

## MEDIA RELEASE

### **Attorney-General must reject requests from most agencies seeking warrantless access to telecommunications data**

*Canberra, 19<sup>th</sup> January 2015*

EFA today calls on the Attorney-General to promptly reject the requests from most of the 61 agencies that are seeking to be provided with warrantless access to telecommunications data (metadata).

It is less than a year since the parliament resolved to restrict warrantless access to telecommunications data to a carefully chosen list of agencies, and barely three months since that legislation came into force.

On 26<sup>th</sup> March 2015, the Attorney-General stated that, “Metadata is the basic building block in nearly every counter-terrorism, counter-espionage and organised crime investigation. It is also essential for child abuse and child pornography offences that are frequently carried out online.”<sup>1</sup>

Given these justifications for this legislation, most Australians will rightly question why the following types of organisations consider that they should be added to the list of agencies able to access the telecommunications data of any Australian, without a warrant:

- Bankstown City Council
- Australia Post
- National Measurement Institute
- South Australian Department of Primary Industries and Regions
- Western Australian Department of Mines and Petroleum
- Greyhound Racing Victoria
- Victorian Taxi Services Commission

EFA Executive Officer Jon Lawrence said today, “the restricted list of agencies able to access telecommunications data is the first and only meaningful limitation on the previously unfettered access to this information by any public or quasi-public agency. If the Attorney-General is serious about the integrity of his legislation and about protecting the civil liberties of all Australians, then he must act swiftly to reject the majority of these applications.”

EFA notes the considerable effort on the part of former Vice-Chair Geordie Guy in pursuing this list of agencies through a Freedom of Information request.<sup>2</sup>

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<sup>1</sup> Media Release, 26<sup>th</sup> March 2015, available at:

<https://www.attorneygeneral.gov.au/Mediareleases/Pages/2015/FirstQuarter/26-March-2015-Data-Retention-Bill-passed-by-Parliament.aspx>

<sup>2</sup> See: [https://www.righttoknow.org.au/request/requests\\_for\\_access\\_to\\_telecommu](https://www.righttoknow.org.au/request/requests_for_access_to_telecommu)

## **Warrant requirement must be extended**

EFA again calls for the warrant requirement for access to telecommunications data to be extended to the entire population.

As recently concluded by the Parliamentary Joint Committee on Human Rights, the warrant requirement for access to journalists' data is an inadequate protection that may 'limit the right to an effective remedy, fair hearing, privacy and freedom of expression.'<sup>3</sup>

EFA Executive Officer Jon Lawrence said today, "carving one section of the community out of a mandatory, society-wide data retention scheme is impossible in practice. There are many other privileged communications that also deserve protection, in addition to the critical need to facilitate effective whistle-blowing. The only effective means to protect such communications is for the warrant requirement to be extended to the entire population."

There are 11 Member States within the European Union that currently require judicial authorisation for all requests for access to retained data,<sup>4</sup> demonstrating that a universal warrant requirement is not an undue burden on security and law enforcement agencies.

EFA therefore again<sup>5</sup> calls on the federal parliament to urgently review this legislation, and to implement a universal warrant requirement for access to telecommunications data.

## **About EFA**

Established in January 1994, Electronic Frontiers Australia (EFA) is a national, membership-based non-profit organisation representing Internet users concerned with digital freedoms and rights.

EFA is independent of government and commerce, and is funded by membership subscriptions and donations from individuals and organisations with an altruistic interest in promoting civil liberties in the digital context. EFA members and supporters come from all parts of Australia and from diverse backgrounds.

EFA's major objectives are to protect and promote the civil liberties of users of digital communications systems (such as the Internet) and of those affected by their use and to educate the community at large about the social, political and civil liberties issues involved in the use of digital communications systems.

## **EFA Media Contact**

Jon Lawrence – Executive Officer

0414 669 787

media@efa.org.au

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[http://www.aph.gov.au/~media/Committees/Senate/committee/humanrights\\_ctte/reports/2015/32\\_44/Chapter%201.pdf?la=en](http://www.aph.gov.au/~media/Committees/Senate/committee/humanrights_ctte/reports/2015/32_44/Chapter%201.pdf?la=en), page 48

<sup>4</sup> <https://www.efa.org.au/2015/07/29/european-data-retention-laws-update/>

<sup>5</sup> See: <https://www.efa.org.au/main/wp-content/uploads/2015/12/Universal-warrant-release-151208.pdf>