

# ADDITIONAL COMMENTS AND POINTS OF DISSENT BY THE AUSTRALIAN DEMOCRATS

1.1 The Democrats agree substantially with the evidence presented in the Chair's report in relation to recommendations for processes to be implemented prior to introduction of the Bill. We share the concerns raised and endorse the recommendations contained therein, subject to the following points.

1.2 The Democrats understand the need for ensuring protection of financial regulatory systems and procedures from the threat of money laundering and terrorist financing. However, we consider that this Exposure Draft Bill as a work in progress demands substantial improvement before it should be introduced.

1.3 As it is currently drafted, this Exposure Draft represents another disproportionate response to security issues facing Australia and will have severe implications for the rights of Australians. The threat of terrorism is not an adequate argument for the introduction of such invasive legislative changes.

1.4 The Democrats note the evidence provided by the Australian Privacy Foundation on this point:

If the proposals represented in this exposure bill can be described in one word it is 'disproportionate'. In so many ways, these proposals are a heavy-handed approach and may be even a ham-fisted approach to managing the risks of money laundering and terrorist financing. Instead of taking a balanced and risk assessment based approach to monitoring financial transactions, an attempt has been made to sweep all manner of perfectly innocent transactions and innocent people into a vast net of surveillance.<sup>1</sup>

1.5 The Australian Privacy Foundation also expressed concern about the cumulative effect of this bill when considered with other proposals that already do or will potentially invade the privacy of Australians.<sup>2</sup>

1.6 The Democrats are deeply concerned about the veritable landslide of privacy incursions made possible by the recent changes in the name of combating terrorism. The absence of assessments as to the impact of these changes and any legislative framework to provide adequate protection for civil liberties compounds our concern.

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<sup>1</sup> *Committee Hansard*, 14 March 2006, p. 30.

<sup>2</sup> *Committee Hansard*, 14 March 2006, p. 31.

## **Object of the Exposure Bill**

1.7 The Democrats note the Committee's suggestion relating to the inclusion of a clear objective statement that reflects the true intention of the ways in which information collected in accordance with the Bill can be used.

1.8 The Democrats also note the evidence provided by the New South Wales Council for Civil Liberties on this issue:

The true extent of the regime is obscured by the objects clause and title of the bill, which are highly misleading. The reference to anti money laundering and counter terrorism belies the fact that the data currently collected by AUSTRAC will be routinely accessible to a range of government agencies that have little or nothing to do with combating serious crime.<sup>3</sup>

1.9 The Democrats strongly believe that the Bill should be strictly limited to the collection of information for the anti-money laundering and counter-terrorism purposes stated in the objects of the Bill.

1.10 In the event that the Bill is not limited in this way, the Democrats strongly support the Chair's suggestion that the objects of the Bill be amended to clarify its true purpose.

## **Privacy**

1.11 The Democrats reiterate the concerns of the Committee that fundamental privacy, consumer and civil rights issues have been overlooked.

1.12 We strongly support the Committee's recommendation that an independent Privacy Impact Assessment be undertaken in relation to this Bill. The Democrats strongly support the use of independent Privacy Impact Assessments to analyse all legislative changes that may infringe the privacy rights of Australians.

## **Human Rights Impact Statement**

1.13 The Democrats support the suggestion by the New South Wales Council for Civil Liberties that, further to a Privacy Impact Statement, a Human Rights Impact Statement should be conducted.

1.14 The Democrats note and concur with evidence provided to the Committee that:

... best parliamentary practice would be to have a human rights impact statement prepared before proceeding with this bill.<sup>4</sup>

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<sup>3</sup> *Committee Hansard*, 14 March 2006, p. 37.

<sup>4</sup> *Committee Hansard*, 14 March 2006, p. 37.

1.15 The Democrats consider that similar to the heightened significance of a Privacy Impact Assessment in the context of totally inadequate privacy laws, the absence of a Bill of Rights against which to frame potential abuses and seek recourse demonstrates a heightened need for assessment of any potential infringements.

**Senator Natasha Stott Despoja**  
**Australian Democrats**

