

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
LOK SABHA
UNSTARRED QUESTION NO. 1118
TO BE ANSWERED ON: 08.02.2023

REGULATION OF DATA FIDUCIARIES

1118. SHRI RAVIKUMAR D:

Will the Minister of Electronics and Information Technology be pleased to state:

- (a) the measures taken to ensure that Government instrumentalities exempted under Clause 18(2)(a) do not carry out illegal surveillance;
- (b) the measures taken to ensure that Data Fiduciaries exempted under Clause 18(3) do not carry out illegal surveillance;
- (c) the measures taken by the Government to ensure that a Data Fiduciary does not undertake tracking or behavioural monitoring of children or targeted advertising directed at children under Clause 10(3); and
- (d) the steps taken to maintain the independence of the Data Protection Board under the Digital Personal Data Protection Bill, 2022 (DPDPB, 2022)?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION TECHNOLOGY
(SHRI RAJEEV CHANDRASEKHAR)

(a) and (b): The draft Digital Personal Data Protection Bill, 2022 (“draft Bill”) does not deal with the issue of surveillance. Lawful interception and monitoring is done by the authorised law enforcement agencies after due authorisation by the Central Government or the State Government concerned, and the same is governed by the provisions contained in sub-section (2) of section 5 of the Indian Telegraph Act, 1885 read with Rule 419A of Indian Telegraph Rules, 1951 and section 69 of the Information Technology Act, 2000 read with the Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009. Thus, the authorisation, procedure and safeguards relating to interception and monitoring are governed by the aforesaid laws, and not the draft Bill.

(c) and (d): Extensive consultation on the draft Bill has been undertaken to generate necessary feedback to formulate the provisions of the related legislative proposal.
