

The Home Office Consultation on “Acquisition and Disclosure of Communications Data”

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Some simple mathematics

- There was no Code of Practice for RIP Part I Chapter I (Interception) for 637 days
- There is still no Code of Practice for RIP Part I Chapter II (access to comms data) for:

952 days

and still counting!

- So should you, just this once, “welcome” the consultation ?

There are improvements

- Not just a restatement of the RIP Act
- Clear statements about what is “written on the outside of a postal packet” and email “subject lines” [albeit no complex guidance]
- No more “end runs”
 - public authorities no longer allowed to use their legacy powers (except when the SoS or court issues a warrant... or when it’s the DWP)
- After an “error” you’re told enough about it to make a complaint to the Tribunal

Old chestnuts I

- Notices and Authorisations
 - authorisations are how SPoCs drive subscriber checks themselves
 - may be appropriate when hotel manager isn't capable of doing the work themselves
 - but where the CSP cannot be approached, then quite what is going to be authorised ? The Code of Practice is silent...

Old chestnuts II

- Oral notices:
 - Parliament clearly said that a notice:
must be given in writing or (if not in writing) must be given in a manner that produces a record of its having been given;
 - This is clearly inconvenient for urgent “life at risk” issues, so the CoP says “sort it out in the morning” not “make sure the tape recorder is running”.

New chestnuts

- Obtaining communications data about dead people:
 - Parliament has already approved this one
 - They also rubber-stamped some changes to who is permitted to access communications data and why
- Now they want to obtain communications data for “missing persons” enquiries
 - this is being consulted upon so respond!

Trivia (to pad out your response)

- The Home Office can't spell program
 - the parliamentary draftsman could!
- There's a completely unnecessary plug for **anyisp.co.uk**
 - a domain owned by ANY-Web Ltd since 1999
 - see RFC2606 for how to do it properly

Missing pages

- Still no offence for deliberate “errors”
 - malfeasance?
- Still no stats on s22 notices (or authorisations)
 - promised in Interception Commissioner’s 2005 report
 - was recruiting staff summer 2004 so can do his job!
- Still no sign of a public copy of the best-selling ACPO/ACPOS/HMCE (2003) “Manual of Standards for Accessing Communications Data”
 - but perhaps they’ll be bringing out a second edition?

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