Science & Technology AUSTRALIA

Security Legislation Amendment (Critical Infrastructure) Bill 2020

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sta.org.au
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To the Critical Infrastructure Centre,

Thank you for the opportunity to provide feedback on the Security Legislation Amendment (Critical Infrastructure) Bill 2020.

Science & Technology Australia (STA) is the peak body representing more than 88,000 scientists and technologists in Australia. We do so through our member organisations including specialist scientific societies, research institutes, and research strategy bodies such as councils of deans.

Introduction

We thank the centre for taking Science & Technology Australia's earlier feedback into account to consider the extra regulatory burden this legislation would place on universities, research organisations, and researchers.

STA notes the intention for the Department of Home Affairs to consult closely with each sector to develop sector-specific rules. STA would be pleased to assist the Department by convening a consultative gathering of science, technology, engineering and maths sector leaders to provide input to this process.

We highlight three key insights which should be reflected in sector-specific rules:

- Research and higher education are globally-engaged activities - and this strong global engagement is crucial to Australia's success;
- The collaborative nature of research across multiple institutions strengthens the case for a collaborative approach with the sector; and
- Australia's rate of collaboration between industry and researchers may struggle further under the burden of additional red-tape.

We therefore make the following recommendations:

STA recommends the Department of Home Affairs consults with us on the detail and complexity of rules for the research sector.

STA recommends a review 18 months after any new rules come into effect under this legislation to address any unintended consequences and monitor the red tape burden.

Research and higher education are globally engaged activities

In contrast to water and telecommunications infrastructure, the higher education and research sectors are strongly globally-engaged sectors. This strong global engagement is crucial to Australia's success and competitiveness.

Many Australian universities have overseas campuses and many of them teach students online who may be based overseas. Australia's research infrastructure facilities can also often be part of a larger international network to predict weather (such as the Global Observing System supported by Australia's Bureau of Meteorology) or map space (like the Square Kilometer Array).

These international linkages and crucial global engagement add a level of complexity to the protection of infrastructure. As complexity increases, so would regulatory

compliance costs. These challenges are unlikely to be experienced by other infrastructure which does not have these burdens. We would be pleased to assist the Department to navigate this complexity in consultations on sector-specific rules.

The collaborative nature of research needs a collaborative approach

STA agrees each institution should have a risk management plan for critical infrastructure. However, as outlined in Subsection 30AH(1)(c), the four proposed domains provide unique challenges for the research and higher education sector. This is because research does not occur in a vacuum.

Under the legislation, each university and research institution would be required to develop a risk management plan that takes into account physical, cyber, personal, and supply chain security risks.

Researchers in Australia often undertake work in multiple institutions as adjunct professors or visiting scholars - or undertake projects across institutions. In many areas of STEM that are infrastructure intensive, the National Collaborative Research Infrastructure Scheme (NCRIS) supports centralised resources or distributed node-based infrastructure to drive collaboration, maximise return on government investment, and improve skills and training.

Managing across institutions is an example of how extra compliance costs could apply to universities that would not apply to other areas of critical infrastructure. For example, it is unlikely an engineer working for one electricity company is also working for others.

This challenge is not insurmountable - but it is important to keep in mind that increasing the red-tape for researchers who move between or collaborate with other institutions could add to compliance costs. It should be noted it is standard practice for institutions to enter into collaboration agreements (for research dealing with intellectual property) or materials transfer agreements (for transferring samples with commercial sensitivity) when risks have to be managed. Extending and encouraging such precedents rather than establishing new mechanisms should be considered.

Industry-research collaborations will struggle under red tape

STA notes that industry-based research is not included under this legislation unless industry is accessing publicly-funded research infrastructure. We support this exemption. However, in the legislation, there is some policy uncertainty that STA anticipates could still impose a further barrier to industry-research collaborations.

In the definitions for the higher education and research sector, because private research industries can receive funding from organisations like the Australian Research Council, they can be prescribed as critical infrastructure “should the legislative test be met in the future”. This section introduces uncertainty to businesses that partner with publicly-funded research institutions through schemes like the ARC Linkage Program.

Not all research undertaken by private research institutions could be considered “nationally significant” according to the legislation. STA would, however, encourage the Department to strongly consider that any impediment to industry-research collaborations should be avoided.

We thank you for your attentive consideration to our feedback on behalf of the nation's science and technology sectors.

Yours sincerely,

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