



Media, Entertainment & Arts Alliance (MEAA)

**Submission to the
Senate Legal and Constitutional Affairs
References Committee**

into the

**Comprehensive revision of the
*Telecommunications (Interception and
Access) Act 1979***

The Media, Entertainment & Arts Alliance

The Media, Entertainment & Arts Alliance (MEAA) is the largest and most established union and industry advocate for Australia's creative professionals. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

The Media, Entertainment & Arts Alliance (MEAA) is concerned about the implications that widespread data surveillance will have for journalists and their sources.

The widespread data surveillance revealed by Edward Snowden, the subsequent treatment of whistleblowers Chelsea Manning and Snowden, and the detaining of David Miranda, the partner of a journalist working for the Guardian newspaper Glenn Greenwald, at Heathrow Airport have now created an environment that requires journalists to be mindful in how they interact with confidential sources, protect confidential information and journalism that is in preparation for broadcast or publication, and how they can protect their sources, colleagues, family and friends.

MEAA believes that any moves to increase the level of surveillance of Australians' private communications, whether through telephone intercepts, the collection of metadata, or other intrusive means, is a dangerous threat to press freedom in a modern, healthy and functioning democracy.

Such activities will harm the ability of journalists to scrutinise the powerful and hold them to account, to expose corruption, to champion and campaign for important issues, and to gain the trust of our audience as well as the people who seek to impact information to the media.

These activities clearly undermine privacy – and MEAA intends to raise this very problem in the current Australian Law Reform Commission (ALRC) inquiry into *Serious Invasions of Privacy in the Digital Era*.

These activities will also hand excessive and intrusive powers to government agencies without ensuring that appropriate monitoring and safeguards are in place to prevent misuse.

With regard to this inquiry's terms of reference, (acknowledging that it is examining recommendation 71.2 of the ALRC's 2008 inquiry) MEAA believes that the default position of the Senate Committee should be to not accept telephone intercepts as being justifiable even if safeguards are put in place (such as the concept of a public interest monitor and the flaws such a role would have).

It is clear that the Edward Snowden revelations have uncovered widespread illegal activities by the US National Security Agency involving the misuse of the metadata the agency has captured/received from compliant corporations/allied intelligence service and the sharing of that data with other foreign intelligence agencies.

In short, experience shows that once immense power to intrude on private lives is handed over to government agencies, that power can be misused and the misuse will be shared and spread, all under the guise of carrying out vital law enforcement, safety or security operations in the national interest.

As MEAA told the Parliamentary Joint Committee on Intelligence and Security *Inquiry into the potential reforms of Australia's National Security Legislation* in our submissionⁱ:

The Media Alliance is concerned that any expansion of telecommunications interception powers and the powers of intelligence agencies as proposed in the *Terms of Reference* have the potential to threaten press freedom. The Media Alliance believes efforts should be made

to ensure that press freedom, including the confidentiality of journalists' sources and their information, should be protected and guaranteed under any proposed legislative changes being considered.

And also:

There is considerable concern about the power of police and intelligence agencies to intercept communications, a concern not given proper consideration in the *Terms of Reference*. The Media Alliance believes that substantial efforts must be made to protect and guarantee press freedom by acknowledging journalist privilege and the subsequent need to protect journalists' confidential sources and information from exposure due to telecommunication interception. A review of the *Telecommunications Act* is urgently required as part of any constructive reform of national security legislation.

MEAA believes that nothing has changed to alter our view.

However, new information, in the form of the revelations by Edward Snowden, indicates that there are great dangers to individual freedoms posed by the misuse of telecommunications intelligence gathering.

The revelations by Snowden; the treatment of whistleblowers such as Chelsea Manning and the threats made to Snowden and MEAA member Julian Assange; plus the detaining of David Miranda – the partner of an investigative journalist – are causes of grave concern for journalists.

The way journalists:

- work with their confidential sources,
- protect the confidential nature of their source and the whistleblowing information the source provides;
- work on their stories without intimidation, fear or harassment, and
- publish important information in the public interest

are all undermined by these events.

MEAA is taking steps to ensure its members understand the great dangers widespread misuse by government agencies of telecommunications and other metadata poses.

Recommendations to the Senate Legal and Constitutional Affairs References Committee into the Comprehensive revision of the *Telecommunications (Interception and Access) Act 1979*

- MEAA urges the Committee to rethink any attempts to relax the *Telecommunications (Interception and Access) Act 1979*.
- MEAA believes the Committee should think carefully about the changed environment that now exists in terms of telecommunications and the misuse of intercepted/captured private information.
- MEAA urges the Committee to withhold making any final recommendations before carefully considering the submissions to and findings of the Australian Law Reform Commission inquiry *Serious Invasions of Privacy in the Digital Era* which will report later in 2014.

References

ⁱ Submission 98

http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=pjis/nsi2012/subs.htm