

EXPLANATORY MEMORANDUM TO

THE DATA RETENTION (EC DIRECTIVE) REGULATIONS 2007

2007 No.

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. These draft Regulations require public communications providers to retain certain data to enable public authorities to undertake their lawful activities to investigate, detect and prosecute serious crime. The Regulations relate exclusively to traditional fixed line and mobile telephony.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1. None

4. Legislative Background

4.1. The draft Regulations form the initial transposition of Directive 2006/24/EC on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC. The deadline for implementation is 15 September 2007.

4.2. These Regulations relate only to fixed line (or “land lines”) and mobile telephony. The UK has postponed application of the Directive to the retention of communications data relating to internet access, internet telephony and internet e-mail in line with article 15.3 until the later deadline of 15 March 2009. This postponement allows extra time to consider the more complex implementation issues associated with this type of data.

4.3. Part 11 of the Anti-Terrorism, Crime and Security Act 2001 (ATCSA), already provides a legal basis for the retention of communications data in the UK for certain purposes and Parliament approved a voluntary code in connection with this in 2003. For fixed line and mobile telephony, the draft Regulations will move retention of communications to a mandatory basis. The voluntary code will remain in place until completion of the transposition.

4.4. Section 106 of ATCSA makes provision for the Secretary of State to make arrangements for payments to communications providers in specified circumstances. Under the voluntary code of practice, the Home Office has maintained a policy of reimbursing public communications providers for additional costs incurred through retaining communications data in line with the voluntary code. The Regulatory Impact Assessment (attached at Annex A) identified the importance of ensuring that the draft Regulations are cost neutral to industry. Because of this, provisions have been made in the draft Regulations to enable reimbursement of additional costs.

4.5. A transposition note is attached at Annex B to provide clarity on how the articles in the Directive relate to the draft Regulations.

5. Extent

5.1. These Regulations apply to all of the United Kingdom.

6. European Convention on Human Rights

6.1. The Minister of State for the Home Department, Tony McNulty, has made the following statement regarding Human Rights:

“In my view the provisions of the Data Retention (EC Directive) Regulations 2007 are compatible with Convention rights.”

7. Policy Background

7.1. Public communications providers retain data about the traffic of communications generated or processed on their networks or by the use of their services. They use this data for a variety of business reasons, including billing, network management and prevention of fraud. This type of data is often collectively referred to as communications data. It does not include any content related to any communication. Different public communications providers retain data for varying lengths of time.

7.2. To ensure consistency in the availability of communications data for law enforcement, encouraging retention of communications data in the UK has been recognised as a valuable and important measure for a number of years – it has been our policy since 2001 under Part 11 of ATCSA and has been in practice since 2003, following Parliamentary approval of the code of practice on voluntary retention of communications data.

7.3. The text of the Directive itself rightly references terrorist atrocities in Madrid and London in making the case for adopting measures for retention of communications data across Europe. For many years this valuable data has allowed investigators to identify suspects, examine their contacts, establish relationships between conspirators and place them in a specific location. Communications data is used in numerous other ways, including assisting investigation of suspects’ interaction with victims and in support of suspects’ alibi.

7.4. Many public communications providers will be unaffected by these Regulations – either because their business practices involve retaining such data for their own purposes for as long or longer than the required retention period or because their business practice means that the required data is retained by another public communications provider in the UK.

7.5. These draft Regulations have been subject to a 12 week public consultation. As part of this process, Home Office officials met with a broad range of trade associations, companies and individuals. Whilst only 16 formal responses were received, several of these were from Trade Associations representing hundreds of public communications providers. During meetings, a number of stakeholders suggested that they did not intend to make a formal response because they felt that as the proposed measures related only to traditional communications methods, they do not present a significant change to the current provisions

for retention of such data. The majority of the responses emphasised the need to continue working with industry to complete the transposition of the Directive.

7.6. Three substantive concerns arose from the responses. Firstly, there was concern that the Regulations would require public communications providers to delete communications data after 12 months, even if there were business reasons to retain the data. The Government's intention is that communications data should be deleted after 12 months if the only purpose for its retention is in compliance with the draft Regulations; the draft Regulations have been amended to reflect this.

