



RAJEEV CHANDRASEKHAR
MEMBER OF PARLIAMENT
RAJYA SABHA

Member of Standing Committee on Defence
Member of Consultative Committee on Defence
Member of Central Advisory Committee for the National Cadet Corps
Co-Chairman, Vigilance & Monitoring Committee, Bangalore Urban District
Vice Chairman, National Military Memorial Management Trust, Bangalore

August 25, 2015

Respected Prime Minister

I am attaching with this letter a copy of my letter to the Minister of Communication and Information Technology, dated 25th August 2015, on creating a comprehensive architecture on the Citizen's Right to Privacy in India.

This letter notes my preliminary observations and inputs on the existing gaps in India's Digital Privacy Architecture. I shall follow this up with a comprehensive note on the Citizen's Right to Privacy in India. I have marked a copy of this letter to the Minister of State for Personnel, Public Grievances and Pensions, which comes under your purview.

It is my hope that as our country moves towards achieving the Digital India vision under your leadership, this important issue is addressed.

Yours sincerely,

RAJEEV CHANDRASEKHAR

Shri Narendra Modi
Hon'ble Prime Minister
Government of India
New Delhi

Encl: As above

GOVERNMENT OF INDIA
Ministry of: Communication and Information Technology

DEPARTMENT OF: TELECOMMUNICATIONS
RAJYA SABHA
UNSTARRED QUESTION NO 1347
TO BE ANSWERED ON 31.07.2015

Enactment of Privacy Legislation

1347. SHRI RAJEEV CHANDRASEKHAR

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

- (a) whether the Ministry has taken note of the reports from June this year, that suggested that telecom operators were inserting surreptitious codes into user browsers to collate user data;
- (b) whether the Ministry has conducted an investigation into these reports, if so, the details thereof; and
- (c) whether the Ministry believes that there is an urgent need to enact a privacy legislation to protect the rights of citizens vis-a-vis the various official databases of Government which collates information about citizens?

ANSWER
THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY
(SHRI RAVI SHANKAR PRASAD)

(a) Sir, the Government is aware about the media reports alleging invasion of customers' privacy by M/s Bharti Airtel Limited by way of injecting some JavaScript into subscribers browsing sessions.

(b) Telecom Regulatory Authority of India has asked M/s Bharti Airtel Limited to submit a detailed report on the matter. In response, it is stated by M/s Bharti Airtel Limited that a pilot test with one of its network partners using a third party solution from Flash networks through which customers were going to be made aware of the data usage in terms of megabytes used. It has been done solely with the object of improving customer experience and empowering customers to manage their data usage through suitable timely prompts in terms of volume of data used. Such solutions are already deployed and continue to be deployed by operators globally to enhance information, customer service and experience. Further, Bharti Airtel Limited has denied the allegations.

(c) To protect privacy and the rights of the citizens, Deptment of Telecommunications has already mandated all the Telecom Service Providers as part of license conditions that licensee shall take all necessary steps to safeguard the privacy and confidentiality of any information about a third party and its business to whom it provides the Service and from whom it has acquired such information by virtue of the Service provided and shall use its best endeavours to secure that:

- a) No person acting on behalf of the Licensee or the Licensee divulges or uses any such information except as may be necessary in the course of providing such Service to the Third Party; and
- b) No such person seeks such information other than is necessary for the purpose of providing Service to the Third Party.

Provided the above para shall not apply where:

- a) The information relates to a specific party and that party has consented in writing to such information being divulged or used, and such information is divulged or used in accordance with the terms of that consent; or
- b) The information is already open to the public and otherwise known.

Further, Section 43, Section 43A and Section 72A of the Information Technology Act, 2000 provides comprehensive legal framework for privacy and Security of data in digital form. Sections 43 and 43A of the Act provides for compensation to be paid to the victim in case of unauthorized access of information and leakage of sensitive personal information respectively. Section 43A also mandates that body corporate, who collect personal data or information must provide privacy policy for handling of or dealing in personal information including sensitive personal data or information on their websites. They are also required to implement reasonable security practices and procedures to protect the information. Indian Computer Emergency Response Team (CERT-In) has also empanelled auditors to facilitate body corporate to audit their information technology infrastructure and implementation of security best practices.

