

The stage is set for the showdown over FISA, telecom immunity

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With the president having signed a 15-day extension of the existing surveillance law (the poorly-named “Protect America Act”), senators have finally crafted a plan on what happens next. Paul Kiel [sets the stage](#).

So, after all that, after all the back room offers and counteroffers and fear-mongering and delaying, the Senate has finally struck a deal on the surveillance bill, and everyone has agreed to it, including Sens. Dodd and Feingold, so there should be no filibustering this time around. They’ll get to voting on it all on Monday.

Most crucially, the Dodd/Feingold amendment, which would strip retroactive immunity for the telecoms from the bill, will only need 51 votes to pass. The same goes for the related Specter/Whitehouse amendment, which instead of offering immunity to the telecoms, would replace the federal government as the defendant in all the lawsuits.

Keep in mind, there are some differences of opinion about whether this landscape is encouraging or not, and regrettably, two people I look to for guidance disagree with one another — [McJoan](#) believes the deal going into Monday offers us hope; [Glenn Greenwald](#) does not.

In the meantime, Dick Cheney is going on the offensive (natch), appearing on Rush Limbaugh’s show (again) this week to make [the White House’s case](#): “Those [telecommunications] companies helped specifically at our request, and they’ve done yeoman duty for the country, and this is the so-called terrorist surveillance program, one of the things it was called earlier. It’s just absolutely essential to know who in the United States is talking to Al-Qaeda. It’s a program that’s been very well managed. We haven’t violated anybody’s civil liberties.”

I don’t want to alarm anyone, but what the Vice President said isn’t true.

I think Keith Olbermann’s [“special comment”](#) last night summed up the argument quite well:

“In a presidency of hypocrisy — an administration of exploitation — a labyrinth of leadership — in which every vital fact is a puzzle inside a riddle wrapped in an enigma hidden under a claim of executive privilege supervised by an idiot — this one ... is surprisingly easy.

“President Bush has put protecting the telecom giants from the laws... ahead of protecting you from the terrorists.

“He has demanded an extension of the FISA law — the Foreign Intelligence Surveillance Act — but only an extension that includes retroactive immunity for the telecoms who helped him spy on you.

“Congress has given him, and he has today signed a fifteen-day extension which simply kicks the time bomb down the field, and has changed nothing of his insipid rhetoric, in which he portrays the Democrats as ‘soft on terror’ and getting in the way of his superhuman efforts to protect the nation... when, in fact, and with bitter irony, if anybody is ‘soft on terror’ here... it is Mr. Bush.

“In the State of the Union Address, sir, you told Congress, “if you do not act by Friday, our ability to track terrorist threats would be weakened and our citizens will be in greater danger.”

“Yet you are willing to weaken that ability! You will subject us, your citizens, to that greater danger.

“This, Mr. Bush, is simple enough even for you to understand: If Congress approves a new FISA act without telecom immunity and sends it to your desk and you veto it — you, by your own terms and your own definitions, you will have just sided with the terrorists.

“Ya gotta have this law, or we’re all gonna die. But you might veto this law!

“It’s bad enough, sir, that you are demanding an ex post facto law which would clear the phone giants from responsibility for their systematic, aggressive, and blatant collaboration with your illegal and unjustified spying on Americans, under the flimsy guise of looking for any terrorists stupid enough to make a collect call or send a mass e-mail.

“But when you then demanded again, during the State of the Union address, that Congress retroactively clear the Verizons and the AT&T’s, you wouldn’t even confirm that they actually did anything for which they deserved to be cleared!

“‘The Congress must pass liability protection for companies believed to have assisted in the efforts to defend America.’ Believed? Don’t you know? Does the endless hair-splitting of your presidential fine print, extend even here?

“If you, sir, are asking Congress, and us, to join you in this shameless, breathless, literal, textbook example of fascism — the merged efforts of government and corporations who answer to no government — you still don’t have the guts to even say the telecom companies did assist you, in your efforts?

“Will you and the equivocators who surround you like a cocoon never go on the record about anything? Even the stuff you claim to believe in? Silly me. Of course Mr. Bush is going to say ‘believed.’

“Yes, it sounds dumber than if he had referred to himself as ‘the alleged president,’ or had said today was ‘reportedly Thursday,’ or had claimed ‘Mission Accomplished’ in Iraq.

“But the moment he says anything else, any doubt that the telecoms knowingly broke the law, is out the window, and with it, any chance that even the Republicans who are fighting this like they were trying to fend off terrorists using nothing but broken beer bottles and swear words couldn’t consent to retroactively immunize corporate criminals.

“Which is why the Vice President probably shouldn’t have phoned in to the Rush Limbaugh Propaganda-Festival yesterday.

“Sixth sentence out of Mr. Cheney’s mouth: The FISA bill is about, quote, ‘retroactive liability protection for the companies that have worked with us and helped us prevent further attacks against the United States.’

“Oops....

“The primary job of any president is to protect us. Not just those of us who own Internet and Telephone companies — All of us. And even you, sir, with your intermittent grasp of reality... even with your ego greater than a 100-percent approval rating... even with your messianic petulance — even you could not truly choose to protect the corporations instead of the people.

“I am not talking about ethics here. I am talking about blame. Even if it’s you throwing out the baby with the bathwater, Mr. Bush, it still means we can safely conclude... there is no baby!

“This is not a choice of protecting the telecoms from prosecution, or protecting the people from terrorists, sir. It is a choice of protecting the telecoms from prosecution, or pretending to protect the people from terrorists.

“Sorry, Mr. Bush. The eavesdropping provisions of FISA have obviously had no impact on counter-terrorism, and there is no current or perceived terrorist threat, the thwarting of which could hinge on an e-mail or a phone call going through room 641-A at AT&T in San Francisco next week or next month.

“Because if there were, Mr. Bush, and you were to, by your own hand, veto an extension of this eavesdropping, and some terrorist attack were to follow, you would not merely be guilty of siding with the terrorists, you would not merely be guilty of prioritizing the telecoms over the people, you would not merely be guilty of stupidity, you would not merely be guilty of treason... but you would be personally, and eternally, responsible.

“And if there is one thing we know about you, Mr. Bush, one thing that you have proved time and time again under any and all circumstances, it is that you are never responsible.”

