

BARB MIKULSKI STILL THINKS YOU'RE STUPID ABOUT "TARGET" AND "CONTENT"

In the CROmnibus legislation – the appropriations bill that will pass Congress in the next few days – the powers that be (largely Barb Mikulski and ~~Alabama~~Kentucky's Harold Rogers) stripped out the Massie-Lofgren Amendment that would have prohibited back door searches of Section 702 information and required back doors on software, and replaced it with this language.

SEC. 8128. None of the funds made available by this Act may be used by the National Security Agency to–

(1) conduct an acquisition pursuant to section 702 of the Foreign Intelligence Surveillance Act of 1978 for the purpose of targeting a United States person; or

(2) acquire, monitor, or store the contents (as such term is defined in section 2510(8) of title 18, United States Code) of any electronic communication of a United States person from a provider of electronic communication services to the public pursuant to section 501 of the Foreign Intelligence Surveillance Act of 1978.

The language is ridiculous on three counts.

First, it defunds only the NSA. The original might have defunded anything that involved DOD, including FBI and CIA.

Clause 1 does nothing but say that NSA has to follow the law, by prohibiting Section 702 from being used to target Americans (but not including penalties or legal recourse).

Clause 2 does nothing but say that NSA has to follow the law, by prohibiting the government from using Section 215 to get content (this clause might be more interesting if it applied to FBI, too, because I'm fairly certain some of what they get is arguably content).

That is, this replaces real legislation, supported by a huge majority in the House, with the same word games NSA has been hiding behind for over 18 months.