MINISTÈRE DE L'ÉCONOMIE, DES FINANCES ET DE LA RELANCE
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REVUE DE PRESSE SECTORIELLE NUMERIQUE

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G En bref

NUMÉRIQUE :

- Les données de 4,5 millions de passagers d'Air India compromises suite à la cyberattaque du spécialiste dans le traitement des données aériennes, SITA.
- 11 universités indiennes auront bientôt accès aux ressources d'IBM dédiées au calcul quantique via le cloud.
- Whatsappp porte plainte contre le gouvernement indien, au motif que les nouvelles règles IT entrées en vigueur fin mai violent la vie privée des utilisateurs.
- L'Inde précise les seuils de la « présence économique significative » à partir desquels les entreprises numériques seront soumis à la « taxe numérique ».
- Google et Facebook nomment leur *Grievance Officer*, Twitter doit encore se mettre en conformité.

TÉLÉCOMMUNICATIONS:

- Jio et SubCom vont construire deux câbles sous-marins : IAX pour relier l'Inde à l'Asie-Pacifique et IEX au Moyen-Orient, au Magreb et à l'Union européenne.
- En raison de la pandémie, l'année de référence du programme PLI de subvention à la fabrication de téléphones portables pourrait être 2021-22 au lieu de 2020-21.

Revue de presse

1. NUMÉRIQUE

Air India passenger data breach reveals SITA hack worse than first thought

TechCrunch, 23/05/2021

Three months after air transport data giant SITA reported a data breach, we are still learning about the damage.

Air India said this week that personal data of about 4.5 million passengers had been compromised following the incident at SITA, Indian flag carrier airline's data processor. The stolen information included passengers' names, credit card details, date of birth, contact information, passport information, ticket information, Star Alliance and Air India frequent flyer data, Air India said in a statement (PDF).

CVV/CVC data of credit cards were not held by SITA, said Air India as it urged passengers to change passwords "wherever applicable to ensure safety of their personal data."

The attack compromised data of passengers who had registered with the Indian airline over the past decade, between August 26, 2011 and February 3, 2021, Air India said in a statement.

The revelation comes months after SITA said it had suffered a data breach that involved passenger data. At the time, SITA said it had notified several airlines — Malaysia Airlines, Finnair, Singapore Airlines, Jeju Air, Cathay Pacific, Air New Zealand, and Lufthansa — of the breach.

The Geneva, Switzerland-headquartered firm — which is said to serve 90% of the world's airlines — had declined to reveal the specific data that had been compromised at the time of disclosure in early March, citing an investigation — which is still ongoing.

Air India said that it was first notified about the cyberattack by SITA on February 25, but the nature of the data was only provided to it on March 25 and April 5.

The struggling Indian airline, which has been surviving on taxpayer money, claimed that it had investigated the security incident, secured the compromised servers, engaged with unnamed external specialists, notified the credit card issuers, and had reset passwords of its frequent flyer program.

Air India is the latest Indian firm to disclose a data breach in recent quarters. Payments giant MobiKwik said in late March that it was investigating claims of a data breach that allegedly exposed private information of nearly 100 million users.

Alleged records of nearly 20 million BigBasket (a top grocery delivery startup in India that is now owned by local conglomerate Tata) customers leaked on the dark web for anyone to download in late April. A security lapse at Indian telecom giant Jio Platforms exposed results of some users who had used its tool to check their coronavirus symptoms. Indian state West Bengal and giant blood test firm Dr Lal PathLabs suffered similar breaches. Air India's peer, Spicejet, also confirmed a data breach last year.

IBM to provide access to its quantum systems to Indian educational institutions

ET Telecom, 25/05/2021

NEW DELHI: America's IBM Tuesday said it will provide over-the-cloud access to its quantum system to Indian educational institutions so as to enable them in providing training and research in quantum computing.

