by which it is likely to be submitted;
- (f) whether entities controlling and processing user data do not have primary rights over the data and if so, the details thereof and the reaction of the Government thereto; and

(g) whether there is a need to spread awareness about data protection and privacy issues so that the users can take well informed decisions about their personal data and if so, the steps taken by the Government in this regard?

ANSWER

**MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI S.S. AHLUWALIA)**

(a): Yes, Sir. The data traffic per smart phone in India is currently estimated* to be 5.7 GB per month.

(b): Mobile applications access user data after seeking explicit consent of the user. The user always has the option to decide what permission to be given to enable application to access data, and such permission can also be modified /revoked. The report mentioned at (e) below proposes criminal liabilities on entities that violate privacy and profile people.

(c) and (d): As per the Recommendations made by Telecom Regulatory Authority of India, 'Privacy, Security and Ownership of the Data in the Telecom Sector' dated 16th July 2018, There are a number of applicable legislation and policies that contain provisions with a bearing on the right to privacy and data security in the telecom sector in India. These include:

- IT Act, 2000: Sec 43A, Sec 69, Sec 69B, Sec 72A, Sec 67C, and
- Sec 79.
- IT Rules
- Indian Telegraph Act, 1885: Sec 5 and Sec 26,
- Indian Telegraph Rule 419A.
- Unified License condition 37, 38, 39 and 40.
- Guidelines, circulars, direction, and notifications issued by DoT and TRAI

The said recommendation states under 3.2 (a). Summary of recommendations - "The existing framework for protection of the personal information/ data of telecom consumers is not sufficient. To protect telecom consumers against the misuse of their personal data by the broad range of data controllers and processors in the digital ecosystem, all entities in the digital ecosystem, which control or process their personal data should be brought under a data protection framework".

**Ericsson mobility report- June 2018.*

(e): Yes, Sir. Government proposes to bring out data protection legislation in the country. A Committee of Experts on Data Protection chaired by Justice Shri. B.N Srikrishna (Retd.) had been constituted to look into the aspects pertaining to Data Protection. The Committee has submitted its report along with draft Bill to Government on 27.07.2018.

(f): Entities controlling and processing user data do not have primary rights over user data but their role is limited as a data fiduciary. This has also been stressed by the committee of Experts on Data Protection.

(g): Yes, Sir. There is a need to spread awareness about data protection and privacy issues so that the users can take well informed decisions about their personal data. Towards this, the Ministry of Electronics & Information Technology undertakes multiple awareness activities via CERT-In Awareness Programs & Information Security Education and Awareness (ISEA) Project.
