

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Intelligence and Security
Review of the amendments made by the Telecommunications and Other Legislation
Amendment (Assistance and Access) Act 2018

7 August 2020

QoN Number: 10

Subject: Communication Provider

Asked by: Mark Dreyfus

Question:

Prior to 6 December 2018, how many times had a designated communications provider (as that term is defined in the Assistance and Access Act) explicitly declined to provide assistance in response to an Australian law enforcement agency (other than the AFP and NSW Police)? Please provide details.

Answer:

Prior to the passage of the Assistance and Access Act on 6 December 2018 there was no legislated framework for Australian law enforcement agencies to seek assistance from designated communications providers, beyond the assistance that could be sought from carriers and carriage service providers under section 313 of the *Telecommunications Act 1997*. Consultation with law enforcement agencies other than the AFP and NSW Police did not reveal any recorded instances of agencies formally approaching designated communications providers (other than carriers and carriage service providers) to seek technical assistance.

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Intelligence and Security
Review of the amendments made by the Telecommunications and Other Legislation
Amendment (Assistance and Access) Act 2018

7 August 2020

QoN Number: 11

Subject: Communication Providers

Asked by: Mark Dreyfus

Question:

How many different designated communications providers have received a technical assistance requests from law enforcement agencies in Australia?

Answer:

Two providers have received technical assistance requests (TARs) from AFP.
Nine providers have received TARs from NSW Police.
One provider has received a TAR from ACIC.

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Intelligence and Security
Review of the amendments made by the Telecommunications and Other Legislation
Amendment (Assistance and Access) Act 2018

7 August 2020

QoN Number: 12

Subject: Technical Assistance Requests

Asked by: Mark Dreyfus

Question:

Specifically, what offences have the technical assistance requests issued by Australian law enforcement agencies (other than the AFP and NSW Police) relate to?

Answer:

The Australian Criminal Intelligence Commission is the only agency other than the AFP and NSW Police that has issued a technical assistance request (TAR). The TAR issued by the Australian Criminal Intelligence Commission in April 2020 supported the investigation of the following offences:

- conspiracy to import a commercial quantity of border controlled drugs contrary to subsection 11.5(1) and section 307.1 of the *Criminal Code Act 1995* (Cth) (the Criminal Code), an offence which carries a maximum penalty of imprisonment for life;
- conspiracy to import a border controlled drug, contrary to subsection 11.5(1) and section 307.3 of the Criminal Code, an offence which carries a maximum penalty of imprisonment of 10 years;
- attempt to possess commercial quantities of unlawfully imported border controlled drugs contrary to subsection 11.1(1) and section 307.5 of the Criminal Code, an offence which carries a maximum penalty of imprisonment for life;
- dealing in the proceeds of crime contrary to section 400.4 of the Criminal Code, an offence which carries a maximum penalty of imprisonment of 20 years;
- conspiracy to deal in the proceeds of crime contrary to subsection 11.5(1) and section 400.4 of the Criminal Code; an offence which carries a maximum penalty of imprisonment of 20 years;
- offences contrary to Division 360 (cross-border firearms trafficking) and Division 361 (international firearms trafficking) of the Criminal Code;
- dealing with money or other property contrary sections 400.3, 400.4, 400.5 or subsections 400.6(1), 400.6(2), 400.7(1) of the Criminal Code; and
- supporting a criminal organisation contrary to section 390.4 the Criminal Code.

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Intelligence and Security
Review of the amendments made by the Telecommunications and Other Legislation
Amendment (Assistance and Access) Act 2018

7 August 2020

QoN Number: 13

Subject: Technical Assistance Requests

Asked by: Mark Dreyfus

Question:

How many of the technical assistance requests issued by Australian law enforcement agencies (other than the AFP and NSW Police) have not been fully complied with in every respect? For each example, please provide as much detail as possible.

Answer:

Correspondence with the ACIC indicates the technical assistance request it issued was fully complied with.

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Intelligence and Security
Review of the amendments made by the Telecommunications and Other Legislation
Amendment (Assistance and Access) Act 2018.

7 August 2020

QoN Number: 14

Subject: Technical Assistance Requests

Asked by: Mark Dreyfus

Question:

How many of the technical assistance requests issued by Australian law enforcement agencies (other than the AFP and NSW Police) were issued orally?
a. In respect of each oral request, why wasn't it practicable in the circumstances to give the request in writing?

Answer:

The technical assistance request given by the ACIC was not issued orally.

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Intelligence and Security
Review of the amendments made by the Telecommunications and Other Legislation
Amendment (Assistance and Access) Act 2018

7 August 2020

QoN Number: 15

Subject: Technical Assistance Requests

Asked by: Mark Dreyfus

Question:

In respect the technical assistance requests that have been issued by Australian law enforcement agencies (other than the AFP and NSW Police), please provide the following details:

- a. How many of the requests specified an expiry date?
- b. For each request that has been revoked or has expired, how long did the request remained in force?
- c. For each request that has not been revoked or has not expired, how long had the request been in force as at 12 August 2020?
- d. How many requests have been extended?
- e. How many requests have been otherwise varied?
- f. Have any of the requests been extended on multiple occasions? If so, please provide details.
- g. Have any of the requests been otherwise varied on multiple occasions? If so, please provide details.
- h. How many of the technical assistance requests included a request that a specified act or thing be done within a specified period?

Answer:

- a. The technical assistance request (TAR) given by ACIC specified an expiry date.
- b. The TAR given by ACIC has not been revoked or expired.
- c. The TAR given by ACIC had been in force for eight months and 27 days as of 20 August 2020.
- d. The TAR given by ACIC has not been extended.
- e. The TAR given by ACIC has not otherwise been varied.
- f. The TAR given by ACIC has not been extended on multiple occasions.
- g. The TAR given by ACIC has not otherwise been varied on multiple occasions.
- h. The TAR given by ACIC did not include a request that a specified act or thing be done within a specified period.

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Intelligence and Security
Review of the amendments made by the Telecommunications and Other Legislation
Amendment (Assistance and Access) Act 2018

7 August 2020

QoN Number: 16

Subject: Assistance Requests

Asked by: Mark Dreyfus

Question:

Since 6 December 2018, how many times has an officer or authority of the Commonwealth or of a State or Territory requested assistance from a carrier or carriage service provider under section 313(3) of the Telecommunications Act? Note: If necessary, the Department should obtain this information from other agencies or the Department of Infrastructure, Transport, Regional Development and Communications.

Answer:

Having consulted agencies and the Department of Infrastructure, Transport, Regional Development and Communications, the Department is unable to confirm the total number of times assistance has been requested under subsection 313(3) over the period in question. There is no legislative requirement for this information to be recorded.

The Department understands that ASIO will provide the Committee with a separate, classified response to this question.