

From: Jake MacMullin
To: [Assistance Bill Consultation](#)
Subject: Concerns about the proposed Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018
Date: Monday, 10 September 2018 9:41:48 PM

I have a number of concerns about the proposed bill.

If companies are required to modify their systems in order to comply with a technical assistance notice, technical assistance request or technical capability notice then the users of those systems (and potential users) should be made aware of how the systems have been modified in order to comply. It isn't sufficient that agencies report how many notices have been made. We all rely on the security of the communications systems we use and we choose which systems to use and which we'd rather not use based on knowledge of how secure those systems are. It is in the interests of our community to continue to provide people with information about the security of the systems we all use. This must extend to changes that are made in order to comply with orders under this proposed legislation.

I am a software developer and I develop mobile apps. It concerns me that I may be considered a 'designated communications provider' under the proposed legislation and would therefore potentially be the subject of technical assistance notices, requests or capability notices. There would be thousands of people who would potentially be subject to these orders. I don't think it is reasonable to conscript large sections of the Australian community to effectively act on behalf of the intelligence agencies. What if I'm asked to make a change to a system I work on that I don't agree with? For example, what if I'm asked to provide intelligence agencies with access to information where I don't believe such access is justified? Do I have a right to be a conscientious objector? From my reading of the proposed legislation it doesn't look like I would be able to object? In fact it looks as if there are penalties for people who disclose details of the technical requests. If such a regime is necessary there should be protections for people who do not wish to participate. Such as protection from being fired or disciplined for not wanting to comply with a technical assistance request. It is also unreasonable to require secrecy from people who are subject to these requests. I know that I'd want to talk to family, friends and colleagues about the issues and the balance between the needs of law enforcement and the importance of maintaining the security and integrity of the systems I develop.

Finally, I'm concerned that the proposed legislation doesn't appear to allow for open review of decisions. The parties to an order may include an intelligence agency and a designated communications provider but the people effected by any decision to allow an order would likely be a much wider group. The legislation doesn't appear to allow for representations to be made by people impacted more broadly. For example if a the provider of an underlying smartphone operating system is required to make changes to their software in order to comply with a request then people developing apps for that phone might also be affected as would people using that type of phone. As such this group might be interested in presenting their views to a decision maker before a decision to make a technical assistance request is granted. It doesn't appear that the secrecy in the proposed legislation would allow this.

Regards,
Jake MacMullin