



THE INTERCEPT MODERNISATION PROGRAMME (IMP)

- by Stephen Hoffman

BACKGROUND

- The Intercept Modernisation Programme (IMP) was a scheme proposed by the last Labour government to monitor all emails, phone calls, web use and text messages. The programme would include Internet data being stored for at least 12 months from sources such as G-mail, Facebook, Skype and Twitter.
- Those who can use the database would be the police, secret services, the government, public bodies and local councils.
- Rumours about the programme first came about in 2008. The Home Secretary at the time, Jacqui Smith, officially came out in favour of the IMP and in April 2009 the Home Office produced a consultation document on the programme after pressure from UK parliamentarians to do so (London School of Economics (LSE), 2009).
- All the data, including every item of communication originating to or from the UK, would be monitored by a single national database run by Whitehall (Raab D, 2010). If you were sceptical about the programme you might think it's just a way of creating work for civil servants.
- Under the programme, 653 public bodies would be given access to the confidential information, including police, local councils, the Financial Services Authority, the Ambulance Service, Fire Authorities and even Prison Governors (Edwards, R, 2009).
- The IMP was expected to form part of the Communications Data Bill (Stevens, T, 2008) under the previous Labour government. There were concerns from many civil libertarians about the damage to privacy the entire bill would do due to the amount of data it would gather on individual citizens.
- There were concerns that the public was not fully involved in the consultation, nor given the full details of the programme in the consultation (LSE, 2009).

THE INTERCEPT MODERNISATION PROGRAMME NOW

- Pressure was put on the government to revive the programme after GCHQ's Ian Lobban revealed that government computer networks face 1,000 cyber attacks a month (Newton-Dunn, T, 2010).
- Under the latest reincarnation of the scheme, the same 653 public bodies will be given access to the confidential information.
- To help revive the scheme the IMP will receive £400 Million extra from the government, on top of the money previously given to the scheme shelved by Labour (Newton-Dunn, T, 2010).
- The permission of a judge or a magistrate will not be required to access the information, but simply the authorisation of a senior police officer or the equivalent of a deputy head of department at a local authority. The judiciary is therefore excluded from the process. This causes concern as the police are not a neutral body because, where they can, they will agree to access of information which gives them more power over citizens.



- According to a LSE paper, the UK is alone in the democratic world in that communications data authorisation is authorised by a senior figure in an organisation, which wants to use the data for their investigations. The police in this case are allowed to be both judge and jury (LSE, 2009).
- Public authorities will not be able to view the contents of these emails or phone calls, but they can see the internet addresses, dates, times and users of telephone numbers and texts.

PREVIOUS CONCERNS ABOUT IMP

- At the time the IMP was first announced in parliament, the then Shadow Home Secretary, Chris Grayling, had concerns about the programme, believing the data collected could be easily abused and used for other purposes than counter-terrorism (Edwards, R, 2009). The IMP that the coalition government is proposing is not sufficiently different from the previous Labour programme for these concerns to have been allayed.
- After pressure from service providers who believed this would be too bureaucratic, as well as concerns over individual privacy, the last Labour government abandoned the programme in November 2009. The Labour party have not stated their position yet on the possible revival.
- Additionally there were concerns over the feasibility and cost of the scheme, which was calculated at about £2 billion over ten years (Grossman, W, 2010). This was an estimate made by the Home Office at the time, and many experts believe the figure to be much higher.
- In both the Liberal Democrat and Conservative manifestos, the parties were committed to rolling back the surveillance state that had grown under Labour. Both parties had also staunchly opposed the IMP when the issue had come up in parliament under the last Labour government.
- The technology needed for the programme does not yet exist. The then assistant Information Commissioner, Jonathan Bamford, expressed his worries about the programme in 2008, believing it could lead to the creation of a surveillance society with no justification. He also believed there was not enough public discussion at the time (Information Commissioner's Office (ICO), 2008).
- There are also issues about whether it complies with European Law such as the European Convention on Human Rights and the European Commission Data Retention Directive. For example it says in Article 8 of the European Convention on Human Rights that : -
 - 1. Everyone has the right to respect for his private and family life, his home and his correspondence.
 - 2. "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others." (Home Office, 2010).



