To: Department of Home Affairs





Dear Sir/Madam,

10 September 2018

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Re: Asia Cloud Computing Association (ACCA)'s Response to the Assistance and Access Bill 2018

The Asia Cloud Computing Association (ACCA) thanks the Department of Home Affairs for the opportunity to provide comments on The Assistance and Access Bill 2018. We note the Australian Government's efforts to curb unlawful activities taking place online and protect national security by putting in place mechanisms for law enforcement authorities to gain access to online data.

As the apex industry association for Asia Pacific stakeholders in the cloud computing ecosystem, we represent a vendor-neutral voice of the private sector to government and other stakeholders. Our mission is to accelerate the adoption of cloud computing through Asia Pacific by helping to create a trusted and compelling market environment, and a safe and consistent regulatory environment for cloud computing products and services. We are committed to strengthening the ease of doing business and developing a robust technology ecosystem which supports a vibrant digital economy.

Following discussions with our member companies, we are submitting our comments on the Assistance and Access Bill 2018.

1. Compliance with Data Requests

In the event that a service provider receives multiple and diverse Technical Assistance Requests and Technical Assistance Notices for the same device / data from different agencies, we suggest putting in place a solution to potentially coordinate these efforts in order to reduce the compliance burden on service providers. In this regard, we also propose that where possible, an authorised agency first liaise within the agency or with related agencies to seek assistance and information prior to making a data request with a designated communications provider.

2. Australia Security Intelligence Organisation (ASIO) Act Section 34AAA and Telecommunications Act Section 317ZG

The ACCA suggests that the proposed addition of a new Section 34AAA to the ASIO Act (P.107 of Explanatory Document) be subject to the same limitation as outlined in Section 317ZG of the Telecommunications Act (P.47 of Explanatory Document). The latter "includes a prohibition on building a new decryption capability or actions that would render systemic methods of authentication or encryption less effective" and hence limits the ability of a technical assistance or technical capability notice to get a service provider to re-design their services that feature end-to-end encryption.

3. Authorisation to obtain warrant

The ACCA understands that the UK Investigatory Powers Act, as an outcome of their consultation process, introduced additional requirements to obtain technical capability warrant authorisations from a Judicial Commissioner, and we propose that the Australia Assistance and Access Bill 2018 consider adopting a similar process.¹

¹ Investigatory Powers Act 2016: Response to Home Office Consultation on Investigatory Powers Act Codes of Practices https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/668943/Response_to_the_IPA_codes_consult_ation.pdf

I would be happy to speak further with the Department of Home Affairs on any of these items, or host a vendor-neutral discussion between the Department and other members of the industry from the ACCA to provide feedback. Please feel free to contact me if this is of interest.

I look forward to hearing from you, and welcome your response on the issues raised.

Yours sincerely,

Lim May-Ann Executive Director Asia Cloud Computing Association