

To whom it may concern,

I would like to make a submission regarding the review by the Minister for Communications and the Attorney-General into access to telecommunications data in civil proceedings.

I am not a lawyer, so there may be errors in the way my submission is presented or communicated. With that in mind, I submit to you: **this is a terrible idea.**

The metadata retention plan was a sweeping expansion of surveillance powers in a society where privacy is already so at risk. Prime Minister Malcolm Turnbull is on record as saying, "It seems to be heading in precisely the wrong direction". However, despite the concerns of many different people from many different areas, from the telecommunications industry right through to the government itself, the plan was enacted.

As per the background provided in the Consultation Paper, In the course of the *Parliamentary Joint Committee on Intelligence and Security* inquiry into the Bill, a number of submissions expressed concerns that retained telecommunications data would be able to be accessed by parties to civil proceedings. Those concerns come with very good reason: exposing metadata about someones life without their consent to a civil party, without the oaths, laws and oversight that guide law enforcement and federal agencies, is a huge breach of privacy.

Ignoring the hopefully obvious and downright orwellian privacy concerns, the next problem is one of utility. I understand that there has been discussion around "appropriate exclusions", with an example related to family law proceedings involving violence or international abductions. In these examples, I see no benefit in opening the browsing and phone call history of a person to a civil court for what is so clearly a police matter, in which the police already have access to the metadata. In fact, I struggle to think of a civil case where the metadata of a person would be better off in the hands of the claimant than it would be in the hands of a prosecutor.

Finally, I am concerned about what happens to the data in a civil case after it is retrieved and used for court proceedings. Members of law enforcement, federal agencies and the courts are bound by standards, policies and laws. They must protect the privacy of individuals and suffer consequences when they do not. However, participants in civil proceedings may not be bound or protected by such laws. What is to stop a vindictive claimant or defendant using the metadata obtained during proceedings to slander or harm the image of their opposing party, after or during the case?

Overall I strongly object to allowing access to telecommunications data in civil proceedings and truly hope that the AGD sees reason in this matter.

Regards,

Jack Latrobe