

26 May, 2011

Submission by Dr Dan Svantesson in relation to the Legal and Constitutional Affairs Legislation Committee's inquiry into the Intelligence Services Legislation Amendment Bill 2011:

1. I note that the proposed wording of Paragraph 25(4)(a) of the *Australian Security Intelligence Organisation Act 1979* (Cth) remains focused on data present on a particular computer, with the wording changing from "stored in the target computer", to "held in the target computer at any time while the warrant is in force".
2. A focus on such data risks becoming outdated in light of fast advancing cloud computing services. With cloud computing, person X's data will simply not be stored as such on person X's computer and a warrant to access data stored on that computer will be of limited value.
3. Imagine, for example, that a warrant is issued in relation to Mr X's computer (the "target computer"). Imagine further that, in accessing that computer it becomes clear that no substantial data is stored on the computer as Mr X uses a cloud computing structure for all his work. As the warrant is limited to Mr X's computer, it would seem that access would not be allowed to the cloud computing storage even if, for example, Mr X has stored his log-in details for that service on his computer.
4. Furthermore, under a cloud computing structure, it may not be possible to know in advance on what particular computer data is stored,
5. In light of this, it seems desirable that a new wording be adopted so as to cater for access to the computer the warrant relates to, as well as the data that is associated with that computer through a cloud computing arrangement.
6. For further information, please contact:

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