



Joint Statement by the DOJ and the ODNI on the Declassification of the Resumption of Collection Under Section 215 of the USA Patriot Act

DIRECTOR OF NATIONAL INTELLIGENCE

WASHINGTON, DC 20511

WASHINGTON – Yesterday, the Foreign Intelligence Surveillance Court (FISC) issued an opinion and primary order approving the government’s application to renew the Section 215 bulk telephony program. The USA FREEDOM Act of 2015 banned bulk collection under Section 215 of the USA PATRIOT Act, but provided a new mechanism to allow the government to obtain data held by the providers. To ensure an orderly transition to this new mechanism, the USA FREEDOM Act provides for a 180-day transition period during which the existing National Security Agency (NSA) bulk telephony metadata program may continue. After considering the views of amici, the court held that the continuation of the NSA’s bulk telephony metadata program during the transition period remains consistent with both the statute and the Fourth Amendment.

As background, early last year in a speech at the Department of Justice, President Obama announced a transition that would end the Section 215 bulk telephony metadata program as it previously existed. The president directed the intelligence community and the Attorney General to develop options for a new approach to match the capabilities and fill gaps that the Section 215 program was designed to address without the government holding this metadata. After carefully considering the available options, the president announced in March 2014 that the best path forward is that the government should not hold this data in bulk, and that the data should remain at the telephone companies with a legal mechanism in place that would allow the government to obtain data pursuant to individual orders from the FISC approving the use of specific numbers for such queries.

President Obama also noted that legislation would be required to implement this option and he called on Congress to enact this important change. The administration subsequently worked closely with members of Congress to enact the president’s proposal. On June 2, 2015, Congress passed and President Obama signed the USA FREEDOM Act of 2015, which reauthorized several important national security authorities; banned bulk collection under Section 215 of the USA PATRIOT Act, under the pen register and trap and trace provisions found in Title IV of FISA, and pursuant to National Security Letters; and adopted the new legal mechanism proposed by the president.

As in past primary orders in effect since February 2014, and consistent with the president’s direction, the court’s new primary order requires that during the transition period, absent a true



Joint Statement by the DOJ and the ODNI on the Declassification of the Resumption of Collection Under Section 215 of the USA Patriot Act

emergency, telephony metadata can only be queried after a judicial finding that there is a reasonable, articulable suspicion that the selection term is associated with an approved international terrorist organization. In addition, the query results must be limited to metadata within two hops of the selection term instead of three.

In addition to the release of the court's opinion, the administration is undertaking a declassification review of this most recent primary order, and when complete, the Office of the Director of National Intelligence will post the document to its website and icontherecord.tumblr.com.