

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By email to: legcon.sen@aph.gov.au

24 April 2008

**Re: Inquiry into the Telecommunications (Interception and Access) Amendment Bill 2008
Response to Questions on Notice**

Dear Sir or Madam,

Electronic Frontiers Australia ('EFA') appreciates the opportunity to respond to the Questions on Notice from Senator Kirk at the Committee's hearing on 17 April.

EFA supports the extension of reporting requirements to device-based named person warrants. Those reporting requirements should, at a minimum, mirror those that currently exist in relation to service-based named person warrants.

EFA considers that the existing reporting requirements for service-based named person warrants would not necessarily provide sufficient information to show whether interception agencies were abusing their powers to intercept additional services and devices which are not named in the warrant.

For example, one current reporting obligation is to report how many warrants 'involved the interception of more than 10 telecommunications services'. If a service-based named person warrant is issued, which identifies only one telecommunications service, and the agency involved intercepts a further 10 telecommunications services because they consider it 'likely' that the named person will use those services, would this warrant be reported as a warrant involving a single service, or more than 10 services?

EFA considers that a question such as 'how many warrants *involved* the interception of more than 10 telecommunications services' is a very different issue to 'how many warrants *identified* more than 10 telecommunications services', and there should be separate reporting obligations with respect to each.

EFA also considers that there is a need for an additional reporting requirement: how many warrants (of each type) were used to intercept devices or services which were not specifically identified in the warrant. Statistics on this issue would indicate whether or not interception agencies might be overusing this power.

EFA considers that both service-based and device-based named person warrants should be subject to very strong safeguards, and that the existing safeguards – particularly the ability of interception agencies to intercept additional devices and services not named in the warrant – are inadequate. We do not consider that there should be a difference in safeguards as between the two types of warrants.