7.7. Secondly, there were concerns that use in the Regulations of the word "may" with regard to reimbursement, would mean that the commitment to reimburse providers for additional costs would not be honoured. The use of "may" rather than "shall" is necessary to ensure that where there is potentially duplicative storage of communications data, the secretary of state can take measures to ensure that data is retained in the most efficient manner. There is no intention to avoid full reimbursement of additional costs incurred by public communications providers.

7.8. Thirdly, there were some concerns regarding to whom the Regulations apply. We have been able to provide clarity that the draft Regulations apply to all public service providers, unless the communications data is held elsewhere by another provider. Where public communications providers require additional clarification, they have been advised to write to the Home Office seeking confirmation of how the Regulations apply to them specifically.

7.9. Overall, the consultation responses emphasised the strong desire within the industry to support law enforcement. These draft Regulations provide an important step in ensuring that communications data is available to support the detection, investigation and prosecution of crime.

8. Impact

8.1. A Regulatory Impact Assessment is attached at Annex A.

9. Contact

9.1. Any enquiries about the contents of this memorandum should be addressed to: Simon Watkin, Home Office, Room P5.37, 2 Marsham Street, London, SW1P 4DF, e-mail: commsdata@homeoffice.gsi.gov.uk, telephone: 020 7035 1294.

Annex A – Regulatory Impact Assessment

1. Title of proposal

1.1. Implementation of Directive 2006/24/EC (the Directive) on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.

2. Purpose and intended effect

Objective

2.1. Through UK implementation of the Directive, the Government seeks to:

2.1.1. provide a legal framework for the retention of communications data to assist in the prevention, detection and prosecution of serious crime.

2.1.2. work with the European Commission and other Member States to encourage effective retention of communications data across the EU.

2.1.3. minimise the impact on the telecommunications industry whilst ensuring the necessary communications data is retained.

Background

2.2. The benefits of communications data to law enforcement and intelligence agencies have been recognised for a number of years. Increasingly, however, communications service providers are tending to retain less of this data as their business practices evolve. Additionally, data protection obligations have encouraged more efficient deletion of data that is no longer required for business purposes.

2.3. In the UK, Part 11 of the Anti-Terrorism, Crime and Security Act 2001 was introduced to enable Government to encourage communications service providers to retain communications data, even if there is no business purpose for doing so. This was implemented under a voluntary code of practice in 2003 and whilst many businesses already retain sufficient data, several providers were able to demonstrate that their communications data was being retained purely for Government purposes and were consequently reimbursed for associated costs.

2.4. Public Consultation on the voluntary code of practice for retention of Communications Data in 2003 demonstrated that the importance of this data is widely appreciated.

2.5. A number of providers have indicated that they will not voluntarily comply with the code of practice and would prefer a mandatory framework; some others have indicated that whilst they will comply voluntarily in the short term, they would prefer

to be mandated in the future. S104 of the Anti-Terrorism, Crime and Security Act provides for subsequent secondary legislation to mandate providers to retain communications data, although this power will expire if it is not brought into force before December 2007.

2.6. Having established good foundations for retention of communications data in the UK, the Government pursued agreement across Europe by co-sponsoring a Framework Decision along with Ireland, France and Sweden in 2004. Later, the legal basis changed to First Pillar Article 95 of the EC Treaty, resulting in this Directive in 2006. Ireland – along with Slovakia – opposed this change in legal basis, although the outcome of this legal challenge is unlikely to be known in advance of the implementation deadline.

Rationale for Government Intervention

2.7. Clearly, a key driver for this work is the need to implement the European Directive. However, even in its absence, Government intervention would be required because of the need to evolve the voluntary code into a mandatory framework to ensure that this essential data is available regardless of providers' policies towards our voluntary approach.

2.8. During a two week survey in 2005 of data requirements placed by the police, there were 231 requests for data in the age category between 6 and 12 months old. 60% of these requests were in support of murder and terrorism investigations and 86% of the requests were for murder, terrorism and serious crime, which includes armed robbery and firearms offences. This highlights the significance of this older data which - without a mandatory framework for retention in place – is more at risk of deletion.

3. Consultation

3.1. The draft Regulations were subjected to a full 12 week public consultation. During this period, Home Office officials met with a range of public communications providers, trade associations and relevant organisations. In total, fourteen formal responses were received by the Home Office, a summary of which will be published on the Home Office website in due course. This Regulatory Impact Assessment was also submitted as part of the Public Consultation.