- Evidence has shown there is little public support for the database. In the six-month consultation carried out by the Home Office in 2009, only a third supported the IMP, with 50% believing it lacked safeguards (Edwards, R, 2010).

COALITION GOVERNMENT'S POSITION ON CIVIL LIBERTIES

- Civil liberties were at the centre of the coalition agreement between the Liberal Democrats and the Conservatives.
- The Liberal Democrat leader Nick Clegg stated that the coalition government would oppose any steps towards storage of Internet and personal data, saying on May 19th 2010, "We won't hold your Internet and email records when there is just no reason to do so" (Shackle, S, 2010). This was backed up by the coalition agreement document, which on page 11 stated, "We will end the storage of internet and email records without good reason"(Cabinet Office, 2010).
- Additionally members of the coalition government in numerous statements have declared themselves sceptical of centralised national databases. This is because they believe centralised databases lead to infringements on liberty, and are also open to identity fraud. To run the IMP will involve a large centralised database with precisely these risks. All the revival of the programme shows is that governments have extremely short memories.

HOW THE IMP WAS REVIVED

- Despite all these concerns, in October 2010, buried in the Strategic Defence Review, was the revival of the IMP. It was apparently re-introduced to fight the growing threat of cyber-terrorism.
- In the part of the Strategic Defence Review which covers the IMP it says, "We will introduce a programme to preserve the ability of the security, intelligence and law enforcement agencies to obtain communication data and to intercept communications within the appropriate legal framework ... We will put in place the necessary regulations and safeguards to ensure that our response to this technology challenge is compatible with the government's approach to information storage and civil liberties"(Whitehead, T, 2010). Senior Home Office Ministers have confirmed that the legislation for the programme is being prepared.
- Whilst it says there will be safeguards within the programme, and David Cameron has said that before the programme is rolled out there will be consultation with the Information Commissioner, there would be no need to put in safeguards if the programme had not been revived in the first place. The government is simply papering over the cracks.
- Whereas before it seemed that the IMP would be limited to organised crime, it seems mission creep is taking place. In latest statements from the Home Office they have said that "Communications data is vital to all law enforcement"(Williams, C, 2010). With it covering all crime, the net of whose data will be stored has grown significantly. Correspondingly the threat of innocent citizen's data being used for nefarious purposes grows also.

QUESTION IN PARLIAMENT

- On 27th October 2010, Liberal Democrat MP for Cambridge Dr Julian Huppert asked the Prime Minister in Prime Minister's Question Time (Hansard, 2010).

“Can the Prime Minister reassure the House that the Government have no plans to revive Labour's intercept modernisation programme, whether in name or in function, and that he remains fully committed to the pledge in the coalition agreement to reverse the substantial erosion of civil liberties and to roll back state intrusion?”

The Prime Minister had this to say:

The Prime Minister: “I would argue that we have made good progress on rolling back state intrusion in terms of getting rid of ID cards and in terms of the right to enter a person's home. We are not considering a central Government database to store all communications information, and we shall be working with the Information Commissioner's Office on anything we do in that area.”

- Notice how he doesn't say they won't be extending the requirements for (Central Service Providers) CSPs to retain communications data. This suggests that the programme will go ahead just without the centralised database. It is unclear, as of yet, how a non-centralised database is to be achieved, given the cost and technical difficulties. Therefore, there are worries that the government, facing these difficulties rather than abandoning the programme, will re-create the central database. There are also concerns about the bodies who would be given access to the data.

CURRENT CONCERNS ABOUT THE IMP

- There are no details yet about how access to the data would be regulated to stop identity fraud and the abuse of the data. This is prescient considering the government's poor record when it comes to maintaining personal data. Examples of alarming failures in this regard are the Home Office losing the personal details of 377,000 people on a memory stick (Grant, I, 2009), the London Borough of Sutton losing the personal details of over a hundred people (ICO, 2009) and Wigan Council losing unencrypted data on 43,000 school pupils after a laptop was stolen (Kable, 2009). It is clear that the government struggles to hold small amounts of data so hopes of them doing better with a national database are low.
- The Home Office Budget is being frozen with fears of substantial numbers of front line police being cut, so it has to be questioned whether the government can afford a scheme which will cost £2 Billion a year plus.

