



Senator Guy Barnett  
Committee Chair  
Legal and Constitutional Committee  
Department of the Senate  
Parliament House  
CANBERRA ACT 2800

Dear Senator Barnett

**INQUIRY INTO THE TELECOMMUNICATIONS (INTERCEPTION AND ACCESS)  
AMENDMENT BILL 2007**

Thank you for the opportunity to make a submission to the Parliamentary inquiry into the above Bill.

Having reviewed the amendments the Bill proposes to make to the *Telecommunications (Interception and Access) Act 1979* (TIA Act), we recognise that there is a need for comprehensive and over-riding legislation dealing with access to telecommunications data for security and law enforcement purposes, and that this Bill will make these necessary provisions. We also understand that the Bill amends the TIA Act to implement further recommendations from the Report on the Review of the Regulation of Access to Communications by Mr Tony Blunn AO and welcome the continued implementation of these recommendations.

Whilst we are pleased that Subsection 5F(2) and 5G(2) expands the operation of exemption of 'passing over the telecommunication system' to cover Commonwealth agencies, security authorities and eligible authorities of State, we also note that this in fact only expands the exemption within Western Australia to cover the Corruption and Crime Commission (CCC). In 2006 the CCC recommended that:

'Urgent consideration be given to entering into discussion with the Commonwealth Government with a view to amending the TIA Act to enable State Government entities to lawfully intercept communications within the boundary of the organisation but whilst still passing over the organisation's internal network to protect data and systems and to detect the communication of inappropriate or illegal material.'

The Western Australian Minister for Police and Emergency Services has been corresponding with the Commonwealth Attorney-General requesting legislative change to the TIA Act to implement the above recommendation. Our interpretation of the amendments this Bill proposes to Subsections 5F(2) and 5G(2) of the TIA Act is that these do not address the issue of our previous request for legislative change as outlined in the CCC recommendation above.

If our interpretation of the Bill is correct, I urge the Committee to consider further amendments to the Bill to clearly permit a system owner or system administrator to record electronic communication in good faith for the security of the data, protection of the owner's assets or for the prevention of misconduct over the owner's system. As outlined in the letter from the Western Australian Minister for Police and Emergency Services to the Commonwealth Attorney-General of 14 November 2006, this can reasonably be expected to be of concern to Government or non-Government bodies using, or wishing to use, electronic intrusion detection systems to protect their networks and guard against misuse of their systems.

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ACTING PREMIER

1.3 JUL 2007