

26 February 2022

Australian National Audit Office

GPO Box 707
Canberra ACT 2601
AUSTRALIA

Dear Sir / Madam,

RE: Implementation of parliamentary committee recommendations

We are providing this submission in response to your audit *Implementation of Parliamentary Committee and Auditor-General Recommendations — Department of Home Affairs*.

In particular, we aim to respond to the second high-level audit criterion which seeks to examine whether “agreed recommendations [were] effectively implemented”.¹

While we, of course, cannot offer commentary on all committee recommendations that the Department of Home Affairs receives or even all those that concern the communications portfolio within the Department, we note with concern that a number of key recommendations from parliamentary committees, most notably the Parliamentary Committee on Intelligence and Security (PJCIS), have not been implemented or, as far as we are aware of, implementation has not commenced.

In some cases, in fact, recommendations concerning key issues relating to law enforcement, security and the telecommunications sector have not even been met with a Government response, long after the committee has delivered its findings.

The delay in implementation of parliamentary committee recommendations stands in sharp contrast to the intense time-pressure that is often put on our industry in the development of the respective legislation to which the recommendations pertain, and the implementation of new legislated or regulated requirements on industry.

PJCIS report and recommendations in response to its Review of the mandatory data retention regime (Oct 2020)

More than 16 months after the PJCIS handed down its report which, for example, contained important recommendations to improve the privacy of communications for Australian citizens by limiting access to telecommunications data to only those law enforcement agencies that were originally envisaged to have access to such data (i.e. Criminal Law Enforcement Agencies listed in section 110A of the TIA Act and those that have powers to intercept communications), these and other recommendations have, despite numerous requests, not been implemented.

¹ Audit criteria as accessed at <https://www.anao.gov.au/work/performance-audit/implementation-parliamentary-committee-and-auditor-general-recommendations-department-home-affairs> on 23 Feb 2022

PJCIS report and recommendations in response to its Advisory Report on the Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020 (Aug 2021)

Similarly, in August 2021, the PJCIS made a number of important recommendations to strengthen the oversight mechanisms and in relation to the balancing of agencies' needs and potential intrusion into the privacy of Australians in the *Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020*. The report also contained recommendations that aimed at the practical operation and technical feasibility of the Bill.

It appears that work for only a very limited number of those recommendations has commenced. Neither our organisation nor our members have been contacted for consultation to effect the recommended legislative changes.

PJCIS report and recommendations in response to its Review of the amendments made by the Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018 (Dec 2021)

While this report is of a more recent nature, we hold concerns that the recommendations put forward by the Committee may also not be implemented in a timely manner or not at all.

We look forward to continuing to engage constructively with the Department of Home Affairs and all other relevant stakeholders on matters of national security.

If you have any questions or would like to discuss, please do not hesitate to contact me or Christiane Gillespie-Jones (c.gillespiejones@commsalliance.com.au).

Yours sincerely,



John Stanton
Chief Executive Officer