

04:05 PM | 28 SEP CLOSED
MARKET STATSसंसेक्स
36,227 ▼ -97.03निफ्टी 50
10,930 ▼ -47.10सोना (एमसीएक्स) (₹/10 ...
30,510.00 ▲ 186.00यूएसडी/भारतीय ...
72.48 ▼ -0.12पोर्टफोलियो
बनाएंई-टी मार्केट एप
डाउनलोड करेंCHOOSE
LANGUAGE
HIN

IT Act allows govt to pull up platforms for data misuse

By Surabhi Agarwal, ET Bureau | Updated: Apr 03, 2018, 08.03 AM IST

Save

1

Comments



The Indian government has sent notices to both Facebook and Cambridge Analytica last month seeking details of their involvement in any elections here and given them time till April 7 to respond.

Even as India is working on a comprehensive data protection law, the existing Information Technology (IT) Act has provisions that allow the government to take action against companies, social media platforms or mobile application providers which exploit user data through unauthorised means.

Privacy analysts and legal experts say Section 43 and 43A, Section 66 and Section 72 of the IT Act along with the intermediary guidelines, have provisions to govern platforms such as Facebook on how they have handled user privacy. The experts, however, agree that India needs a full-blown

data protection law since these provisions may not be sufficient to handle instances such as the recent one of Facebook data being harvested by Cambridge Analytica to allegedly influence elections across the world. They also express concern over weak enforcement citing the few judgements against companies that have misused data.

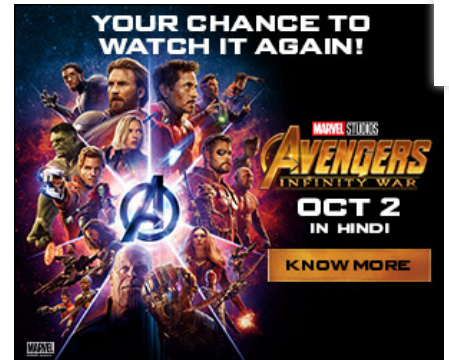
Cyber expert and Supreme Court Advocate Pavan Duggal said if someone accesses your systems without permission, copies or downloads data, it becomes the basis for seeking damages by way of compensation under Section 43 of the IT Act, and under Section 43A, one can seek unlimited damages in case sensitive personal data is unauthorisedly accessed.

"The way Indian law defines sensitive personal data, its very clear that the data Facebook had shared cannot be said to be sensitive personal data because its neither medical, biometric or financial." He added that a person can file a criminal complaint against Facebook and Cambridge Analytica for an offence under Section 66 which says that if any person dishonestly or fraudulently without permission copies data or diminishes its value or utility that becomes an offense.

"This can be read with Section 85 which says that if an offence committed by a company then every person responsible for the day to day management shall also be guilty of the said offence. Also, both Cambridge Analytica and Facebook are intermediaries under Section 72 of IT Act, where they are bound to exercise due diligence. The onus is on these players to prove that they have exercised due diligence, which they will find very hard to prove." Duggal added that these are the limited remedies we have but none of them are "effective" provisions. "When you talk of a comprehensive data protection regime, we don't have that yet."

The Indian government has sent notices to both Facebook and Cambridge Analytica last month seeking details of their involvement in any elections here and given them time till

<https://economictimes.indiatimes.com/tech/internet/it-act-allows-govt-to-pull-up-platforms-for-data-misuse/articleshow/63588414.cms>



SPOTLIGHT

Sponsored

Equity»Multi Cap



Mirae Asset India Equity Fund Direct- Growth

★★★★★ Figures in %

1M	3M	6M	1Yr	3Yrs
-6.79	2.35	6.43	8.20	14.83

BUY NOW

For regulatory disclaimers, [click here](#).

Most Read

Most Shared

Most Commented

3 US citizens sue TCS for alleged employment discrimination

Hotstar CEO Ajit Mohan named Facebook India head

Infosys bags CAD 80.3 million deal from Public Services and Procurement Canada

Airtel announces massive network expansion plans for Uttar Pradesh, Uttarakhand

Infosys fails to prove ex-CFO deleted data from laptop

ment seeking details of their involvement in any breaches here and given them time until April 7 to respond. Union minister for electronics and IT [Ravi Shankar Prasad](#) had also said that the government is well within its legal rights to take action and can summon Facebook chief Mark Zuckerberg to India over the data leaks.