The institutions in discussion include Indian Institute of Science Education & Research (IISER) - Pune, IISER – Thiruvananthapuram, Indian Institute of Science (IISc) Bangalore, Indian Institute of Technology (IIT) - Jodhpur, IIT- Kanpur, IIT - Kharagpur, IIT – Madras, Indian Statistical

Institute (ISI) Kolkata, Indraprastha Institute of Information Technology (IIIT) Delhi, Tata Institute of Fundamental Research (TIFR) Mumbai and the University of Calcutta.

The faculty as well the students of these institutions will be able to access IBM quantum systems, quantum learning resources, and quantum tools over IBM Cloud for education and research purposes, the New York-based company said in a statement. This will allow them to work on actual quantum computers and program them using the Qiskit open-source framework.

The collaboration will be a part of the IBM Quantum Educator program that provides benefits like additional access to systems beyond IBM's open system, pulse access on the additional systems. priority considerations when in the queue and private collaboration channels with other educators in the program.

Further, IISER-Thiruvananthapuram, ISI-Kolkata, and IIT-Madras will host quantum computing lab courses for their undergraduate and postgraduate students and will include lab sessions using IBM quantum systems.

According to the NYSE-listed company, an estimated 100-150 students are expected to benefit from this partnership every year.

"By providing access to our systems over cloud, IBM is enabling India's brightest minds to learn the skills to prepare for this disruptive future. IBM is committed to growing a quantum-ready workforce and building an ecosystem to nurture the quantum community in India. With this engagement, we can take it a step further to scale up this ecosystem in India, for India and the world," said Gargi Dasgupta, Director, IBM Research India & CTO, IBM India/South Asia.

Global research firm Gartner said 44% of enterprises expect quantum computing to have a substantial impact on business in the next 3-5 year, while from an employability perspective, a BurningGlass Technologies survey notes that the demand for quantum skills is expected to grow 135% in the next five years.

WhatsApp sues Indian government over 'mass surveillance' internet laws

The Guardian, 26/05/2021

WhatsApp has sued the Indian government over new internet laws which the company says will "severely undermine" the privacy of their users.
The new IT laws, which have been described as oppressive and draconian, give the Indian government greater power to monitor online activity, including on encrypted apps such as WhatsApp and Signal. They were passed in February but were due to come into effect on Wednesday.

Under the laws, encryption – which keeps communications on the app private and inaccessible to outside parties – would have to be removed from WhatsApp in India and messages would have to be put into a "traceable" database. The government would then be able to identify and take action against the sender if any content was ruled "unlawful".

The move marks one of the first times that WhatsApp, an encrypted messaging app owned by Facebook, has filed a lawsuit against a national government. The company has also clashed with the government in Brazil over similar privacy concerns which led to the service being shut down multiple times.

WhatsApp, which has more than 400 million users in India and is a fundamental tool of communication across the country, said it would not store the data of its users and infringe their privacy. The company filed a lawsuit in the Delhi courts on Wednesday on the basis the new laws are unconstitutional and a violation of citizen's right to the preservation of privacy, as mentioned in a 2017 supreme court ruling.

"Some governments are seeking to force technology companies to find out who sent a particular message on private messaging services. This concept is called 'traceability'," said WhatsApp in an online statement.

"WhatsApp is committed to doing all we can to protect the privacy of people's personal messages, which is why we join others in opposing traceability."

The legal challenge is the latest escalation of a battle between big tech companies which have a huge and growing user base in India, and the Indian government, led by the prime minister, Narendra Modi, which has brought in increasingly heavy-handed measures to regulate the online sphere, which is seen as a space for dissent.

In a petition heard in the Delhi high court on Wednesday morning, a lawyer for WhatsApp said: "A government that chooses to mandate traceability is effectively mandating a new form of mass surveillance.

"In order to trace even one message, services would have to trace every message. There is no way to predict which message Indian government would want to investigate in the future."