Considering the detrimental effect the programme will have on liberties, it also seems perverse at a time when the government has little cash that they would be paying for the privilege of reducing civil liberties.

- Former London Metropolitan Police Commissioner Ian Blair consistently highlighted the strain on police resources from sifting through computer and mobile phone data (Raab, D, 2010). The IMP would add to these strains when police resources and numbers are strapped for cash. Indeed around £200 million a year will be spent on the IMP in the next ten years despite a cut in the Home Office Capital budget by 49% (Travis, A, 2010). The priorities of the government seem to be dangerously skewed at the moment in favouring surveillance over old fashioned policing.
- The IMP could be used by Councils through the RIPA (Regulation of Investigatory Powers Act) to gather the data. This is worrying as RIPA contained little safeguards and has been criticised by both the Conservative Party and Liberal Democrats as well as civil liberty campaigners as being easy to abuse. The scaling down of RIPA, which the coalition wants, could be given a lifeline by the IMP.
- The difference between how private bodies such as Internet firms hold Internet and telephone data and how public sector bodies do is stark. Private firms only hold the data for a few months at a time and on an ad-hoc basis, whereas public bodies will hold the information indefinitely. The IMP is even worse than this though as it will force private companies to be more cavalier with consumer's data. They will be forced to keep data for a longer period of time including details of every single website their customers visit. This will be an incredibly expensive operation for Internet firms.
- Additionally, the Home Office wants to treat this information as though it is the less sensitive communications data, rather than considering it as content, even though gaining access to this information at the moment would involve an interception of the content of internet communications sessions. Even before the prospect of the IMP being revived the LSE in a paper on the matter has said that previous privacy safeguards when it came to use of Internet data were very weak (LSE, 2009).
- Private meetings would become incredibly difficult. This would be akin to having to notify the government of all the people you met with last night, in order to give them the opportunity to choose whether they want to retrospectively read any conversation transcripts that may be available. This has serious implications on the ability to associate free from government interference.
- Political activists would also be under surveillance to unprecedented levels. For example in the previous programme, CSPs would be called on to hold all the detailed transaction information of every MP and every journalist: their phone calls (to lobbyists, colleagues, constituents and sources), locations, website viewings, social networking, and chats (LSE, 2009). Investigative journalism would become much harder, and the ability of MPs to communicate with the outside world constrained.
- Furthermore it is not the data of a single individual that is being accessed. The way the programme would work is that the individual's friend's use of



the Internet would be monitored too(LSE, 2009). Therefore third party communication data without a person's knowledge will increase under this scheme.

