

Obama administration announces new deal with tech companies on NSA spying

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The Obama administration announced new rules Monday covering the publication of information about the government surveillance activities that have been aided by giant telecommunications companies. The new rules will allow Google, Microsoft, Yahoo, LinkedIn and Facebook to slightly expand their limited reporting about the number of NSA surveillance related orders and “national security letters” they receive from the government.

A joint statement from Attorney General Eric Holder and Director of National Intelligence James Clapper announcing the change stated, “As indicated in the Justice Department’s filing with the Foreign Intelligence Surveillance Court, the administration is acting to allow more detailed disclosures about the number of national security orders and requests issued to communications providers, and the number of customer accounts targeted under those orders and requests including the underlying legal authorities. Through these new reporting methods, communications providers will be permitted to disclose more information than ever before to their customers.”

The cosmetic rule changes will not, of course, reveal the names or Internet addresses of the massive numbers of people in the United States and around the world that the NSA targets for illegal surveillance.

The new rules allow the companies to disclose the number or the approximate range of information requests. The rules limit the release of these numbers to increments of 250 or 1,000, depending on whether they specify the character of the request.

If the company chooses to specify the type of request, it can only disclose information in increments of 1,000. If the company chooses to lump together FISA orders and national security letter, it can only disclose in increments of 250. Companies can also publish the number of “selector” requests made by the government, i.e., the number of usernames and email addresses that were specifically targeted for surveillance. The rules permit

these disclosures once every six months.

Critics have pointed out that the new rules for the release of “transparency reports” do not actually contribute to transparency. Kevin Bankston of New America’s Open Technology Institute told *Time* that the rules for disclosure of information requests by the government were so limiting as to render them useless from the standpoint of greater “transparency.”

“Fuzzing the numbers into ranges of a thousand—and even worse, lumping all of the different types of surveillance orders into a single number—serves no national security purpose while making it impossible to effectively evaluate how those powers are being used. Asking the public and policymakers to try and judge the appropriateness of the government’s surveillance practices based on a single, combined, rounded number is like asking a doctor to diagnose a patient’s shadow. Only the grossest and most obvious problem, if even that, will be ever be evident,” Bankston said.

Ladar Levison, founder of Lavabit, told the *Boston Globe* that the rules prevent any substantive information from being exposed. “They could be ordered to turn over their source code to the government. A single request could cover 1,000 different user accounts. Just simply disclosing the number of FISA court orders, doesn’t tell you how pervasive the request is or how much information is being turned over,” Levison said.

In an article for the *Washington Post*, technology columnist Andrea Peterson described the “transparency reports” as a “PR stunt.” She added, “This creates some good headlines for tech companies who were on the defense in the wake of leaks from former National Security Agency contractor Edward Snowden.

“But that’s all the transparency reports produced by tech companies are about: good PR...they don’t represent a meaningful way to measure the true scope of governments’ access to private data,” Peterson wrote.

Under the new rules, companies that are less than two years old are prohibited for a period of two additional years from disclosing government orders that they turn over data. This will prevent newer companies from exposing government surveillance of their users.

In their legal challenge to the transparency regulations, the telecommunications companies, for their own commercial interests, postured as defenders of their clients' privacy. As Edward Snowden exposures have revealed, these companies maintain the closest relationships with the military and intelligence bureaucracies. Data created by users of their platforms is systematically passed into the hands of the surveillance state through numerous channels and programs.

Now the companies are dropping their petition to the FISA court over the issues of government surveillance requests, in exchange for an inconsequential change of the regulations.

The Obama administration is pushing a package of supposed "reforms" of the NSA surveillance machinery exposed by Snowden. The purpose of these measures is to legitimize the surveillance operations and enable their continuation on a permanent basis. The Obama-appointed panel heading up the surveillance reform initiative, the Review Group on Intelligence and Communications Technology, said last week in a statement that the focus of its work would be "maintaining the ability of the intelligence community to do what it needs to do."

The administration's pretensions are regularly exposed by new information about intrusive government spying. Reports this week have shown that the surveillance agencies are collecting data from smartphone applications (so-called "leaky apps") and cell phone-based video games as part of an effort to accumulate personal information on targets, including their age, gender, location, sexual orientation and political views.



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