

Apple likely to invoke free-speech rights in encryption fight

REUTERS, New York/San Francisco

APPLE Inc will likely seek to invoke the United States' protections of free speech as one of its key legal arguments in trying to block an order to help unlock the encrypted iPhone of one of the San Bernardino shooters, lawyers with expertise in the subject said this week.

The company on Thursday was granted three additional days by the court to file a response to the order. Apple will now have until Feb. 26 to send a reply, a person familiar with matter told Reuters.

The tech giant and the Obama administration are on track for a major collision over computer security and encryption after a federal magistrate judge in Los Angeles handed down an order on Tuesday requiring Apple to provide specific software and technical assistance to investigators.

Apple Chief Executive Tim Cook called the request from the Federal Bureau of Investigation unprecedented. Other tech giants such as Facebook Inc, Twitter Inc and Alphabet Inc's Google have rallied to support Apple.

Apple has retained two prominent, free-speech lawyers to do battle with the government, according to court papers: Theodore Olson, who won the political-speech case Citizens United v. Federal Election Commission in 2010, and Theodore Bortoluzzi, who frequently represents media organizations.

Government lawyers from the US Justice Department have defended their request in court papers by citing various authorities, such as a 1977 US Supreme Court ruling that upheld an order compelling a telephone company



Tim Cook

to provide assistance with setting up a device to record telephone numbers.

The high court said then that the All Writs Act, a law from 1789, authorised the order, and the scope of that ruling is expected to be a main target of Apple when it files a response in court by early next week.

But Apple will likely also broaden its challenge to include the First Amendment's guarantee of speech rights, according to lawyers who are not involved in the dispute but who are following it.

Compared with other countries, the United States has a strong guarantee of speech rights even for corporations, and at least one court has ruled that computer code is a form of speech, although that ruling was later voided.

Apple could argue that being required to create and provide specific computer code amounts to unlawful compelled speech, said Riana Pfefferkorn, a cryptography fellow at Stanford University's Center for Internet and Society.

The order against Apple is novel because it compels the company to create a new forensic tool to use, not just turn over information in Apple's possession, Pfefferkorn said. "I think there is a significant First Amendment concern," she said.

A spokesman for the US Attorney's Office in Los Angeles declined to comment on the possible free-speech questions on Thursday.

A speech-rights argument from Apple, though, could be met with skepticism by the courts because computer code has become ubiquitous and underpins much of the US economy.

"That is an argument of enormous breadth," said Stuart Benjamin, a Duke University law professor who writes about the First Amendment. He said Apple would need to show that the computer code conveyed a "substantive message."

In a case brought by a mathematician against US export controls, a three-judge panel of the 9th US Circuit Court of Appeals, which

covers California, found in 1999 that the source code behind encryption software is protected speech. The opinion was later withdrawn so the full court could rehear the case, but that rehearing was canceled and the appeal declared moot after the government revised its export controls.

The FBI and prosecutors are seeking Apple's assistance to read the data on an iPhone 5C that had been used by Rizwan Farook, who along with his wife, Tashfeen Malik, carried out the San Bernardino shootings that killed 14 people and wounded 22 others at a holiday party.

US prosecutors were smart to pick the mass shooting as a test case for an encryption fight with tech companies, said Michael Froomkin, a University of Miami law professor. That is because the shooting had a large emotional impact while also demonstrating the danger posed by armed militants, he said.

In addition, the iPhone in dispute was owned not by Farook but by his employer, a local government, which has consented to the search of the iPhone. The federal magistrate who issued the order, Sheri Pym, is also a former federal prosecutor.

"This is one of the worst set of facts possible for Apple. That's why the government picked this case," Froomkin said.

Froomkin added, though, that the fight was enormously important for the company because of the possibility that a new forensic tool could be easily used on other phones and the damage that could be done to Apple's global brand if it cannot withstand government demands on privacy. "All these demands make their phones less attractive to users," he said.

More transit victory for Bangladesh

STAR BUSINESS REPORT

INDIA and Nepal yesterday signed an agreement that will, among other things, allow trade transit between Bangladesh and Nepal.

Rail transit facility will be operationalised through Singhabad in India for Nepal's trade with and through Bangladesh, according to the letter of exchange signed after Nepal's Prime Minister KP Oli's talks with his Indian counterpart Narendra Modi.

The transit between Nepal and

Bangladesh will be through the Kakarbitta (Nepal)-Banglabandha (Bangladesh) corridor. It will simplify modalities for traffic of cargo between the two countries.

The agreement also aims at providing transit for Nepal through Vishakhapatnam port in Andhra Pradesh in southern India.

