

[Email sent 10 October 2017 at 14.27]

GISTS are shown in italics and double underlined

Dear Sir Michael,

Privacy International v Secretary of State and others - IPT 15/110/CH

Thank you for your recent letter. Firstly may we reiterate that we remain wholly committed to assisting the Tribunal in any appropriate manner. Our intention remains to provide full and frank disclosure of all material within our possession.

Please see below for our responses to your questions as originally requested.

- a) How many failed searches take place, where data is accessed but no useful intelligence purpose is served? Have the Commissioners examined the failure rate?

Answer: We are unaware of how many “failed searches” take place. Indeed, the definition of a failed search is problematic as all searches require a national security justification which means that, even if they turn up zero results, an intelligence purpose could be served by conducting the search. Protective monitoring of the use of the data sets does occur, and examples of searches which did not appear to fulfil an intelligence requirement were brought to the attention of the relevant Commissioner. This has been referred to in ISCom’s 2015 report.

For IOCCO, inspectors also conducted random audits of searches to check that individual access to the data was necessary and proportionate. The ISCom considered in detail the use of the data in interviews during inspections, but we have no record of ISCom having conducting any random audit of searches against the data.

- b) Have the Commissioners considered how the ‘privacy footprint’ of the use of BPD and BCD could be improved, and less data accessed?

Answer: This term can be interpreted as a key aspect of the overall proportionality case for the retention and use of BPD and BCD. As a result it was considered by IOCCO and ISCom during their inspection of authorisation documents. In addition, it is specifically referred to in BPD authorisations. More detail of this consideration is in the IOCCO S94 report and 2015 ISCom annual report.

- c) What technical understanding do the Commissioners and the Tribunal have of the search techniques and other data processing techniques carried out by the partners with whom data is shared? Are the searches and algorithms audited?

Answer: *Neither IOCCO nor ISCom had any technical understanding of industry partners processing techniques.* IPCO, in contrast, is acquiring these resources.

- d) How are the Respondent’s artificial intelligence techniques (including, for example, the use of algorithms, ‘machine learning’ techniques, data mining techniques and automated decision making) audited, if at all?

Answer: [REDACTED]. The Commissioners conducted no audits of such techniques.

- e) What examination have the Commissioners made of profiling, where information from multiple datasets is aggregated, in order to build a comprehensive profile about individuals and their activities?

Answer: Please refer to our answer to a). In both cases, the considerations of agencies' use of data included cases where searches were conducted simultaneously.

In addition to the answers above, please see our responses to the questions posed by Counsel in response to our letter of the 27 April 2017.

[REDACTED]

Should you require any additional information please do not hesitate to contact [REDACTED].

Yours Sincerely

Investigatory Powers Commissioner's Office

IPCO