

Consultation on the Independent Review of the Security of Critical Infrastructure Act 2018

Submission from: The Space Industry Association of Australia (SIAA)

Summary:

SIAA fully supports the intent of the SOCI Act and welcomes this review. SIAA is concerned that Australia is heavily reliant upon space-based satellite services across many key parts of Australia's economy and society, however SOCI does not yet specifically list any domestic space assets. More importantly, some of the most significant Australian critical infrastructure vulnerabilities relate to international (non-Australian domiciled) networks and services (e.g. PNT and Satellite Comms). These underpin many SOCI sectors, yet are currently entirely outside of the SOCI framework and mechanisms, and it is not even clear how the SOCI framework might incorporate them.

Space assets and space-related services are already fundamental to Australia's economy and society, with a host of Defence and National Security applications as well as broad general economy dependencies (GPS/PNT underpinning all transport, logistics and navigation, while rural, remote and First Nations Australia are heavily dependent on satellite services for communications, education, health and access to government services). The UK Government estimates that space-related assets and services already underpin 18% of the UK economy, which proportion is likely to be significantly higher in Australia, given its vastly larger landmass.

The foundational nature of space-based services, such as PNT or communications means that the flow through impacts of disruptions are likely to be extremely problematic, affecting a raft of other SOCI sectors, including telecommunications, energy, transport, defence, national security, financial services and emergency management. COVID showed the large impacts across economies and societies due to international supply chain vulnerabilities, yet Australia is still to grapple with these issues in relation to space.

SIAA submits that the SOCI Act would function more effectively through 2 initiatives:

- 1) Regular review of sovereign assets and services through targeted consultation with SIAA and sovereign Australian industry to ensure that the rapid development of sovereign assets and capability is understood and tracked, and that the right assets can thereby be brought under the regime at the appropriate time; and
- 2) A more complex initiative to ensure that international space-based assets and services can be brought within the SOCI regime (with data processing the closest existing analogy). Otherwise, a large swathe of vulnerabilities affecting multiple SOCI sectors would be left without effective coverage under SOCI and therefore without significant Australian controlled mitigations.

SUBMISSION RESPONSE

Is the SOCI act achieving its intended objectives?

The SOCI Act has made a substantial contribution towards intended objectives of strengthening Australia's ability to manage national security risks arising from espionage, sabotage and coercion in relation to critical infrastructure. The Act has established an effective, principles-based framework that can promote all-hazards risk management, information sharing, and stronger engagement between government and asset owners and operators.

However, from the perspective of the Australian space sector, the Act's objectives are not yet being fully realised in practice. Space systems and services underpin a wide range of critical infrastructure sectors captured under the SOCI Act, including telecommunications, energy, transport, financial services, defence and emergency management. Despite this, Australian space assets, space-enabled services, and their operators are only recognised to the extent that they meet the definitions for inclusion in relation to other sectors such as telecommunications, rather than through a consistent and sophisticated review of the extent of criticality to Australia's economy and society.

As explained below and above, there is a second and more significant issue since Australia relies heavily upon international space-based assets and services, which are not currently within the SOCI regime, and their international nature means that it is not obvious how they might be incorporated. This is concerning given that these assets and services, including PNT and regional communications connectivity, are foundational for the Australian economy and society, and the list of international dependencies is growing not reducing as Australia, unlike most peers and rivals, generally chooses not to build sovereign capability but procure outsourced international services.

This creates a gap between the intent of the Act and its operational coverage. SIAA considers that achieving the SOCI Act's objectives in full will require more deliberate consideration of space as a critical infrastructure enabler, supported by targeted consultation with sovereign Australian space industry participants to ensure that risk, dependency and resilience considerations are accurately reflected.

Is the SOCI act functioning as intended?

The SOCI Act is generally functioning as intended for neat vertical sectors that are clearly defined and historically regulated as critical infrastructure.

In the space context, however, we believe the SOCI Act would function more effectively with improved mechanisms for engagement, inclusion and clarity. The Australian space sector includes a wide range of organisations at different stages of maturity, from start-ups to globally integrated operators supporting government and critical infrastructure customers, and all against a highly dynamic and innovative transformation driven by exponentially lower cost access to space and exponentially beneficial technologies being deployed. A blanket application of SOCI obligations risks unintentionally stifling innovation, while the absence of a pathway into the framework risks leaving material national security dependencies unaddressed.

SIAA recommends close and regular consultation with SIAA and selected members to ensure that the progress of Australian sovereign capability is tracked and nuanced decisions can be made as to the appropriate time to include particular assets and organisations into the SOCI regime.

Consideration of a voluntary or opt-in mechanism should also be considered in future for space companies and organisations whose scale of operations, customer base or role in supporting critical infrastructure justifies engagement with the SOCI framework.

Such an approach would align with the Act's principles-based intent, support mature operators to engage constructively with government, and allow consultation to be facilitated through trusted mechanisms such as the national peak body. This would enhance the practical functioning of the Act without imposing unnecessary regulatory burden on emerging companies.

Is the SOCI act having any unintended consequences?

The SOCI Act has contributed to a broader recognition across government of the importance of critical infrastructure security. However, one unintended consequence is the increasing use of "critical infrastructure" status as a reference point in other legislative, regulatory and policy frameworks to shape expectations of acceptable behaviour by entities that may not be formally captured under SOCI. Eg it is proposed that the Flight Safety Code under the *Space (Launches and Returns) Act 2018 Cth* would change current references to "assets with catastrophic potential" to refer to "critical infrastructure" with a number of consequences for the resultant regulatory regime.

While this cross-government recognition can be beneficial in some regards e.g. by ensuring clear and common definitions, it increases the importance of maintaining accurate, current and well-understood critical infrastructure asset registers and thresholds. If the designation of critical infrastructure is relied upon more broadly, there is a risk that outdated classifications, incomplete coverage, or unclear inclusion criteria could undermine both regulatory certainty and policy effectiveness.

For the space sector, this risk is heightened given the rapid pace of technological change, the evolving role of space-enabled services, and the increasing reliance of critical infrastructure operators on commercial space data and communications. Without ongoing consultation and refinement, there is a risk that SOCI-related expectations are applied inconsistently or without sufficient understanding of the operational realities of space industry participants.

Are there new or emergent threats the SOCI Act is unable to manage in its current form?

The most significant challenge for the SOCI framework in relation to space is not the emergence of an entirely new threat, but the rapid scaling and concentration of existing risks which are difficult to effectively manage within the SOCI regime. Australia is increasingly dependent on international services including very new international commercial space operators for essential services, particularly in areas such as satellite communications, Earth observation and positioning, navigation and timing.

A leading example is the proliferation of low-Earth orbit satellite internet constellations, which now service a large number of Australian government, commercial and critical infrastructure users. These systems are integral to national resilience, yet all of these networks are operated by international entities that cannot be captured as critical infrastructure assets under the SOCI Act and do not engage with SOCI frameworks.

The data processing sector approach offers the closest analogy to international space assets and services so it should be considered as a starting point for a mechanism that effectively captures and mitigates those risks. Without such mechanisms, a growing portion of Australia's critical infrastructure dependency remains outside the practical reach of the SOCI framework, and there is a serious risk of regulatory imbalance where Australian companies operating less significant space-based assets and services are already captured under SOCI (to the extent that they meet the definitions in other sectors such as telecommunications) and/or may be captured under the space sector SOCI placeholder, yet far more foundational assets and services are entirely outside the regime simply because they are provided from outside Australia.