4. Options

4.1. As always, it is necessary to consider the 'Do Nothing' approach. In addition to the need for Government Intervention to mitigate the risks associated with a decline in the available communications data, we have a commitment to implement this Directive as a Member State of the European Union. Failure to do so is likely to result in infraction proceedings. We expect there to be costs associated with retention of communications data under the 'Do nothing' option, which will arise from continuation of the Voluntary Code of Practice under ATCSA. These costs, which are met in full by Government, are noted in the 'Costs and Benefits' section

below. Prior to the start of the ATCSA programme around 25% of UK communications were retained. It is estimated that the ATCSA programme will provide around 95% coverage of telephony communications data in the UK.

4.2. The broad direction of the policy is set by the Directive. There are four key areas of flexibility:

4.2.1. the Directive does not comment on costs but the Commission made a declaration to the Council in February 2006 which acknowledged that retention of data may generate significant additional costs for communications providers and that reimbursement of demonstrated additional costs by Member States may be necessary. Therefore, there is a spectrum of options around funding from full funding by industry at one end, to full cost reimbursement by Government at the other, with a range of burden-sharing arrangements in between.

4.2.2. the Directive applies to the whole communication provider industry but within it, Recital 13 declares that data should be retained in such a way as to avoid their being retained more than once. We discussed this with the Commission in early January 2007 and the Commission raised no concerns about interpreting this recital to minimise the impact on communication providers. A range of options are available which seek to capture the data required from different parts of the industry, attempting to minimise duplication whilst ensuring full coverage of communications data.

4.2.3. the Government must ensure that the data is retained for periods of not less than six months and not more than two years from the date of the communication. We therefore can choose to require firms to hold data for any length of time in this range.

4.2.4. whilst the Directive must be transposed by 15 September 2007, there are provisions to postpone the Internet related aspects until 15 March 2009. We can therefore decide when it is optimal to introduce these aspects.

4.3. As these dimensions are broadly independent – our choice of retention period, for example, can be considered separately from our choice of funding model – we identify below the best solution over each dimension in turn before combining these to generate a composite option which represents the optimal way to implement the Directive in the UK. This is then compared to the “do nothing” option to decide whether implementing the policy in this way is the right course of action.

Reimbursement of costs

4.4. The existing legislation in the UK on retention of communications data places a duty on the Secretary of State to ensure that arrangements are in force to make appropriate contributions towards communications providers who have incurred costs as a consequence of retaining communications data in accordance with the Act (Section 106 of ATCSA). However, given that the majority of other Member

States have indicated that they do not intend to reimburse communications providers for additional costs, we must consider whether or not the UK should change its position with regard to this.

4.5. The retention work carried out under ATCSA has demonstrated that in order to realise the benefits of this data, it is important to invest in good retrieval systems where appropriate. Whilst the Directive includes an article requiring data to be transmitted without undue delay, we believe that a cooperative approach is the most effective way of ensuring the correct retrieval systems are in place.

4.6. The reimbursement of costs would be restricted to expenditure that public communications providers have incurred by putting in place additional capability that is uniquely for the purpose of providing retention and disclosure of communications data to authorities empowered to access it under the Regulation of Investigatory Powers Act (RIPA) 2000.

4.7. The highly competitive market in the UK means that without reimbursing additional costs, those public communications providers receiving high volumes of disclosure requests from RIPA authorities would be disadvantaged relative to other public communications providers in the UK.

4.8. Rather than reimbursing additional costs for retention and disclosure, or expecting industry to bear full costs of the proposals, we have also given thought to the option of requiring industry to bear the costs of retention but reimbursing additional costs for suitable retrieval solutions for those public communications providers who receive the highest volumes of requests. The work conducted under ATCSA suggests that retention and retrieval mechanisms are so intertwined that it would be difficult to introduce such measures without potentially introducing an advantage to public communications providers who receive the highest volumes of requests. This is because there is a risk that those providers who received funding for a suitable retrieval solution may unintentionally be subsidised for retention costs because it is difficult to separate this out from a retrieval solution.

