

**HOME AFFAIRS PORTFOLIO
DEPARTMENT OF HOME AFFAIRS**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Parliamentary Joint Committee on Law Enforcement
Inquiry into Law Enforcement Capabilities in Relation to Child Exploitation

10 December 2021

QoN Number: 01

Subject: National Child Offenders System - AUSTRAC & ACIC Access - State & Territory agreement

Asked by: Julian Simmonds

Question:

CHAIR: First of all, to Home Affairs: your submission talks, as does the AFP's, about AUSTRAC and ACIC not having access to the National Child Offender System and the National Police Reference System. Am I right in understanding that to get them access would require legislation at the state levels?

Ms Spencer: That is correct, yes.

CHAIR: And that hasn't been recommended to the state governments to date?

Ms Spencer: The department is keen to work with the states and territories, and we have been working with them to secure their agreement for ACIC and AUSTRAC to be granted access, because of the importance and the value of the material that they'd be able to get through that access. We would also welcome state and territory support for providing AUSTRAC with access to the National Police Reference System, which would also enhance their financial intelligence and allow them to more efficiently detect and disrupt high-priority child-abuse activities.

CHAIR: Which states have [inaudible]—

Ms Spencer: I don't have that detail to hand.

CHAIR: Will you take it on notice for us?

Ms Spencer: I'll take that on notice.

Answer:

In August 2020, the former Minister for Home Affairs wrote to State and Territory Justice, Police and Child Protection Ministers regarding the Australian Transaction Reports and Analysis Centre (AUSTRAC) and Australian Criminal Intelligence Commission (ACIC) seeking access to state and territory data on the National Child Offender System (NCOS) to enhance financial and criminal intelligence targeting of registered child sex offenders.

A number of the responses raised complex legal issues, including legislative restrictions on the sharing of information with ACIC and AUSTRAC for intelligence purposes. For example, Western Australia and Queensland advised that their legislation (the *Community Protection (Offender Reporting) Act 2004* (WA) and the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld), respectively) does not permit generalised bulk data sharing with the ACIC and AUSTRAC. However, both jurisdictions provide for the disclosure of information on reportable offenders on a case-by-case basis - for example, where an investigation has identified a specific risk to children.

AUSTRAC and the ACIC are actively working together to facilitate AUSTRAC's access to the National Police Reference System (NPRS). While no legislative changes by the states and territories will be needed, approval will be required from the ACIC Board, which includes all state and territory Police Commissioners.

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PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Parliamentary Joint Committee on Law Enforcement
Inquiry into Law Enforcement Capabilities in Relation to Child Exploitation

10 December 2021

QoN Number: 02

Subject: Crypto-currency used for procurement of CAM - Required regulatory piece for AUSTRAC

Asked by: Julian Simmonds

Question:

CHAIR: This might be a question for the AFP and perhaps even Brendan. One of the other challenges we've looked at as part of the hearings is the rise of cryptocurrency being used to facilitate payment for and procurement of CAM. Is that something that you feel AUSTRAC and other investigative bodies are managing to keep up with?

Ms Spencer: I can speak to the cryptocurrency issue, and it goes to the larger issues around encryption of communications as well. There are significant challenges in tracing cryptocurrency. Obviously, you can do some work at the on and off points, but beyond that it is very challenging. There's a lot of work being done on the powers available and how we get greater visibility. My understanding is that AUSTRAC are doing a lot of work in that space and have had a lot of success in that, and in their work with the Fintel Alliance as well, in addressing some of those issues in relation to child abuse material.

CHAIR: Is there regulatory support that AUSTRAC needs from banks or even the RBA to assist them in their work, or are they getting that support already from fintech?

Ms Spencer: I wouldn't want to speak on behalf of AUSTRAC. I'm happy to take it on notice, and we can follow up, and they could provide a response to that.

Answer:

A number of regulatory bodies have an interest in different aspects of crypto-currency. Under the anti-money laundering and counter terrorism financing (AML/CTF) regime, AUSTRAC regulates digital currency exchange (DCE) providers that exchange fiat currency to digital currency (and vice versa). AUSTRAC is not responsible for regulating digital currencies, just as it is not responsible for regulating physical currency, i.e. the Australian dollar.

AUSTRAC works closely with other regulatory bodies with an interest in cryptocurrency, including through a working group under the Council of Financial Regulators (chaired by the RBA).

AUSTRAC's Fintel Alliance efforts, supported by tailored intelligence products, have resulted in a significant increase in the quantity and quality of child sexual exploitation-related suspicious matter reports from regulated entities, including banks. This reporting has enabled AUSTRAC to develop formal intelligence products in relation to child exploitation, supported by a dedicated Child Sexual Exploitation Response Team.

AUSTRAC has a small, specialist cryptocurrency intelligence capability that traces blockchain transactions such as in cryptocurrencies and non-fungible tokens (NFTs). This capability attributes ownership/control where possible based on open source and commercially available data, and reporting received from the DCE sector. Blockchain analytics tools are critical to detecting illicit activity, including child exploitation, by tracing transactions on the blockchain.

There is a continuous need to evolve this capability to keep up-to-date with new cryptocurrencies, technological changes and the increased uptake of virtual assets for legitimate and illicit use. This includes continuous efforts to ensure that the tools, data and training available to our analysts remain fit-for-purpose, scalable and future-facing to enhance the financial analysis of cryptocurrency transactions.