

Good morning or Afternoon

**Whom am I:**

I am Adam. I am an experienced IT Service Professional with over 8 years' experience working for government, telecommunication and private sector.

I run things, fix and protect things. Sometimes, I write about things and provide written advice about those requested things to engage governments as shareholder rather than retweeting or like it. Rather than alternative where nobody says something and everyone complains.

**Summary of letter:**

I wish to discuss changes to the TIA act and remind AGD remember the obligations to protect the Australian people from trivial civil cases and maintain right to innocents until proven guilty.

Sorry to disappoint. I will not be making reference to George Orwell novel 1984 or spreading hate on George brandis.

**My commentary and advice**

The AGD may not be aware of new emerging data matching technology and you wouldn't need access to government metadata unless you need to confirm your reasonable suspicion. Civil request without a warrant maybe used as trivial matters that hold up the court system on trivial, unproven and false claims.

The existing method of civil cases requires people to get a warrant and prove in front judge or lawyer that you have a good fair reason and approval to release the data on someone internet records and then seek warrant. Having unwarranted access removes any fair protections and reasonable doubt that someone could have committed any crime.

TIA change will be dramatic and open to misuse that could have serious financial and criminal implications. The laws should be written in way always Innocent until proven otherwise, and rather than recommended alternative of unproven suspicious

Police, Private investigation/contracted company and intelligence agency should strictly conditions in-place to make them obey the law doesn't legalise unlawful access to metadata

For the above I would strongly recommend changes to TIA and other law protections:

1. AGD needs to increase punishment for breached of privacy and unauthorised disclosure without a lawful purpose.
2. AGD shouldn't allow the Australian dataset to be used under any circumstance either outside of Australia or international boundaries inside of Australia borders under any circumstance.
3. No State, International and Australia dataset of any size should be merged, duplicated, transferred, transmitted and exchanged into a one massive collaborative dataset. Separation of power and data is important for future unpredicted national security issues and datasets should only include for targeted individual investigations
4. Dataset shouldn't have people whom not currently being investigated for a crime. This should be offense if agency, partner, or employee of agency include data of innocent people that not part of ongoing or new crime investigation

Unfortunately only senators were asked to provide opinion on these law changes.

***On the act of terrorism and other serious crimes that use the internet or telecommunication***

It's understandable that intelligence and police services may need unwarranted access for investigation for serious drugs, child protection and terrorism cases. This is a reasonable request to streamline the process for them.

However any access to metadata needs to be strictly monitored audited and should be mean tested in court system for civil cases still

Good example of fair outcome was IINET vs Dallas Buyers Club. The high court decision quashes the rights holders' hopes of chasing after individual pirates for high figures over the cost of downloading the film, the cost of obtaining their details in the first place, and the unknown sum it was seeking for punitive damages, designed to act as a firm deterrent against pirates.

## **Final commentary**

I feel changes to the TIA act will allow companies open up Pandora is box for large companies to seek punitive damages for minor offences. I see the potential for the court system to be flooded with 'minor' piracy cases rather than the more serious cases where someone is using piracy for profit or data library storages.

TIA act shouldn't be misused and encourage large companies seek access into metadata data sets. Large companies should invest in delivery products in digestible media that is convenient and fair.

The existing provision in the act is fair law and protect internet users from unproven claims or punitive damages.

- People use to pirate CD and MP3. Now they use Spotify, Apple Music and Pandora
- People use to pirate TV shows. Membership in Online streaming for Netflix is increasing
- People just need choice and time to accept of behaviour.
- Increase piracy enforcement excludes companies from adapting to changes to technology and distribution. AGD should be reminding them that why the law is written in this way and business need to adapt or die to be competitive
- Induction Uber as alternative taxi industry and before Apple iTunes is good example. The law has been adapted and business market adapted.

AGD shouldn't discouraging and not fall victim propaganda or predatory suggestive lobbying by the large companies to change laws into their favour. TIA always had the mantra "Get a warrant and court order" should remain

That should stay unchanged because fair for everyone and remain means tested in court

However TIA did get changed. My suggestion AGD should consider that TIA should have serious protection to stop companies requesting large metadata datasets on Australian regular fixed schedule without a warrant. Because really catastrophic bad and breach of privacy

**Adam Nelson**

**Contact for further comment and interview via email** [REDACTED]