



Mr. Eamon Ryan T.D.
Minister for Communications, Energy
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Dear Minister Ryan,

Re. Industry concerns about the impact of the proposed transposition of the Data Retention Directive 2006/24/EC on telecommunications and Internet services development in Ireland.

I am writing on behalf of the members of the Internet Service Providers Association of Ireland (ISPAI) who are concerned that if the statutory instrument to transpose Directive 2006/24/EC (Communications Data Retention) is signed in to law as currently drafted there are serious implications for the future competitiveness and development of the ICT industry in Ireland.

The Internet Service Providers Association of Ireland (ISPAI) is the industry body representing providers of Internet access, email and hosting services. The ISPAI coordinates industry self-regulation which is governed by our Codes of Practice and Ethics. It also operates the Hotline.ie service, a key component in the fight against illegal use of the Internet. Our membership of 22 Irish and International companies providing Internet services from within the State includes well know names such as eircom, Irish Broadband, Google, Vodafone, Clearwire, BT, HEAnet, O₂, UPC (NTL-Chorus) and Verizon.

The Minister will be aware that there are considerable costs associated with the implementation of data retention. These are: (a) initial investment in equipment, software and set-up labour to allow for retention of Internet data. (Unlike telephony data, much of what must be retained for Internet is not required for a business purpose and is not captured in an appropriate form); (b) secure storage costs for the duration of the retention period, to be set at 12 months according to this draft and, (c) servicing of data retrieval requests. We are concerned that these vital issues are not being taken into account by the Department of Justice.

The Directive and draft S.I. are vague in their definitions of communications data and the data types that must be retained and by whom in the chain of interconnected networks. This has lead to uncertainty for ISPs on technical implementation. Legislation may use vague terms but routers and software can only follow precise instructions. ISPs do not want to be in breach of data protection or privacy laws by over-retaining. We require that the S.I. has a definitive schedule of what must be retained given current technology and recognises what is technically feasible at reasonable cost and will have minimal impact on network services throughput.

We request that an agreed implementation period of twelve months after signing into effect of the S.I. be included to allow for proper change management projects to be undertaken by industry.

Many of our major EU competitor nations have, or have indicated they will, set the Internet retention period at the minimum six months required by the Directive, giving them a storage cost advantage over Irish operations. This may have implications for multinational operations here.

The industry has been informed by Dept. Justice (as is the case under the Criminal Justice Act 2005), that unlike in the U.K. and other countries, retrieval costs will not be reimbursed. In addition, the draft S.I. authorises the Gardaí to make data requests to investigate crimes that could attract a maximum six month prison sentence or above on conviction. The Directive was introduced to combat serious crime (organised crime and terrorism). If Irish Internet operations have to service a far greater number of requests due to the wider nature of crime allowable, and are not reimbursed, this cost could be very considerable and will have to be passed to customers or reduce profitability. Neither option is conducive to the extension of broadband coverage and bandwidth nor developing employment in new Internet based service businesses in this country.



We have made our concerns known to the Department of Justice from the outset of the Directive and during this transposition period. We have sent the enclosed document to them which highlights our current specific issues with the proposed transposition. We ask that your Department considers the draft S.I. in the context of the future development of Internet infrastructure and services which we believe are vital to the economy, its future competitiveness and employment in this country.

ISPai requests that it may meet with you or your staff to discuss these issues and implications as we see them. We offer to outline changes that if accepted, we know from our technical and market expertise, can reduce the business risks and competitive impact, without detracting from the objectives of the legislation which we accept as necessary for state security and the investigation of serious crime.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Paul M. Durrant'. The signature is written in a cursive style with a large, sweeping initial 'P'.

Paul M. Durrant
General Manager