

DIANNE FEINSTEIN DESCRIBES THE DATA HANDSHAKE

I'm going to transcribe some comments Dianne Feinstein made Tuesday night about how proponents of USA Freedom Act got around a data mandate requiring telecoms to keep data longer than they otherwise would. The short version? Rather than a data mandate, USA Freedom Act would have relied on a data handshake.

I'm prepared to make the compromise, which is that the metadata will be kept by the telecoms. Senator Chambliss and I wrote a letter to the four big telecoms, and we asked them if they would hold the data. The answer came back from two, yes. And the answer came back from two, no. Since that time, the situation has changed – not in writing – but by personal testament from two of the companies, that they will hold the data for at least two years for business reasons. Now here's the problem. The mandate that was inherent in the 215 Act is gone. But the fact is that the telecoms have agreed to hold the data. The President himself has assured me of this.

I'll write more on this, which is legally unbelievably fascinating. But for now, I just wanted to post it.