

Data miners may require new safety helmets post Supreme Court verdict on privacy

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BENGALURU/NEW DELHI: The Supreme Court verdict holding privacy to be a fundamental right could impact how internet companies and startups, including digital lending and payment companies, collect and use personal data.

Industry experts said there would be greater onus on companies on how they share data and take consent for collecting personal information. The nine-judge bench referred to big data analytics by companies such as Uber, Airbnb and Facebook, but left it to a recently formed committee under former Supreme Court judge BN Srikrishna to lay down a data protection framework.

"It is likely that the new law can require companies that collect data to educate users about the implications of providing the data and may regulate the purpose for which such data can be used," said Vaibhav Parikh, corporate lawyer at law firm Nishith Desai Associates.

The bench highlighted how Uber has data on places that users frequent, Facebook knows about users' friends, Alibaba knows about individuals' shopping habits and Airbnb knows where its customers are travelling.

It cited an "unprecedented need" for regulation regarding the extent to which such information can be stored, processed and used by non-state actors, as well as protection of such information from the state.

"All apps will move to a more evidently consent-based system, which will become more rigorous," a tax and law analyst said, requesting anonymity. "Data that is mined — such as a consumer's behaviour on Google or Twitter, which get collected without the consumer knowing about it — should get impacted by the judgment, but it is still open to questions."

Companies, especially in financial services and lending that rely on personal data to offer services and products, said they will watch whether the committee will throw any light on such data use.

"We hope that there will be no restrictions on mobile data that we take from customers, including messages, social media data and other points, since our lending algorithms depend on such data points," said a founder of a lending company that offers loans to students.

"We have to examine how individual data shared on Facebook and other social media could be protected from now on," said Ashvin Parekh, managing partner of Ashvin Parekh Advisory Services. Fintech startups, especially in digital lending, use social media and transaction data to determine the creditworthiness of potential customers.

"If you need a loan, then some form of data needs to be shared. We are seeking more of non-personal data," said Bala Parthasarathy, CEO of digital lending platform MoneyTap.

Executives said there could be concerns raised around targeted advertising, which is done on the basis of customer behavior on the Internet. "The biggest positive out of this would be that the entire awareness of the consumers around consent to apps to access their private data will go up," said Naveen Kukreja, a cofounder of online lending marketplace Paisabazaar.

As for the data protection framework being drafted by the Srikrishna committee, an India Stack member aware of the developments said it will make it compulsory for businesses to allow customers to share their data with others.

"The Srikrishna committee is considering a framework for datasharing based on a data-protection architecture that will work on a consent layer," he said, requesting anonymity.