

Thursday, 3 December 2020

Let's not rush important Bills through Parliament

The Law Council of Australia is calling on the government to give key stakeholders and the Parliament time to scrutinize the *Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020*.

Introduced into Parliament today, the proposed powers in the Bill are extraordinary, particularly in respect of warrant-based powers for the Australian Federal Police and Australian Criminal Intelligence Commission to engage in offensive cyber activities and online account takeovers.

Law Council President, Pauline Wright, says that a close inspection of the stated operational case, the criteria, thresholds and process for the issuance of warrants, and the arrangements for independent oversight and review is needed.

"The Bill should not, under any circumstances, be called on for debate and intended passage in the remaining four Parliamentary sitting days in 2020," said Ms Wright.

"There must not be any repetition of the regrettable circumstances that led to the rushed passage of the *Telecommunications Legislation Amendment (Assistance and Access) Act 2018 (Cth) (TOLA)*, where multiple post-enactment reviews of that legislation identified a need for major amendments to fix numerous, serious defects.

"Of particular concern is the issuing of disruption warrants by members of the Administrative Appeals Tribunal (**AAT**), which the Law Council believes should be issued solely by superior court judges, who are appointed in their personal capacities," said Ms Wright

"The power to issue disruption warrants should not be conferred on ordinary AAT members, as is proposed in the Bill. In this regard, Australia is already an outlier with our Five Eyes counterparts, all of whom have adopted judicial authorisation models for the issuance of surveillance warrants to their security agencies.

"The Bill will serve only to widen this gap," said Ms Wright.

The Law Council is currently reviewing the Bill and hopes that a referral for inquiry and report will be made to the Parliamentary Joint Committee on Intelligence and Security.

ENDS

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