4.9. To avoid the potential distortion of the UK market and to smooth the transition from our legislation under ATCSA to the proposed Regulations that implement the Directive, we propose that we continue with our approach of reimbursing additional costs for both the retention and disclosure of communications data.

Application of the Directive

4.10. The Directive applies to all public communications providers. However, within the Directive, Recital 13 declares that data should be retained in such a way as to avoid their being retained more than once. In order to avoid duplicative storage of data, we have identified the potential to interpret this to reduce the number of public communication providers whilst continuing to aim for full retention of communications data in the UK.

4.11. We expect this interpretation to reduce the number of partners because a significant proportion of the industry is involved in providing communications across

networks owned by other communications providers. The European Commission has raised no concerns with our suggestion that Recital 13 could be interpreted to mean that if both public communications service providers have access to this data, then only one need retain the data for the purposes of the Directive.

4.12. There are several reasons to seek to reduce the number of public communications providers who need to retain data subject to the Directive:

4.12.1. Minimising the number of public communications providers who are retaining the communications data will reduce the number of industry partners with whom the authorities requiring this data will need to interact. This will improve the efficiency of the disclosure process as it will result in a smaller pool of more experienced industry partners.

4.12.2. As recognised by the 2003 consultation paper on the Code of Practice for Voluntary Retention of Communications Data, concerns may be raised under Article 8 (the respect for the right of privacy) of the European Convention on Human Rights when considering retention of communications data. Article 8(2) of ECHR permits interference with individuals' right to privacy if it is necessary in the interests of national security and the prevention and detection of crime, however such interference must be proportionate. If it is possible to reduce duplicative storage of communications data, this should be done for the purposes of proportionality.

4.12.3. Reducing the number of industry partners involved in retaining communications data will also minimise the costs associated with building specific storage and retrieval systems.

4.12.4. Variation in the number of firms who need to modify their usual business practice is a primary determinant in the overall cost of implementing the directive. This is illustrated in the costs section below.

4.13. We propose that the most appropriate option is to make provisions in the Regulations to enable public communications providers to avoid duplicative storage of data. This should minimise the number of public communications providers who are impacted by these Regulations.

4.14. Because of the dynamic nature of the industry, there are difficulties associated with introducing definitions that subdivide the industry into a hierarchy that ensures communications data is only retained at the network level. The wording proposed for Regulation 3 is therefore the subject of question 1 in the consultation paper.

Period of Retention for communications data

4.15. The Directive provides flexibility with regard to the period for which communications data must be retained. Under our existing legislation (ATCSA), a retention period of 12 months was adopted. The 2003 consultation paper on the

Code of Practice for Voluntary Retention of Communications Data considered three factors in assessing the proportionality of the retention period:

- 4.15.1. degree of intrusion involved into an individual's private life
- 4.15.2. strength of public policy justification
- 4.15.3. the adequacy of the safeguards in place to prevent abuse

4.16. The 2003 consultation paper concluded that 12 months is the optimal trade-off between law enforcement requirements and the associated interference with individuals' right to privacy. We do not believe that the period of time for which data must be retained is a significant driver of financial costs.

4.17. We do not believe that the proposed Regulations alter the balance of these factors compared to the 2003 analysis.

Timescales for implementation of the Directive

4.18. The situation with respect to internet related communications data is considerably more complex than data associated with more traditional forms of communication. Early consultation with industry and law enforcement has indicated that there is further work to do before presenting firm proposals for implementation of the Directive with respect to internet related communications data. Because of this, we propose to take up the opportunity to delay implementation of these aspects of the Directive until no later than 15 March 2009.

Composite Option

4.19. Taking into account the optimisation of these different dimensions, our preferred option for recommendation is for a set of Regulations that:

- 4.19.1. allow Government to reimburse public communications providers for additional costs;
- 4.19.2. make provisions to avoid duplicative retention of communications data;
- 4.19.3. require communications data to be retained for a period of 12 months; and
- 4.19.4. exclude internet related communications data.

4.20. This preferred option, along with 'Do nothing' and an option identical except for the avoidance of duplicative retention of communications data, will be examined further under costs and benefits. The issue of reimbursement is considered further under sections 6, 7 and 8.

5. Costs and benefits

Costs

5.1. There will be similar economic costs associated with the option described above regardless of whether they fall to industry or Government. In considering the costs, indicative figures have been calculated for scenarios where:

5.1.1. no action is taken,

5.1.2. all public communications providers must retain data, and

5.1.3. duplicative storage of communications data is avoided.

