

Human Rights Council – 40th Session

Item 3: Clustered Interactive Dialogue with the Special Rapporteur on the right to privacy
and Special Rapporteur on cultural rights

1 March 2019

Australian Statement

Australia thanks the Special Rapporteurs for their presentations.

Australia reaffirms that no individual should be subject to arbitrary or unlawful interference with their privacy.

Collecting and using data is becoming increasingly valuable for states and non-state actors, yet may come with risks to individuals' privacy. Australia is committed to maintaining a comprehensive framework for the protection of individuals' personal information.

Australia notes the reference to its legislation in paragraph 38 of the report of the Special Rapporteur on the right to privacy. The *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* represents a reasonable and proportionate means to address the use of encrypted technologies by criminals and terrorists.

The legislation allows law enforcement and national security agencies to work in the increasingly complex digital environment by providing a framework to request or oblige providers to assist law enforcement where access to data is possible.

It creates new powers to search computers and enhance existing search and seizure powers to assist law enforcement without interfering with encryption technology.

This constructive new approach to the issue of encrypted communications preserves the effectiveness of encryption while providing law enforcement necessary access.

This approach preserves the strong protections already in place in Australia for accessing the content of communications, which require law enforcement to seek judicially authorised warrants for access.

The legislation contains strong safeguards which ensure the privacy of Australians is not compromised and the security of the digital ecosystem is maintained.

241 words