



Internet Service Providers Association of Ireland

Ms. Mary Coughlan T.D.  
Tánaiste and Minister for Enterprise,  
Trade and Employment  
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Dear Minister Coughlan,

Re. Industry concerns about the impact of the scope of the proposed transposition of the Data Retention Directive 2006/24/EC on the Internet services market and competitiveness of the sector.

Congratulations on your appointment as Tánaiste and to your new portfolio as Minister for Enterprise, Trade and Employment. 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 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, O<sub>2</sub>, NTL-Chorus and Verizon.

I am writing to inform you that ISPai members are very 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 of not only the Internet access and hosting industry but the whole information technology and services sector in Ireland. Members also have concerns regarding the impact on the fixed and mobile telephony parts of their businesses where the transposition appears to extend obligations existing under the Criminal Justice (Terrorist Offences) Act 2005.

The Minister should be aware that there are considerable costs associated with implementation of data retention systems. These are (a) initial equipment investment and set-up labour for retention of Internet data (unlike telephony data much to be retained is not required for business purposes); (b) secure storage costs for the duration of the retention period and, (c) the labour intensive task of servicing data retrieval requests from An Garda Síochána. Points (b) and (c) are variable and should be minimised in regulations.

Many of our major EU competitor nations have opted, or have indicated they will opt, for the minimum retention period of six months as required by the Directive. The S.I. proposal is for twelve months in Ireland. Marginal cost differences can be very significant in the extremely mobile Internet services world especially in large international operations which we wish to maintain or attract to this country.

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 SI draft 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 will have to be passed to customers or reduce profitability. Neither option is conducive to developing Internet related business and employment 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 issues. We ask that your Department considers the proposed S.I. in the light of the value of ICT based employment to the economy and its future competitiveness and development 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 to the S.I. 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 legislation which we accept as necessary for state security and the investigation of serious crime.

Yours sincerely

Paul M. Durrant  
General Manager