

## Section 94 – Further Note from the Respondents

- There are a variety of factual patterns that may need to be considered - eg
  - General or more specific submissions to the Secretary of State
  - General or more specific directions by the Secretary of State
  - Data called for/collected by GCHQ from the CSP either as per wording of the direction or differently
- This variety of factual patterns may include the situation where the direction is general and GCHQ then makes a decision to call off a sub-set of the data described in the direction *(covered by)*
- It may also include a situation where the submission identifies specific data, but reserves the possibility of GCHQ calling of further categories of specific data and the direction is then general
- The Respondents' submission of principle is that the factual patterns so described do not necessarily entail unlawful delegation or a failure by the Secretary of State to be satisfied about the statutory preconditions (necessity and proportionality)
- What can or cannot be inferred about eg what the Secretary of State was or could have been satisfied about, and about what the Secretary of State may or may not have known or authorised, is a Q of fact. There may (if necessary) need to be findings on such matters on the basis of all the materials before the Tribunal.