

Thursday, 24 October 2019

Report on identity-matching strikes the right balance

The Law Council supports bipartisan recommendations by the Parliamentary Joint Committee on Intelligence and Security to include greater safeguards and privacy protections in the Identity-matching Services Bill 2019.

The committee's report released today reflects recommendations made by the Law Council, which raised serious concerns about the potential scope and application of the proposed laws. The committee has recommended the Bill and the related Australian Passports Amendment (Identity-matching Services) Bill 2019 (Passports Bill) be redrafted.

Law Council President, Arthur Moses SC, said the PJCIS is a committee of great importance and worked in the spirit of bipartisanship to ensure Australia's national security legislation is not only solid, but also proportionate and operating according to the rule of law.

He said the Committee's recommendations took into account the unprecedented access that all levels of government and the private sector would have to Australian's private biometric information. They also took into account the lack of detail in the Bill about the architecture of the proposed identity-matching services and the impact it could have on personal privacy and other human rights.

"There are undoubtedly legitimate and proportionate public interest uses for facial recognition technology, particularly in relation to law enforcement and national security," Mr Moses SC said.

"But there is an urgent need for appropriate and legislated boundaries to govern its application and ensure robust and independent oversight. This is critical as Australia lacks human rights and data protection frameworks to act as a check and balance.

"Misuse of this technology would undermine the rights of individuals, as well as the community's trust in the system and its operation. It is important to acknowledge Committee members reached a bipartisan position on these issues."

Central to the Committee's report was the need for transparency, proportionality, accountability and oversight in relation to the use of identity-matching technology. The Committee recommended that the Bill be redrafted to take into account those principles.

The Law Council's key concerns regarding the identity-matching bills include:

- the technology's effectiveness in correctly identifying individuals;
- the adverse impacts of false matches on privacy;
- the undermining of the notion of informed consent;
- the potential for individuals to be targeted based on race, ethnicity or religion;
- the lack of privacy safeguards;
- weaknesses in oversight and accountability measures; and
- the rule-making power of the Minister to expand the scope and operation of identity-matching services in Australia.

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