In a strongly worded response, the Indian government called the WhatsApp lawsuit a "clear act of defiance" and accused the company of a last-minute "unfortunate attempt" to prevent regulations from coming into effect.

The government denied any constitutional infringements, calling the laws a "reasonable restriction" on the right to privacy. The ministry for information and technology said that widely circulated WhatsApp messages had led to riots and lynchings in the past, and so it was in the "public interest that who started the mischief leading to such crime must be detected and punished … Hence the role of who originated the message is very important."

This is not the first time tensions have arisen between WhatsApp and the Indian government. In 2019, the finger was pointed at the Modi government after WhatsApp claimed that Indian journalists, scholars and activists were among users targeted with spyware which meant their personal information could be accessed remotely.

WhatsApp alleged that NSO Group's software had been used to target the users and filed a lawsuit against the Israeli firm in the US.

NSO Group has previously denied the claim and has said it ought to be immune from such lawsuits because its clients are foreign governments and it is they which are responsible for deploying the software.

The company has argued that its government clients are only meant to use its technology against terrorists and criminals, and it is not privy to who is targeted by its surveillance tools. The Indian government has denied any responsibility.

On Wednesday, the government wrote to all social media companies operating in India and demanded a response on how they were complying with the new IT laws.

The Modi government has already clashed repeatedly with Twitter, demanding that the site remove anti-government tweets related to the farmers' protests earlier this year and more recently tweets which criticised the government's handling of the pandemic.

Twitter has complied with some requests and made certain posts unavailable to view inside India, but refused to comply with others. Facebook and Instagram were also recently instructed to remove anti-government posts mentioning coronavirus, on the basis they could cause "panic".

Under the new IT rules, social media companies have to remove content within 36 hours of a legal order and have to appoint an Indian-based "compliance officer" to deal with any complaints. The laws also apply to online media, and have been described as further muzzling of the media in India.

On Monday, the Delhi police, who are under the control of the home ministry, arrived at the empty Twitter offices in Delhi late at night in what was initially described as a "raid". It was later clarified as a legal notice being served to the company, after a tweet by a politician from the ruling Bharatiya Janata Party (BJP) was labelled as "manipulated media". The tweet was of a document which evidence had shown was faked.

Digital Tax: SEP Threshold Impact On Indian Companies And Non-Residents

BloombergQuint Opinion, 27/05/2021

Owing to the advent of digitalisation, India has been keen on taxing foreign digital businesses and adopted the concept of 'Equalisation Levy' and 'Significant Economic Presence' in its domestic law. SEP regulations were initially introduced in 2016 and the scope was widened in 2020. However, these provisions were deferred till April 2021.

At a concept level, SEP expanded the scope of income for for a non-resident doing business with India. The provisions expanded the scope of 'business connection' (similar to Permanent Establishment) for non-resident, which may result in higher tax liability and compliances for non-residents. The tax rate applicable would be 40% (plus applicable surcharge and cess).

The SEP provision was deferred on grounds that a multilateral solution under the Organisation for Economic Co-operation and Development is being considered where all tax treaties will get amended automatically. Even though OECD and Group of 20 countries recognised the magnitude of digitalisation and devised the Base Erosion and Profit Shifting Action Plan 1 to address the tax challenges raised by digitalisation, it has not reached a global consensus to date.

Nevertheless, India has deemed it fit to operationalise the SEP provisions from April 1, 2021. This is done by notifying the 'prescribed threshold' vide notification dated May 3, 2021. As per this notification, a revenue threshold of Rs 2 crore and a user limit of 3 lakh users have been notified.

Implications For Non-Residents

Till now, foreign companies earning income from India on account of the sale of goods to India were not taxable under the Indian Income Tax Act if they do not have any business connection in India. This position was true irrespective of treaty availability. Now, the concept of SEP provides that a non-resident would be deemed to have a business connection in India if it carries out specified activities or crosses the above thresholds which thus holds them liable to tax in India. SEP as a concept was to apply only to a digital transaction but the way the provisions are drafted it appears that the same would cover even normal business transactions.

