

The Senate

Standing Committee on
Legal and Constitutional Affairs

Telecommunications (Interception and
Access) Amendment Bill 2008

May 2008

© Commonwealth of Australia

ISBN: 978-0-642-71907-2

This document was printed by the Senate Printing Unit, Department of the Senate,
Parliament House, Canberra.

MEMBERS OF THE COMMITTEE

Members

Senator Patricia Crossin, **Chair**, ALP, NT
Senator Guy Barnett, **Deputy Chair**, LP, TAS
Senator Andrew Bartlett, AD, QLD
Senator Mary Jo Fisher, LP, SA
Senator Annette Hurley, APL, SA
Senator Linda Kirk, ALP, SA
Senator Gavin Marshall, ALP, VIC
Senator Russell Trood, LP, QLD

Participating Members

Senator Bob Brown, AG, TAS
Senator John Hogg, ALP, QLD

Secretariat

Mr Peter Hallahan	Secretary
Ms Anne Withell	Principal Research Officer
Ms Hanako Jones	Executive Assistant

Suite S1. 61	Telephone: (02) 6277 3560
Parliament House	Fax: (02) 6277 5794
CANBERRA ACT 2600	Email: legcon.sen@aph.gov.au

TABLE OF CONTENTS

MEMBERS OF THE COMMITTEE	iii
ABBREVIATIONS	vii
RECOMMENDATIONS	ix
CHAPTER 1	1
INTRODUCTION	1
Referral	1
Purpose of the Bill	1
Conduct of the inquiry	2
Acknowledgement	2
Note on references	2
CHAPTER 2	3
OVERVIEW OF THE BILL	3
Extension of sunset clauses for network protection provisions	3
Device-based named person warrants	6
Notifications of warrants to and by state ministers	10
CHAPTER 3	13
EXTENSION OF NETWORK PROTECTION	13
SUNSET DATES	13
Committee findings and recommendations	16
CHAPTER 4	19
DEVICE-BASED NAMED PERSON WARRANTS	19
The tension between privacy and the need for interception powers	19
Identification of devices	21
Adding devices to device-based warrants after issue	23

Accountability mechanisms.....	30
Consistency between service- and device-based warrants	32
Legislative intent concerning device-based named person warrants	33
Committee findings	40
CHAPTER 5	43
NOTIFICATIONS TO AND FROM STATE MINISTERS	43
Concerns about the proposal	43
Committee findings	44
CHAPTER 6	45
OTHER ISSUES	45
International, national and state obligations.....	45
Five year review of the TIA Act.....	46
Committee findings	47
SUPPLEMENTARY REPORT WITH	49
ADDITIONAL COMMENTS OF DISSENT BY THE AUSTRALIAN DEMOCRATS.....	49
Recommendation 4	53
International, national and state obligations.....	53
Public Interest Monitor.....	53
APPENDIX 1	55
SUBMISSIONS AND ADDITIONAL INFORMATION RECEIVED	55
APPENDIX 2	57
WITNESSES WHO APPEARED BEFORE THE COMMITTEE	57