

Prime Minister Malcolm Turnbull
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Australia
E: <http://www.pm.gov.au/contact-your-pm>

Senator the Hon George Brandis QC
Commonwealth Attorney-General, Vice-President of the Executive Council and Leader of the Government in the Senate
Attorney-General's Department
Robert Garran Offices
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CommunicationsSecurity@ag.gov.au

Re: No justification for government to worsen privacy intrusions already caused by metadata retention scheme

Dear Prime Minister Turnbull and Attorney General Brandis:

Australia's metadata retention regime should be overhauled to properly protect Australians from indiscriminate mass surveillance.

Since the amendments to the Telecommunications (Interception and Access) Act in 2015, telecommunications and internet service providers are required to retain users' metadata for two years. Currently, access to the retained data is limited to law enforcement agencies, but the AGD is consulting on whether it should consider law reform to allow civil litigants to gain access to the retained metadata.

Australia's metadata retention laws already go way too far by requiring the blanket retention of everyone's metadata for two years, and allowing law enforcement to access the data without a warrant and in less serious cases.

The current regime effectively allows law enforcement bodies to watch everybody, all of the time, without them knowing. It is mass surveillance without any of the necessary safeguards of our fundamental rights to privacy. Instead of expanding intrusions into Australians' private lives, the government should fix the problems with the existing metadata retention regime.

When a person's metadata is viewed as a whole, very precise conclusions can be drawn about their private life, including where they live, their daily movements, who they speak with and their social environments.

It's a mistake to think that accessing a metadata is okay because it's not allowing access to the content of phone calls or emails. The European Court of Justice has held that metadata paints a picture of a person's private life that is no less sensitive in terms of privacy than the content of communications themselves.

If the government wishes to allow civil litigants to access metadata in particular proceedings, it is critical that it publicly consults on specific changes.

There may be good arguments in favour of access in some types of civil litigation, such as civil child protection investigations or international child abduction matters. Equally, there are dangers in these proposals. Victims of family violence, for example, could be placed in harm's way if the perpetrator were able to obtain metadata that revealed their whereabouts. Any changes should be considered very carefully.

Thank you for the opportunity to bring these remarks to your attention.

Yours sincerely,
Robert E. Rutkowski

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Re: Human Rights Law Centre submission to the Attorney-General's Department:
<https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/58887779d1758ecbedcedc1f/1485338490853/HRLC+submission+to+metadata+in+civil+proceedings+inquiry.pdf>