

PJCIS Question

The *Telecommunications (Interception and Access) Act 1979*, section 110A provides an exhaustive list of 20 agencies that are permitted to request access to metadata. Could you provide the Committee with further detail regarding the ability of state-based agencies to use section 313 of the *Telecommunications Act* to request metadata? Are you aware of any specific examples where section 313 has been used by state-based agencies for such access?

Communications Alliance Response:

Against the background of some of the questions put to Communications Alliance at the PJCIS Hearing on 19 October 2018, which sought to gain an understanding of whether more agencies than those listed in the Data Retention legislation have sought access to metadata, we suggest broadening the question to include all requests for metadata, including requests that are facilitated through the use of Section 280 (1)(b) of the *Telecommunications Act 1997*.

Section 280 (1)(B) allows the “disclosure or use of information or a document if [...] the disclosure or use is required or authorised by or under law”, thereby allowing agencies to use their own powers to seek access to such data.

Following the passage of the Data Retention legislation in April 2015, Communications Alliance Members found that numerous state agencies and government departments were making requests for retained metadata, under s280(1)(b) or s313.

The following list was compiled by Communications Alliance Carrier Members and presents a composite picture across the industry of which agencies/departments have sought metadata from one or more carriers. The list might not be complete.

Please note that:

- a request for metadata does not necessarily mean that the metadata sought was disclosed (in some cases what it sought is not available and/or has not been retained by the time the request is made); and
- in some cases, a single request for metadata results in multiple disclosures, depending on the nature of the request.

Australian Crime Commission
Australian Border Force
ACLEI
AFP
AFP ACT Policing
AFP PROFESSIONAL STANDARDS
AFSA
ASIC
Australian Tax Office
Australia Post Corporate Security Group
Australian Health Practitioner Regulation Agency
BANKSTOWN CITY COUNCIL
BRISBANE CITY COUNCIL
CENTRELINK
CONSUMER & BUSINESS AFFAIRS – VIC
Corrections Intelligence Group – NSW

CRIME AND MISCONDUCT COMMISSION

Customs

Department of Agriculture

Department of Defence

Department of Environment and Conservation WA

DEPARTMENT OF ECONOMIC DEVELOPMENT, JOBS, TRANSPORT & RESOURCES

DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION

DEPT FAIR TRADING NSW

DEPT FAIR TRADING-BRISBANE

DEPT OF COMMERCE WA

DEPT OF FAMILIES, HOUSING COMMUNITY SERVICES

DIBP BRISBANE

DIBP CANBERRA

DIBP MELBOURNE

DIBP QLD

DIBP SYDNEY

FACS

FAIRFIELD CITY COUNCIL

FAIR WORK BUILDING AND CONSTRUCTION

HEALTHCARE COMPLAINTS COMMISSIONS

IBAC

ICAC SYDNEY

NSW CC

NSW EPA

NSW Office of State Revenue

NSW Police

NSW POLICE PROFESSIONAL STANDARDS

NSW Government Trade, Investment, Resources and Energy

NT POLICE

NTPOL

OFFICE OF ENVIRONMENT & HERITAGE

OFFICE OF STATE REVENUE NSW

Police Integrity Commission – NSW

PRIMARY INDUSTRIES AND RESOURCES SA

PRIMARY INDUSTRIES NSW

PRIMARY INDUSTRIES QLD

PRIMARY INDUSTRIES VIC

QLD Department of Fair Trading

QLD TRANSPORT

Queensland Police Service

Racing Integrity VIC

REGIONAL ILLEGAL DUMPING SQUAD

Rockdale City Council

SA FISHERIES

SA ICAC

SA POLICE ANTI CORRUPTION

SA POLICE INTERNAL INVESTIGATION BRANCH

SA POLICE STATE INTELLIGENCE

TAS POLICE
TAS POLICE INTERNAL INVESTIGATIONS
Taxi Services Commission
TRANSPORT ACCIDENT COMMISSION MELBOURNE
VIC DEPARTMENT OF ECONOMIC DEVELOPMENT, JOBS, TRANSPORT AND RESOURCES
VIC Department of Justice
VIC Department of Health and Human Services
VIC POLICE ETHICAL STANDARDS
VIC INSTITUTE OF TEACHING
VIC POLICE
VIC Sheriff's Offices
WA CCC
WA Department of Fair Trading
WA FISHERIES
WA POLICE STATE INTELLIGENCE DIVISION
Work Safe VIC
WORKPLACE HEALTH & SAFETY

It is not possible at this stage to provide an accurate composite picture of the volume of requests and disclosures processed in respect of each of the listed entities.

We have seen, for example, one carrier that made 132 disclosures in response to 114 requests over a 12 month period, while some other carriers have experienced smaller volumes over similar periods.

Determining volumes is further complicated by the fact that while responses to some requests are derived from the mandatory data retention store, some requests can also be met by interrogating business systems or databases that hold similar or identical information for commercial use.