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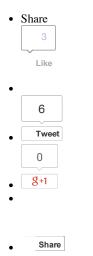
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Tuesday, August 5, 2014		

Data retention is an intolerable threat to democracy

Bernard Keane | Aug 05, 2014 12:47PM | EMAIL | PRINT



The government's proposal for data retention is a direct threat to democracy and our ability to hold the powerful to account. Here's why.



The government's intention — now confirmed — to impose a mandatory data retention scheme in Australia will undermine our democracy for no benefit. And households and businesses will pay hundreds of dollars extra for the dubious privilege of being subject to surveillance. That's not comment or speculation, but provable, indisputable fact.

We don't know the nature of the government's data retention scheme yet. It could range from a minimalist one limited just to telephone call data (unlikely), to one encompassing your full internet browsing history and emails (also unlikely, but some regulatory agencies want that). Both this government and the previous government have been reluctant to specify a definition of the "metadata" to be collected under a retention scheme, and judging from internal Attorney-General's Department documents obtained under Freedom of Information, that may well be because the officials advising ministers and agency heads, as well as the latter, simply don't understand the technical issues involved, and can't grasp questions like whether

an email subject heading is metadata or content data.

But even a minimalist scheme represents a threat to democracy. A functioning, healthy democracy needs a media (in the broad sense, not just newspapers and broadcasters) prepared to hold the powerful to account. A data retention scheme makes it significantly easier, not merely for governments but for corporations, to hunt down whistleblowers prepared to reveal wrongdoing. The Australian Federal Police has admitted that in hunting for whistleblowers it obtains the metadata of journalists and even politicians themselves. There are known cases of European governments using data retention regimes established under the European Union data retention directive to hunt down whistleblowers. Fewer whistleblowers means less scrutiny of the powerful and a less effective watchdog press.

"If you've done nothing wrong, you've got nothing to hide", surveillance apologists say — ignoring that all of us have things we want to stay hidden and that it is often in the public interest that they are."

By requiring companies to hold metadata for a period like two years (or even permanently, as some agencies would like), it may also provide a resource for companies to subpoen information in the hunt for whistleblowers or the pursuit of critics and legal adversaries. It would also create a rich trove of information about activists and protesters that law enforcement and intelligence agencies like to target for surveillance even when they engage in purely legal activities.

This erosion of democracy will yield no discernible benefit. *Crikey* has <u>previously explained</u> that in Europe, data retention yielded negligible crime clearance benefits. There's another, more substantial, example. The panel commissioned by Barack Obama to review the National Security Agency's mass surveillance of Americans (and, for that matter, the rest of world), including programs that amount to a vast data retention scheme extending to internet browsing histories, online chats and emails, concluded that it had <u>not stopped a single terrorist attack</u>. "It was, 'Huh, hello? What are we doing here?' The results were very thin," said one panel member.

Storing the vast amounts of data generated by our communications usage will also cost ISPs money — a lot of it. Last week, iiNet <u>updated its</u> <u>assessment</u> of the likely cost impact of data retention from the previous 2012 quote, saying data retention may well cost each iiNet account holder \$130 per year — quite a surveillance tax for both Australian households and the 2+ million businesses that have internet accounts (yes, businesses, your data will be retained as well).

The same rhetorical tricks are always used to justify mass surveillance schemes. "If you've done nothing wrong, you've got nothing to hide", surveillance apologists say — ignoring that all of us have things we want to stay hidden and that it is often in the public interest that they are. And those surveillance apologists never apply that logic to governments, insisting governments abandon their habitual secrecy in favour of greater transparency on national security and international relations.

"It's just metatdata," they also say, or "billing data" — "no one is listening to your calls", they say, trying to make it sound innocuous, as though your entire digital trail through life doesn't reveal far more about you than the content of an email or a phone call ever could. The other trick is to couch the issue as one that balances privacy and security. True, data retention increases the possibility your privacy will be breached — breached by an intelligence officer going on a fishing expedition (or, as the NSA has admitted has happened, stalking you, or sharing photos of you just for titillation), or breached by a hacker stealing this vast trove of personal data from where a telecommunications company has stored it, because such information will be immensely valuable. And no one has to justify their right to privacy to anyone — even governments accept that it is a basic right.

But ultimately, the greater danger is not to our privacy but to our democracy and our ability to hold the powerful to account by revealing things that governments and corporations don't want revealed. Data retention is a direct threat to that.

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Liz Connor Posted Tuesday, 5 August 2014 at 1:19 pm | Permalink

From where I sit 'our ability to hold the powerful to account' is already long gone.

I find myself looking forward to someone in power seeing all the dissent there is throughout the Internet.

But then I'm retired and over 70, with nothing to lose but my pension - unless of course they bring in involuntary euthanasia for people in my age group, i.e. older than the baby boomer generation.



Stuart Coyle Posted Tuesday, 5 August 2014 at 1:40 pm | Permalink

Three arguments against this sort of surveillance:

1. Those who really need to keep thing secret will still do so. The technology exists: anonymous proxies and strong encryption. The bad guys can still write letters to each other and I doubt this law covers Australia Post.

2. It will cost more than the harm it mitigates.

3. It WILL be used for corrupt purposes at some point by those in power, or data from it will be leaked to enemies of our state and used against us.



BERNARD KEANE

CRIKEY POLITICS EDITOR

Weight <u>@BernardKeane</u>



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