OPTUS

Submission to the Parliamentary Joint Committee on Intelligence and Security

Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022

Public Version

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INTRODUCTION

1. Optus welcomes the opportunity to provide a submission regarding the amended version of the *Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022*. This submission should be considered supplementary to our February submission in response to the Exposure Draft for the Bill.

2. Optus is the owner and operator of significant national communications infrastructure and the supplier of important carriage and content services to a large portion of the Australian community (over 11 million services). Optus also owns the largest Australian fleet of satellites, which support both public telecommunications access and provide important capabilities for the Australian Defence Force and National Emergency Warning System.

3. Optus has a longstanding commitment to and experience in supporting the Australian Government on national security issues. Optus is proud of the role it plays in supporting the safety and security of Australians and the critical infrastructure on which they rely and takes its responsibilities in this regard seriously.

4. Optus supports the amendments to the definition of critical telecommunications asset and the inclusion of a requirement to consider proportionality and costs when exercising ministerial or secretarial powers (e.g. sections 30CB, 30CM and 30CU).

5. Optus reiterates the following recommendations that were made in response to the Exposure Draft but are not currently included in the Bill:

   (a) Engaging with entities likely to be designated as a system of national significance (SoNS) **prior to implementing the mandatory cyber reporting obligations**. This will reduce duplication and promote a more coherent approach to cyber security obligations for potential SoNS entities.

   (b) **Extending consultation with potential SoNS to at least 45 days and consulting jointly with relevant entities**. This reflects the inherent complexity of SoNS entities and will produce better outcomes for both SoNS entities and Government.

   (c) **Establishing very clear and appropriate thresholds for the Government Assistance Measures**. While we appreciate Government has indicated a number of clear parameters for these measures during the consultation process, it is important that these are clearly defined in legislation.

6. To further strengthen the Bill, Optus recommends the following element be clarified:

   (a) To whom the Secretary of Home Affairs can disclose protected information under section 42A.

7. Optus would welcome the opportunity to discuss any of these issues in further detail.

SUBMISSION

Optus Welcomes Key Amendments to the Bill

8. Optus welcomes the Government's revision of the definition of 'critical telecommunication asset'. As noted in our earlier submission, the previous definition was impractical and unworkable for both Government and industry. The new definition is

much clearer and will allow industry to focus on implementing its obligations, thereby giving Government confidence that risk management programs will be robust.

9. Optus also supports the inclusion of requirements to consider proportionality and costs when exercising ministerial or secretarial decision-making powers (e.g. in sections 30CB, 30CM and 30CU). This will ensure an appropriate balance between achieving the desired security outcomes at the least practicable cost to industry.

Optus Reiterates a Number of its Earlier Recommendations.

10. While Optus acknowledges the short timeframes since our previous submission, we think it is important to reiterate some of our earlier recommendations that have not been included in the current Bill. These include:

    (a) Engaging with entities likely to be designated as a system of national significance (SoNS) **prior to implementing the mandatory cyber reporting obligations**. This will reduce duplication and promote a more coherent approach to cyber security obligations for potential SoNS entities.

    (b) **Extending consultation with potential SoNS to at least 45 days and consulting jointly with relevant entities**. This reflects the inherent complexity of SoNS entities and will produce better outcomes for both SoNS entities and Government.

    (c) **Establishing very clear and appropriate thresholds for the Government Assistance Measures**. While we appreciate Government has indicated a number of clear parameters for these measures during the consultation process, it is important that these are clearly defined in legislation.

11. These recommendations reflect important implementation issues for a key element of the Bill: the Systems of National Significance regime. Given the gravity of the regime and the Government powers it will create, Optus views addressing these recommendations as crucial to the effective operation of the SoNS regime.

Protected Information Amendment Warrants Clarification

12. Optus seeks clarification on the following amendment that now appears in the Bill:

    (a) Section 42A authorises the Secretary of Home Affairs to disclose protected information to entities for the purposes of developing proposed amendments. Optus seeks confirmation that this disclosure would be to relevant critical infrastructure entities for the purposes of consultation.

CONCLUSION

Optus supports the Government's plan to uplift the resilience of Australia's critical infrastructure. As a national telecommunications provider and operator of the largest satellite fleet in the country, Optus appreciates the need for security and we take our responsibilities seriously.

We acknowledge the short timeframe between our exposure draft submission and this response but it is important to reiterate our earlier recommendations in regards to the Systems of National Significance requirements and Government Assistance Measures. Optus further recommends that the issue identified above be clarified in the Bill.

We thank the Committee and Government more broadly for their ongoing engagement and would welcome the opportunity to discuss these issues in more detail.