



ASIC

Australian Securities & Investments Commission

Opening Statement: Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014

*A speech by Greg Tanzer, Commissioner,
Australian Securities and Investments Commission*

*Parliamentary Joint Committee on Intelligence and Security:
Telecommunications (Interception and Access) Amendment (Data
Retention) Bill 2014*

29 January 2015

CHECK AGAINST DELIVERY

Chairman, ASIC welcomes the chance to testify before the Committee.

With me are Senior Executive Leader Chris Savundra and Special Counsel David Lusty.

In opening our evidence, there are four points I would like to make:

- Firstly, under the current law ASIC can access telecommunications data and, via warrant, stored communications in order to investigate white collar crime. ASIC has responsibly exercised these powers for many years. This type of evidence is vital for ASIC's investigation of white collar crime, such as insider trading, just as it is for the types of investigations conducted by the criminal law enforcement agencies given access to this information under the Bill. The Bill, on its face, proposes to take away ASIC's powers when, to our knowledge, there is no suggestion that ASIC has misused or abused these powers or does not need them.
- Second, the white collar crimes ASIC pursues pose significant threats to Australia's economic security and Australians' financial wellbeing. Australia's growing superannuation pool, now standing at \$1.87 trillion, has been targeted by criminal elements in the past, and the physical harm and mental anguish suffered by victims of fraud and white collar crime is vast and ongoing, as demonstrated by the collapse of the Trio superannuation funds. ASIC has important criminal law enforcement functions which it can only perform if it has the right tools. ASIC has grave concerns the Bill in its current form could compromise ASIC's investigation powers, and increase the threat to Australians of financial crime.
- Third, as outlined in our submission, ASIC is subject to significant safeguards and oversight to protect the privacy of any telecommunications data it obtains.
- Finally, if the Bill is passed in its current form, it is possible that the Minister may make a declaration allowing ASIC to access telecommunications data or apply for stored communications warrants under certain conditions. ASIC considers this a sub-optimal outcome, as it would create risks and uncertainty into the future.

In light of the importance of access to this data to the investigation of white collar crime, and in light of the safeguards and oversight in place to protect the privacy of the information, ASIC submits that the Committee consider recommending that ASIC is included in the definition of agencies entitled to access to this data within the Bill.

We would be very happy to answer the Committee's questions or expand on these points.