



12 February 2021

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security

By e-mail: pjcis@aph.gov.au

Dear Madam / Sir,

Review of the Security Legislation Amendment (Critical Infrastructure) Bill 2020

Introduction

BAI Communications Australia (BAI) welcomes the opportunity to provide a response to the Parliamentary Joint Committee on Intelligence and Security's review of the Security Legislation Amendment (Critical Infrastructure) Bill 2020.

BAI Communications is an Australian headquartered 'neutral host' communications service provider in Australia, USA and Canada, and provider of communications services in Hong Kong. In this sense, neutral host means that BAI is a specialist communications infrastructure owner and operator, but is not itself a broadcaster or telecommunications carrier.

In Australia, BAI provides managed services and portal services to broadcasters (i.e. fully or partially outsourced terrestrial broadcast transmission services) from a network of over 700 sites around the country, operations and maintenance services to emergency services communications networks operators (principally the NSW Government's Government Radio Network), as well as site access arrangements to telecommunications and radiocommunications operators.

In the USA and Canada, BAI Communications companies provide neutral host communications services including telecommunications, Wi-Fi, and emergency services communications within the New York City and Toronto subway systems.

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BAI Communications has been majority owned by the Canadian Pension Plan Investment Board (CPPIB) since 2009. CPPIB is one of the world's largest institutional investors and is responsible for investing the assets of the Canada Pension Plan, providing retirement security for millions of Canadians. CPPIB is a significant investor in infrastructure, real estate and other sectors around the world, including in Australia.

Critical Infrastructure Assets

BAI believes strongly in the need for security and resilience of critical infrastructure, in all of its aspects. To this end, in April this year we made a submission to the Royal Commission into National Natural Disaster Arrangements highlighting areas of potential security and resilience improvement in broadcast, emergency services communications and telecommunications systems. This document is available on the Royal Commission web-site at <https://naturaldisaster.royalcommission.gov.au/system/files/submission/NND.001.00573.pdf>.

Over recent years, BAI has participated in the Trusted Information Sharing Network (TISN) for Critical Infrastructure Resilience Communications Sector Group (CSG) and the Space Cross Sectoral Interest Group (CSIG).

BAI has engaged fully with the Department of Home Affairs throughout this bill consultation process and earlier on the August 2020 consultation paper process.

It has been clear through this engagement that Department of Home Affairs sees the provision of broadcasting services to Australians as critical, particularly in times of emergency. This is a position strongly supported by BAI.

The definition of a "broadcasting transmission asset" as currently stated in the bill importantly includes a radiocommunications transmitter in addition to a broadcasting transmission tower or associated transmission facility. It is the ownership and control of this radiocommunications transmitter which BAI believes should be the key determinant of which entity is captured under this proposed legislation. It is the radiocommunications transmitter which is specific to a broadcasting service and it is the owner of this asset who either provides the tower and associated facilities or contracts with others for access to these assets.

BAI notes the inclusion of Clauses 12E.1.c and 12E.3 since the draft bill was provided for industry comment. These additions are positive as they give scope for the rules to specify entities that are critical to the transmission of a broadcasting service. The rules should consider how broadcasting services are delivered to Australians (through terrestrial broadcast transmission, satellite direct to home, mobile networks and fixed broadband) and then determine whether the broadcast transmission assets in a particular area are 'critical' based on factors including population served, unique coverage provided and alternative modes of delivery available. On this basis, the entities who own and control transmission assets determined to be critical can then be specified in accordance with these Clauses.

However, with the addition of Clauses 12E.1.c and 12E.3, the need for Clause 12E.1.b should be critically reviewed. The setting of a nominal number of sites does not in and of itself, in our view, constitute 'control' of a critical broadcasting asset. BAI suggests that this Clause 12E.1.b be removed.

In summary, BAI believes there is benefit in Government having a clear picture of the security and resilience of the communications sector. We note that the definitions of regulated entities /assets require further industry input to provide the appropriate level of regulation.

Should you require any clarification or elaboration on the above, please don't hesitate to contact me.

Kind regards

Stephen Farrugia
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BAI Communications Australia