

Our ref: A38288

25 November 2022

Mr Peter Cain MLA
Chair
Standing Committee on Justice and Community Safety
Legislative Assembly for the ACT

By email: LACommitteeJCS@parliament.act.gov.au

Dear Chair

Inquiry into the Integrity Commission Amendment Bill 2022 (No 2)

Thank you for the opportunity to make a submission to the Standing Committee on Justice and Community Safety's inquiry into the Integrity Commission Amendment Bill 2022 (No 2) (the Bill).

The purpose of the Bill is to facilitate the ACT Integrity Commission's (the Commission) access to telecommunications interception powers under the *Telecommunications (Interception and Access) Act 1979* (Cth) (the TIA Act).

I do not propose to express a view on whether the Commission should be permitted to intercept telecommunications, which is a policy matter for the Legislative Assembly. I also note the amendments proposed by the Bill alone would not give the Commission access to telecommunications interceptions powers under the TIA Act, which would require complementary amendments to the TIA Act via the Federal Parliament. I note most state integrity commissions currently have access to those powers via the TIA Act and complementary state legislation.

The Bill proposes that I would oversee the Commission's use of telecommunications interception powers under the TIA Act, in my capacity as ACT Ombudsman and Inspector of the Commission. I currently perform a similar role overseeing Commonwealth agencies' use of telecommunications interception powers under Chapter 2 of the TIA Act, in my capacity as Commonwealth Ombudsman. I do not, however, currently oversee state agencies' use of telecommunications interception powers, which is the responsibility of state inspectors.

The issue of what are the most appropriate arrangements for oversight of state and territory agencies' use of telecommunications interception powers under the TIA Act – including whether it should be done by a single Commonwealth entity, such as the Commonwealth Ombudsman, or individual state and territory entities – is currently being considered in the context of the Australian Government's reforms to electronic surveillance legislation.

Importantly, if the ACT Ombudsman and Inspector were to become responsible for overseeing the Commission's use of telecommunications interception powers under the TIA Act, as envisaged by the Bill, the ACT Ombudsman and Inspector would require additional funding, as the new activities contemplated by such oversight could not be absorbed within existing resources.¹

Yours sincerely

A handwritten signature in black ink, appearing to be 'Iain Anderson', written over the 'Yours sincerely' text.

Iain Anderson
ACT Ombudsman and Inspector of the ACT Integrity Commission

¹ In 2022-23, the Office of the Commonwealth Ombudsman received funding of \$217,392 (GST exclusive) from the ACT Government to perform the role of Inspector.