Given the low thresholds, it would affect a large number of non-resident/foreign companies doing business with India. However, tax treaties with respective countries would come into the picture and protect these foreign companies doing business with India.

Thus, non-residents / foreign companies that are from treaty countries would not be majorly affected except for the fact that they will have to have the documentation ready (like a Tax Residency Certificate) for claiming treaty benefits. Non-treaty jurisdictions (though limited in number) may be hugely impacted as the thresholds are very low, and they would be governed by the domestic tax law only.

Indian Businesses May Also Have To Bear New Compliance Burden

While treaties would offer protection to many non-residents, this new concept of SEP may present a unique situation for Indian businesses that work with foreign vendors. For companies in India, this would have a huge impact as now they would have to be more vigilant while applying withholding tax considering the SEP provisions for their foreign vendors even on transactions such as import of goods which till now was by and large not taxable and no documentation as such was required.

Indian companies may now have to insist foreign vendors provide a Tax Residency Certificate to get covered under tax treaty provisions even for a transaction such as import of goods to get away from SEP provisions. In absence of TRC, Indian companies making payments to non-residents would not be able to provide treaty protection.

In such a case, they would have to determine the revenue attributable to India to apply appropriate withholding tax rate or apply a straight 40% (plus applicable surcharge and cess) rate on the gross payments or ask the non-resident vendors to get a lower withholding tax order from the tax department.

Similarly, in the case where Indian companies are granting exemption under the Indian IT Act (even for treaty countries) would have to see the applicability of SEP. The SEP provisions are wide enough to cover much more than digital transactions. Given such low thresholds, any revenue generated from activities like the sale of goods/types of machinery, etc, may also be brought under the coverage of SEP. Similarly, in cases where payments for services amount to royalty or fees for technical services under domestic laws one may have to adopt a position that specific provisions should override the general provisions of SEP since SEP also covers services.

These provisions of SEP have been made applicable from April 1, 2021, however, given that the thresholds were not prescribed the provisions were inoperative. Now, given that thresholds are prescribed, companies will have to quickly look at implications arising from this and check payments made during April 2021, to see if these provisions would have an impact.

Government Should Revisit Threshold Limits To Alleviate Burden

The SEP concept was deferred till April this year on grounds that a multilateral solution under the OECD is being considered where all tax treaties will get amended automatically. However, it comes as a surprise that in the absence of a consensus by the OECD countries on taxation of the digital economy, India has deemed it fit to operationalise the SEP provisions by notifying the 'prescribed threshold'.

All in all, while it appears that companies in treaty countries enjoy the protection, they will have to furnish documentation to ensure that their treaty protection claim is entertained. This would place a huge compliance burden on the shoulders of both Indian companies making payments to foreign vendors as well as on foreign companies. Government should think through this and revisit the SEP limits or provide alternate guidance to alleviate such a burden.

Google, Facebook updating website to reflect new grievance officer appointed under IT rules

ET Tech, 30/05/2021

Large digital companies like Google and Facebook have begun updating their websites to reflect the appointment of the grievance officers under the new social media rules that came into effect recently.

According to government sources, large social media companies like Google, Facebook and WhatsApp have shared details with the IT Ministry as per the requirement of the new digital rules, but Twitter is still not following the norms.

The new rules require significant social media intermediaries - those with other 50 lakh users - to appoint a grievance officer, nodal officer and a chief compliance officer. These personnel are required to be resident in India.

Industry sources said Facebook and WhatsApp have already shared their compliance report with the Ministry of Electronics and IT, and that the details of the new grievance officers appointed are being updated to replace the existing information on these platforms.

Google's 'Contact Us' page shows details of Joe Grier as a contact person with an address from Mountain View, US. The page also contains details on the grievance redressal mechanism for YouTube.

As per the rules, all intermediaries have to prominently publish on their website, app or both, the name of the grievance officer and his/her contact details as well as the mechanism by which a user or a victim may make a complaint.

