Home Office

Home Secretary

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Rt Hon Dominic Grieve QC MP
The Chairman
Intelligence and Security Committee of Parliament
35 Great Smith Street
London
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Dear Dominic,

19th July 2016

I wanted to write to update you on our efforts to secure a bilateral agreement with the United States Government on the issue of access to data across jurisdictions.

As you know, limited and proportionate access to the communications of those who wish to do us harm remains absolutely vital to keep our country safe. Although UK law is clear that those providing communications services to users in the UK have an obligation to comply with lawful requests from the authorities, it has become harder in recent years to investigate and prosecute crime when data containing threats to public safety is held or controlled outside the UK. This is because some providers based abroad have said they are unable to comply with UK orders without breaking the law in another jurisdiction.

The impact of this issue was covered by all the recent independent reports into investigatory powers in the UK. They recommended that the UK work with international partners to develop a framework for accessing data across jurisdictions. The Government has therefore been negotiating with the United States Government on a proposed bilateral agreement, which, if agreed, will help address the situation where the communications of criminals and terrorists who pose a threat to the UK can be beyond the reach of UK law enforcement simply because the data which relates to their communications happens to be stored in the United States.

I am pleased to say that on Friday 15 July, the United States Government sent draft legislation to Congress that sets out a basis for such agreements. If Congress agrees to pass this legislation, then we hope to formally enter into a bilateral arrangement with the United States that will allow companies based in one country to comply directly with lawful orders for data from the other. Such an agreement, and the associated US legislation, would remove any legal barriers that might have previously prevented such cooperation. We and the US hope that this approach will serve as a framework which other countries may seek to follow. We are under no illusions about how difficult legislative change will be in a US election year. But we

have US Administration support, alongside that of several major US companies and key members of Congress.

Any agreement will be based on the strong protections for privacy that exist in UK and US law, and which we are currently strengthening through the Investigatory Powers Bill. It will help ensure that those companies based in the US are able to comply with their obligation to respond to lawful orders from the UK which are subject to high standards of authorisation and rigorous oversight. And of course it will help the agencies and law enforcement to keep the public safe.

I believe such agreements will illustrate that governments can work collaboratively with industry to overcome jurisdictional conflicts, and that practical steps to improve public safety can and should be carried out with due regard for transparency, freedom and the rule of law.

I am placing a copy of this letter in the House library.

The Rt Hon Amber Rudd MP