

Australia: Bipartisan deal to fast-track mass surveillance metadata bill

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In the face of wide popular opposition to its metadata retention bill, Prime Minister Tony Abbott's government and the Labor Party opposition finalised a deal today to push mass surveillance legislation through parliament by the end of next week. The Abbott government needs Labor's votes to get the bill through the Senate.

Labor's line-up with the government is part of its wider backing for a barrage of laws and other measures by Abbott's government over the past six months to boost the powers and budgets of the police and intelligence agencies. Labor has been in lockstep with the government as it instigated highly dubious "terrorist" scares, such as last December's Sydney café siege, which involved an individual, deranged hostage-taker, in order to justify the measures, as well as the deployment of troops to the new US-led war in the Middle East.

If the bipartisan drive to enact the data bill succeeds, all Internet and phone companies will be compelled to store their data for two years. The government and its security agencies can run the data through sophisticated pattern-matching computers, compiling "digital fingerprints" of the lives, financial transactions and political associations of the entire population.

So-called metadata supposedly excludes the contents of smartphone use and other on-line communications, but includes the identities of all callers and recipients, the duration, frequency and subject matters of their communications and their locations. According to data experts, this "honey pot" of information is continually expanding with new technology and can already provide a more detailed picture of a target's activities than the actual contents of their emails or phone calls.

Labor today voted for the bill in the lower house, after party leader Bill Shorten gave a written

commitment to Abbott on Monday to fast-track the bill on the basis of a vague proposal to require the police and intelligence agencies to obtain warrants before accessing journalists' data.

Details of the "journalist information warrant" plan, released today, confirm that it will do nothing to protect journalists' confidential sources, particularly whistleblowers or government insiders leaking information to the media.

Warrants will be issued to the intelligence services by the attorney-general, or to police by a judge or tribunal member, in secret, making it impossible for journalists or their sources to find out about, let alone challenge, the tracking of their communications and movements. Only government-appointed lawyers will be informed, and permitted to make submissions opposing the access. Even that process can be by-passed via an "emergency" warrant issued by the head of the Australian Security Intelligence Organisation (ASIO).

The requirement for a warrant is confined to journalists "working in a professional capacity," in order to exclude anyone, including blog site operators, using the Internet to reveal or discuss material not reported by the corporate media.

Labor had already agreed to back the bill earlier this month, without even the pretence of any exemption for journalists, after the release of a bipartisan parliamentary committee report recommending a number of purely cosmetic changes to the data retention plan.

That agreement fell apart, however, following demands by Rupert Murdoch and other media proprietors for some protection for journalists. The media barons strongly backed the bill overall, revealing their support for police-state powers. But they objected to the potential for the data retention regime to cut

across reporting by their own outlets that might depend on whistleblowers or government leaks.

Requests to access journalists' metadata are already among the more than half a million data access requests that are made by police and other agencies every year, according to official statistics, under the Telecommunications Interception Act. This legislation, which will continue, permits the security agencies to request access at will, without any kind of warrant.

Australian Federal Police (AFP) Commissioner Andrew Colvin admitted this week that requests to access journalists' data were common. Later, the AFP issued a statement revealing that over the past 18 months alone, the AFP received 13 referrals relating to the alleged unauthorised disclosure of government information. These were alleged breaches of section 70 of the federal Crimes Act, which carries jail terms of up to two years.

The media conglomerates, including News Corp, Fairfax Media and Seven West Media, pushed for a system of "contested warrants" so that any application to search a journalist's metadata would be argued in court, with journalists and their employers notified in advance so they could argue against the access.

Communications Minister Malcolm Turnbull, who is jointly responsible for the data bill with Attorney-General George Brandis, was centrally involved in the backroom negotiations with the Labor Party over the wording of the resulting amendments.

The special arrangements for journalists further demolish the claims by both the government and Labor that access to metadata does not give the police and surveillance agencies far-reaching capacity to spy on anyone. If journalists' contacts and sources can be readily identified, so can everyone else's. The bill is a fundamental assault on basic legal and democratic rights.

The previous Gillard Labor government first brought forward the data retention plan in 2012–13. Then came the revelations of Edward Snowden, the US National Security Agency (NSA) whistleblower. His leaks to the global media, starting in June 2013, laid bare the operations by the NSA and its "Five Eyes" partner agencies in Australia, Britain, Canada and New Zealand to compile vast amounts of data on millions of people around the world.

Among the files released by Snowden were

documents showing that the NSA had been utilising metadata since at least 2010 to generate sophisticated "social network diagrams" of Americans' personal associations and social interactions.

Snowden's revelations fuelled the popular opposition in Australia to the data retention bill, so Labor cynically deferred it until after the 2013 federal election. Now, under the phony cover of combatting terrorism, the legislation is being rammed through.

The bill will facilitate the feeding of metadata into the NSA's global network. As in the US, the buildup of surveillance is not directed against handfuls of alleged terrorists. It is occurring amid rising social discontent and political disaffection with the ruling elite's agenda of war, austerity, widening inequality and abrogation of basic legal and democratic rights.

Because of the ongoing public outcry against the bill, the Australian Greens, the third main party of the political establishment, has postured as an opponent of aspects of the legislation, while emphasising its support for Australia's police and intelligence agencies. Greens Senator Scott Ludlam this week claimed it would be "a genuine improvement" if warrants were required for all data access requests, not just those for journalists. In other words, the Greens would vote for the bill, as they have on other so-called anti-terrorism laws, if such a token and essentially meaningless measure were included.



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