



Submission No 180

**Inquiry into potential reforms of National Security Legislation**

**Organisation:** Australian Industry Group



Committee Secretary  
Parliamentary Joint Committee on Intelligence and Security  
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Dear Committee Secretary,

**RE: Inquiry into Potential Reforms of National Security Legislation**

The Australian Industry Group (Ai Group) makes this submission to the Parliamentary Joint Committee on Intelligence and Security's (PJCIS) Inquiry into Potential Reforms of National Security Legislation.

Ai Group is a peak industry association in Australia which along with its affiliates represents the interests of more than 60,000 businesses in an expanding range of sectors including: manufacturing; engineering; construction; automotive; food; transport; information technology; telecommunications; call centres; labour hire; printing; defence; mining equipment and supplies; airlines; and other industries. The businesses we represent employ more than 1 million employees.

Ai Group supports national security legislation reforms to ensure Australia has a modern, effective and responsive national security legislative framework. The framework should enable agencies to quickly and efficiently obtain information relating to terrorist activities and serious crime; protect critical communications infrastructure from external threat; and keep pace with technological change.

However, as the terms of reference to the Inquiry acknowledge, any amendments to national security legislation must also be proportionate to agency needs, safeguard the human rights and privacy of individuals, and ensure that obligations imposed on industry are reasonable by minimising their cost and impact.

Striking a balance between these considerations and national security objectives is critical to the success of the proposed reforms. Ai Group therefore supports a detailed cost / benefit analysis being undertaken for each of the major reforms proposed in the *Equipping Australian against emerging and evolving threats* discussion paper. This should clearly establish the problems that need to be addressed and evaluate alternative solutions to ensure they are effective, cost-efficient, and proportionate and have sufficient checks and balances in place to satisfy the multiple policy objectives underpinning the reforms.

Ai Group endorses the Australian Mobile Telecommunications Association (AMTA) and the Communications Alliance's submission to the Inquiry and the principles proposed to underpin the review.<sup>1</sup> The submission provides a balanced and detailed response to the issues raised in the discussion paper. Ai Group's submission will not reiterate each of the points raised in the AMTA / Communications Alliance submission but does highlight issues of particular concern to members.

Ai Group members support the principle of shared responsibility between agencies and industry. While cooperation between industry and agencies is already a feature of the current regime, Ai Group agrees that a closer level of cooperation could be developed between agencies and industry to aid the exchange of information and identification of threats.

However, potential new areas of shared responsibilities need to be more clearly articulated and defined. Ai Group shares the concern of AMTA and the Communications Alliance that the proposals in the discussion paper would shift onto industry numerous responsibilities and risks that have traditionally rested with Government and its agencies. The sensitivity and importance of national security operations means that caution needs to be exercised before shifting even minor decisions and risks away from Government to industry. Ai Group members would welcome more detail on proposals in the discussion paper, such as the single warrant with multiple telephone interception powers, to assess their impact and the appropriate role for industry.

While the discussion paper raises the question of cost sharing arrangements it does not detail what these arrangements might involve. In some cases, the cost of the proposal may determine the extent to which other objectives can be met, such as ensuring data security and the efficient availability and exchange of information.

Any new reforms should be accompanied by a commitment from the Government to adequately resource them. Industry members would be concerned if the principle of shared responsibility resulted in significant cost shifting of compliance costs from industry to government.

The proposal to establish a tailored data retention scheme requires particular scrutiny before any decision is taken. As the AMTA / Communications Alliance submission notes, potential issues include the privacy implications of a data retention model; the need for a two year data retention period given overseas evidence that 90% of data sought is less than six months old; safeguards to ensure data security, particularly where required to be stored by smaller providers; defining what data could sought under the scheme; and cost sharing arrangements given the high cost of storing, searching and retrieving such large quantities of data. Should the Government elect to implement this proposal, Ai Group supports the adoption of the UK model as outlined in the AMTA / Communications Alliance submission.

Ai Group recognises the importance of protecting communications networks from external threat and welcomes closer cooperation between the industry and agencies in this regard. Like AMTA and the Communications Alliance, Ai Group supports a security outcomes/objectives based approach as opposed to stipulating a requirement for Government approval of network architecture at a technical or engineering level.

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<sup>1</sup> See pages 5-6 of the AMTA / Communications Alliance submission

Finally, ensuring the privacy and security of customer data is vital for telecommunications companies to retain customer confidence in their operations. Ai Group supports the insertion of a clearly expressed privacy objects clause in the *Telecommunications (Interception and Access) Act 1979* which encourages consistency with existing privacy obligations that apply to telecommunications providers. The object should also explain how industry will be required to balance protecting individual's privacy with assisting agencies that require information so that telecommunications providers have certainty about their obligations and can clearly communicate their responsibilities to staff and customers.

Thank you for considering Ai Group's submission.

Yours sincerely,

Dr Peter Burn  
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