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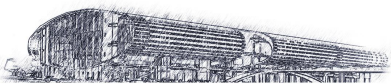
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Centre mulls strict warning for WhatsApp as face-off over origin of fake messages continues



WhatsApp



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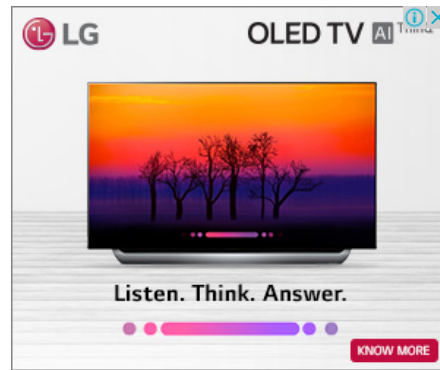
Abhishek Bhalla

Updated: Aug 29, 2018, 10:21 AM IST

The ongoing faceoff between messaging platform [WhatsApp](#) and the government which has reached the doors of the [Supreme Court](#) involving four ministries, the messaging platform has recognised the need for monitoring content especially during elections when the voters can be influenced.

In a letter to the ministry of electronics and IT last month, [WhatsApp](#) Director and Associate General Counsel Brian Hennessy said, "We understand the concerns raised about abuse of groups, especially during the upcoming elections....we agree that abuse during elections is a real concern. We are intensifying our election integrity efforts in advance of the Indian elections."

The [government](#) is taking on WhatsApp exerting pressure to stop fake news, hate mongering and political propaganda being circulated. It also plans to issue a stern warning to WhatsApp soon over its reluctance to trace the origin of the messages through its platform, which has been at the center of fake news issue.



According to sources, home ministry is closely monitoring developments as the rumours on WhatsApp leading to lynching incidents become a national security issue. Intelligence Bureau has been tracking social media platforms indulging in such acts. The home ministry has also sent advisories to state governments directing them to crackdown on this fake news factory. Sources said in home ministry said many aspects are not in their domain and need a strong legal mechanism to deal with this.

WHATSAPP BOXES GOVERNMENT IN



- A wave of rumour-fed lynchings has prompted the Centre to ask WhatsApp trace the origin of fake messages
- **WhatsApp says traceability will compromise privacy, trigger misuse**
- Govt needs strong legal mechanism to force WhatsApp fall in line

Hennessy in the letter said," During the Karnataka elections we detected dozens of WhatsApp accounts that were engaged in spammy behaviour -- all of which were banned. We also spoke directly to the Election Commission of India and political organisers to make clear that we will ban any accounts we find engaged in this kind of behaviour, regardless of their political affiliation."

On Monday, the Supreme Court issued notices to WhatsApp and Indian authorities, seeking their responses over petition questioning the way WhatsApp operates in India and its plan of launching a payments platform with no physical presence in the country. The notices has been issued to the ministries of law, home affairs, electronics and IT, finance and the Telecom Regulatory Authority of India, along with the US company.

Telecom regulator Trai plans to issue a consultation paper on over the top platforms including WhatsApp to firm up a view on whether such OTT players should come under regulation or not. Telecom players have been long demanding that OTT players should come under the ambit of regulation.

A legal expert says the government is well within its rights to ask WhatsApp this kind of information, while some experts say there is a need to have collaborative effort between all stakeholders, but government has gone overboard on this issue as it is more of a law enforcement problem.

Pavan Duggal, a cyber law expert, says, the powers of the government exist under the provisions of Information Technology Act, 2000. "Those powers include the power of central government to ask any information from any intermediary or service provider and if they do not give that said information, it will be an offence under the Indian laws."

However, another expert Mahesh Uppal says, "All stakeholders will need to work together. Suggesting that a single stakeholder is responsible for the problem is not just inaccurate, but also unhelpful. Shooting the messenger won't solve the problem."

Duggal adds that it was a wrong perception that the government is asking the origin of all the messages. "Fake news has become an epidemic in the country. It needs to identify those people who are creating/generating the fake news so that they can be prosecuted. For these criminals who do such activities, there is no right to privacy. The right to privacy is not to hide behind it when you commit cyber crimes."

The issue came to forefront after many reported incidents of lynchings across the country over fake news circulated on WhatsApp. Since then, there have been notices sent by the government on this issue to WhatsApp, owned by Facebook, and a meeting between minister for electronics and IT Ravi Shankar Prasad and WhatsApp CEO Chris Daniels recently.

However, few believe that social media platforms can not be solely responsible for such incidents. Nikhil Pahwa, founder of MediaNama.com and a digital rights activist, says messaging platforms have no control over the messages that users are sending using it, and thus cannot be held liable for these messages. "People become violent when they believe that law enforcement agencies cannot help them, or won't hold them to account for being violent. What we are seeing is a knee jerk reaction from the government. This is essentially a law enforcement failure. We have had over 97 internet shutdowns this year, and most of them are attributable to the inability of the government to stop people from rioting."

While Prasanth Sugathan, Legal Director, Software Freedom Law Centre, says technology/messaging platforms will have to work with various stakeholders to prevent the spread of misinformation and violent content.

Last week, WhatsApp has expressed its inability to provide Indian government a solution to track the origin of the messages on its platform. "Building traceability would undermine end-to-end encryption and the private nature of WhatsApp, creating the potential for serious misuse. WhatsApp will not weaken the privacy protections we provide", a WhatsApp spokesperson had said on last Thursday. People rely on WhatsApp for all kinds of sensitive conversations, including with their doctor, banks and families, the spokesperson had said.

Though, WhatsApp did not respond to queries sent through a PR agency on Friday.

WhatsApp has recently established a legal entity in India and is actively looking for a local leader in India to build a team on the ground. In India, WhatsApp has a user base of over 200 million out of total 1.5 billion users globally and is one of the fastest growing markets for the company.

The ministry of electronics and IT has been asking WhatsApp to find a technology solution to trace the origin of messages. Apart from tracing the origin of a message, the government had also asked WhatsApp to set up a local corporate entity and setting up a grievance officer in the country. All messages sent through WhatsApp are encrypted end to end.

Last month, Prasad had informed Parliament that the government would consider changes in rules that would require social media platforms to locate their grievance officers in India. Earlier, the ministry had sent two notices to WhatsApp seeking details of actions it has taken to curb the menace of fake news spreading through its platform.

Sugathan said the content take-down process in India is regulated by the provisions of the Information Technology Act, 2000 and the Intermediaries Guidelines Rules, 2011. As per the judgment of the Supreme Court in the Shreya Singhal case, the intermediaries need to take down content only on receiving a court order or a direction from a government agency. The intermediaries have to thus comply with the law in India as interpreted by the apex Court.

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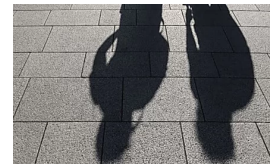
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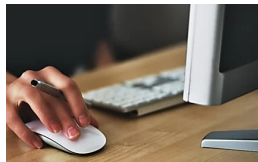
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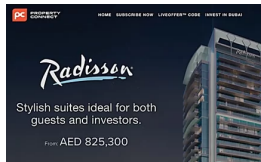
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