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

Richard Clayton

fipr
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!

  – but perhaps they’ll be bringing out a second edition?
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