

Government proposes broadening scope of surveillance law

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The government has submitted a legislative proposal to Parliament which would allow Dutch investigative authorities to require that Internet Service Providers (ISPs) provide them with subscribers' traffic data. Under the current legislation, ISPs are obliged to assist in the wiretapping of digital communications, but they are not required to provide traffic data.

Some commentators question whether the country's law on surveillance needs to be amended since most ISPs voluntarily cooperate with investigative authorities when requested. (The Dutch Personal Data Protection Act permits ISPs to provide traffic data to investigative authorities.) However, the government feels the authorities are dependent on the goodwill of ISPs, evidenced by the recent investigation into child pornography on the Internet where a few Dutch ISPs refused to provide the requested traffic data.

The government's proposal distinguishes between generic traffic data and specific traffic data, otherwise known as location data. 'Location data' is defined to include the names, addresses and Internet protocol numbers of subscribers, and the services used by subscribers. 'Generic traffic data' is defined to include the addresses of other parties with whom subscribers have communicated by electronic means, and the date, time and duration of the communication.

The proposed law would give all investigative authorities (eg, the police) the power to demand location data. The power to demand generic traffic data would be available only to public prosecutors and the Dutch intelligence and security services.

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