5.2. We have not published detailed calculations as they contain commercially sensitive data which was provided to us in confidence. To publish such data might put the companies that assisted us at a competitive disadvantage. However, we do not believe that this affects consideration of the regulatory impact assessment as – except for the savings in avoiding duplicative storage of data – cost is not a deciding factor between the options.

Benefits

5.3. For many years this valuable data has allowed investigators to identify suspects, examine their contacts, establish relationships between conspirators and place them in a specific location. The Directive rightly references terrorist atrocities in Madrid and London in making the case for adopting measures for retention of communications data across Europe. As well as assisting terrorist investigations, this data is routinely used to support investigations of kidnappings, murders and missing persons enquiries and has become an everyday tool in the investigation, detection and prosecution of serious crime.

5.4. A number of specific examples of the role that communications data can play were identified in the 2003 consultation paper on the Code of Practice for Voluntary Retention of Communications Data. These included analysis of the relationships and identities of those involved in White City, Ealing and Central London bombings in 2001 and investigation into terrorist attacks in East Africa in 1998. Further, more recent, case studies are provided in the consultation paper that accompanies this partial RIA.

5.5. The agencies who use communications data have confirmed its continuing importance. Whilst it is not possible to assign meaningful economic benefit to the options, it is clear that the benefits do not vary between them - with the exception of the 'do nothing' option. This means that the benefits are not a deciding factor in selecting which option to progress.

5.6. The costs and benefits are summarised in the table below.

Options	Costs	Benefits
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‘Do nothing’	<ul style="list-style-type: none"> • £17.40m capital • £10.63m resource over 8 years* • This does not include an estimate for the cost of potential infraction proceedings. 	<ul style="list-style-type: none"> • Some data will be available for the investigation, detection and prosecution of serious crime – but the data available will depend on the policy of individual businesses.
All public communications providers must retain data.	£30.03m capital, £15.25m resource over 8 years*	<ul style="list-style-type: none"> • Appropriate data will be available to support the investigation, detection and prosecution of serious crime. • Infraction proceedings will be avoided.
Duplicative storage of communications data is avoided	£21.13m capital, £10.82m resource over 8 years*	<ul style="list-style-type: none"> • Appropriate data will be available to support the investigation, detection and prosecution of serious crime. • Infraction proceedings will be avoided.

* capital expenditure and resource costs over 8 years discounted by 3.5%.

6. Small firms impact test

6.1. Through reimbursing public communications providers for additional costs in complying with the proposed Regulations and by interpreting Recital 13 to minimise the number of public communications providers who must retain communications data, we believe that we will avoid a disproportionate impact on small firms.

7. Competition assessment

7.1. The proposed Regulations are designed to ensure that no public communications provider is either advantaged or disadvantaged by the requirements to retain communications data or the provisions for reimbursement of additional costs. Particular attention has been given to ensuring that the Secretary of State is able to fully audit payments made for additional costs to ensure that competition is not distorted and that there is no contravention of State Aid regulations.

8. Enforcement, sanctions and monitoring

8.1. The Directive makes no provisions for imposing sanctions on those public communications providers who do not comply with the requirements. However, by adopting a cooperative approach whereby additional costs are paid to ensure that

no public communications provider is disadvantaged by complying with our proposed Regulations, we believe that our measures will be sufficiently enforced. This assumption is supported by our experience of working cooperatively with industry under ATCSA.

8.2. As part of our monitoring mechanisms to inform the annual reports to the Commission on the effectiveness of the implementation, we will seek to identify cases where requests for data could not be met. This data will inform the plans for completing the implementation of the Directive. If the statistics provide sufficient indication of non-compliance, we will review the need to introduce primary legislation to allow for the introduction of sanctions.

9. Implementation and delivery plan

9.1. The implementation and delivery plan will be included in the full RIA. The Regulation excluding internet related communications data need to be in place by September 2007, although we are seeking permission to bring the Regulations into force on 1 October 2007 as it is a Common Commencement date. We need to have appropriate legislation in place to take account of internet related communications data by 15 March 2009. The Regulations will apply throughout the United Kingdom.