Oli, who is on a six-day visit to India, held comprehensive talks with Modi on a range of issues of mutual interest, including trade and the political situation in Nepal.

IMF's Lagarde: trailblazer with a knack for straight talk

AFP, Washington

FIVE years ago Christine Lagarde smashed through the glass ceiling at one of the world's leading institutions, becoming the first woman to head the International Monetary Fund.

Some had questioned her lack of credentials as an economist. But, as she plunged into the Greece crisis to prevent a meltdown of the eurozone, doubts were quickly swept aside.

On Friday the French lawyer and former finance minister's achievements leading the crisis lender were confirmed: facing no challengers, she was named to a second five-year term as IMF managing director. Lagarde, 60, has rebuffed all doubters after having started out as a lawyer who was told that, as a woman, she had little future in the field. She skipped a French establishment career and instead joined the prestigious US legal consulting giant Baker & McKenzie.

By 1999 she had pushed her way up to become chairwoman of the company's global executive committee, a first for the firm, and then of its global strategy committee in 2004. She then embraced politics, joining the government of president Jacques Chirac as trade minister in June 2005.

Two years later, she became finance

minister under Chirac's successor Nicolas Sarkozy, the first woman ever named to that post. She appeared headed for greater heights in French politics when she was suddenly drafted to replace IMF managing director Dominique Strauss-Kahn, another French politician who was forced to resign from the Fund under a cloud of sex scandal in 2011.

With Europe plunging into crisis, the IMF move gave her a powerful seat inside the closed circle of the world's leaders, but also responsibility for handling Greece's debt crisis, and those of Ireland, Portugal and Cyprus.

A tough negotiator and determined consensus-builder, Lagarde didn't hesitate to cross swords with the very officials she worked closely with in her previous job, even criticizing her successor as finance minister, Pierre Moscovici, of being asleep during one crisis meeting.

"There are many instances of Ms Lagarde's courageous truth-telling," said economist Desmond Lachman, a former IMF official.

At the same time, she skillfully managed the shifting currents of power in the Fund, where emerging giants like China are challenging the dominance of the old powers like the United States, Europe and Japan.

Equip youth with skills to accelerate growth

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"But, there is a political uncertainty about the future."

One economic indicator, private sector investment, reflects the level of uncertainty about the future, and that has remained stagnant since 2012. As a result, investors are keeping their money under their pillows.

Rahman, also a former caretaker government adviser, said Bangladesh has a kind of resilience that ensures about 6 percent GDP growth every year.

But the real challenge will be how the country can accelerate the growth rate in the current political reality, he added.

Saman Kelegama, executive director of the Institute of Policy Studies of Sri Lanka, emphasises that a deeper integrated Saarc, which is the least integrated region in the world, could be an important building bloc for regional integration.

As impediments for trade in goods among the region, he listed low preferential margins, large negative list, non-tariff barriers, procedural delays and poor connectivity.

With the global value chains increasingly determining trade, reducing tariffs in the region has become vital for South Asian integration process both to the world and in the region.

He also said binding commitments are required in trade facilitation and NTB removal.

Given its economic power, India will have to take on a disproportionately larger responsibility for promoting regional cooperation in South Asia.

Kelegama said if existing barriers are sorted out, intra-regional trade can easily be boosted to about 20 percent from existing 6 percent.

The benefits of more economic integration in the region will dilute the political differences and lead to deeper integration in the region, he added.

In a paper, Prabir De, professor of the Research and Information System for Developing Countries in India, said non-tariff measures constitute a substantial portion of trade restrictiveness for Bangladesh, India and Nepal.

He said exporters and importers in Bangladesh have to comply with higher number of NTMs, compared to India and Nepal. Among these measures, testing requirement and certification requirement are common in both India and Nepal.

The Bangladesh China India Myanmar economic corridor can bring enormous economic opportunities to the region, according to Kishore Kumar Basak, senior research associate of the Centre for Policy Dialogue.

"But the individual economic gains are dependent on how well the member countries are connected in the region with sufficient infrastruc-

ture support."

He said the BCIM economic corridor needs to be developed beyond simply transport connectivity and towards a secure place for traders and investors.

Sadiq Ahmed, vice-chairman of the Policy Research Institute of Bangladesh, said there is no guarantee that the current growth rate would continue in the next one decade.

The issue is to find out the policies and institutions that will allow the country to continue the growth trajectory and accelerate growth, he said.

"Growth is not independent of policies and institutions."

Ahmed also said setting a 6.5 percent inflation target is very high in the current global context. "It brings a lot of problems. It affects the exchange rate management."

