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PRESS RELEASES

UK Government human rights watchdog refuses to hold telcos accountable for role in GCHQ mass surveillance

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Published on **27 October 2014** in **Press releases**

Countries: **United Kingdom**

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Related legal action: **OECD complaint against BT, Verizon Enterprise, Vodafone Cable, Viatel, Level 3, and Interoute**



A

complaint by Privacy International **against the six undersea fibre optic cable companies**, including BT and Vodafone, that facilitate GCHQ's mass surveillance practices has **been rejected by the UK agency** charged with ensuring corporate compliance with human rights obligations, after the companies refused to reveal the extent of their cooperation with GCHQ.

Despite recognising the merits of our complaint the OECD National Contact Point refused to further scrutinise the telecommunications companies, described as "intercept partners" in internal GCHQ documents. The NCP claims that reports based on documents provided by Edward Snowden and published by the Guardian and Sueddeutsche Zeitung do not substantiate a sufficient link between the companies and mass surveillance. The NCP also noted that a number of the companies named in the complaint refuted the

allegations, with one company asserting that it considered the allegations "false and without foundation in their entirety."

Privacy International's complaint asserted that telecommunications companies BT, Verizon, Vodafone, Level 3, Viatel and Interoute, each named in a document leaked by Edward Snowden and **revealed by the *Suddeutsche Zeitung***, had facilitated mass surveillance by allowing British intelligence services to tap into the fibre optic cables that the companies own and manage. The documents provided reveal that BT was codenamed "Remedy", Verizon Business "Dacron", and Vodafone Cable was "Gerontic" as part of GCHQ's Mastering the Internet programme.

Companies ignoring human rights obligations

Privacy International argued that, by aiding GCHQ in the mass surveillance programme Tempora, these companies violated up to a dozen OECD guidelines pertaining to the companies' duties to respect and protect human rights, including the right to privacy, association and expression enshrined in international law and explicitly articulated in the OECD Guidelines on Multinational Enterprises, to which the UK is a party.

In anonymous responses from the companies, the operators variously claimed that:

- "the allegations presented were false and without foundation in their entirety" [company 6]
- "any mass Government surveillance programme is a violation of international law and the European Convention on Human Rights because it can never be necessary and proportionate" runs contrary to existing UK legislation on lawful interception of data [company 3]
- "Section 94(5) of the Telecommunications Act 1984[2] would prohibit voluntary disclosure of anything done by virtue of any order, if any such order had been served." [company 5]

The dismissal of the complaint as "false" by Company 6 and the apparent defence of mass surveillance by Company 3 is in stark contrast to the pushback spy agencies have faced from other sectors. Internet giants like Yahoo and Google have stood up for their users in the face of NSA and GCHQ spying, turning on encryption to protect communications and litigating overly broad requests for information. Last week one of the respondents to Privacy International's complaint, Vodafone, **spoke out against mass surveillance**, telling the Independent Reviewer of Terrorism Legislation, David Anderson, that the company believes that "surveillance powers should be targeted at particular individuals or at specific events or threats based on clear and justifiable grounds, not conducted on a blanket basis across populations."

While Privacy International welcomes such statements, for there to be meaningful reform to surveillance practices companies need to ensure that strong rhetoric is matched by strong action to push back against government surveillance.

Aiding mass surveillance

The cables that the companies operate carry an incredibly large quantity of information. The Guardian reported that the cables tapped by GCHQ had the capacity, in theory, to deliver more than 21 petabytes a day – equivalent to sending all the information in all the books in the British Library 192 times every 24 hours. GCHQ apparently “lobbied furiously” to protect the fact that its intercept partners had gone “well beyond” their legal obligations in facilitating GCHQ’s mass interception of communications. Indeed, the six telecommunication companies were reportedly paid for the cost of their co-operation with GCHQ, and were described as “intercept partners” by GCHQ in the leaked documents.

A reference to the Telecommunications Act by Company 5 in the NCP’s decision hints at the possible use of secretive s.94(5) orders being served against companies, something that has received recent attention by MP Julian Huppert .

The outright dismissal of the complaints by some companies is a distressing reflection of the impunity enjoyed by companies who co-operate with GCHQ. The telecommunications sector continues to play a key facilitating role in mass surveillance and must come to an end immediately.

Compliance with human rights standards should take precedence over compliance with illegitimate national laws, and companies should be required to protect the privacy of their customers no matter the demands placed on them by intelligence agencies. Sadly, the NCP has shied away from reiterating this important principle.

Eric King, Deputy Director of Privacy International, said:

In collaborating with GCHQ in providing access to their networks, and receiving payment for their co-operation, the companies have knowingly contributed to the human rights violations that subsequently occurred. It is shameful that the Government refuses to hold companies accountable, especially by using a weak argument that the Snowden documents are not sufficient evidence of the cooperation between telecommunication companies and UK intelligence services."



Privacy International files criminal complaint on behalf of Bahraini activists targeted by spyware FinFisher

Published on 13/10/2014 in Press releases

Privacy International today has made a criminal complaint to the National Cyber Crime Unit of the National Crime Agency, urging the immediate investigation of the unlawful surveillance of three Bahraini activists living in the UK by Bahraini authorities using the intrusive malware FinFisher supplied by British company Gamma.

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Joint civil society statement on privacy in the digital age

Published on 15/09/2014 in Press releases

The following statement was submitted to the 27th Session of the UN Human Rights Council on 11 September, 2014:



Privacy International asks Europe's human rights court for details about Five Eyes spy pact

Published on 08/09/2014 in Press releases

Privacy International has filed a legal

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challenge in Europe's top human rights court demanding the release of secret documents detailing the spying agreements between the United States, United Kingdom, Canada, Australia, and New Zealand.

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