



NSW COUNCIL FOR CIVIL LIBERTIES

STREET ADDRESS: SUITE 203, 105 PITT ST, SYDNEY, NSW 2000 AUSTRALIA
POSTAL ADDRESS: PO BOX A1386, SYDNEY SOUTH, NSW 1235

e: office@nswccl.org.au
p: 02 8090 2952
f: 02 8580 4633

www.nswccl.org.au

(Sent via email 13/03/2015)

Dear *{{members of the Australian Labor Party}}*,

NSW COUNCIL FOR CIVIL LIBERTIES URGES DELAY ON DATA RETENTION BILL

1. The NSWCCL urges the Labor Party to delay the passage of the Data Retention Bill until key issues are resolved. We don't know what it will cost the nation, the telcos or individual consumers and there are major unresolved issues relating to security of the data.

Importantly we don't know what will be done to provide protection for journalists' sources and legitimate whistle-blowers.

The proposed data retention regime will create an obvious, serious threat to robust free media in Australia. It will make it more difficult for legitimate whistle-blowers. Australia needs to strengthen, not weaken these protections.

We welcomed the PJCIS and Government acknowledgment that this issue was of sufficient importance to warrant a further inquiry. We were, however, astonished and dismayed that it was agreed – seemingly by the Labor Party as well as the Government – that the bill should nonetheless be rushed through parliament without waiting for this further report.

Why would Labor even contemplate allowing this to happen? If you accept it is an important issue it should be resolved before, and not after, the bill becomes law. If you don't accept it is important - why bother with a further review? It could be seen as somewhat of a cynical ploy.

It may be that the Government does not consider this a real issue. (Its gratuitous comment in its formal acceptance of the PJCIS recommendation for a review suggests scepticism - 'The Government notes that Australia's existing legal framework is founded on robust legal principles to provide fair and equal treatment of all subject to its laws.' Response to R27.) But hopefully Labor does.

It is the more puzzling given there is no need whatsoever to rush passage of this legislation. Agencies will continue to access much of the data under the current regime. The Government's urgency is fabricated and should be resisted.

2. The civil liberties councils around Australia are dismayed by Labor's concurrence with other aspects of the current bill - notably:

- The failure to give any serious consideration to the far less intrusive and dangerous alternative of a targeted data and surveillance scheme. One which targets suspects not the whole community. Especially as available evidence suggests it is at least as effective as the proposed mass regime.

The only data retention regime that is compatible with robust democracy is one which targets suspects.

- The failure to insist on some form of prior warrant authorisation. It is not acceptable for ASIO, the AFP, police forces and other agencies to be able to access the extensive meta-data of citizens on their own internal authorisation.

There is obviously need for further discussion about the long term implications of the proposed regime for both privacy and other freedoms we value.

The importance of waiting for the report from the inquiry into access to journalists data provides an opportunity for wider discussion among members of parliament and the community about this bill.

We strongly urge the Labor Party to resist passage of the Data Retention Bill until the PJCIS has delivered its further report and its recommendations considered by the community and the parliament and appropriate protections have been incorporated into the legislation.

There are further details on all of our objections to mandatory data retention on our website: [Imminent passage of mass data retention and surveillance in Australia](#).

Yours sincerely



Dr Lesley Lynch
Secretary | NSW Council for Civil Liberties
M: [0416 497 508](tel:0416497508) | T: [61 2 8090 2952](tel:61280902952) | F: [61 2 8580 4633](tel:61285804633)
Suite 203, 105 Pitt Street, Sydney, NSW 2000
Website: <http://www.nswccl.org.au>