

From: David Horsley
To: [Assistance Bill Consultation](#)
Subject: Submission to consultation on the Assistance and Access Bill 2018
Date: Wednesday, 5 September 2018 6:21:20 PM

Dear Minister,

I am writing to express my concerns over the draft legislation titled 'The Assistance and Access Bill 2018', and I give some of my concerns below.

The proposed legislation would fundamentally break the technologies which underpin the internet and the entire modern economy, while doing nothing to help prevent the use of encryption by those who have serious intent to keep their data hidden.

Requiring access to systems, forcing organisations to provide information about how their systems work or forcing organisations to add functionality provided by the Government completely erodes any protection given by this system. This makes the system more vulnerable to attack and makes the data more readily available to criminals and those wishing to do harm. There is no way to alter encryption to just allow it to be broken for “good” reasons; encryption is just maths and cannot understand good or bad. As a result, the weakening of these systems makes it more likely that criminals will access this data, and ensuring these systems remain strong is vital to modern banking, communications, business, and just about the entire modern economy. This proposed law will make leaks, hacks, and breaches of systems more commonplace including being initiated by criminal groups, and this access will be supported by this proposal’s weakened security systems.

The proposed Bill does not contain adequate protections in how these powers will be used, how they will not be used and who can and can’t use these powers or their results such as the data obtained. National Security powers are rarely, if ever, rolled back. As such, when creating these powers, one is also giving these powers to every other government in the future. There is no telling how the political landscape may change over time, and how the powers given to the government of today may be used by the government of tomorrow.

The proposed Bill will also have no effect on individuals who have a serious intention to cause harm and are even slightly committed to ensuring their data remains hidden. While the former PM Malcolm Turnbull was sure the laws of Australia trump the laws of mathematics, this is not true and no amount of saying it will change that. Encryption is an established and well-documented process. Anyone with the motivation can (and will) make use of the enormous amounts of existing resources about encryption and simply encrypt their data themselves.

This also raises the point that these laws will stifle software development in Australia. For many organisations, the costs and effort of rewriting their code, or incorporating code from an outside source (such as the government) is likely to be too great, especially when one considers that this may introduce bugs and vulnerabilities into their products, harming their business. Large organisations such as Google or Facebook may simply ignore the government’s requests and pay the fines which are just a fraction of their revenue from the Australian market. They could alternatively just refuse to cooperate completely, leaving the government with the more aggressive options such as banning these services, which would likely be extremely unpopular. Additionally, the internet makes physical boundaries rather meaningless, and so a service which is unavailable in Australia could likely be accessed using a service such as a VPN, making blocking ineffective.

For smaller, or locally run businesses, the costs of rewriting their code may simple be too great, and the threat of fines too large that the business will simply cease. This will hurt

great numbers of people across the country.

Finally, there are huge implications for privacy. Every single person, as well as businesses and even government need privacy. Encryption ensures this privacy, and the proposed bill eliminates any remaining (implied) right to privacy the Australian people have. For many people, encryption ensures that very sensitive data such as their location, personal discussions, photos, health records and countless other things remains private. If this is weakened, so too is everyone's fundamental right to privacy. This includes the privacy of active service defence personnel, individuals escaping abusive partners, documents pertaining to the operations of businesses and governments, and endless other examples. I ask that if the government is so happy with this degradation of privacy that they take the first step by openly publishing all their classified information. Until such time, I will assume the government continues to see the value in protecting privacy, and therefore understands the fundamental conflict between the proposed laws and maintaining this privacy.

There are many, many other reasons this proposed law should be opposed. However, I believe I have made my point that I disagree with this proposal at all levels and ask that it be revoked, and no similar legislation is proposed.

Thank you

David Horsley

