



22 July, 2020

Mr Andrew Hastie MP, Chair

The Hon Anthony Byrne MP, Deputy Chair

Parliamentary Joint Committee on Intelligence and Security

Parliament House

Canberra ACT 2600

CC: Hon Christian Porter MP, Attorney-General

Dear Chair and Deputy Chair

The Australian Information Industry Association (AIIA) and BSA | The Software Alliance (BSA) jointly wish to convey our members' support for the recommendations of the Independent National Security Legislation Monitor (INSLM) in its report to you on the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* (TOLA).

The AIIA and BSA support the Australian Government's desire to have more powerful tools to aid in the fight against criminal and terrorist activities. Both our associations have engaged in multiple public consultations, urging the adoption of safeguards to ensure that the authorities under the TOLA are not exercised to the detriment of privacy, security and trust in the digital economy.

The INSLM report, *Trust But Verify* – a report concerning the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018 and related matters*, has thoughtfully dealt with issues raised by all parties, including those raised by industry. Getting the balance right in the TOLA between the legitimate public interest in investigation and prosecution of crimes and the protection of human rights and liberties is fundamental. As section 1.18 in the report notes this is important to industry as “it could affect many important and legitimate businesses both in Australia and overseas”. We believe that the INSLM's recommendations achieves this necessary balance and we therefore urge that the recommendations be adopted in full, as a package of reforms, by the Committee and the Government¹.

¹ The Committee could consider not accepting INSLM recommendation 12 that Australian Federal Police have no role in consideration of notices requested by state and territory police, but we do not wish to take away from our support of the report. Certainly, for the technology industry, a single common agency and approach would aid in building requisite understanding and knowledge of industry processes.

“As to proportionality and proper rights protection, TOLA will be compliant if, but only if, the central recommendations in this report are implemented” (Ss 1.6 of the report).

In particular, the AIIA and BSA welcome the recommendations that aim to increase the independence and robustness of authorisation and oversight mechanisms, limiting TOLA requests and notices to serious offences with a higher penalty threshold, and the definitional changes that strengthen the prohibition on using TOLA powers to introduce systemic weakness.

Our members have sought many of these reforms over the past two years and urge the INSLM recommendations not be ignored. Implementing this package of reforms to the TOLA would allow Australia’s national security and law enforcement agencies to continue to do their important work, but also ensure that the system has critical oversight and controls appropriate for the modern digital economy.

We commend the report to the Committee.

Yours sincerely,



SIMON BUSH

GM, Policy and Advocacy

AIIA



BRIAN FLETCHER

Director, Policy – APAC

BSA | The Software Alliance

About the AIIA

Since 1978, the Australian Information Industry Association (AIIA) has been Australia’s peak representative body and advocacy group for those in the digital ecosystem. We are a not-for-profit organisation which advocates for policies and activities to stimulate and grow the digital ecosystem, to create a favourable business environment for our members and to contribute to Australia’s economic prosperity. We actively engage in policy discussions at a state and federal level through government submissions, the creation of policy papers and participation on government taskforces.

About the BSA | The Software Alliance

BSA | The Software Alliance (www.bsa.org) is the leading advocate for the global software industry before governments and in the international marketplace. Its members are among the world’s most innovative companies, creating software solutions that spark the economy and improve modern life. With headquarters in Washington, DC, and operations in more than 30 countries, BSA pioneers compliance programs that promote legal software use and advocates for public policies that foster technology innovation and drive growth in the digital economy.

BSA’s members include: Adobe, Amazon Web Services, Atlassian, Autodesk, AVEVA, Bentley Systems, Box, Cadence, Cisco, CNC/Mastercam, IBM, Informatica, Intel, MathWorks, Microsoft, Okta, Oracle, PTC, Salesforce, ServiceNow, Siemens Industry Software Inc., Sitecore, Slack, Splunk, Synopsys, Trend Micro, Trimble Solutions Corporation, Twilio, and Workday.