Standing Committee Report Summary
The Information Technology (Amendment) Bill, 2007

- The Standing Committee on Information Technology (2007-08) submitted its 50th Report on 'The Information Technology (Amendment) Bill, 2007' on September 7th, 2007. The Chairperson of the Committee is Shri Nikhil Kumar.

- The committee observed that there is no specific provision in the Bill for protection and retention of data. It was of the opinion that that there should be clear-cut and specific provisions for data protection and retention in the amended Act.

- The committee also observed that suitable provisions to define and protect personal privacy should be added in the Bill.

- The Bill empowers the central government to intercept computer messages for investigation of any offence. The committee observed that "Public Order" and "Police" are state subjects as per the Constitution. It was of the view that it would be appropriate to confer powers of interception of computer communication on the State Governments in tune with the provisions of Section 5(2) of the Indian Telegraph Act, 1885. It recommended that interception should be allowed for prevention of any cognizable offence in addition to the already prescribed grounds.

- The Committee recommended that specific provisions should be incorporated in the Bill to criminalise child pornography. This should be done in tune with laws prevailing in advanced countries and Article 9 of the Council of Europe Convention on Cyber Crime.

- The Bill makes a company handling sensitive personal data liable to pay compensation up to Rs 5 crore, if it is negligent in implementing reasonable security measures with respect to such data. The committee recommended that the government should simplify the complicated adjudication process to ensure that the remedy of providing damages by way of compensation is effectively implemented.

- The committee observed that the definition of an "intermediary" is not very clear particularly in regard to the exclusion of a body corporate which deals with "sensitive personal data".

- The Bill does not make intermediaries liable for third party information available by them. This protection is available if the intermediary only provides access to information and does not conspire or abet in the commission of the unlawful act. The committee stated that due diligence to be exercised by intermediaries should be made a pre-requisite before giving immunity to intermediaries.

- The committee also made observations/recommendations about issues that are not covered by the Bill. Some of these are:

    - Stringent provisions should be incorporated in the IT Act to deal with the offence of cyber terrorism;

    - India should be a signatory to an international convention on the issue of cross border cyber crime so that such crimes could be tackled promptly;

    - The government in tandem with the industry should take measures to initiate basic training programs for all those dealing with cyber cases;

    - Awareness should be created to educate people on the possible misuse/ abuse of digital signatures;

    - Government should make digital records available to the public in people friendly and easily accessible formats;

    - Suitable provisions should be added in the Bill to make auditing of electronic records mandatory.

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December 6, 2007