



Data Retention Consultation
Home Office
Room 732a
50 Queen Anne's Gate
London
SW1H 9AT

3 June 2003

A Code of Practice for Voluntary Retention of Communications Data

GreenNet Limited (GNL) welcomes the opportunity to comment on the draft code of practice for voluntary retention of communications data. Although GNL understands the Government's concerns regarding national security and the need to protect the public from crime, we feel that the current proposals will have dire consequences for the public's trust and confidence in the UK Internet environment.

Lack of Compliance with the Data Protection Act

We are concerned that proposals for new data retention regimes and regulatory frameworks are being developed (which one assumes the Home Office would wish Internet Service Providers (ISPs) to comply with) whilst there are serious problems in enforcing existing legislation in relation to data protection.

In the course of the discussion that has developed around the consultation, it has become clear that many Communication Service Providers (CSPs) are currently retaining and using personal data in ways that are inconsistent with the Data Protection Act 1998 (DPA).

Data is held for longer periods than is required, is used in ways which are inconsistent with the DPA and in addition, some ISPs actually automate processes in dealing with requests from public authorities. Users are not aware that their data is being held, are unaware of their rights to access their data and therefore have no means to assert their right to access their own records. As far as we are aware, enforcement of the DPA with respect to CSPs and communications data is almost non-existent.

With the Home Office asking CSPs to retain more data for longer periods, surely this situation can only worsen, particularly if users begin demanding access to their personal data. We ask whether the Home Office has any proposals to respond to this situation?

Allocating Resources

The Home Office has expressed its willingness to share the burden of costs associated with retaining data for longer periods than is necessary for business purposes and allowing for communications data to be accessed by various authorities.

The Home Office should also consider allocating resources to fund educational or awareness raising for management of CSPs to ensure that they are aware of their legal obligations in relation to existing and proposed legislation.



In this respect, we welcome the consultation document as it has sparked some initial debate. However, the consultation is heavily weighted towards needs of the Government, Public Authorities and CSPs – far outweighing those of the user, the consumer and the individual.

Please don't hesitate to contact me if you require any further information.

Best regards,

Karen Banks
Director, GreenNet Limited