The grievance officer will have to acknowledge the complaint within 24 hours and dispose of such complaint within a period of 15 days from the date of its receipt; and receive and acknowledge any order, notice or direction issued by the authorities.

The government on Friday had said that Twitter is not following the norms.

Twitter has not sent details of the chief compliance officer to the IT Ministry, and shared details of a lawyer working in a law firm as a nodal contact person and grievance officer, they added.

This when the IT rules clearly require these designated officers of the significant social media platforms to be employees of the company and resident in India, they pointed out.

While Twitter did not respond to email queries on the issue, its website mentions Dharmendra Chatur as the 'Resident Grievance Officer for India (Interim)'.

Google, Facebook and WhatsApp also did not respond to detailed email queries on the appointment of the personnel as required by the new IT rules.

The sources had earlier said that besides Google, Facebook and WhatsApp, other significant social media intermediaries like Koo, Sharechat, Telegram and LinkedIn

too have shared details with the ministry as per the requirement of the IT norms.

Under the new rules, social media companies will have to take down flagged content within 36 hours, and remove within 24 hours content that is flagged for nudity, pornography etc.

The Centre has said the new rules are designed to prevent abuse and misuse of platforms, and offer users a robust forum for grievance redressal.

Non-compliance with the rules would result in these platforms losing the intermediary status that provides them immunity from liabilities over any third-party data hosted by them. In other words, they could be liable for criminal action in case of complaints.

After the new norms came into effect on May 26, the IT Ministry had turned up the heat on significant social media companies, asking them to immediately report compliance and provide details of the three key officials appointed.

The new IT rules also require significant social media intermediaries - providing services primarily in the nature of messaging - to enable identification of the "first originator" of the information that undermines the sovereignty of India, the security of the state, or public order.

The large platforms have to also publish periodic compliance reports every month mentioning the details of complaints received and action taken thereon, and the number of specific communication links or parts of information that the intermediary has removed or disabled access to in pursuance of any proactive monitoring conducted by using automated tools or other reasons.

2. Télécommunications

Jio To Build Two Sub-Sea Cable Systems Connecting India With Asia And Europe

Medianama, 19/05/2021

Reliance Jio is constructing what it calls “the largest international submarine cable system centered on India,” the company announced on Monday. The telco major says it will work withe submarine cable supplier SubCom and other global partners to deploy two cable systems to support the growth in data demand across the region.

The India-Asia-Xpress (IAX) system will connect India eastbound to Singapore and beyond, while the India-Europe-Xpress (IEX) system will connect India westbound to the Middle East and Europe, the company said. “For the first time in the history of fiber optic submarine telecommunications, these systems place India at the center of the international network map, recognizing India’s increased importance, staggering growth, and the quantum shift in data use since the launch of Jio services in 2016,” Jio said.

More than 200Tbps of capacity will be carried by the systems when they go live in 2023–24, it said.

The IAX system connects India to Asia Pacific markets from Mumbai and Chennai to Thailand, Malaysia, and Singapore, at present. The IEX system will extend India’s connectivity to Italy, landing in Savona, and additional landings in the Middle East and North Africa. Apart from the connection of the IAX and IEX sub-sea systems, the two systems are also connected to the Reliance Jio Global Fiber Network beyond Asia Pacific and Europe, connecting to both the east and west coast of the United States.

Will this help Indian consumers?

Subsea connectivity is just one challenge in serving India’s data demand. Undersea cables tend to have really high bandwidth, and a dozen or so landing points at most, making them fairly straightforward to set up. Sudhir Kunder, Country Director, DE-CIX Interwire India, said that latency was the new currency in internet connectivity, and hoped that these cable systems will improve India's standing on that front. DE-CIX runs internet exchange points in India, where ISPs and content providers peer and exchange traffic.