10. Post-implementation review

10.1. Included in the Directive is a requirement to report annually to the Commission on:

- 10.1.1. the cases in which information was provided to the competent authorities in accordance with applicable national law,
- 10.1.2. the time elapsed between the date on which the data were retained and the date on which the competent authority requested the transmission of the data,
- 10.1.3. the cases where requests for data could not be met.

10.2. The arrangements that we propose to put in place with industry will include the provision of statistics. Additionally, we will continue to record - on an exception basis - evidence from law enforcement and intelligence agencies to demonstrate both difficulties and benefits arising from these Regulations.

11. Summary and recommendation

11.1. In the Government's assessment, the cost of imposing these requirements is justified by the benefits to society and our legal commitment to implement the EU Directive. By reimbursing industry for the burden that this would otherwise impose, the Government hopes to mitigate any potential competition and small business impacts and aims to ensure that it is funded in an equitable fashion.

11.2. On this basis, we recommend Government intervention to transpose the non-internet aspects of the Directive using Regulations under the European Communities Act of 1972. These Regulations should:

- 11.2.1. allow the Government to work cooperatively with the industry to ensure that appropriate retrieval mechanisms are in place;
- 11.2.2. make provisions to avoid duplicative retention of communications data;
- 11.2.3. require communications data to be retained for a period of 12 months; and
- 11.2.4. exclude internet related communications data.

11.3. Regulations have been drafted in accordance with this option and are subject to public consultation alongside this Regulatory Impact Assessment.

Annex B – Transposition Note

This transposition note summarises how each article of Directive 2006/24/EC is to be implemented.

Article	Objective	Implementation	Responsibility
1	Defines the subject matter and scope of the Directive, including clarification that these measures do not apply to the content of electronic communications.	Draft regulation 1 and 3.	Home Office
2	Definitions.	Draft regulation 2.	Home Office
3	Member States will adopt measures to ensure that the data are retained.	Draft regulation 4.	Home Office
4	Retained data will be accessed only by competent national authorities in accordance with national law.	Primarily the Regulation of Investigatory Powers Act 2000	Primarily the Interception of Communications Commissioner
5	Defines categories of data to be retained.	Draft regulation 5.	Home Office
6	Data defined in Article 5 shall be retained for not longer than 24 months and not less than six months.	Draft regulation 4(2) specifies a retention period of 12 months.	Home Office
7	Data shall be protected at the same level as the data on the network.	Draft regulation 6.	Information Commissioner
8	Data shall be provided to competent authorities without undue delay.	Draft regulation 7.	Public Communications Providers
9	A Public Authority shall monitor application of the Directive.	Draft regulation 8.	Information Commissioner
10	Yearly statistics to the Commission	Draft regulation 9.	Home Office and Public Communications Providers
11	Amendment to 2002/58/EC.	Does not require transposition.	Home Office
12	Adjusting the retention period in the future.	Does not require transposition.	Home Office
13	Penalties for inappropriate access to data.	Data Protection Act 1998	Information Commissioner
14	15 September 2010, Commission will submit evaluation to the European Parliament.	Does not require transposition.	European Commission

15	Provision of a transposition note and the option to postpone aspects of the implementation relating to internet access, internet telephony and internet e-mail.	The UK opted to postpone internet related communications data. Contained in the Explanatory Memorandum.	European Commission
16	Entry into force	Does not require transposing.	European Commission
17	Addressees	Does not require transposing.	European Commission

ANNEX C
PRELIMINARY SCREENING FOR EQUALITY IMPACT ASSESSMENT

This policy was screened for impact on equalities on 9 March 2007. The following evidence has been considered. As a result of this screening, it has been decided that a full equality impact assessment is not required.

1. Communications data is usually already held by public communications providers for business purposes. The transposition of this Directive will ensure that the data is retained for long enough to support legitimate law enforcement and intelligence agency requirement.

2. The key difference between this policy and our original approach to retention of communications data is that these Regulations will mandate public communications providers to retain communications data for a minimum period. Our previous approach under Part 11 of the Anti-Terrorism, Crime and Security Act 2001, was to form voluntary relationships with public communications providers.

3. Because the proposed Regulations are only a change to an existing policy and because this approach will affect all users of communications in the same way, we do not believe that a full equality impact assessment is necessary.