

WhatsApp Sues Indian Government, Says New Digital Rules Mean End To User Privacy

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New Delhi (India): WhatsApp has filed a lawsuit in the Delhi High Court against the government's new digital rules that take effect today, saying these would compel it to break privacy protections to users.

The Facebook-owned messaging service filed its petition on Tuesday against the rules that will require it to "trace" the origin of messages sent on the service, which it says is a violation of privacy.

"Requiring messaging apps to 'trace' chats is the equivalent of asking us to keep a fingerprint of every single message sent on WhatsApp, which would break end-to-end encryption and fundamentally undermines people's right to privacy," WhatsApp, which has nearly 400 million users in India, said in a statement today.

"We have consistently joined civil society and experts around the world in opposing requirements that would violate the privacy of our users. In the meantime, we will also continue to engage with the government of India on practical solutions aimed at keeping people safe, including responding to valid legal requests for the information available to us," said a spokesperson of the California-based Facebook unit.

The petition asks the High Court to declare that one of the new rules is a violation of privacy under the constitution of India since it requires social media sites to identify the "first originator of information" when asked for it.

WhatsApp says messages on its platform are end-to-end encrypted, so to comply with the law it would have to break encryption for those who send and receive messages. It argues strongly against traceability of messages. Officials say "others parts of the government" have also taken issue with the traceability requirement.

The traceability rule will also affect WhatsApp alternatives like Signal and Telegram which are inherently designed to be end-to-end encrypted.

End-to-end encryption ensures that nobody other than the receiver can see a particular message. This is the exact opposite of traceability, which would reveal who sent what to whom, officials point out.

They add that traceability would force private companies to collect and store who-said-what and who-shared-what for billions of messages sent each day. Which means collecting more data than they need only for the purpose of turning it over to law enforcement agencies.

According to Reuters, WhatsApp's petition refers to a 2017 Supreme Court ruling that said privacy must be preserved except in cases where legality, necessity and proportionality all weighed against it.

Platforms like Facebook, WhatsApp and Twitter were given three months to comply with the new digital rules that require them to appoint a compliance officer in India, set up a grievance response mechanism and take down content within 36 hours of a legal order. The sites are also required to use automated processes to take down offensive content.

The Intermediary Guidelines and Digital Media Ethics Code says "significant social media intermediaries" or sites that host third party information, messages and posts stand to lose protection from lawsuits and prosecution if they fail to comply. This means they can no longer claim legal immunity from what is posted on their site.

Google on Tuesday cited its "long history" of managing content according to local laws to assure the Indian government of its continuing efforts to ensure legal compliance.

Facebook said it "aims to comply" with the new rules but added that it wants to discuss some "issues which need more engagement".

Twitter is yet to comment; it is caught in the "Congress toolkit" tweet controversy and finds itself on the radar of the government and Delhi Police for marking a BJP leader's post as "manipulated media".

- NDTV