QUOTES ON THE INTERCEPT MODERNISATION PROGRAMME

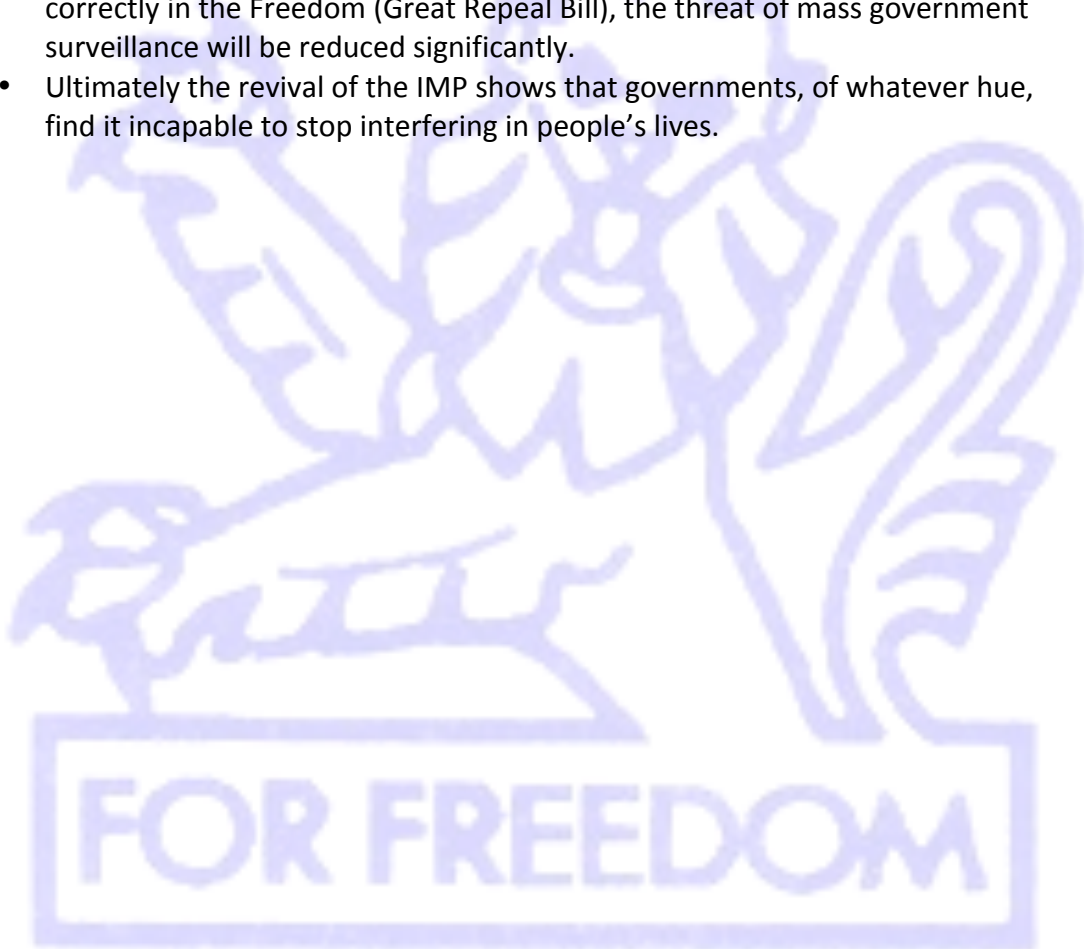
- David Davis, the former Shadow Home Secretary, said when the idea of the IMP was first mooted that "what is being proposed is a highly intrusive procedure which would allow Government authorities to maintain covert surveillance on public use of telephones, texts, emails and internet access(Edwards, R, 2009)." The warning has been wilfully ignored by the coalition government.
- There could be splits in the coalition over the move. This is due to the fact that when he was Liberal Democrat spokesman for Home Affairs the Energy and Climate Change Secretary, Chris Huhne, believed the programme would lead to state spying at an unacceptable cost in both humanitarian and economic terms. He was also concerned about how the data would be separated to find the necessary information in dealing with cyber-terrorism (Edwards, R, 2009). Home Office ministers at the moment do not seem to share these concerns.
- The Information Commissioner Christopher Graham has spoken out against the proposed revival of the scheme saying on October 25th 2010 " The security services and police chiefs have not yet made the case for why they should be allowed to push through a disproportionate scheme to keep taps on all British e-mail , social networking and web traffic (Boxell, 2010)." In other words the case being made for the project does not stand up to scrutiny.
- Isabella Sankey, Policy Director for Liberty, has stated "one of the early and welcome promises of the new government was to end the blanket storage of Internet and email records. Any move to amass more of our sensitive data and increase powers for processing would be a massive u-turn" (Whitehead, T, 2010).
- General Secretary of No2Id, Guy Herbert, said "We should not be surprised that the interests of bureaucratic empires outrank liberty "It is disappointing that the new ministers seem to be continuing their predecessors' tradition of credulousness"(Whitehead T, 2010).

FINAL THOUGHTS

- Given all the controversy about the programme, many feel a useful tool would be to put the programme under parliamentary scrutiny before it is put into action.



- Mr Graham's intervention is crucial as the Conservatives said any scheme involving the storage of more internet data would be subject to approval by a beefed-up Information Commissioner (Boxell, J, 2010).
- Whether the government will let parliament have a debate on the programme will prove whether the government's commitment to civil liberties is hot air.
- Ultimately with all these issues there has to be the right balance between investigation powers and the right to privacy. This programme is on the wrong side of the divide, leading to an unacceptable amount of state power over the individual.
- To stop the revival of this programme, amendments to the Freedom (Great Repeal Bill) to this effect need to be made. If the amendments are done correctly in the Freedom (Great Repeal Bill), the threat of mass government surveillance will be reduced significantly.
- Ultimately the revival of the IMP shows that governments, of whatever hue, find it incapable to stop interfering in people's lives.





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