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India may overstep its own laws in demanding content filtering

India's reported plans to ask Internet companies to filter objectionable content may overstep the country's own laws, according to legal experts.

By **John Ribeiro**
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India's reported plans to ask Internet companies to filter objectionable content may overstep the country's own laws, according to legal experts.

The government has asked Internet companies like Yahoo, Facebook, Google, and Microsoft to remove disparaging, inflammatory or defamatory content on their sites even before it goes online, according to newspaper reports on Monday. By Tuesday, the Indian government publicly accused the Internet companies of lack of seriousness in dealing with issues that hurt local sensitivities.

Executives of two of these companies confirmed on condition of anonymity that the country's ministry of communications and IT has indeed asked for such filtering of content. A spokesman at the country's ministry of communications did not return calls.

Rules framed earlier this year around India's Information Technology Act require intermediaries like Internet service providers to remove content that is found objectionable within a period of 36 hours of being notified of the content. Intermediaries are also required to warn users against posting or uploading a variety of objectionable content in their user agreements and other rules and regulations.

But there isn't a provision that requires intermediaries to filter and remove disparaging, inflammatory or defamatory content even before it is posted, said Pavan Duggal, a cyber law consultant and advocate in India's Supreme Court.

The Indian government is said to have objected to online content found to be derogatory

about the country's Prime Minister Manmohan Singh and the president of the ruling Congress Party, Sonia Gandhi.

Besides being technically complex, a demand for filtering raises the question as to which content should be filtered, Duggal said. Under Indian law, there is no provision which provides that derogatory or defamatory remarks and other content only against some political leaders should be singled out for special attention, he added.

"We asked the government to tell us which content they would like filtered, but they were at a loss," said an executive of an Internet company, who declined to be named.

Kapil Sibal, the country's minister for communications and IT, said on Tuesday that the government was objecting to images and remarks that would hurt religious sentiments of a large section of Indians. "This government does not believe in censorship," he said at a press briefing that was telecast by Indian television channels.

Sibal said the government has to protect the sensibilities of its people from being hurt, and will not allow intermediaries to throw up their hands. He criticized the Internet companies for their lack of seriousness when they were asked for a solution.

India has already been in disputes with technology companies such as Research In Motion over the issue of greater access to its law enforcement agencies to email and instant messenger services which it suspects that terrorists use. RIM has so far denied providing access to the government to its corporate mail service on BlackBerry Enterprise Server as it claims that the encryption keys are with customers and not with the company.

Internet companies are unhappy with this new development that could see India modify its laws in a manner that could make it difficult for these companies to operate in the country, said an executive at one of the companies.

"We will remove any content that violates our terms, which are designed to keep material that is hateful, threatening, incites violence or contains nudity off the service," Facebook spokeswoman Debbie Frost said in an email. "We recognize the government's interest in minimizing the amount of abusive content that is available online and will continue to engage with the Indian authorities as they debate this important issue," she added. Facebook said it has policies and on-site features in place that enable people to report abusive content.

Google, which had earlier declined to comment, said in a statement late Tuesday that when content is legal but controversial the company doesn't remove it because people's differing views should be respected, so long as they are legal.

"We work really hard to both follow the law and also give people as much access to information as we can," the company said in a statement.

Minister Sibal had earlier in the day said that the government would find its own way to ensure that blasphemous content is not allowed on Internet platforms, television and in the print media, as the Internet companies were not cooperating with the government to find a solution.

Sibal said that misrepresentations of "public functionaries" would also be blocked.

The government came in for sharp criticism online, including on social networks. Twitter users, for example, created a #IdiotKapilSibal hash tag that was trending in India. Sonia Gandhi, regarded as the person who controls the government, and who is said to have resented some images of herself online, was also trending.

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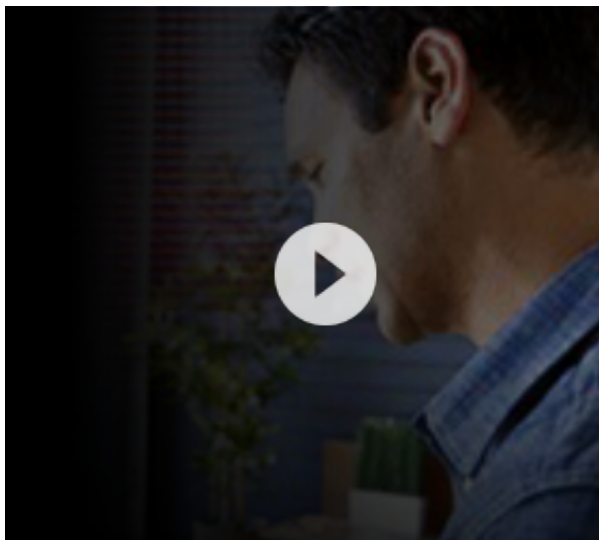
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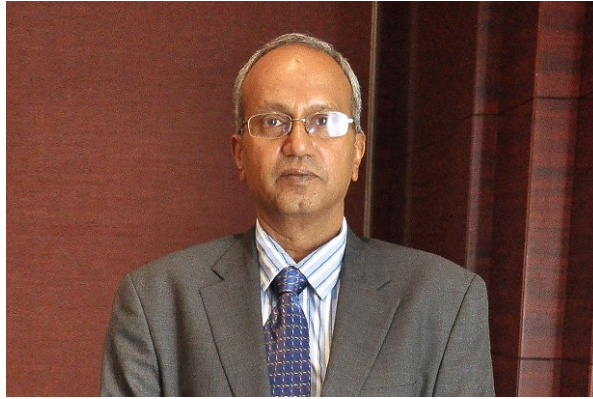**The Dawn of the Digital Age: Akhilesh Tuteja, KPMG**

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