

ACA Submission to Senate Legal and Constitutional Legislation Committee Inquiry into the Crimes Legislation Amendment (Telecommunications Interception and Other Measures) Bill 2005

The Australian Communications Authority (ACA) supports the proposed amendments to the *Telecommunications (Interception) Act 1979* (TI Act) contained in Part 1 and in Part 2, Schedule 2, of the *Crimes Legislation Amendment (Telecommunications Interception and Other Measures) Bill 2005*.

The ACA merges with the Australian Broadcasting Authority on 1 July 2005 to become the Australian Communications and Media Authority (ACMA).

Interception by radiocommunications inspectors

The proposed amendments to sub-section 7(2) of the TI Act will permit interception of communications by radiocommunications inspectors if that interception is incidental to the performance of a spectrum management function, or the exercise of a related power of the ACMA, under the *Australian Communications and Media Authority Act 2005*, or the *Radiocommunications Act 1992*.

The *Radiocommunications Act 1992* provides for the ACA to appoint inspectors for the purpose of that Act. Within the ACA there are currently 71 staff members appointed for the purposes of that Act. Those ACA radiocommunications inspectors perform duties in a number of offices around Australia. By virtue of the Act, Federal and Territory Police are automatically appointed as inspectors, and certain classes of State Police officers have been appointed by gazettal.

The spectrum management functions undertaken by radiocommunications inspectors employed by the ACA include investigating interference to radiocommunications services, investigating interference to radio and television broadcasting reception, and investigating offences relating to the operation of radiocommunications transmitters. The ACA places a high priority on investigating interference that affects safety of life services.

In the course of performing their spectrum management functions, ACA radiocommunications inspectors need to identify and locate the source of particular radiocommunication transmissions. Identification and location of the source is usually undertaken by aural monitoring and recording transmissions in the radiofrequency spectrum and simultaneously analysing information from technical measurement and direction finding devices. This methodology ensures that the measurements the inspector is taking are of the signals of interest. Moreover, it is usually necessary, for enforcement of the *Radiocommunications Act 1992* to prove in a court of law that a particular transmission occurred from a particular location. This is achieved through recording the audio from such transmissions and supporting that recording with the results of technical direction finding.

In many cases radiocommunications inspectors have been able to perform their functions, including aural monitoring of radiocommunications, without conflict with

the TI Act, as the interception of communications provided solely by means of radiocommunications is not prohibited by the TI Act.

It has now become commonplace for radiocommunications systems to be connected to a telecommunications network. In such cases aural monitoring and recording of the radiocommunications system may contravene the TI Act. ACA investigators may not, in the first instance, know if the radiocommunications traffic they are monitoring is carried over a telecommunications network. In some instances, the system concerned may switch between a stand alone radiocommunications system and a system that connects to a telecommunications network. For example, high frequency radio systems used for outback communications have this facility as do some taxi services in regional areas. At present radiocommunications inspectors must discontinue aural signal monitoring and recording when it becomes apparent that the radiocommunications being monitored are carried over the telecommunications network.

The ability of radiocommunications inspectors to listen to the information carried by a radio system is critical to the early detection and suppression of interference and unauthorised transmissions. Emissions from offending radiocommunications signal sources may be infrequent, of very short duration, and of low power which makes source location by radio direction finding extremely difficult and highly resource intensive. Consequently, information from aural signal monitoring and recording is used to assist to identify the location of the transmissions concerned. During investigations where time is a constraint, the information that is obtained from aural signal monitoring and recording is critical when there is potential for serious consequences.

Interference incidents have affected safety services in recent years. For example, ACA radiocommunications inspectors have investigated emissions from imported cordless telephones that interfered with Air Traffic Control frequencies at major airports and nuisance calls to the 000 emergency call services in Melbourne using a taxi radiocommunications system. This simply underlines the need for radiocommunications inspectors to be able to legally intercept radiocommunications and telecommunications in the performance of their spectrum management functions.

The ACA considers that the amendment to the TI is a prudent regulatory response that will allow radiocommunications inspectors to effectively perform their spectrum management functions for the benefit of the community.