

Why Cyber law Compliance is a burning Issue?

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ITA 2008

- Has given a Security orientation to Cyber law in India

No longer a Technical Issue

- Cyber Security is no longer a Technical Issue
 - It is a legal prescription under ITA 2008

Severe Penalties prescribed for non compliance

ITA 2000..

- Section 85 imposed vicarious liability on Corporate executives for Cyber Crimes
 - If the executive cannot defend on the basis of having followed “Due Diligence”
 - Could lead to criminal prosecution and imprisonment
- Intermediaries were also similarly liable if they cannot defend on the basis of Sec 79 which also required practice of “Due Diligence”.

ITA 2008..

- Under Sections 69, 69A, 69 B and 70 B
 - CERT-In and Secretary MCIT, GOI are empowered with powers of
 - Interception
 - Blocking
 - Demanding traffic data
 - Failure to provide the required information could result in 7 years imprisonment

ITA 2008..2

- Section 67C imposes responsibility for data retention in a specified format
 - Failure could lead to 3 years imprisonment

Sec 72 A

- Imposes imprisonment of upto 3 years for data breach

Concept of ..

Reasonable Security
Practices

Data Protection

- Section 43A provide for civil and criminal liabilities under the Act
 - 43A prescribes that a body corporate handling “Sensitive personal Data” should not be negligent in implementing and maintaining “Reasonable Security Practices”
 - Non compliance may result in a liability without any upper limit

Reasonable Security Practices

- *"reasonable security practices and procedures" means*
 - *security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment,*
 - *as may be specified in an agreement between the parties or*
 - *as may be specified in any law for the time being in force and*
 - *in the absence of such agreement or any law,*
 - *such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.*

Liability under 43A

- What is Sensitive Personal Information?
 - As prescribed by the Central Government
 - May include personal identity information, financial information and health information

Every Corporate Entity should therefore

Implement a structured plan
of action to ensure that he is
not liable under ITA
2008..through a Cyber Law
Compliance programme

Seven basic compliance requirements

- 1) Designate a Cyber Law Compliance officer
- 2) Initiate training of employees on Cyber Law Compliance
- 3) Introduce sanction procedures in HR policy for non compliance
- 4) use authentication procedures suggested in law
- 5) Maintain data retention as suggested under Section 67C
- 6) Identify and initiate safeguard requirements indicated under Sections 69 and 69A, 69B,43A
- 7) Initiate global standards of data privacy on collection, retention, access, deletion etc

Available guidelines

- An Information Security Framework under ITA 2008
 - IISF-309 Developed by Cyber Law College
- Framework for motivating the employees for IS Management
 - Developed under the Theory of IM Motivation

Thank you