

IN THE INVESTIGATORY POWERS TRIBUNAL

BEFORE THE PRESIDENT AND THE VICE-PRESIDENT

BETWEEN:

PRIVACY INTERNATIONAL

Claimant

-and -

**(1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH
AFFAIRS**

(2) SECRETARY OF STATE FOR THE HOME DEPARTMENT

(3) GOVERNMENT COMMUNICATIONS HEADQUARTERS

(4) SECURITY SERVICE

(5) SECRET INTELLIGENCE SERVICE

Respondents

ORDER OF 12 DECEMBER 2016

**THE TRIBUNAL HAVING DELIVERED ITS JUDGMENT IN RELATION
TO THE DOMESTIC AND ECHR LAW ISSUES DATED 17 OCTOBER 2016
([2016] UKIP TRIB 15_110-CH)**

**AND THE TRIBUNAL HAVING CONSIDERED THE WRITTEN
SUBMISSIONS AS TO WHETHER SEARCHES SHOULD BE CONDUCTED
IN RELATION TO THE INDIVIDUAL COMPLAINT AND, IF SO, THE
NATURE AND EXTENT OF SUCH SEARCHES, AND THE SEARCH TERMS
TO BE USED.**

**AND UPON HEARING MR JAFFEY OF COUNSEL FOR THE CLAIMANT,
MR O'CONNOR QC AND MR O'BRIEN OF COUNSEL FOR THE
RESPONDENTS AND MR GLASSON QC AS COUNSEL TO THE
TRIBUNAL**

THE TRIBUNAL ORDERED:

1. The Respondents to carry out searches of their databases (including their Bulk Personal Datasets and Bulk Communications Datasets) in relation to the terms contained in the annex to this order, such searches to be completed by Friday 27 January 2017.
2. The Respondents are to provide a report detailing the results of the searches referred to in paragraph 1 herein to the Tribunal and to Counsel to the Tribunal by 4pm Friday 17 February 2017. The report is to address searches relating to BPD and BCD separately and, within those categories, the report must, so far as practicable, further separate the results relating to the pre-avowal and post-avowal periods in each case. On providing the report to the Tribunal, the Respondents shall indicate whether they- object to the disclosure of any parts of the sections of the report relating to the pre-avowal periods pursuant to Rule 6(1) of the Investigatory Powers Tribunal Rules 2000. For the avoidance of doubt, the Tribunal will consider disclosure of any parts of the sections of the report relating to the post-avowal periods, and any objections to such disclosure, ~~following its ruling on the outstanding issues in the case~~ in due course.
3. In the event that the Respondents notify the Tribunal of such an objection, Counsel to the Tribunal shall make submissions in relation to disclosure by 4pm Wednesday 22 February 2017 and shall meet with counsel for the Respondents by Wednesday 1 March. A CLOSED hearing shall be fixed in any event to take place soon thereafter, such hearing to be vacated in the event of agreement.
4. Liberty to apply.

Dated 12 December 2016

1. Board members

[Redacted]

2. Address and Staff

[Redacted]

[Redacted]

[Redacted]

3. PI Details

[Redacted]

3a Related Staff Info

[REDACTED]

3b. PI Travel identifiers

- [REDACTED]

3c PI financial info

[REDACTED]
= [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

4a. IP ADDRESSES

[REDACTED]
[REDACTED]
[REDACTED]

4b. MAC ADDRESSES

[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

Domains:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

5. Other unique identifiers

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. Generic Search

[REDACTED]

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Respondents

ORDER

THE DIRECTIONS MADE BY THE TRIBUNAL IN THEIR ORDER DATED 31 OCTOBER 2016 ARE VARIED BY CONSENT AS FOLLOWS:

1. Counsel to the Tribunal ("CtT") to serve his CLOSED submissions in relation to the Respondents' CLOSED evidence as to the issue of whether Article 8 ECHR has been and is satisfied in respect of the arrangements for transfer by the Third, Fourth and Fifth Respondents of BPD and/or BCD to other bodies, including foreign partners and other UK Law Enforcement Agencies by 4pm on Friday 13 January 2017.
2. The Respondents to serve their response to the CtT's submissions by 4pm on Friday 27 January 2017.
3. The CtT and counsel to the Respondents to meet by the end of the week commencing 30 January 2017 to seek agreement if possible in relation to the issues raised by their

respective submissions. A CLOSED hearing is to be listed thereafter if necessary to consider any outstanding issues.

4. Liberty to apply.

Dated 12 December 2016

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Respondents

ORDER OF 10 FEBRUARY 2017

**UPON THE CLAIMANT HAVING SERVED AN OUTLINE OF ITS CASE ON
THE EU LAW ISSUES ON 9 FEBRUARY 2017**

**AND UPON THE PARTIES HAVING AGREED DIRECTIONS LEADING UP
TO THE HEARING ON 8-10 MARCH 2017 (“THE MARCH HEARING”)**

BY CONSENT

IT IS ORDERED THAT:

1. The Respondents shall file and serve their outline case on the EU law issues by 4pm on 16 February 2017.

2. The Claimant shall file and serve its skeleton argument for the March hearing by 4pm on 23 February 2017. That skeleton argument is to address:
 - a. The EU law issues;
 - b. The transfer of data issue (as referred to in the paragraph 95 of the Tribunal's judgment of 17 October 2016);
 - c. Proportionality; and
 - d. The consequences, if any, of the Respondents' report on searches to be served pursuant to paragraph 2 of the order of 16 December 2016.
3. The Respondents shall file and serve their skeleton argument for the March hearing, addressing the same issues, by 4pm on 2 March 2017.
4. If requested by the Tribunal, Counsel to the Tribunal shall file and serve his skeleton argument for the March hearing, addressing the same issues, by 4pm on 6 March 2017.

Request for Further Information

5. Any Request for Further Information in respect of the open disclosure to be served by the Respondents to be filed and served as soon as possible and in any event within 7 days of service of that open disclosure.
6. The Respondents do file and serve a Response to the Claimant's Request for Further Information within 7 days of service of that Request, with liberty to apply for an extension of time if necessary.
7. Liberty to apply.

Dated 10 February 2017

The Tribunal heard further submissions in relation to the Respondents' Reply to the Claimant's RFI in CLOSED session on 1 March 2017. On the basis of the OPEN and CLOSED submissions, it has made the following case management decisions.

1. For the purposes of next week's hearing, it is unnecessary for the Tribunal to determine the issue as to whether Rule 6(1) of the Rules prevents the Respondent from confirming or denying in OPEN the existence or otherwise of the sharing of BPD /BCD with foreign liaison partners and /or domestic Law Enforcement Agencies.
2. This decision is based on the premise that the Tribunal will be able to resolve the transfer of data issue satisfactorily on a hypothetical basis and following further disclosure of the safeguards that would apply were sharing to take place. The Tribunal will review this decision at the end of next week's hearing if necessary.
3. The Tribunal has granted the Respondents permission to serve a supplemental skeleton argument dealing with the issues raised in the RFI, such skeleton argument to be served by 4pm Friday 3 March.