

India protests European Union study of data laws

NEW DELHI: India has protested against a European Union decision to study India's data protection laws to find out if they are in conformity with those in the 27-nation grouping.

The EU wants to ensure that the Indian laws meet its directive before it makes a commitment on the issue in the bilateral free trade agreement being negotiated between the two.

The EU has not accepted India's assertion that it was a 'data secure' country. This has affected the EU's plan to double the flow of outsourcing business from the region.

"We will not tie our demand for data secure status to any study from the EU side," a commerce department official told ET. "We do not want a situation where we are told just days before signing the deal that the study results were not positive."

Commerce and industry minister Anand Sharma had in a recent meeting with EU trade commissioner Karel De Gucht stressed India be given the status of a data secure country before the two sides sign the FTA.

According to the EU law, European nations outsourcing business to countries that are not certified as data secure have to follow stringent contractual obligations, which increases operating costs and affect competitiveness. Several European companies hesitate in doing business with India as they do not want to invite trouble by unwittingly failing to fulfill the conditions laid down by the EU.

"If India is given data secure status, not only will Indian firms save on costs but EU companies will also have increased confidence in doing business here," said Kamlesh Bajaj, chief executive of Data Security Council of India, an independent self-regulatory organization set up by IT body Nasscom.

Outsourcing business from the EU could jump to \$50 billion annually from \$20 billion in a short span once India is recognized as a data secure destination, Bajaj said.

India amended the Information Technology Act in 2006 after some cases of fraud came to light in the BPO sector. Two years later, the law was amended again and made compliant with the EU law on data protection.

India, however, continues to be among the countries not considered data secure by the EU. This obstructs flow of sensitive data, such as intellectual property or patient

information for telemedicine, to India under data protection laws in the EU.

"India has already given the EU enough material to show how the IT Act 2006 meets the requirements of their data protection directive. We have incorporated the kind of privacy principles and enforcement mechanism that the EU asks for," Bajaj said.

The Data Security Council works with the government in ensuring that the IT industry adheres to the laid down security and privacy norms.

"We have told the EU that our law may not be worded exactly in the way the EU directive is, but it essentially is the same," the commerce department official quoted earlier said.

India will continue giving the issue priority in the on-going negotiations, in addition to other services related concerns like movement of professionals, the official said.