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Polismyndigheten  
Anna Owens

amelia.andersdotter@dataskydd.net

## Begäran att få ut allmän handling

### Beslut

Polismyndigheten avslår din begäran att få ta del av överenskommelse mellan svensk polis och Microsoft.

Polismyndigheten lämnar ut den handling som Polismyndigheten innehar och som är ensidigt upprättat av Microsoft Inc (se bilaga).

### Bakgrund

Du har den 19 oktober 2015 begärt att få handlingar avseende den överenskommelsen mellan svenska polisen och Microsoft som omnämns i DN-artikeln "Så spanar polisen på Facebook" (<http://www.dn.se/ekonomi/sa-spanar-polisen-pa-facebook>). Om fullständig text för överenskommelsen saknas så har du begärt att få fullständig sammanfattning av innebörden i överenskommelsen.

### Skäl för beslut

Den Nationella operativa avdelningen vid Polismyndigheten har uppgett att en sådan handling som utgör en överenskommelse mellan svensk polis och Microsoft inte finns.

I början av 2000-talet delgav Microsoft Inc, USA, polismyndigheterna i en mängd länder sin avsikt att utöka och normera samarbetet i syfte att underlätta brottsbekämpningen. I samband med detta meddelade Microsoft Inc regelverk för under vilka omständigheter man kan lämna ut uppgifter, på vilket sätt polismyndigheterna ska begära uppgifterna etc.

De handlingar som finns i ämnet och som Polisen förfogar över är alltså ensidigt upprättade av Microsoft Inc. Handlingen lämnas ut till dig (se bilaga).

Som ovan anført så finns det ingen överenskommelse mellan svensk polis och Microsoft. Polismyndigheten beslutar därför att avslå din begäran i denna del.

### **Hur man överklagar**

Detta beslut får överklagas hos Kammarrätten i Stockholm. Överklagandet ska ske skriftligt. I skrivelsen ska anges vilket beslut som avses och vilken ändring i beslutet som begärs. Skrivelsen med överklagandet ska skickas till Polismyndigheten. Den ska ha inkommit inom tre veckor från mottagandet av beslutet.

Detta beslut har fattats av chefsjuristen Arne Andersson med juristen Anna Owens som föredragande.



Arne Andersson



Anna Owens



Windows Live™

## MICROSOFT ONLINE SERVICES

*Law Enforcement Use Only*

**Law Enforcement Hotline: (425) 722-1299**

### MSN & Windows Live Services:

FAX: (425) 727-3490  
Microsoft Corporation  
Attention:  
Online Services Custodian of Records  
One Microsoft Way  
Redmond, WA 98052-6399

### Hotmail & Passport Requests:

FAX: (650) 693-7061  
Microsoft Corporation  
Attention:  
Online Services Custodian of Records  
1065 La Avenida, Building 4  
Mountain View, CA 94043

### Summary of Record Retention Policies

Hotmail & MSN E-mail IP Logs	60 days + initial sign in
MSN Internet Access Connection Logs	60 days
MSN Groups—IIS (IP) Logs	60 days
MSN Groups — Inactive Status	30 days of non-activity
MSN Groups — Content Deletion (post-inactive or disabled)	30 days
MSN Spaces — IIS (IP) Logs	60 days
MSN Spaces — Content Deletion (after disabled)	90 days
Windows Live Messenger Conversations	None
Passport	Varies depending on connection and date range

### EMERGENCY REQUESTS

Microsoft Online Services will respond to emergency requests outside of normal business hours if the emergency involves "the immediate danger of death or physical injury to any person..." as defined in 18 U.S.C. § 2702(c)(4) and (b)(8). Emergencies are limited to situations like kidnapping, murder threats, bomb threats, terrorist threats, etc.

## Legal Documentation Required for Customer Account Information and Content

The Electronic Communications Privacy Act (ECPA) (18 U.S.C. § 2701 through 2712) governs what legal documentation is required in order for Microsoft's Online Services records custodians to disclose customer account information and e-mail content. For most Microsoft Online Services:

**Basic Subscriber Information may be Disclosed with a Subpoena.** Basic Subscriber Information includes name, address, length of service (start date), screen names, other email accounts, IP address/IP logs/Usage logs, billing information, and e-mail content greater than 180 days old as long as the governmental entity follows the customer notification provisions in ECPA (see 18 U.S.C. § 2705).

**Court Orders are Required for the Rest of the Customer's Profile (18 U.S.C. § 2703(d) court order).** A 2703(d) court order will compel disclosure of all of the Basic Subscriber Information available under a subpoena plus the Address Book, Buddy Lists, the rest of a customer's profile not already listed above, internet usage logs (WEBTV), e-mail header information (to/from) excluding subject line, and e-mail content greater than 180 days old as long as the governmental entity follows the customer notification provisions in ECPA (see 18 U.S.C. § 2705.)

**Search Warrants are Required for All Email Content Under 180 days.\*\*** A search warrant will compel disclosure of all information available with a subpoena or 2703(d) court order (as listed above), plus all e-mail content including subject line for e-mails under 180 days.

**\*\*A Note About Opened E-mail Content Under 180 days:** Under ECPA, opened e-mail stored 180 days or less may be disclosed pursuant to a subpoena or 2703(d) order (as long as a governmental entity follows the customer notification provisions in 18 U.S.C. § 2705) while unopened e-mail stored 180 days or less (e-mail in "electronic storage") may only be disclosed pursuant to a search warrant. A Ninth Circuit decision in *Theofel et al v. Farey-Jones and Kawansy*, 341 F.3d 978 (9<sup>th</sup> Cir. 2003) held that opened e-mails on ISP servers are also in "electronic storage". 18 U.S.C. § 2703(a) states that e-mail "in electronic storage... for one hundred eighty days or less" may only be disclosed pursuant to a search warrant. Therefore, as Microsoft's Online Services servers are located within the Ninth Circuit (CA), Microsoft only discloses opened and unopened e-mail in electronic storage 180 days or less pursuant to a search warrant.

**Preservation Requests 18 U.S.C. § 2703(f):** Preserve all information, including IP logs and e-mail contents for a period of 90 days from the date of the requests. Preservation extensions may be served up to two (2) times after the initial request. Each request may extend another 90 days from the date of the current extension. There is a maximum of 270 days on a preservation request.

### Other Tips on Specific Microsoft Online Services

#### MSN Groups & MSN Spaces

Disclosure of information contained on MSN Groups and MSN Spaces is handled differently than the legal documentation requirements listed above. As the information located on these online services is considered public, Microsoft Online Services will disclose all group website content/logs, group manager subscriber information, or group member subscriber information pursuant to a subpoena. Please note that a manager or group member's @hotmail.com or @msn.com e-mail account information and e-mail content is separate from their group profiles and is still subject to the above disclosure requirements. To learn more about the MSN Groups and MSN Spaces services, please visit <http://groups.msn.com> and <http://spaces.msn.com>.

#### Passport Authentication Services

Create your sign in credentials – E-mail and Password – once, then use them everywhere on the Microsoft Passport Network. There are three ways a customer may obtain a Passport account: 1) @hotmail and @msn account are automatically Passport accounts, 2) a customer may use an e-mail address they already have (e.g. @other\_email\_provider.com), and 3) a user may sign up for a limited @passport account if they do not wish to use an e-mail account to access the Passport Network.

#### Windows Live Messenger & MSN Chat

Windows Live Messenger is a free service, and is not a "standalone" product in that it does not require a separate login name or password to access the client. Users log in to Windows Live Messenger with their Passport account. They must have the Windows Live Messenger client installed on their machine.

Last Revised: 7/06

