

## MEDIA RELEASE

### EFA welcomes proposed amendments to section 35P

*Canberra, 4<sup>th</sup> February 2016*

EFA welcomes Tuesday's [announcement by the Attorney-General](#) that the government has accepted and intends to implement all of the changes to section 35P of the ASIO Act that have been recommended by the Independent National Security Legislation Monitor.

Section 35P of the ASIO Act was added in 2014 as part of the government's first 'tranche' of national security legislation and created a criminal offence with a prison term of up to 10 years for any disclosure of a 'Special Intelligence Operation'.

The indiscriminate and overly broad nature of the current section combined with the inherent secrecy involved in 'Special Intelligence Operations' and severe penalties represents a direct threat to the ability of journalists to report on the activities of ASIO. As the Monitor explains in [his report](#), it "creates uncertainty as to what may be published about the activities of ASIO without fear of prosecution."

As EFA has [pointed out previously](#), this chilling effect is a fundamental threat to Australia's democracy as it undermines the media's ability to hold these agencies to account when they exceed their authority or get things badly wrong.

EFA Executive Officer Jon Lawrence said today, "it is reassuring that the Independent National Security Legislation Monitor has concluded that section 35P arguably breaches the constitutional protection of freedom of political communication and is also inconsistent with Australia's international obligations, specifically article 19 of the International Covenant on Civil and Political Rights. EFA welcomes the government's acceptance of the Monitor's recommendations to wind back some of the draconian controls on reporting of intelligence operations that section 35P represents. We would however like to see some additional protections introduced in the form of specific whistle-blower protections for 'insiders' to allow for disclosures where there is a clear public interest."

#### 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



**Electronic Frontiers**  
AUSTRALIA

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](mailto:media@efa.org.au)