On the challenges in connectivity that remained, Kunder cited "Unavailability of community networks to reach the unconnected, inaccessible areas in the country, complex regulations that don't allow individual persons and NGOs to provide internet services to the community, [and] restriction on using TV white space spectrum to provide comprehensive and reliable internet connectivity."

PLI timeline for mobile phone manufacturing may begin in FY22

ET Telecom, 27/05/2021

New Delhi: The government is considering making FY22 the first year of production instead of FY21 for the production-linked incentive (PLI) scheme for mobile phone manufacturing, senior government officials said. If approved, the move will bring relief to the likes of iPhone contract makers Foxconn and Wistron besides homegrown brands Dixon, Lava and Micromax. Meeting first-year PLI targets has become tough due to pandemic curbs and global supply chain disruptions, among other geopolitical factors.

"With the second wave of Covid hitting the country, there is serious thinking on the matter as companies are genuinely finding it difficult to meet their targets," one of the officials told ET.

A change in the timeline will mean manufacturers need to post incremental production worth Rs 4,000 crore in this fiscal year, instead of Rs 8,000 crore in the second year. They will thus be able to avail of maximum incentives worth 6% during the year, experts said.

The ambitious Rs41,000 crore PLI scheme–which entails incentives in the form of cash payouts based on investment and targeted increments in production--is aimed at making India a more attractive manufacturing destination and weaning companies away from bases such as China and Vietnam. The Centre is looking to make the country a global manufacturing hub with an export target for phones worth $100 billion over the next five years.

"If this (change in timeline) comes through, this will have a several-fold impact. It will send the right signals to all the international investors that the government is there to support them in these pandemic times," said IDC research director Navkender Singh. "Also, one has to take a long-term view on this. While the government doesn't lose much in pushing the scheme by a year, the industry gains significantly and (it) shows India as an investor friendly destination."
He added that it's important for the government to show its support for the plan, which is the marquee PLI scheme of the government, which has extended it to other sectors.

As reported by ET, Samsung is the only one of 16 companies to have met its FY21 target for smartphones. Unlike others, it didn't have to ship any plant and machinery to India and simply needed to ramp up production at its existing facilities, industry executives said.

The nodal Ministry of Electronics & Information Technology (MeitY) had opposed the industry demand, citing Samsung's example of meeting its target. But owing to the severe second Covid wave, which restricted manufacturing across the country, the government is now more inclined to accept the demand. This will likely take be taken to cabinet shortly, a second official said.

The industry's latest push was made in a May 19 letter, which cited the second wave and the inability to vaccinate workers as key reasons why factories haven't been running optimally. The India Cellular & Electronics Association (ICEA) made its appeal in a letter to the panel responsible for taking the call on the deferment under clause 8.9 of the PLI guidelines in case of force majeure.

"Karnataka, Tamil Nadu, Andhra Pradesh and Telangana are already under lockdown, and Uttar Pradesh also has severe restrictions," the lobby group said, highlighting curbs in the five states where most PLI units are located. "Under the circumstances, even with optimistic estimates, no more than eight months will be available in FY 2021-22, and even that could reduce, for meeting the PLI targets of year two."

There's nothing PLI applicant companies can do to help them return to even normal levels of production, at least for the next two-three months, ICEA said.

The association also pointed out that PLI schemes in other sectors such as pharmaceuticals and food products announced in the last couple of months had factored in the flexibility needed in terms of timelines.

Under the handset PLI scheme, foreign companies needed to invest Rs 250 crore each and produce incremental output of Rs 4,000 crore in the first year to get a 6% direct incentive as cashback.

To get the same incentive, Indian handset makers had to invest Rs 50 crore each for Rs 500 crore of incremental output. In the second, third, fourth and fifth years, manufacturers will have to produce phones worth Rs 8,000 crore, Rs 15,000 crore, Rs 20,000 crore and Rs 25,000 crore over the base year production value, which would significantly enhance annual exports of phone handsets from the existing $3 billion.

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