

## Expert Committee on Amendments to IT Act 2000 submits its report

Shri. Dayanidhi Maran, Minister for Communications and Information Technology has noted that there has been a lot of focus on the Information Technology (IT) Act 2000 because of certain recent developments nationally and internationally particularly w.r.t. provisions related to data protection and privacy in the context of BPO operations, liabilities of network service providers, computer related offences, regulation of cyber cafes, etc. He observed that the field of cyber laws, being a nascent area, experience of its formulation and implementation are still evolving worldwide and more so in India.

With an objective to review the Information Technology Act, 2000, in the light of the latest developments and to consider the feedback received for removal of certain deficiencies in the Act, Shri. Maran set-up an Expert Committee under the Chairmanship of Shri Brijesh Kumar, Secretary, Department of Information Technology (DIT) with representatives like Shri Kiran Karnik, President, Nasscom from the IT industry. The Expert Committee has completed its deliberations and submitted recently its report to Shri. Dayanidhi Maran, Minister for Communications and Information Technology, who has directed that the Expert Committee's recommendations be put on the website of the Department of Information Technology for inviting public views and suggestions.

The Committee has, during its deliberations, analysed some of the relevant experiences and international best practices. The Committee has, while formulating its recommendations, kept in view the twin objectives of : (i) using the IT as a tool for socio-economic development and employment generation, and (ii) further consolidation of India's position as a major global player in IT sector.

The salient features of the Report, in brief, are as follows:

- (i) As the technologies and applications in IT sector change very rapidly, some of the provisions related to parameters that may change from time to time, have been amended to provide for the new developments to be incorporated by changes in rules / Govt. notifications. This would enable the law to be amended and approved much faster and would keep our laws in line with the changing technological environment. However, no immediate change in the present position is being proposed.
- (ii) The Act is being made technology neutral with minimum change in the existing IT Act, 2000. This has been made by amendment of the relevant section of the Act to provide for electronic signature with digital signature as one of the types of electronic signature and by enabling the details of other forms of electronic signature to be provided in the Rules to be issued by the Central Government from time to time. This is an enabling provision for the Central Government to exercise as and when the technology other than digital signature matures. Certain related amendments to this affect have been made.
- (iii) To allow public-private partnership in e-governance delivery of services, certain amendments have been proposed.
- (iv) Relationship between Controller of Certifying Authorities (CCA), Certifying Authorities (CAs) and Subscribers have been revisited on the basis of the recent operational experiences and certain amendments proposed.
- (v) In view of recent concerns about the operating provisions in IT Act related to "Data Protection and Privacy", in addition to contractual agreements between the parties, the existing sections have been revisited and some amendments / more stringent provisions have been provided for. Notably amongst these are:
  - (a) Proposal related to handling of sensitive personal data or information with reasonable security practices and procedures thereto;

- (b) Gradation of severity of computer related offences, committed dishonestly or fraudulently and punishment thereof ; and
- (c) Additional section for breach of confidentiality with intent to cause injury to a subscriber.
- (vi) Sometimes, because of lack of knowledge or for curiosity, new learners / Netizens unintentionally or without knowing that it is not correct to do so, end up doing certain undesirable act on the Net. For a country like India where we are trying to enhance the positive use of Internet and working towards reducing the digital divide, it needs to be ensured that new users do not get scared away because of publicity of computer related offences. At the same time, it must be ensured that offenders do not go unpunished. This balancing spirit has been incorporated in the proposed amendments in relevant sections.
- (vii) The section related to obscenity in electronic form has been revised to bring in line with Indian Penal Code (IPC) and other laws but fine has been increased because of ease of such operation in electronic form. A new section has been added to address child pornography with higher punishment, a globally accepted offense.
- (viii) A new phenomenon of video voyeurism has emerged in recent times where images of private area of an individual are captured without his knowledge and then transmitted widely without his consent thus violating privacy rights. This has been specifically addressed in a new proposed sub-section.
- (ix) Emergence of electronic evidence as a new discipline for handling computer related offences and its uses thereof in the judiciary has been recognized through a new provision in the IT Act.
- (x) Sections related to the extent of liability of intermediaries in certain cases have been revised and certain amendments recommended using European Union directives on e-commerce as guiding principles.

It may be recalled that the Government set up the Expert Committee in January, 2005. The other Members of the Committee are Shri Kiran Karnik, President NASSCOM; Legal Experts Shri Vakul Sharma and Shri A.K. Singh, Advocates; IT Industry representatives Shri Ajay Chaudhry, Chairman, HCL Infosystems Ltd., Shri R. Ramaraj, MD and CEO, Sify Ltd. and Shri Ajit Balakrishnan, CEO, Rediff India Ltd.; Dr. A.K. Chakravarti, Adviser, DIT and Shri Antony De Sa, Joint Secretary, Ministry of Commerce and Industry. Shri M.M. Nambiar, Additional Secretary, Deptt. of Information Technology was Member Secretary of this Committee.

**More details of the suggested amendments are available in the Full Report of the Expert Committee, which can be accessed at DIT, website: [www.mit.gov.in](http://www.mit.gov.in)**

**RM/AMA- 270805 IT Report**

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