

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
RAJYA SABHA
UNSTARRED QUESTION NO. 3453
TO BE ANSWERED ON 31.3.2023

DATA POLICY FOR E-COMMERCE

3453. SHRI NIRANJAN BISHI:

Will the Minister of Electronics and Information Technology be pleased to state:

- (a) the Data Policy and Rules that govern the ownership, access, storage, use and sharing of data generated on e-commerce platforms;
- (b) whether Government is planning to formulate clear guidelines regarding the use and sharing of data generated on e-commerce platforms, if so, the timeline of the guidelines thereof; and
- (c) the developments with respect to the expansion of data centers and server farms in the country and to formulate domestic standards of data infrastructure?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI RAJEEV CHANDRASEKHAR)

(a) and (b): Section 43A of the Information Technology Act, 2000 (“IT Act”) provides that a body corporate possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, causing wrongful loss or wrongful gain to any person on account of its negligence in implementing and maintaining reasonable security practices and procedures is liable to pay damages by way of compensation to the affected person.

Further, the Government, in exercise of its powers under the said section, has made the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, prescribing the security practices and procedures that a body corporate or any person collecting, receiving, possessing, storing, dealing or handling information on behalf of such body corporate is required to observe for protecting personal data of users. These include the requirements that such body corporate or person publish on the website a policy for privacy and disclosure of personal information, data or information, use the information collected for the purpose for which it was collected, keep it secure, and obtain prior permission of the information provider for disclosing sensitive personal data. On violation of these rules, an aggrieved person can approach the adjudicating officer under the IT Act for compensation. Government has appointed the Secretary of the Department of Information Technology of each State and Union territory as the adjudicating officer for this purpose.

In addition, the Ministry of Electronics and Information Technology has prepared a draft Bill, titled the Digital Personal Data Protection Bill, 2023, covering digital personal data. Extensive consultation on the draft Bill has been undertaken to generate necessary feedback to formulate the provisions of the related legislative proposal.

(c): No data is officially maintained regarding data centres and server farms in the country. However, as per an industry research report {Data Centre Outlook (India-H1, September 2022) of JLL Research, available at <https://www.jll.co.in/en/trends-and->

insights/research/data-centre-update-h1-2022}, the data centre industry in India is expanding and has an installed data centre sector capacity of 637 MW (IT load).

Data centre industry is a global industry. No domestic standards have been formulated in India. However, with regard to storage of data by government agencies, the Ministry of Electronics and Information Technology has empanelled cloud service offerings of both domestic and global cloud service providers, after audit by the Standardisation Testing and Quality Certification Directorate with reference to the international security standards (ISO 27001, ISO 27017, ISO 27018 and ISO 20000. Further, the terms and conditions of empanelment require submission of a legal undertaking guaranteeing that the data shall reside in India and that there shall not be any legal framework outside Indian law that will be applicable to the operation of the cloud services.
