

Tuesday, 12 May 2020

## Safeguards needed in arrangements with overseas partners in digital era

The Law Council of Australia acknowledges the enormous challenges facing law enforcement agencies when requiring access to crucial data stored in foreign countries.

While the Law Council has recently called on the Australian Government to expedite an executive agreement with the United States Government under the US CLOUD Act, these agreements need a domestic legal framework that contains adequate safeguards.

Appearing today before the Parliamentary Joint Committee on Intelligence and Security inquiry into *Telecommunications Legislation Amendment (International Production Orders) Bill 2020*, Law Council President Pauline Wright said that, although there is support for the recent enactment of the US CLOUD Act and the UK Crime (Overseas Production Orders) Act, the Law Council holds significant concerns about the lack of adequacy of safeguards affecting nearly all aspects of the proposed International Production of Orders or IPO scheme.

“While the Law Council is happy with the intent of the Bill, there are significant procedural issues that need to be addressed,” Ms Wright said.

“Appearing before the committee provides us with the opportunity to voice our key concerns pertaining to parliamentary scrutiny, human rights protections and independence.”

“A lack of protection may impede Australia’s ability to make an agreement with the US. The amendments we have recommended are targeted and pragmatic and we believe that if adopted they will achieve an appropriate balance,” Ms Wright said.

The Law Council’s [submission](#) to the inquiry made over 30 constructive suggestions for amendments to the Bill, that if implemented, will ensure that Australia has a robust legal framework that achieves both efficiency and rights protection and will facilitate Australia’s entry into an executive agreement with the US.

“Entering into an executive agreement with the US would ensure, among other things, that the protections of the CLOUD Act would be enlivened, enabling an order for the production to US authorities of data held by an Australian arm of a US company (eg by AWS that holds the COVIDSafe app data) to be quashed via a prescribed statutory process,” Ms Wright said.

“But it is important that we ensure that any limitations on human rights go no further than is necessary, reasonable and proportionate.”

“Once framework is in place at Australia’s end with our recommended amendments, we will have the added bonus of accessing the strongest possible protective arrangements in relation to Australian data that is managed by a US company, as is the case with COVIDSafe app data,” Ms Wright said.

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Contact: Dr Fiona Wade, P. 0419 097 896 E. [Fiona.Wade@lawcouncil.asn.au](mailto:Fiona.Wade@lawcouncil.asn.au)

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