
The Parliament of the Commonwealth of Australia

Inquiry into the
authorisation of access to
telecommunications data to
identify a journalist's source

Parliamentary Joint Committee on Intelligence and Security

March 2015
Canberra

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ISBN 978-1-74366-305-9 (Printed version)

ISBN 978-1-74366-306-6 (HTML version)

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Membership of the Committee

Chair Mr Dan Tehan MP

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Members Hon Jason Clare MP

Senator David Bushby

Hon Mark Dreyfus QC MP

Senator the Hon Stephen Conroy

Mr Andrew Nikolic AM, CSC, MP

Senator David Fawcett

Hon Philip Ruddock MP

Senator John Williams



Terms of reference

On 4 March 2015, the Attorney-General, Senator the Hon George Brandis QC, asked the Committee to inquire into and report on the question of 'how to deal with the authorisation of a disclosure or use of telecommunications data for the purpose of determining the identity of a journalist's source'.

- 1.1 On 27 February 2015, the Parliamentary Joint Committee on Intelligence and Security presented its report on the Telecommunication (Interception and Access) Amendment (Data Retention) Bill 2014 (the Bill). The Committee welcomed the Government response to that report and the support for all 39 recommendations.
- 1.2 One of those recommendations related to how telecommunications data may be used to identify a journalist's source and appropriate protections and oversight in these, albeit rare, circumstances. The Committee recommended that further inquiry was required to determine if special measures were required and what might constitute a system of appropriate safeguards.
- 1.3 On 4 March 2015, the Attorney-General referred the question of how to deal with the authorisation of a disclosure or use of telecommunications data for the purposes of determining the identity of a journalist's source to the Committee for inquiry and report.
- 1.4 Since that referral, and taking into consideration the evidence received by the Committee in its earlier inquiry, there have been amendments made to the Bill.
- 1.5 The amendments introduce a journalist information warrant regime. Under this regime:

Agencies are prohibited from authorising disclosure of a journalists' or their employers' telecommunications data for the purposes of identifying a source of the journalist without a warrant issued from an independent issuing authority.¹
- 1.6 The amendments also establish the position of a Public Interest Advocate for the purposes of making submissions to the issuing authority on warrants permitting the making of authorisations to disclose

1 Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2015, *Supplementary Explanatory Memorandum*, p. 3.

telecommunications data for the purposes of identifying a journalist's source.²

- 1.7 The development of these amendments reflects the spirit of bipartisanship that has characterised the cooperative work of the Committee in its consideration of a mandatory data regime. The Committee supports these amendments to protect journalists' sources.
- 1.8 The Committee also maintains oversight of these matters. The amendments provide that the Committee will be notified as soon as practicable of the issuing of any journalist information warrant, and will have the opportunity to request briefings from the Commonwealth Ombudsman or the Inspector-General of Intelligence and Security on any reports produced in relation to those warrants or authorisations. The amendments also provide that information on the number of journalist information warrants and the number of authorisations issued under journalist information warrants are included in an annual report. The amendments provide that the Committee may inquire into these matters in the annual report.
- 1.9 The Bill, as amended, passed the House of Representatives on 19 March 2015 and the Senate on 26 March 2015.
- 1.10 Given these developments, the Committee has determined to conclude its formal inquiry on the matter.

Dan Tehan MP
Chair
March 2015

2 Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2015, Supplementary Explanatory Memorandum, p. 5.