

Return of the 'snooper's charter' reflects a worldwide move towards greater surveillance

May 29 2015, by Kieron O'hara



“I’m looking forward to the day all this needle-hunting is computerised, to be honest.” Credit: Jean-François Millet

Returned to government with a majority and free of their coalition partners, the UK Conservative Party presses on with its [signature policies](#), including curbs on immigration and banning legal highs – and a renewed effort to pass a "snooper's charter" bill of increased surveillance powers.

As the Communications Data Bill, the proposed extension of the powers of UK security and [intelligence](#) services to track people's use of the web and social media has already been [repeatedly introduced to and rejected by parliament](#). Now under the title of the Investigatory Powers Bill, the snooper's charter has returned again.

While there is little detail yet – perhaps because the government expects negotiation due to its small majority – it's clear the bill goes beyond the Conservatives' [manifesto pledge](#) to "maintain the ability of the authorities to intercept the content of suspects' communications". It enshrines not only snooping powers but also [allows bulk surveillance of content](#), not just metadata, with a warrant. It also promises, ominously, to "[address ongoing capability gaps](#)".

It's important to note that charters for snoopers do not enjoy a consensus among Tories. The party has always housed a libertarian wing which coexists uneasily with the more authoritarian element. However the party's libertarians may concentrate their fire on the pledge to scrap the Human Rights Act and so the bill may find an easier ride as a quid pro quo. Having said that, Tory MP David Davis – who has fallen out with party chiefs in the past over privacy and [surveillance](#) issues – grumbled that the [UK was moving in a different direction](#) from its chief ally the US.

Davis' [intervention](#), and also the [forthcoming report](#) on bulk surveillance from the UK's Independent Reviewer of Terrorism Legislation, both pose the question as to whether the UK is in or out of step with its

international peers.

Global watchfulness on the rise

The Germans take privacy extremely seriously, and their Federal Intelligence Service the BND has [reportedly](#) limited the internet surveillance data it shares with the US National Security Agency. While this doesn't affect telephone data, the BND has requested an official explanation for the need for internet data, which the Americans have refused to provide. This drastic step has been driven by public opinion, following [revelations of BND spying on its own citizens while abroad](#).

Meanwhile in Brazil, where US spying on President Dilma Rousseff played very badly, a new internet freedom law has been presented as [a digital Magna Carta](#). However, as various nations try to find a balance between security and liberty, Germany and Brazil are outliers; others still snoop to conquer.

The French, reeling from January's Charlie Hebdo attacks, have passed a bill through their lower house which removes the need for a judge's approval for intrusive surveillance. Although the bill predates the atrocity, it probably owes its overwhelming majority to it.

In Canada, the Telecommunications Transparency Project has just released a report claiming that its spooks' telecoms surveillance is conducted [without transparency or effective governance procedures](#), and that they have tried to insert back doors into encryption.

In Australia, legislation passed last year gave [sweeping powers](#) to monitor any device "connected" to a particular device with just a single warrant – of course, through the internet all devices are "connected". The head of New Zealand's Security Intelligence Service this month [mused wistfully](#) that she would rather like the same powers as her

antipodean colleagues.

So the general direction of travel among technologically advanced democracies seems based on the belief that finding the needle in a haystack is made easier by maximising the amount of hay gathered. But just how useful this approach is remains unclear to say the least. "[Fast bind, fast find](#)," Shylock says to Jessica – but he still lost Jessica that night. Are there any prospects of putting a brake on this rush to pry?

No sign of a backlash

Outside Germany, there is little sign of public outrage. [Research](#) by Sören Preibusch found that though Edward Snowden's revelations prompted an increased use of privacy-enhancing technologies and searches for privacy-related topics, behaviour soon reverted to the norm.

Davis' remark about the reactions in the US provides another clue, however. While Congress wrestles with the renewal of the 2001 Patriot Act, rushed into law following the attacks of September 11 2001, a US court agreed with the American Civil Liberties Union that the NSA's bulk data collection is [not legal](#). In Europe, meanwhile, the Court of Justice of the European Union has been increasingly aggressive in defending data protection regulations, culminating in the "right to be forgotten" judgement against Google in 2014. In its current mood, it may start examining the surveillance issue too.

Counter-intuitively, it may be that while public opinion is neutral and politics pushes ever further in the direction of surveillance and the greater security that it is assumed this brings, it is unelected judges interpreting analogue laws bent to use in a digitally networked world that are most likely to apply the brakes.

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