



Australian Government

Office of the Australian Information Commissioner

Our reference: D2016/003321

Committee Secretary
Standing Committee on Tax and Revenue
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Mr van Manen

Inquiry into the External Scrutiny of the Australian Taxation Office

I note that during the Standing Committee on Tax and Revenue's public hearing of 19 April 2016, there was a discussion relating to the Australian Taxation Office's (ATO) possible future use of telecommunications data retained under the *Telecommunications (Interception and Access) Act 1979* (Cth) (the TIA Act). In particular, the Standing Committee inquired as to which agency would receive complaints about how this retained data was being accessed, used or otherwise handled.

I am providing this supplementary submission, which briefly outlines the functions and powers of the Office of the Australian Information Commissioner (OAIC) in respect of telecommunications data retained under part 5-1A of the TIA Act.

In my previous submission to the Standing Committee of 10 March 2016, I outlined the OAIC's role as the privacy regulator under the *Privacy Act 1988* (Cth) (the Privacy Act), which includes oversight of the ATO's handling of personal information.

Under s 187LA of the TIA Act, retained data is taken to be personal information for the purposes of the Privacy Act, provided the information relates to an individual or to a communication to which the individual is a party. Any handling of retained data by the ATO would therefore be subject to the obligations in the Privacy Act.

Under s 36 the Privacy Act, an individual is able to complain to the Information Commissioner about an act or practice of the ATO that may breach the Privacy Act. This would potentially include an act or practice involving retained telecommunications data.

I hope the Committee finds this additional information helpful. Should the Committee require any further information, please contact Ms Este Darin-Cooper, Director, Regulation and Strategy Branch, on [REDACTED].

Yours sincerely

A large black rectangular redaction box covering the signature of Timothy Pilgrim.

Timothy Pilgrim PSM
Acting Australian Information Commissioner

27 April 2016