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ATTORNEY-GENERAL
THE HON ROBERT McCLELLAND MP

Telecommunications (Interception and Access) Bill 2008

Second Reading Speech

February 2008

1. The main purpose of this bill is to amend the *Telecommunications (Interception and Access) Act 1979* to extend by eighteen months the operation of the network protection provisions which are due to sunset on 13 June 2008. It is because of the immediacy of this date that I ask the Parliament to consider this time-critical bill.
2. The bill also implements a number of minor yet important technical amendments.
3. I note that this bill contains no new powers for security or law enforcement agencies in relation to telecommunications interception, stored communications or access to data, but ensures that these agencies have the necessary tools to combat crime in this age of rapid technological change.

[Extension of Sunset Clause for Network Protection]

4. The Act currently includes network protection clauses that create exemptions to the general prohibition on listening to or copying communications 'passing over the telecommunications system'.
5. The exemptions apply to personnel in law enforcement and security agencies who are responsible for protecting and maintaining their agency's network or enforcing professional standards. The provisions enable these personnel to monitor inbound and outbound communications for security and integrity purposes.
6. The network protection provisions were inserted by the *Telecommunications (Interception) Amendment Act 2006* and initially applied only to the Australian Federal Police. They are subject to two-year sunset clauses that come into effect on 13 June this year. The provisions were subsequently extended to additional law enforcement and security agencies by the *Telecommunications (Interception and Access) Amendment Act 2007*, but the original sunset clauses were retained.

[Background Policy]

7. The emergence of highly invasive and difficult-to-detect means of infiltrating telecommunications networks has required the development of

equally sophisticated methods of maintaining the integrity of those networks.

8. The need for effective protection of corporate networks was recognised in the 'Report of the Review of the Regulation of Access to Communications' conducted by Mr Anthony Blunn AO, which was tabled in Parliament in September 2005. The Blunn Report recommended that access be allowed to the content of communications, outside of the warrant regime, for the protection of corporate telecommunication systems.
9. The proposed 18 month extension of the existing network protection provisions will ensure law enforcement and security agencies can continue to protect their networks while a comprehensive long-term solution is developed. My department has already undertaken extensive work on legislative changes that would implement the Blunn Report recommendation. However, these measures will have implications across government, corporate and private networks. They must also address complex issues associated with privacy, and state and territory laws.
10. It is important that the changes not be rushed, and that there is enough time to consult widely. An 18 month extension will enable full consultation on a more complete solution.

[Technical Amendments]

11. The bill also includes several technical amendments that will improve the effective operation of the Act by removing duplication and clarifying existing reporting and accountability regimes for both agencies and telecommunications carriers. Again, they do not provide any new powers for law enforcement or security agencies.
12. The provisions dealing with the notification of additional services being intercepted will be amended to include a new requirement to report additional information to the Attorney-General's Department.
13. The process for adding additional devices to a device-based named person warrant will be clarified and aligned with the existing process for service-based named person warrants.
14. The chief officer of an interception agency will be able to delegate certain reporting and notification requirements to a Senior Executive Service officer of the agency or someone of equivalent rank.
15. Significant residual duplication of reporting requirements for warrants will be removed. These duplications arose from the transfer of oversight from the Telecommunications Interception Remote Authority Connection to the Attorney-General's Department.

16. The technical amendments are minor but important in ensuring that the Act creates clear and consistent reporting obligations on agencies and telecommunications carriers.

[Conclusion]

17. In conclusion, this bill is an important element in ensuring that the legislative framework for accessing telecommunication information for law enforcement and national security purposes remains clear and effective. It contains no new powers for security and law enforcement agencies and strengthens the reporting and accountability framework.

18. I commend the bill.