



Submission No 113

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

**Organisation:** Vodafone Hutchison Australia



**Vodafone Hutchison Australia**  
**Submission to the Parliamentary Joint Committee on Intelligence and Security**

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

Vodafone Hutchison Australia (Vodafone) welcomes the opportunity to make a submission to the Parliamentary Joint Committee on Intelligence and Security's (Joint Committee) Inquiry into potential reforms to National Security Legislation.

Vodafone agrees with the Government that it is timely to undertake an overarching assessment of the current legislative framework that governs telecommunications interception and network security. The telecommunications sector is changing and the importance of a resilient telecommunications sector has become a central element of Australia's security strategy.

We commend the Attorney General and the Joint Committee for undertaking an Inquiry before legislation is drafted. As has been identified by Government, there must be a dialogue between Australian citizens, the Government and the telecommunications industry about how best to meet the interests of all parties in a way that is cost effective, efficient and sustainable.

We agree that this Inquiry should focus on establishing the principles of any new regime and ensure that the regulatory framework is designed to deliver a sustainable and effective outcome. It is Vodafone's view that the success of this review is dependent on establishing a legislative framework that harnesses the common interests of the Government and the telecommunications industry. This will optimise effective and cost efficient outcomes for national security.

Vodafone has worked with Communications Alliance and the Australian Mobile Telecommunications Association (the Industry Associations) to develop their detailed submission. The Industry Associations' submission is endorsed by Vodafone and we offer only a few additional comments here on the principled-based approach that we think is appropriate.

It is our view that Industry Association's submission offers the industry consensus view on the principles that must be followed when developing the most effective regulatory regime. Their submission also flags a range of key concerns that the industry has about the ideas outlined in the Attorney General Department Discussion Paper.

Vodafone would welcome the opportunity to present at the Joint Committee's hearings to discuss our views in detail.



## **Vodafone strongly supports a principles based reform agenda that acknowledges our common interests**

When undertaking an assessment of the legislative and regulatory regime for telecommunications security, it is essential to recognise that the interests of the Government and the industry are aligned in the pursuit of a secure and robust telecommunications system in Australia. Because of our common interests in the area of national security, Government and industry should be able to establish an optimal set of long-term arrangements.

Our interests are aligned quite simply because Government is seeking to optimise national security in an efficient and effective way; and the telecommunications industry needs to establish network security arrangements that are trusted by the Government, and our customers. As such there is no divergence of interests in delivering the outcome.

It is Vodafone's view that the interests of the parties can misalign and operational interactions can become unproductive when:

- Security agencies are burdened with excessive oversight arrangements that require them to impose technology and process requirements on the industry in areas where they have no expertise; and
- The Telco industry is not given clear information at the right time in their decision making processes about what security standards are required; or when the Government imposes requirements on industry that do not take in to account legitimate commercial interests.

As outlined in the Industry Associations' submission, commercial activities cannot operate in an environment of uncertainty where the industry is left second-guessing what government agencies may require.

In establishing regulatory arrangements that harness our common interests, the Government must work with the symbiotic and supportive set of capabilities that exist between industry and the agencies:

- The Government's security agencies are best placed to outline what are actual and emerging security risks and provide clear guidance to the industry about effective protections and controls to mitigate these risks.
- The telecommunications industry is best placed to determine what are the most appropriate operational and technical controls for their businesses.

Consistent with the Industry Association's submission, it is Vodafone's view that the regulatory regime that best delivers the security agencies requirements is one that:

- is clear about what is expected and this is communicated well in advance of commercial decision making;



- provides the industry flexibility in delivery;
- is sensitive to legitimate commercial interests and the promotion of competition;
- acknowledges the need for cost recovery of regulatory and operational requirements; and
- establishes clear policy requirements and avoid ad hoc (and ex post) decision making processes.

It is essential that the parameters for commercial decision-making are clearly established and that individual industry players are then able to deliver on these requirements in a way that best meets their broader operational and commercial requirements. Most importantly there must be careful consideration of the cost implication of various regulatory requirements and how they will impact the cost of services enjoyed by our customers.

The best approach that would meet this requirement is a regulatory regime that provides a clear set of security guidelines that articulates the risks that must be managed (or eliminated) by the network operator. Further there should be a regime that avoids overly prescriptive requirements or establishes arrangements that require the industry to seek permission from the Government after commercial and operational assessments have been undertaken.

Vodafone believes that the proposed framework outlined in the Attorney General Department's Discussion paper has the potential to deliver such a set of arrangements. This will deliver a sustainable set of security arrangements. However, there are elements of the proposed regime that require refinement. These elements are identified in the Industry Associations' submission. We share the view that, at this stage, more detail is required from the Attorney General's Department about how the new arrangements will work and how some of the more significant of the proposed new powers do not come to dominate security regulation in Australia.