

December 20, 2019



GLOBAL
NETWORK
INITIATIVE

Dr James Renwick CSC SC
Independent National Security Legislation Monitor
Canberra, Australia

Dear Dr. Renwick,

The Global Network Initiative wishes to express our sincere gratitude for the opportunity to organize a consultation for you on November 19th with some of our non-company members and other partners. We hope that the input and feedback provided during that meeting will contribute to your review of the Telecommunication and Other Legislation Amendment (Assistance and Access) (TOLA) Act 2018. In the consultation, we underscored a few key points that we wish to reiterate here and submit for the public record.

GNI's diverse membership -- which includes information and communications technology (ICT) companies, civil society organizations, academics, and investors based in and operating all around the world -- gives us a robust set of perspectives from which to understand the ways government policy and law-making can impact freedom of expression and privacy. The GNI Principles on Freedom of Expression and Privacy and accompanying Implementation Guidelines (available at <https://globalnetworkinitiative.org/gni-principles/>) provide a framework for responsible corporate decision making, and our unique assessment and shared learning processes allow for information sharing and collaboration by our diverse members with respect to how companies respond to government demands and restrictions around the world. Based on all of this, we coordinate and conduct policy advocacy to foster a more rights-respecting legal environment for technology users everywhere.

GNI appreciates the significant challenges faced by law enforcement in the investigation of serious crime and recognize Parliament's desire to serve the Australian people by seeking ways to overcome these hurdles.

However, we have deep concerns about the process by which TOLA was deliberated and enacted, as well as the framework for surveillance that it has established. We are nevertheless encouraged by the mandate that Parliament has given you to review this legislation and develop recommendations to ensure appropriate democratic oversight and accountability going forward. We commend you on the open and extensive approach you have taken to receiving input from and consulting with a wide range of stakeholders in various jurisdictions.

As you are aware, Australia is one of many countries struggling to understand how it can appropriately conduct lawful surveillance activities in the digital environment, while ensuring the transparency, oversight, and accountability necessary to uphold the principles set out in international human rights law. In addition to possible changes to the scope and substance of the authorities in the law, we are hopeful that your report and its recommendations will help Australia develop innovative, fit for purpose, human rights-oriented oversight mechanisms that ensure maximum transparency and accountability. Such an approach would not only help Australia fulfill its international human rights obligations, but also provide a model for other democratic states grappling with how to conduct effective, lawful, and human rights-respecting surveillance in the digital age.

We welcome opportunities to further discuss these issues with you and others, and eagerly anticipate the publication of your report with due reflection of the aforementioned points.

Sincerely,

Jason Pielemeier
Policy Director
The Global Network Initiative

Cc: Judith Lichtenberg, Executive Director, GNI
Lauren Brasier, Deputy Principal Advisor, INSLM