

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: 1.7

Question No. SBE15/093

Senator Collins asked the following question at the hearing on 20 October 2015:

1. How many Carriage Service Providers (CSPs) are there in Australia for the purposes of the data retention scheme?
Please provide a breakdown based on:
 - a. Number of customers,
 - b. Number of staff, and
 - c. Revenue from ISP services.
2. What estimate of the number of CSPs in Australia informed the Government's determination of how much funding would be allocated for compensation under the data retention scheme?
3. Is the \$130.3m allocated for compensation intended to address the full cost of compliance by industry with the data retention scheme? What is the Government's estimate of that full cost?
4. Please confirm that the Department is deducting \$2.9m from the \$130.3m allocated in the Budget to contribute to CSPs' start-up costs.
 - a. What will this \$2.9m be used for?
 - b. How was this figure arrived at?
 - c. What is the breakdown?
5. The Department has been developing a draft financial model to disburse compensation among Carriage Service Providers:
 - a. What are the features of this model?
 - b. Is it the model or based on reimbursement of a portion of actual start-up costs incurred by individual providers?
 - c. What is proposed to ensure that small CSPs are not disproportionately burdened?
 - d. Why has it taken so long to get to the point where AGD can start consulting with industry?
 - e. When will compensation be finalised?
6. In deciding whether to grant exemptions under the data retention scheme, will the Government take into account the fact that some CSPs will be unable to meet the upfront costs of compliance until compensation is available?
7. ACMA is advising CSPs that subsequent to the end of the financial year service providers will be required to submit annual reports to the ACMA on the cost of complying with the data retention obligations. This is in addition to the current requirement to report on the cost of interception capability. Was this additional cost to industry taken into account in the Government's Regulatory Impact Statement?

The answer to the honourable senator's question is as follows:

1. Carriage service providers do not have mandatory registration requirements. As a result, the precise number of carriage service providers in Australia (and consequently statistics surrounding staffing, revenue and customers) is not known.

Estimates of the size of the industry are available from a number of sources. The Australian Bureau of Statistics reports that 419 internet service providers were operating in Australia in

June 2013. The Australian Communications and Media Authority recorded that 236 carrier licenses were active in Australia as at 6 November 2015. Many licenced carriers also operate as internet service providers, meaning that these figures may overlap.

- 2-3. The Government engaged an independent consultant, PricewaterhouseCoopers (PwC), to estimate the upfront capital cost to industry of implementing data retention. The Government has committed to making a contribution to industry's upfront capital costs, based on PwC's estimates.

PwC estimates the upfront capital cost of the data retention obligations to be between \$188.8 million and \$319.1 million. This is much less than 1 per cent of the \$43 billion in revenue generated by the telecommunications industry annually. Estimates of the full cost range widely, and the allocated funding of \$128.4M for providers is 50% of the midpoint of those estimates.

4. \$2.9M has been allocated to the administration of the data retention grants programme across three years, as follows:

2015-16	2016-17	2017-18
\$1.5M	\$0.8M	\$0.6M

The 2015-16 allocation will be used to support staff and external contractors to:

- design the grants programme
- develop systems for providers to apply online
- undertake activities to assist providers in applying, including:
 - o develop and distribute information material
 - o hold workshops
 - o provide a phone and email hotline service
- assess applications
- negotiate funding agreements between the Commonwealth and providers
- administer payments to providers, and
- assess providers' progress against agreed milestones.

The 2016-17 and 2017-18 allocation will be used to support staff and external contractors to:

- administer payments to providers
- negotiate requested amendments to funding agreements
- provide a phone and email hotline service to answer ongoing queries from providers
- assess providers' progress against agreed milestones
- audit funded activities, and
- evaluate the programme.

5. The Data Retention Implementation Working Group, comprising representatives from industry and government, will meet to consider the model for distributing funds to industry participants.

The funding model will take account of Recommendation 16 of the Parliamentary Joint Committee on Intelligence and Security's Advisory report on the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014, including providing adequate support for smaller providers.

It is expected that first payments will be made in the second quarter of 2016.

6. A provider can request an extension of time to become compliant (up to 13 April 2017) by submitting a data retention implementation plan. Eligible providers are expected to receive first payments under the grants programme in the second quarter of 2016.

If a provider applies to the Communications Access Co-ordinator for an exemption from data retention obligations, one of the factors that the Communications Access Co-ordinator must take into account under the legislation is the service provider's costs or anticipated costs of complying.

7. The department engaged PwC to estimate the regulatory impact of the data retention regime. The Regulatory Impact Statement was prepared in accordance with the requirements of the Office of Best Practice and Regulation, including the Regulatory Burden Measurement framework.