

15 March 2012

NewSat Ltd HANSARD Response

Committee response to questions taken on notice from public hearing conducted Friday, 2nd March 2012.

Question from Senator Bishop:

Are there any harmful consequences on those other business parts – mining, oil, gas and government – from the bill and its proposed regulations?

NewSat Ltd does not believe that there are any adverse consequences for any other sector that we currently service. The Bill relates specifically to defence articles and services that are directly listed on the DSSL.

Question from Senator Johnston:

Would the implementation of this Bill render you technically in breach of this legislation while you are operating under the existing framework?

NewSat would continue to operate under the TAA's that we currently have in place once the Bill is enacted. Membership in the Trusted Community would negate the need for export licences to US community members. However as with the current situation all parties outside of this community would need to be licenced. This would introduce the need for a TAA with the US supplier between them and NewSat and adding the third party to the TAA in order to re-export to them. Other US contractors that we would need to pass ITAR regulated items to would be required to either become Trusted Community members themselves OR enter into a TAA with our US supplier. That being said, NewSat Ltd doesn't believe that the implementation of this Bill in its current format would inadvertently render us in breach.

NewSat Limited

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Question from Senator Bishop:

Are the mechanics of recording and monitoring proposed by the Bill considered workable in their current form?

Cost Impact Assessment

- The time and resources required to complete the application form and provide necessary supporting information to satisfy the requirements of sect 27
 - **NewSat believes that this may be a complicated process given the diverse nature of our current work force.**
- Allowance for the length of time for the Minister (or delegate) to assess and consider the membership noting that this is a once-off requirement and negates future need for export permissions that must be applied for regularly under current export system
 - **NewSat does not believe this would impact the business greatly, although a prescribed period within which the Minister should respond would provide some surety**
- The costs associated with ensuring and maintaining facilities to meet the requirements to hold, store and protect Treaty articles
 - **NewSat believes that its current facilities in Perth and Adelaide would need little to no change or expenditure to be compliant with Treaty requirements. However NewSat anticipates a significant investment may be required to be compliant with IT infrastructure to sufficiently protect and store Treaty articles**
- Where appropriate, costs associated with ensuring and maintaining information technology infrastructure to satisfy the requirements to store or transmit Treaty-related information electronically
 - **As above**
- Costs associated with the time required by company employees to complete application forms and undertake training provided by the Government of Australia to meet all membership requirements
 - **NewSat believes that this would present a large cost impact and may be a complicated process in relation to the “significant ties” clause in the Bill. Currently NewSat has a number of employees who were born in, and are nationals of, countries that are on the proscribed list for ITAR.**
- Costs associated with complying with membership conditions:
 - Costs of company developing or amending existing policies and procedures to ensure authorised access to Treaty articles;
 - **NewSat understands that this is a cost of business that would be necessary whether trading under the Treaty or the existing regulations and as such would not judge this cost as onerous**
 - Costs of facilitating internal audits to assure compliance with the Treaty membership obligations;
 - **NewSat believes that while this will be costly to implement the ongoing costs associated with internal compliance would not be unworkable**
 - Costs associated with assisting Authorised Officers undertaking assurance processes where required;
 - **NewSat does not believe this would be a burdensome cost**
 - Costs to make and retain records of prescribed activities (e.g. supply of goods, action taken to comply with notices, detection of loss, theft or destruction of

defence articles) – although it is anticipated that these costs will be reduced for companies that have sound business processes and should be minimal

- **NewSat notes that these costs would be incurred under either regulation, however is interested to understand what guidance or best practice the Minister will purport for industry to follow (will it be markedly different to what ITAR regulations recommend currently?)**
- Costs associated with reporting to Government on business conducted under the Treaty framework, including Treaty article transfer and results of internal compliance processes
 - **NewSat notes that this reporting would be per annum and providing reporting and compliance audit is adequately facilitated should not prove to be a costly imposition**

NewSat is of the impression that there will be a significant cost impact in the application and initial implementation phase for the company. Costs associated with becoming a member seem to have a particularly high impact on the company. For example costs associated with time and resources to complete the application, to have employee's complete applicable forms and undertake required Government training. There may also be legal expenses incurred in managing the overlap between this legislation and other state and Australian government legislation in areas such as privacy and anti-discrimination legislation.

NewSat also notes that there would be a number of implementation costs surrounding information technology infrastructure security requirements that the Minister (or delegate) would judge adequate to protect stored or transmitted information.

NewSat notes that while these implementation costs are a once only expense, they would not be insignificant to the business.

NewSat also notes that record keeping procedures, and internal audit to assure compliance as well as reports regarding compliance to the authorities would be a substantial time and resource cost. The ongoing costs surrounding membership within the Trusted Community are considered workable, as they do not appear to present requirements that are markedly different from the current prescription under ITAR.

NewSat appreciates the opportunity to contribute to the development of this important legislation.

Sincerely,

Michael Hewins
Chief Operating Officer