Moreover, the interception and monitoring of communications messages is governed by the provisions of section 5(2) of Indian Telegraph Act, 1885 which empowers Central and State Governments to carry out interception of communication messages under stipulated conditions. The detailed procedure is provided in Rule 419A of Indian Telegraph Rules, 1951 for handling the lawful interception cases. Further, in case of lawful interception and monitoring, Rule 419A of Indian Telegraph Rules, 1951 inter-alia provides that

"14. The service providers shall put in place adequate and effective internal checks to ensure that unauthorised interception of messages does not take place and extreme secrecy is maintained and utmost care and precaution is taken in the matter of interception of messages as it affects privacy of citizens and also that this matter is handled only by the designated nodal officers of the company.

(15) The service providers shall be responsible for actions of their employees also and in case of established violation of licence conditions pertaining to maintenance of secrecy and confidentiality of information and unauthorised interception of communication, action shall be taken against the service providers as per provisions of the said Act, and this shall include not only fine but also suspension or revocation of their licences."



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16 June, 2015

Dear Ranishankar,

I write to you to bring to your attention recent reports in the media which suggest that Telecom Operators are indulging in practices that amount to a serious breach of privacy of their customers.

These reports suggest that a leading cellular company is surreptitiously injecting JavaScripts into its users' browsing sessions, without seeking user consent. The said JavaScript, developed by an Israel based programming company called Flash Networks, allegedly tracks and collates the browsing data and personal data of the user. This, if found to be true, is a very serious charge – and amounts to a gross and deliberate violation of user privacy.

Reportedly, these surreptitiously injected codes also insert advertisement like assets into the browser and thereby changes the user experience based on operator service used. In some ways, this could be seen as a violation of Net Neutrality principles.

After a young Bengaluru based programmer exposed this alleged malpractice through a GitHub thread, further reports have emerged in the press which indicate that many other prominent telecom operators, have also indulged in similar practices.

In the light of these news reports, I urge your Ministry to promptly undertake the following:

- i. Conduct a thorough and exhaustive enquiry into these allegations which suggest that telecom operators are tracking and collating personal data of Indian internet users.



- ii. Take strong action against telecom operators that are found to be guilty of violating the privacy of citizens.
- iii. Draft a robust and comprehensive Internet Privacy legislation that shall prevent telecom operators, Government or any other parties from prying on the private details of citizens through surreptitious means and clearly define the privacy rights of Indian netizens.

I may also add that the Israeli firm Flash Networks has since issued a Cease and Desist Notice to the young programmer, and followed this up with a Takedown Notice. If true, this is a clear case of a private corporation resorting to intimidation tactics against an individual, and should not be tolerated. It is unfortunate that the telecom operator in question has chosen to wash its hands off the issue and has not extended any support to their customer in this regard. This incident has reinforced the perception that telecom operators in India are indifferent to rights of consumers – especially with regard to privacy and data protection, thereby creating a public policy focus for you and your Ministry.

This episode has also thrown light upon crucial gaps that exist in the Indian internet and technology landscape - that shall have a direct, negative bearing on the very DNA of our country's future technological imprint, and your Ministry's laudable Digital India objectives. I urge you to take stock of these and ensure that prompt action is taken to correct these anomalies in a time bound and concerted manner.

Sincerely,

RAJEEV CHANDRASEKHAR

Shri Ravi Shankar Prasad
Hon'ble Minister of Communication & IT
Government of India
New Delhi

Encl: 1. Time of India article dated 9 June, 2015
2. The Wire article dated 9 June, 2015



Ministry of Personnel, Public Grievances & Pensions

Right to Privacy Bill

New Delhi: August 13, 2015

The Government is in the process of drafting a legislation that seeks to provide protection to individuals against breach of their privacy through unlawful means, which, at present, is at consultation stage.

This was stated by the Minister of State for Personnel, Public Grievances and Pensions and Minister of State in the Prime Minister's Office Dr. Jitendra Singh in a written reply to a question by Shri Dilipbhai Pandya in the Rajya Sabha today.

PIB Release/DL/1873

MD -MG

[more photos ...](#)**MEDIA UNITS**

- ➔ PIB MAIN SITE (DELHI)
- ➔ DD NEWS
- ➔ AIR NEWS
- ➔ D A V P
- ➔ R N I
- ➔ D F F

GOVERNMENT LINKS

- ➔ PRESIDENT
- ➔ PRIME MINISTER
- ➔ CENTRAL GOVERNMENT
- ➔ MAHA. GOVERNMENT

MAHARASHTRA MEDIA

- ➔ MEDIA LIST
- ➔ NEWSPAPERS
- ➔ TELEVISION MEDIA

MEDIA REGULATION

- ➔ CABLE REGULATION
- ➔ CONTENT CODE
- ➔ ADVERTISING CODE
- ➔ PROGRAMMING CODE

JOURNALIST CORNER

- ➔ JOURNALISM BASICS