

THE ANGLO-AMERICAN DATA EMPIRE

In a piece for Salon today, I note that both in US domestic warrants for Stored Communication and in the law the UK will push through, DRIP, the US and the Brits are asserting they should be able to demand data stored anywhere in the world. Here's the US part:

The U.S. data grab started back in December, when the Department of Justice applied for a warrant covering an email account Microsoft held in Ireland as part of a drug-trafficking investigation. Microsoft complied with regards to the information it stored in the U.S. (which consisted of subscriber information and address books), but challenged the order for the content of the emails. After Magistrate Judge James Francis **sided with the government** – arguing, in part, that Mutual Legal Assistance Treaties, under which one country asks another for help on a legal investigation, were too burdensome – Microsoft **appealed**, arguing the government had conscripted it to conduct an extraterritorial search and seizure on its behalf.

As part of that, Microsoft Vice President Rajesh Jha **described** how, since Snowden's disclosures, "Microsoft partners and enterprise customers around the world and across all sectors have raised concerns about the United States Government's access to customer data stored by Microsoft." Jha explained these concerns went beyond NSA's practices. "The notion of United States government access to such data – particularly without notice to the customer – is extremely troubling to our partners and enterprise customers located outside of the United States."

Some of those customers even raised Magistrate Francis' decision specifically.

[snip]

The government's response, however, **argued** U.S. legal process is all that is required. DOJ's brief scoffed at Microsoft for raising the real business concerns that such big-footing would have on the U.S. industry. "The fact remains that there exists probable cause to believe that evidence of a violation of U.S. criminal law, affecting U.S. residents and implicating U.S. interests, is present in records under Microsoft's control," the government laid out. It then suggested U.S. protection for Microsoft's intellectual property is the tradeoff Microsoft makes for complying with legal process. "Microsoft is a U.S.-based company, enjoying all the rights and privileges of doing business in this country, including in particular the protection of U.S. intellectual property laws." It ends with the kind of scolding usually reserved for children. "Microsoft should not be heard to complain that doing so might harm its bottom line. "

Click through to find out why the UK data grab is even worse.

Effectively, both English speaking behemoths are arguing that borders don't matter, they can have any data in the world. And while we know NSA and GCHQ were doing that for spying purposes, here they're arguing they can do it for crime prevention.

Breathtaking claims, really.