

6th of March 2024

Scrutiny Unit
House of Commons
London SW1A 0AA



Dear Committee Members

Subject: Investigatory Powers (Amendment) Bill: call for evidence

I am writing to you on behalf of the London New Liberals. We are an organisation run by and for young people who care about liberal principles. Members are from every and no party, and many members have technical roles at tech companies and start ups in the capital. On specific issues, we discuss upcoming bills and make comments to Parliament - please consider this letter one of those comments and we thank you for taking the time to consider our views.

Whilst we support the goals of the Investigatory Powers Amendment Bill, we are deeply concerned that the policy changes are not properly considered in three key areas: liberty, technical implementation and cost.

Firstly, the changes proposed in the bill considerably erode personal privacy (now and in the future) for minimal gains in security. Specifically, the introduction of so-called 'Datasets with low or no reasonable expectation of privacy' is an unprecedented extension of government surveillance powers. Specifically, we ask that the committee consider differentiating between datasets with 'no expectation of privacy' and datasets with a real, yet 'low', expectation.

In the wording of the bill as it stands, there is provision for UKIC to bulk collect private information about British citizens without their knowledge or consent, and with little basis or protection. By its own wording, this would include data to which there is an expectation of privacy even if it is considered 'low'. Concerningly, one of the criteria to be used is whether the dataset has been 'previously exploited' - this is a misunderstanding of how data analysis works. There is a meaningful difference between a private company and an intelligence agency using a dataset. Just because one organisation has used data cannot be a legitimate reason for another to use it as well.

Second, we are concerned about the technical implementation of the new requirements, in particular the new notice regime. As we understand the new notice regime, the Secretary of State could require a foreign technology company (Telecom Operator) to keep the UK government up to date with 'proposals' about 'relevant changes' to their system.

This requirement signals a concerning shift by the UK towards an EU-style 'regulatory superpower' stance which hugely limits important technical innovation in pursuit of a narrow concern - a concern which could be met through dialogue and desktop research.

We question the wisdom of asking a company to enumerate and transmit a list of all the ways they're planning to improve (or reduce) security and privacy. Although the legislation provides that the company or organisation don't share the existence of the notice - it's clear that this response to the UK government would form an extremely valuable document to a foreign intelligence service.

SMEs and startup technical companies will inevitably find this new type of notice to be extraordinarily difficult to comply with despite the UK taxpayer planning to cover the costs. Compliance will require startups to dedicate time, energy and effort to complying with the ongoing notice; importantly for a startup these delays would severely limit their ability to compete with incumbent organisations. If the government believes that this type of notice would not be applied to a start-up, then there should be explicit carve-outs for smaller businesses and organisations.

Finally, for the new notice regime to be at all effective in achieving its stated goals - the cost would be far in excess of what has been estimated in the Home Office Impact Assessment. Whilst this is not an area of principal concern for the London New Liberals, many of our members work in the tech industry and have flagged to us the cost of complying with one of these notices - a cost which will be borne by the UK taxpayer as the proposal stands.

Modern telecom systems are complicated, multi-layered technical systems with 'relevant changes' implemented at hundreds (if not thousands) of technical levels and abstractions from changes to foundational encryption methods all the way up to device-level UI alterations. For a company to meaningfully comply with this new notice would require personnel with the relevant expertise in each field whose entire job would be to monitor, collate and explain the changes for the full duration of the notice.

This requirement is made more complex because the new notice calls for the company to notify of 'proposals' rather than specific changes that will be implemented. This is a fundamental misunderstanding of how modern software is developed where hundreds or thousands of 'proposals' are made before a change is enacted. Companies and organisations will be under an extremely expensive duty to monitor each and every meeting and communication for (at least) their design, product and engineering teams. This exponential (and uncalculated) cost will be borne by the UK taxpayer.

While there is no specific mention of encryption technology in the bill, we believe that the UK government has an approach to encryption which doesn't account for underlying technical realities. This approach would be summarised as wishing to 'have one's cake and eat it'. On a technical level, data is either encrypted end-to-end, or it is not. If this bill is an attempt to "protect end-to-end encryption" while allowing the UKIC to access information which is end-to-end encrypted then that attempt will not work because those two goals are mutually exclusive on a purely technical level.

Thank you for taking the time to read our concerns around this bill. We certainly welcome an update to the Investigatory Powers Act and find the government's aims admirable; however, the bill as it currently stands is a substantial and costly incursion into personal liberty and is in need of continued and careful scrutiny.

Many thanks for your hard work and that of the committee

William Nash
Chair of London New Liberals