

Committee Secretary  
Parliamentary Joint Committee on Intelligence and Security  
P O Box 6021  
Parliament House  
CANBERRA ACT 2600

11 December 2014

Dear Committee Secretary

**RE: TELECOMMUNICATIONS (INTERCEPTION & ACCESS) AMENDMENT (DATA  
RETENTION) BILL 2014**

This is the submission of the NSW Independent Commission Against Corruption (the Commission) to the Parliamentary Joint Committee on Intelligence and Security with respect to its inquiry concerning the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014 (the Bill).

The Commission supports the Bill in its current form.

The Commission understands the Bill will introduce a statutory obligation for telecommunications service providers to retain for two years telecommunications data prescribed by regulations. The use of regulations will ensure flexibility in adapting to technological change. The Commission supports these provisions.

Current legislation does not specify the types of data service providers should retain for law enforcement and national security purposes or how long that information should be held. At present, it is up to individual service providers what information is retained and the period for which it is retained.

In the Commission's experience, access to telecommunications data is a critical tool for effective investigation of serious offences. Access to relevant telecommunications data is also important for the purpose of preparing prosecution briefs of evidence which the Commission submits to the NSW Director of Public Prosecutions for the purpose of the DPP providing advice on whether or not prosecution action should be commenced.

Lack of availability of relevant telecommunications data has the potential to seriously impede to the ability to investigate and to prosecute serious offences.

The Commission also notes that the Bill will amend the relevant legislation to provide that only criminal law enforcement agencies are able to access telecommunications data and stored communications (and to require the preservation of stored communications). The proposed new section 110A(1) of the *Telecommunications (Interception and Access) Act 1979* defines a criminal law enforcement agency to include this Commission (s 110A(1)(g)). The Commission agrees that it is appropriate and necessary the Commission be included in this definition.

Yours faithfully

Roy Waldon  
Solicitor to the Commission