Apar Gupta, partner, Advani and Co, said while the provisions under Section 43 and 43A, 66 and 72A along with the subordinate rules popularly called the Reasonable Security Practices Rules, 2011 are lacking in their scope the biggest challenge is the enforcement since each state has designated an IT secretary to adjudicate matters under Section 43 and 43A.

"But IT secretaries don't hold a permanent court, they are not always trained in law, they may be intelligent but because the entire adjudatory apparatus is missing, they are not able to effectively deal with such kinds of complaints," said Gupta. He added that the central cyber appellate tribunal which was abolished last year was also inoperative six to eight years because it didn't have the requisite quorum to sit as a court.

1

Comments

Save

Read more on

Data Protection

Data Breach

Due Diligence

Cambridge Analytica

Facebook

Ravi Shankar Prasad

Comments (1)

Add Your Comments

Recommended For You

Sponsored by



Have Fun and Win Money
Online @ Poker Baazi

Ad: PokerBaazi



Join the weight-loss
revolution with Good Life...

Ad: Good Life Nutrition



Answer these questions &
get to know your CIBIL...

Ad: HDFC Life



Here's how you can earn a
second income

Ad: UTI MUTUAL FUND



Talaq ordinance murder of
democracy: Muslim body



On Monday, American
dream of many Indians will...



Adultery no more a crime,
SC scraps 150-year-old law



Ambani earned Rs 300 cr
per day over last one year

Tech Top Trending Terms

Mi Band 3 Infosys Attrition Samsung India

WhatsApp payment Indian Rupee vs US Dollar

Online dating companies

Infosys-Rajiv Bansal Case Video Data Protection

WhatsApp Fake News Cyber Crime Cryptocurrency

Cybersecurity



Can Uber, Ola beat Zomato,
Swiggy?

IL&FS mess exposes a gullible
ecosystem

ET

Behind India's most-funded
online pharmacy

ET

GO TO ET PRIME →

Get a Quote

Type Company Name

Get Quote

Browse Companies

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z | 1 2 3 4 5 6 7 8 9

Browse Mutual Funds

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

RELIANCE RETAIL'S SUCCESS:

Know the deceptively simple formula

Powered by

Live Market
News
Portfolio
Mobile
Live TV

Industry
Newsletters
Commodities
Speed
Blogs

About Us
Create Your Own Ad
Advertise with Us
Terms of Use & Grievance Redressal
Privacy policy

FOLLOW US

Download it from
APP STORE

Download it from
GOOGLE PLAY

Download it from
Windows Store

Other Times Group news sites

इकनॉमिक टाइम्स | ેकोनोमिड टाइम्स | Pune Mirror | Bangalore Mirror | Ahmedabad Mirror | ItsMyAscent | Education Times | Brand Capital | Mumbai Mirror | Times Now | Indiatimes | नवभारत टाइम्स | महाराष्ट्र टाइम्स | ವಿಜಯ ಕರ್ನಾಟಕ | Go Green | AdAge India | Eisamay | IGN India | NavGujarat Samay | Times of India | Samayam Tamil | Samayam Telugu | Miss Kyra | Bombay Times | Filmipop | Games App

Living and Entertainment

Timescity | iDiva | Entertainment | Zoom | Healthmeup | Luxpresso | Gadget Reviews | Titanium & Platinum Credit Card | Online Songs | MensXP | Hotels | Travel Destinations | Cricbuzz | Recipes | Gaana | Happytrips | Getsmartapp

Interest Network

itimes

Hot on the Web

Share Market | GST | Income Tax Slabs | Aadhaar Card | IFSC Code | Mutual Funds | Top ELSS Funds to Invest | How to save Income Tax | Sensex Today | Nifty Bank | Telangana Assembly Election | Income Tax Calculator

Services

Book print ads | Online shopping | Matrimonial | Astrology | Jobs | Tech Community | Property | Buy car | Bikes in India | Free Classifieds | Send money to India | Used Cars | Restaurants in Delhi | Remit to India | Buy Mobiles | Listen Songs | News | TimesMobile | Real Estate Developers | Restaurant Deals in Delhi | Car Insurance | Gadgets Now | Free Business Listings | CouponDunia | Remit2India | Techradar | AliveAR | Getsmartapp App | ETMoney Finance App | Feedback | Auto

In Case You Missed It

- Infosys

Reliance Jio

Google India

Jio Phone Features

WhatsApp Backup

IT Services
- IT companies

Jio Phone 2 Features

Google Pay

Bitcoin

Infosys-Rajiv Bansal Case

Facebook