

EUROPE GETS IMPATIENT FOR YAHOO ANSWERS

As I've noted, James Clapper's office has been irresponsibly silent about what kind of scan FBI asked Yahoo to subject all of its email users to in 2015. And those in Congress who haven't been briefed on it are demanding information.

But they're not the only ones. Europe is too (as Yahoo seemed all too aware when it wrote Clapper asking him to clarify the scan).

And they've got a bit more leverage over the Intelligence Community than non-intelligence committee members of Congress do, because the EU prohibits data collected in Europe from being used for mass surveillance.

Dutch MEP Sophia In t'Veld asked the European Commission questions but has thus far gotten no answer.

Yahoo has allegedly scanned customer emails for US intelligence purposes at the request of US intelligence agencies. According to reports, in 2015 Yahoo secretly built a custom software program allowing it to search all of its customers' incoming emails for specific information requested by US intelligence officials. In the Schrems judgment, the Safe Harbour programme allowing EU personal data to be transferred to the US was declared invalid, among other reasons because of the mass surveillance protocols used by US intelligence services.

Will the Commission investigate these reports and ask clarification from the US administration?

Was the Commission aware of these alleged activities by Yahoo at the time

it adopted the Privacy Shield decision?
If not, do these revelations prompt the Commission to reconsider its decision on Privacy Shield?

Does the Commission consider Yahoo to have violated the terms of Safe Harbour, does the Commission consider that these practices would be allowed under Privacy Shield, and how will the Commission verify that violations in this regard do not take place?

And the Article 29 Working Party – the data protection authorities – last week asked Yahoo directly.

In addition, the WP29 was also informed that Yahoo has scanned customer emails for US intelligence purposes at the request of US intelligence agencies. According to reports, in 2015 Yahoo searched all of its customers' incoming emails for specific information requested by US intelligence officials.

The reports are concerning to WP29 and it will be important to understand the legal basis and justification for any such surveillance activity, including an explanation of how this is compatible with EU law and protection for EU citizens.