



INTERNET ASSOCIATION OF AUSTRALIA
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1 February 2022

To: Department of Home Affairs

By Email: CI.Reforms@homeaffairs.gov.au

Introduction

Thank you for the opportunity to express the Internet Association of Australia (IAA) perspective on the *Draft Security of Critical Infrastructure (Application) Rules*. Overall, IAA recognises the risk from the increasing cyber attacks on Australia's critical infrastructure assets and the importance of maintaining robust and resilient critical infrastructure. However, we believe that any expansion and strengthening of Australia's online security should be in a manner that is effective and practical, without placing unnecessary burden or inappropriately encroach on the management and operation of legitimate internet business.

Many of IAA's members are small to medium sized internet service providers (ISPs) and also include domain name systems and data storage or processing businesses. Given that the Draft Application Rules will not capture the telecommunications sector, this response will be largely from the perspective of our members who are domain name system and data storage or processing businesses, and for the general well-being of the internet.

IAA Response

IAA welcomes the exclusion of the telecommunications sector from the Draft Application Rules. We support avoiding potential duplication and overlap under the *Telecommunications Act* and encourage harmonisation of legislative instruments so that the requirements and obligations are easy for business to identify and comply with.

We are concerned about the potential for unnecessary confusion and regulatory burden regarding the date when rules will be 'switched on' for certain assets. While we understand that affected entities will be contacted for a consultation process regarding whether the Minister should switch on the obligations for their asset, we believe confusion and uncertainty as to which assets are

considered critical should be avoided from the outset. Furthermore, we believe that the consultation period of 28 days should be extended to give businesses ample time to respond meaningfully to any change which would have substantial impacts on their resources and privacy.

Mandatory Cyber Security Reporting Scheme

The Mandatory Reporting Scheme raises the issue of the potential overlap between existing mandatory reporting schemes such as Notifiable Data Breaches under the *Privacy Act* and the recently proposed Ransomware Reporting Scheme as per the *Ransomware Action Plan*. This type of overlap needs to be avoided wherever possible and reported through a central clearing house.

The period following a cyber incident is often very stressful for businesses. This will be particularly so in light of the current requirements which stipulate an entity must report critical cyber security incidents within 12 hours of the incident, and provide a follow-up written record in the next 84 hours in the event only a verbal notification was given. Thus, the existence of multiple obligations under different reporting regimes is an unnecessary burden, particularly for our members who are mainly smaller entities with limited resources.

This is further compounded by the enforcement powers which are contained in the *Security Legislation Amendment (Critical Infrastructure) Act 2021* (SLACI Act) which provides that businesses may face penalties of up to 50 penalty units for failure to notify the Australian Cyber Security Centre. IAA opposes punitive enforcement measures which only cause further stress on business. Instead, we encourage greater collaboration and the provision of material and guidance to support business with compliance and in improving overall cyber security.

Register of Critical Infrastructure Assets

IAA is concerned about the increasing burden for business as a result of the Register. In particular, following the definitions relating to each new sector under the SLACI Act, deemed responsible data storage or processing entities will face greater obligation to review the services of other related entities (such as their vendors) in order to comply with the new Rules. Similarly, it appears that owners and operators of entities who have customers who are owners or operators of primary critical infrastructure assets will face greater liability under this requirement.

IAA thus reiterates its opposition to punitive enforcement measures regarding the new rules and instead advocates for greater guidance and support so that entities are able to implement these changes effectively and in a streamlined fashion.

Conclusion

Once again, IAA appreciates the opportunity to contribute to the consultation on the Draft Application Rules. We look forward to representing our members and the broader public interest in continued engagement with the Department of Home Affairs, as well as other stakeholders, to ensure the development of a measured, effective and practical approaches to the security of critical infrastructure.

About the Internet Association of Australia

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running and lowest cost Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark

Chief Executive Officer

Internet Association of Australia