Mushtaq Khan, a professor at the School of Oriental and African Studies in London, called for a political stability. The capital flight will take place if the influential people do not feel secure about the future, he added.

Christian Tardif, a representative of the High Commission of Canada, said Bangladesh can boost its remittance income if the skill of the migrant workers is developed.

SANEM Chairman Bazlul Haque Khondker and Executive Director Selim Raihan also spoke.



KALLOL GROUP OF COMPANIES

Atsushi Yamaoka, general manager of Casio, Japan, and Golam Mostafa, managing director of Kallol Group of Companies, the lone legal importer and marketer of Casio brand watches in Bangladesh, attend the dealers' meeting of Casio, at Sonargaon Hotel in Dhaka on Friday.

Banglalink employees seek PM's help in resolving dispute

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Islam was fired on February 9. Senior officials of Banglalink said Islam was engaged in activities that were not permitted under his employment contract with the company. Banglalink did not elaborate on his faults.

The employees have been demonstrating since February 11, after the telecom operator discontinued Islam's service.

The prickly situation between the management and employees received wider attention from the media after another employee, Mushtaque Ahmed, fell sick on February 14 during an interrogation by the company's management over his involvement in February 11 protests.

New labour protests erupted on February 14 forcing Banglalink to shut its headquarters and its regional offices for the day.

Smartphone imports rise 39pc

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Symphony, the market leader, brought in 1.06 crore handsets, including 26.57 lakh smartphones, in 2015.

Samsung brought in 8.63 lakh pieces of smartphones in 2015. The South Korean giant with its 15 percent market share has been maintaining its second position in the category in the last couple of years.

The company also imported 5.45 lakh feature phones last year.

Walton, another local brand, imported some 6.07 lakh smartphones, grabbing an 11 percent market share, according to the association. Its total import figure, including basic and feature phones, stood at 12.56 lakh pieces.

The smartphone brands get registered as local companies in Bangladesh and they have no production facilities in the country. They

mostly import their products from China. Symphony and Walton are now preparing to set up assembly plants in Bangladesh, senior officials of the companies said.

After Symphony, Winmax maintained its second position in the feature phone segment by importing 16.62 lakh pieces last year with a 12 percent market share. Winmax also imported 4.06 lakh basic phones last year.

The mobile phone industry got a boost in 2012 and 2013 -- especially in the smartphone segment -- mainly because of the initiation of 3G services and a rise in the number of mobile users.

In 2012, only 3 percent of the total mobile imports were smartphones, which climbed to 7.88 percent in 2013; 19.7 percent in 2014 and 21 percent in 2015, according to BMPIA.

ERF celebrates gala night

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Prof Wahiduddin Mahmud, a noted economist of the country, was given the lifetime achievement award for his contribution to the economy.

Speaking as the chief guest, Muhith said he is proud of being a part of the current pace of economic growth, and thanked Prime Minister Sheikh Hasina for giving him the opportunity at the twilight of his life.

"I am very lucky. I used to dream that the country will march ahead. Today,

Bangladesh is no longer a basket case."

Prof Rehman Sobhan, a noted economist, called upon the finance minister to make a budgetary allocation in order to promote investigative journalism in the country. Sobhan, the chairman of the Centre for Policy Dialogue, also urged reporters to work hard to get information and practise journalism without fear or favour.

General President Sultan Mahmud and General Secretary Sajjadur Rahman also spoke.

State banks' default loans continue to soar

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Last year, for the first time performance contracts were signed with the banks.

As it was the first time, last year's targets were softer. But this year, harder targets will be set.

A reform to the banks' governance has already started and efficient persons have been appointed to the bank boards.

Digital content for grassroots people is the way forward

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It is not in a top-to-bottom approach as being practised now: the app developers generate the apps as they wish. The approach should be "bottom-to-up", he said.

Shahid Uddin Akbar, chief executive officer of Bangladesh Institute of ICT in Development, said for many ICT means "help desk" or "SMS-based" solution. "But the ICT has gone far in other countries."

Pavel Hoq, chief operating officer of Grameen Intel Social Business, said the present approach to reach the grassroots people is most likely passive.

But the approach should be active, focusing on the demands of the target audience or the recipients, he added.

BM Mainul Hossain, an assistant professor of the Institute of Information Technology at Dhaka University, said the language barrier is a major challenge in getting expected outputs from ICT intervention.

The solutions that are being generated are not for all grassroots people, as scientific names and book words are being used in the apps or in the solutions, he said. He also suggested ensuring broadband or high-speed internet services for all.

"It takes several hours to download a file or to use an app with the existing speed of internet. If we don't have a good enough internet speed, what will we do with the apps?"