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India looking to compel e-commerce, social media firms to store data locally

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MUMBAI/NEW DELHI (Reuters) - India is considering asking e-commerce and social media firms to exclusively store customer data locally, a move that could affect global giants that operate in the country such as Amazon, Facebook and its messaging service WhatsApp.



FILE PHOTO: Facebook, Amazon, Alibaba and Google logos are seen in this combination photo from Reuters files.
REUTERS/Files

The plan, which has also raised some concerns among privacy advocates, is laid out in an undated Draft National Policy document seen by Reuters that is mainly aimed at streamlining regulation of the country's burgeoning e-commerce sector.

It comes at a time when deep-pocketed foreign players are rapidly investing in India's e-commerce market, which Morgan Stanley estimates may be worth \$200 billion in a decade.

The draft policy, which was floated last week according to an e-commerce industry source, also mulls tightening scrutiny of mergers in the e-commerce sector so that even small deals that potentially distort competition are compulsorily examined by the country's anti-trust regulator.

Vinay Kesari, an independent Bengaluru-based lawyer who has advised global technology companies, said the plan was bound to "unsettle" the e-commerce industry "because it is at odds with the fundamental character of the internet".

The Indian e-commerce market is currently dominated by Amazon and local rival Flipkart that is in the process of being bought by U.S. retail giant Walmart - in a deal opposed by some local traders who fear it could drive mom-and-pop stores out of business.

Other players include Snapdeal, backed by Japan's SoftBank, Paytm E-Commerce backed by SoftBank and Alibaba Group, and Tiger Global-backed ShopClues.

Amazon, Flipkart, Snapdeal, ShopClues, Google and Facebook did not immediately respond to Reuters' request for comment on the draft policy.

The government, according to the draft, will take steps to incentivize the storage of data of Indians locally.

"Data generated by users in India from various sources including e-commerce platforms, social media, search engines etc," would have to be stored exclusively in India, the draft said, adding companies could be given time to "adjust before localization becomes mandatory".

It also said the government "would have access to data stored in India for national security and public policy objectives subject to rules related to privacy, consent etc".



A Common myna sits next to the logo of India's e-commerce firm Flipkart installed on the company's office in Bengaluru, India April 12, 2018. REUTERS/Abhishek N. Chinnappa/Files

Raman Chima, global policy director at internet advocacy Access Now, said it was beyond the mandate of an e-commerce policy to begin talking about how all internet players should store data in India.

“It is very troubling because it would quite likely lead to intrusion on people’s privacy, especially since the legal measures regarding surveilling and accessing data of people online have not been specifically reformed,” Chima said.

DATA PROTECTION

The draft policy follows a proposal last week from a government-appointed panel that all critical personal data on people in India should be processed within the country. The recommendations by the panel will go before parliament, which is formulating a data privacy law.

Other measures listed in the e-commerce draft policy include mandating that home-grown card network RuPay be included as a payment option for online transactions.

The company owned by a group of banks competes with global payment firms like Visa, MasterCard and American Express.

India's central bank in April said payments firms such as Mastercard and Visa should within six months store data only in the country for "unfettered supervisory access". But U.S. firms protested and India's finance ministry has recommended relaxing the directive.

On Monday, a senior federal commerce ministry official, Anup Wadhawan, told reporters the e-commerce policy would help strike a balance between promoting business and enhancing security using data localisation.

But some disagreed. Pratibha Jain, a partner at law firm Nishith Desai Associates, said the tone and tenor of the draft was "more protectionist", rather than being balanced.

"By doing this we are playing to the domestic gallery and it will send out a protectionist message," said Jain, whose firm counts tech companies among its clients.

The draft also said India would move to boost participation of micro, small and medium enterprises in online retail and proposed banning the bulk purchase of branded goods, such as mobile phones, by "related party sellers which lead to price distortions in a market".

Currently, sellers like Cloudtail, a joint-venture between Amazon's India unit and Infosys co-founder N.R. Narayana Murthy, make up the bulk of the sales on Amazon's online marketplace.



"Companies and sellers buying in bulk will be prohibited, killing the market and hampering the Indian e-commerce boom," an executive with an e-commerce firm said, declining to be named.

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