

Submission: Access to telecommunications data in civil proceedings

I think it is best if Section 280 remain unchanged.

The govt's recommendations are reasonable on this score:

"In its *Advisory Report on the Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014*, the Committee recommended that the Bill 'be amended to prohibit civil litigants from being able to access telecommunications data that is held by a service provider solely for the purpose of complying with the mandatory data retention regime.'"

However the idea of "appropriate exclusions" would be problematic in practice

" that the Bill be amended to include a regulation-making power to enable provision for 'appropriate exclusions'. In making this recommendation, the Committee gave examples of 'family law proceedings involving violence or international child abduction cases' as potential classes of matters that could be excluded from the scope of the prohibition. However, the Committee noted that it '[did] not wish to prescribe how a regulatory power would work when it comes to what should be excluded', "

In domestic violence cases it is usually the usually offenders who have more power and influence and therefore could manipulate appropriate exclusions to serve their own ends.

Victims are generally in a weaker position and although they could invoke an appropriate exclusion to get more information about the violent offender this would happen less often and would be of less benefit.

As it stands, Section 280 does tend to protect the interests of victims.

Regards
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