



# Submission to the Parliamentary Joint Committee on Intelligence and Security.

in response to the

Telecommunications and Other Legislation Amendment Bill 2016  
(Telecommunications Sector Security Reform)

February 2017

## EXECUTIVE SUMMARY

Macquarie Telecom Group substantially endorses the submission by a coalition, comprising the Australian Industry Group (Ai Group), Australian Information Industry Association (aiia), Australian Mobile Telecommunications Association (AMTA) and Communications Alliance, on 27 July 2015 to Government outlining its concerns with the draft **Telecommunications and Other Legislation Amendment Bill 2016**, (also referred to as the Telecommunications Security Sector Reform (TSSR) initiative).<sup>1</sup>

Macquarie Telecom Group however takes a different view in relation to the potential impact the legislation may have on the practice of offshoring infrastructure. Macquarie Telecom Group considers that the benefits of retaining certain types of data in Australia by far outweigh any potential additional costs to industry. We discuss this in more detail below.

Macquarie Telecom Group recognises the importance of the domestic telecommunications networks and infrastructure to Australia's national security, economic stability, prosperity and social wellbeing and understands the Government's objective of protecting telecommunications infrastructure and the information transmitted across it from threats. Macquarie Telecom commends the amendments to the first and second exposure drafts of the TSSR legislation. However, Macquarie Telecom considers that the draft legislation still provides for unjustifiably intrusive powers for Government to intervene in telecommunications infrastructure without adequate consultation or protections for industry.

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<sup>1</sup> Joint Submission by the Australian Industry Group, Australian Information Industry Association, Australian mobile Telecommunications Association and Communications Alliance dated 3 February 2017.

Macquarie Telecom contends that it already has a strong interest and demonstrated expertise in ensuring its networks and services are secure. The additional burden proposed in this legislation, coupled with the existent burdens in relation to new mandatory data retention and interception capability requirements, will likely add significant cost, and therefore potentially impede Macquarie Telecom's ability to respond quickly with business innovation.

Macquarie Telecom concurs with the industry groups that Australia could benefit from considering the more collaborative approaches to dealing with cyber threats to communications infrastructure such as developed in the USA, UK and Canada before enacting the TSSR legislation.

On balance, Macquarie Telecom Group is still not persuaded that there are sufficient grounds to warrant the proposed reforms and is very concerned at the prospect of the costs and intrusion into its commercial operations proposed in the legislation. The Explanatory Memorandum does not adequately explain:

- the specific failings or weaknesses that the Government is seeking to address; and
- the connection between the risk of security threats and the current security of telecommunications infrastructure.

The proposed powers are extensive and intrusive, and accordingly require a transparent mandate to show that they are necessary.

## **INTRODUCTION**

### **About Macquarie Telecom**

We're Australia's data centre, cloud, cyber security and telecom company for mid to large business and government customers. We celebrate 25 years in business this year.

Macquarie Telecom Group is listed on the ASX (MAQ) and has invested heavily in telecommunications network and state of the art data centres.

We acquire access to wholesale networks and services to ensure we have national fixed line coverage beyond our own network, and acquire wholesale services from mobile network operators to meet the communications needs of businesses in an increasingly converged communications market.

Macquarie Telecom competes against very large Australian and Global companies in the telecommunications, hosting and cloud computing market. Protection of competitor sensitive information is critical to Macquarie Telecom's operations.

An overview of each of our Business Units is at the end of this Submission.

## **DISCUSSION**

In their submission the industry groups identified a number of concerns and areas for improvement, which Macquarie Telecom also shares, including that:

- the purpose of the reforms remains unclear;

- the compliance requirements are onerous and will hamper the ability to respond to cyber threats;
- there is no protocol for briefing carriers about specific threats identified by the Government;
- there are significant areas of vague drafting leading to uncertainty; and
- the legislation does not exclude or limit the requirement for carriers or carriage service providers to retrofit or remove existing facilities exposing industry to the risk that networks might need to be rebuilt at significant cost.

Macquarie Telecom adds two other concerns:

- Any information provided to Government must itself be adequately protected within Government for both commercial-in-confidence business and security purposes; and
- That data should be retained in Australia to ensure that it is adequately protected and accessible and subject to the Government's jurisdiction.

## **DATA RETAINED IN AUSTRALIA**

Macquarie Telecom Group takes a strong stand within the industry in relation to what it sees as the real security risks arising from the lack of any compulsion in the draft legislation for relevant data to be held in Australia. It seems contradictory that data is transmitted to and retained off-shore in arrangements that are outside the control of Australian policy reach at the same time that onerous on-shore policies are to be mandatory. If the data is of such importance to be subject to domestic policy controls, then it ought not be easy to avoid data protection by simply off-shoring the data. Such an arrangement implies that the Government is happy to allow data to be transmitted over networks over which it has no control or jurisdiction and perversely offers a real ability to avoid any domestic obligation in a practical sense.

Macquarie Telecom submits that, for the information to be actually accessible to enforcement agencies, it must be retained in Australia.

Macquarie Telecom does not agree with the industry submission at paragraph 3.4 in so far as it argues that there will be necessarily be significant additional costs and inefficiencies because the TSSR will prevent the use of network facilities or infrastructure located offshore and the supply of services offshore. Indeed many customers may feel that off-shoring leads to additional delay, inconvenience and inefficiency.

Macquarie Telecom considers that the benefits of retaining certain types of data within Australia outweigh any additional costs of using onshore infrastructure and services.

Macquarie Telecom believes that the claims about the additional costs for on-shoring are overstated. Further, we consider that any claim that Australian based infrastructure and services create smaller scale delayed services and prevent innovation to be inaccurate. Macquarie Telecom Group contends that Australian based services and infrastructure can be efficient, innovative and cost effective. From a security and intelligence perspective, Australian based services and infrastructure can allow a high degree of collaboration and access between industry and security agencies (within an appropriate framework).

## **CONCLUSION**

Macquarie Telecom sees the prospect of significant costs and business interruption in having to comply with the open-ended, wide ranging obligations under the draft legislation.

Macquarie Telecom is concerned about the real possibility that the draft legislation, if enacted, could stymie its ability to innovate and respond to changes in technology and customer demand. This perversely could lead to increased security threats as the implementation of new technology is delayed or deferred due to concerns about any approvals required from Government.

Macquarie Telecom sees a significant risk in offshoring certain data and considers it important that Australia retains sovereignty over certain types of information. The TSSR legislation would perversely add burdens to Australian industry that are not applied to global offshore competitors.

Macquarie Telecom looks forward to consulting further with the Parliamentary Joint Committee on Intelligence and Security as it continues the review and consultation process.

**Matt Healy**

**National Executive, Industry & Policy**

**Macquarie Telecom Group**



For business customers, we are full service provider of data, voice, mobile and colocation services. We are the telecom that does everything refreshingly different from customer service to billing. ...& yes, we are where the Macquarie story started. In our financials you will see we have invested in a Australian & NZ data network, IP voice switching and amazing portal software that gives our customers visibility and control over everything.



For business customers we are the specialists in hybrid IT as we integrate data centre, cloud, storage and dedicated servers. We understand that different applications need different types of hosting. We can manage it. We ensure it is IT standards compliant, which matters for customers in financial services, payments and working with government. We have invested in significant VMware based cloud computing platforms in all our data centres that allow customers to easily migrate software to us.



For Government customers we are the Australian specialists in cyber security, secure cloud and data centres. We deliver this for 42% of Federal Government agencies working closely with Australian Defence and Intelligence agencies. We have invested tens of millions in cyber security and data centres in Canberra and Sydney. We can't say too much more unless you are NV1+ security cleared.