

From: Brendan Jones

Sent: Tuesday, 17 March 2015 1:57 PM

Subject: Petition to AG, HRC, PSC, Defence Minister Re: Ongoing problems with the DTCA; Commercial Confidentiality, Rights, etc.

Please find attached a petition to the Parliamentary FADT Subcommittees, Defence Minister Kevin Andrews, Industry Minister Ian Macfarlane, Attorney-General George Brandis QC, Human Rights Commissioner Tim Wilson, and the new Public Service Commissioner John Lloyd regarding the impending DTCA [Defence Trade Controls Act].

In addition, here are some brief comments about the other FADT submissions on the DTCA [including this petition (disembargoed yesterday) which myself and others are in the midst of reviewing:

The pivotal question is: Do the proposed DTCA amendments fix the DTCA's problems?

From what we have read so far of the other submissions, generally, the Universities say they have been consulted, but still have ongoing concerns about the DTCA, and want it delayed for another 6-12 months.

Which sounds like 'No, it hasn't fixed the DTCA's problems... but lets keep putting it off'

And as for the much lauded DTCA pilot program, only two of the seven pilots bothered to send in their costings(!), and even those numbers appear to have been fabricated. Which is to say, Defence has no idea what the impact on the economy will be.

As for industry, its submissions are MIA (missing in action). Even though Defence claims "100" dual use companies come under the legislation [which others have pointed out is an underestimate], **I can only see an industry submission from myself...**

... and the Department of Industry, who purports to represent Industry.

But I previously wrote that Government departments represent their interests of government; they do not represent the interests of citizens: *The Department of Industry no more represents the interests of business and industry than the*

Department of Social Security represents the interests of pensioners and the unemployed, or the ATO the interests of taxpayers.

Ironically, that very point made is made by a FADT submission by no less than Secretary of the Department of Industry, Glenys Beauchamp, who praises the Department of Defence and the chief scientist's steering group, claiming their amendments have fixed the DTCA's primary problems.

But the Department of Industry *continues* to overlook commercial confidentiality.

Commercial confidentiality is the lifeblood of business. Try walking into a shop, ask them for a list of their suppliers, and see how far you get! This is even stronger for high-tech businesses because their most valuable property *is* their intellectual property. Lawfirm Pinsent Mansons: *"Confidential information can be the most valuable asset of a business. A competitive edge in the marketplace may rely on a business having certain information which its competitors do not."*

The public service has a history of theft of trade secrets and abuse of insider information, and we've seen on numerous occasions that when the Department of Defence is confronted with criminality, they look the other way.

<http://victimsofdsto.com/asc/>

Yet the Department of Industry's own Kris Browne and Chief Scientist Professor Chubb (accountable to, and recently reappointed by, the Industry Minister) said the IP thefts were not their problem, and have failed to protect commercial confidentiality in the amended Act. In think it is fair to say they have ignored it completely. <http://victimsofdsto.com/doc/chubb/>

Thus my own decision to emigrate from Australia was a no-brainer: A high-tech company, whose most valuable asset is its IP, cannot operate in a country where IP is not protected.

DTCA consultations have focused on the universities. They have ignored industry. This is dangerous for the Australian economy. Please see the attached PDF petition for further details:

(You can read yesterday's SFADT submissions on Page 2, here:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Trade_Implementation/Submissions ; Page 1 are the old submissions [from 2 years ago] from before the bill was passed)