Communications Data Statistics

Following interest on Twitter we have produced a diagram (overleaf) to assist understanding as to how many **applications** the 514,608 **notices** and **authorisations** for communications data given in 2013 might relate to. Our 2013 Annual Report[1] highlighted the deficiencies in the statistical requirements of the Acquisition and Disclosure of Communications Data Code of Practice[2] that accompanies Chapter 2 of Part 1 RIPA ("the code") and we have asked the Home Office to expedite the necessary revisions in a revised code to be published later this year. One of the deficiencies is that there is no requirement for public authorities to record (or report to the Commissioner) the number of **applications** that the 514,608 **notices** and **authorisations** relate to, or, the number of **items of data** required.

An application[3] for communications data sets out a specific requirement for acquiring communications data. If a requirement for data is considered necessary and proportionate a senior official within a public authority may *give* **notice** and / or *grant* an **authorisation** for the communications data to be obtained. An application may contain a request for one item of data (e.g. subscriber information for 1 mobile phone number), or many items of data (e.g. subscriber information and outgoing call data for 6 mobile phone numbers). Determining whether to give **notice** or grant an **authorisation** depends on how the data will be acquired-

- some communication service providers (CSPs) have developed secure auditable disclosure systems that enable the single point of contact (SPoC) to submit the data requirements electronically. In practice, this means the communications addresses are not repeatedly inputted and minimises the chance of a transposition error as the communications addresses being acted on - submitted by an applicant, reviewed by the SPoC, approved by the designated person and responded to by the CSP (via the disclosure system) - are guaranteed to be the same. This secure process for the acquisition of communications data is undertaken by means of an **authorisation**.
- typically if a CSP has not provided a secure auditable disclosure system then a **notice** is served requiring the disclosure of the data.

We conducted a scoping exercise for our 2013 Annual Report with the aim of providing some further statistical information. This exercise showed that on average 2.5 notices and / or authorisations were produced per application. From this it can be estimated that the 514,608 **authorisations** and **notices** relate to approximately 205,843 applications[4]. This is only an estimate due to the different practices and counting mechanisms within public authorities (e.g. some have a policy that one application may contain no more than one requirement for traffic or service use data whereas others impose no such restriction so long as the necessary justifications are set out). Furthermore, neither of these figures answers the question - how many **items of data** were requested – and this is one of the key revisions that we have also required.

The diagram (overleaf) aims to provide some examples of the different counting conventions in force and how these currently lead to misleading and flawed statistics. The result is that Scenario 2 on the diagram overleaf could be counted in a multitude of ways even though 12 items of data were ultimately required.

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[1] See Pages 22-25 of Annual Report http://www.iocco-uk.info/sections.asp?sectionID=1&type=top
[2] See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97961/code-of-practice-acquisition.pdf
[3] An application must contain the details specified in paragraph 3.5 of the code
[4] This figure is based on dividing the number of notices and authorisations by the number of applications reported by a sample of law enforcement agencies (IOCCO requested the latter figure from a number of police forces under our general information gathering power under section 58(1) RIPA).

Relationship between applications, notices, authorisations and items of data

INTERCEPTION OF COMMUNICATIONS COMMISSIONER'S OFFICE

| Documents Produced | Request Details | Communication Service Provider (CSP) | Notes |

Scenario 1

Request for subscriber details on one mobile phone (*1 item of data*)

Application URN:001 → Notice URN:N1 → 07xxx xxx xx1 Subscriber Details → CSP *'Alpha'*

Application submitted explaining why it is considered necessary and proportionate to acquire data (see Para 3.5 of Code of Practice) and is approved by a Designated Person.

The public authority *gives notice* to the CSP requiring them to disclose.

1 Application – 1 item of data – Total 1 Notice

Scenario 2

Request for subscriber details and service use data (outgoing calls) on 6 telephones (*12 items of data*)

Application URN:002

Notice URN:N2
- 07xxx xxx xx1 Subscriber Details
- 07xxx xxx xx1 Call Data
- 07xxx xxx xx2 Subscriber Details
- 07xxx xxx xx2 Call Data

CSP *'Alpha'*

Notice URN:N3
- 01xxx xxx xx3 Subscriber Details
- 01xxx xxx xx3 Call Data

CSP *'Beta'*

Authorisation URN:A1
- 07xxx xxx xx4 Subscriber Details
- 07xxx xxx xx4 Call Data
- 07xxx xxx xx5 Subscriber Details
- 07xxx xxx xx5 Call Data

CSP *'Charlie'*

- 07xxx xxx xx6 Subscriber Details
- 07xxx xxx xx6 Call Data

CSP *'Delta'*

Scenario 2 could be recorded in many different ways depending on the system being used by the public authority.

For example one public authority may choose to produce;

2 Notices and 2 Authorisations (one for each CSP) = Total 4, or,

6 Notices (one for item of data acquired via notice) and 2 Authorisations (one for each CSP) = Total 8

In all of the examples specified in Scenario 2 the same 12 items of data were acquired - but due to the different practices and counting mechanisms, the number of authorisations and notices reported would differ (i.e. 3, 4 or 8).

Application submitted explaining why it is considered necessary and proportionate to acquire data (see Para 3.5 of Code of Practice) and is approved by a Designated Person.

An individual Notice must be produced for each CSP that is required to provide data, but a single notice can include requests for more than one communications address (e.g. telephone number) or data item (e.g. subscriber details & call data)

An Authorisation may be *granted* by a DP to authorise persons (normally the SPoC) to engage in conduct to acquire the data. This method is typically used where a secure auditable system has been established between the CSP and the public authority for disclosure of communications data. An Authorisation is not generally served upon a CSP (see Para's 3.23 to 3.32 of Code of Practice) therefore a single Authorisation may specify data that is held by different CSPs as well as multiple data items.

1 Application – 12 items of data – 2 Notices and 1 Authorisation = Total 3