



A Project By IDG

Powered By CIO ChannelWorld COMPUTERWORLD

LEARN MORE +

CIO.in > News > India Defends Right To Access Personal Data

NEWS

India Defends Right To Access Personal Data

The Indian government said Tuesday that new rules allowing it to access personal information available with Internet companies have inherent checks and balances against misuse.

By John Ribeiro

News | May 11th 2011



The Indian government said Tuesday that new rules allowing it to access personal information available with Internet companies have inherent checks and balances against misuse.

The rules under section 43A of the Information Technology Act were enacted last month and reflect the government's perception that security threats to the country can be countered by better access to online information.

The country is, for example, locked in a dispute with Research In Motion, demanding access to e-mails and other communications on RIM's corporate service, called BlackBerry Enterprise Server.

Privacy groups and lawyers have described the rules as draconian and said they infringe Indians' fundamental rights. "These are arbitrary powers that are being given to government, without any checks and balances," said Pavan Duggal, a cyberlaw consultant and advocate in India's Supreme Court.

The rules place controls on the gathering and use of personal data by Internet companies, including requiring permission from the provider of information for sharing such data. But the rules cite the government as an exception in this regard.

The purpose of the rules is to protect sensitive personal data and information, and government agencies cannot be made an exception to this, Duggal said.

The government now holds that by limiting access to personal information to government agencies that are mandated under the law to collect such information, it has provided the required checks and balances against misuse, according to a statement issued by Ministry of Communications & Information Technology.

Besides sending a request in writing to companies, stating the purpose for seeking personal information, government agencies have to also give an undertaking that the information

This cool button delivers CIO stories to you on Facebook:



Future Ready Enterprise | Dell | Intel

MPS Limited in India cuts data recovery times by 98%
Read more >

NEW DATA CENTER

IND
India

SAVE \$500 | **SOFTLAYER**
an IBM Company

CONNECTED ENTERPRISE
by Vodafone Business Services

Features | Case Studies | Viewpoint

Experts to IoT makers: Bake in security
Read More >>

W3 Security Practices IoT will Disrupt
Read More >>

Powered by IDG

obtained will not be published or shared with any other person, the ministry added.

Police need a search warrant to enter a home, but in the digital world the government appears to be giving itself the power of entry and search without a warrant, Duggal said.

The government is not required to follow due process of law, and is only required to send a request for information in writing, Duggal said. There is no adjudication of the purpose for which the information is required and there is no competent authority or court to rule on the requirement, he added.

India is already facing criticism for the leak last year of telephone recordings made by the country's Income Tax Department. The telephone conversations between a lobbyist and some businessmen and politicians have been key inputs in investigations into an alleged scam in the allotment of 2G licenses and spectrum in 2008 by former telecommunications minister A. Raja.

A top Indian industrialist, Ratan Tata, said that his privacy had been encroached upon by leaks to the media of tapes of his telephone conversation with the lobbyist, and filed a case with the country's Supreme Court for protection of his privacy.

The country's Cabinet Secretary K.M.Chandrasekhar, who was directed by Prime Minister Manmohan Singh to review India's telephone interception rules and procedures in December, said that interception of telephone calls by government agencies should be limited to situations when there is a "public emergency" or "public safety" is at stake.

Chandrasekhar cited Supreme Court rulings that state that a public emergency or the interest of public safety are preconditions for the application of legal provisions for such interceptions.

"You can't have one set of laws for telephone interception and another set of rules for privacy on the Internet," Duggal said.

The new rules have also drawn criticism for conditions relating to content posted on websites and blogs.

Intermediaries such as telecommunications companies, ISPs and blogging sites have to bring down content within 36 hours of being alerted by an affected person, without giving the content's creator the opportunity to defend the material, Duggal said. The intermediaries will not have the option to decide whether the content is indeed against the law, he added.

Content can be found objectionable on a number of legally vague grounds, including if it is "grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, pedophilic, or libelous."

MORE LIKE THIS

OpenSSH patches information leak that could expose private SSH keys

Rogue or compromised OpenSSH servers can read private SSH keys from the memory of unpatched clients

State CIOs agenda targets cybersecurity


NASCIO's federal policy agenda for new year looks to expand resources to secure critical infrastructure, recruit top talent and ease the burden of federal regulations.

Researcher finds fault in Apple's Gatekeeper patch



Synack's Patrick Wardle says Gatekeeper can still be tricked into letting malware run

CIO KNOWLEDGE VAULT

CLOUD STORAGE SOLUTIONS



Transitioning to the Cloud Made Hassle-free
Read More

Sponsored By  

SUBSCRIBE ::
SIGN UP FOR OUR NEWSLETTERS

Email Address

Go

SOCIAL@ CIOIndia ::

Facebook	Twitter
-----------------	----------------



CIO India
1,280 likes

Like Page Share

CIO India
2 hrs

If you're connecting to servers over the secure shell (SSH) protocol using an OpenSSH client, you should update it immediately.

OpenSSH patches information leak that could expose private SSH keys
Rogue or compromised OpenSSH

[VIEW ALL NEWS](#)

▪ [NEWS](#) ▪ [CASE STUDIES](#) ▪ [FEATURES](#) ▪ [VIEW POINTS](#) ▪ [WHITEPAPERS](#) ▪ [EVENTS](#) ▪ [IN FOCUS](#) ▪ [CIO100](#)

[ABOUT CIO](#) | [SUBSCRIBE TO NEWS LETTER](#) | [ADVERTISING](#) | [PRIVACY POLICY](#) | [CONTACT US](#)



FOLLOW US



Copyright 2005-2016 IDG Media Private Ltd. All rights reserved
Reproduction in whole or part in any form or medium without express written permission of IDG Media Pvt. Ltd is prohibited.

THE IDG NETWORK: [Channelworld.in](#) | [PCWorld.in](#) | [ComputerWorld.in](#)