

# EFA 2016 Election Policy Questionnaire Response – Pirate Party Australia

## General

*Q. Do you support the principle of an open, free and secure Internet?*

Yes. For more details, see [https://pirateparty.org.au/wiki/Policies/Digital\\_Liberties#Provide\\_universal\\_access\\_to\\_a\\_fast.2C\\_neutral\\_Internet](https://pirateparty.org.au/wiki/Policies/Digital_Liberties#Provide_universal_access_to_a_fast.2C_neutral_Internet)

## Open Government Partnership

*Q. Do you support Australia's involvement in the Open Government Partnership, which Prime Minister Turnbull recommitted Australia to in November 2015?*

Yes, as open, transparent, accountable government is one of our key objectives. See paragraph 4 of our party constitution for reference: <https://pirateparty.org.au/constitution/>

## National Broadband Network

*Q. What is your position on the National Broadband Network?*

We support the fibre-to-the-premises model that existed before the 2013 election, subject to protection of privacy rights, which would be easier to violate with the centralisation of control of the network backbone.

## Encryption

*Q. Do you accept that meaningful privacy and strong encryption technologies are critical and necessary enablers of communications and commerce across all contexts?*

Yes

*Q. Do you support the universal availability of strong encryption technologies?*

Yes

*Q. Will you oppose any laws or regulations that seek to undermine encryption and privacy technologies in order to provide law enforcement agencies with access to data?*

Yes

## Telecommunications Data Retention

Access to retained telecommunications data is currently available without a warrant, except where the subject of the request is a journalist.

*Q. Do you support the extension of this warrant requirement to other groups, including to all members of society, as is currently the case in a number of EU countries?*

Yes. We oppose any surveillance, whether targeted or untargeted, without a warrant issued by a competent, accountable court, issued on probable cause.

*Q. Do you believe that the current list of agencies able to access retained telecommunications data is sufficient? If not, please indicate which additional agencies you believe should also be able to access such data.*

The existing list is too broad, and is subject to the whim of the Attorney-General of the day. "Whim" is not a valid mechanism by which to run a democratic nation. As we oppose the entire, warrantless system, we would not recommend extending access rights.

*Q. Do you believe that the current two year retention period for internet data is appropriate? If not, please specify what retention period you believe is appropriate.*

It is not appropriate. 0 years would be more appropriate. The European Union's Data Retention Directive only required data to be retained for 18 months, and that was struck down by the ECHR as being a breach of human rights.

A more detailed position on our stance on data retention can be found in our submission to the PJCIS

here: [https://pirateparty.org.au/media/submissions/PPAU\\_2015\\_PJCIS\\_Data\\_Retention\\_Bill\\_2014.pdf](https://pirateparty.org.au/media/submissions/PPAU_2015_PJCIS_Data_Retention_Bill_2014.pdf)

### **Intelligence Oversight**

*Q. Do you support increasing the oversight powers of the Parliamentary Joint Committee on Intelligence and Security over operational matters?*

Yes. The parliament is elected by the people, in its legislative capacity, in part, as both an enabler and a check on the executive branch. Without seeing how the executive branch acts using the powers granted by the legislature, the executive is able to run amok, which is contrary to the principles of transparent, accountable government, and this, in turn, corrupts the heart of a democratic society.

*Q. Do you support a wide-ranging inquiry into Australia's intelligence gathering capabilities and data sharing arrangements, particularly under the so-called 'Five Eyes' agreement which includes the US, UK, Canada and New Zealand?*

Yes. Mass surveillance treats all people like suspects. A country spying on allies in order to share data, merely in order to avoid spying on the country's own denizens directly, is still a breach of our privacy rights. Even now, all that we know about these programs has come from whistle-blowers, who have, themselves, been persecuted for their revelations. We need a culture in which any potential abrogation of any civil liberty is under constant inquiry. Otherwise, secrecy accretes in a way that is very hard to correct.

### **Preferential Trade Agreements**

*Q. Do you support Australia ratifying the Trans-Pacific Partnership Agreement? Please provide reasons.*

No. We are not, in principle, opposed to free trade agreements. We are, however, very opposed to secret negotiations, which run counter to the transparency and accountability requirements that are at the heart of representative democracy. As such, any agreement made under those circumstances should be renegotiated from scratch as a minimum. In addition, the specifics of the TPP show its origins of being negotiated in secret, particularly with regard to extensions to intellectual property rights (and the destruction of civil liberties that must occur to enforce them) and national sovereignty to set policy that might run counter to the interests of certain companies. For more information about our position on treaty-making,

see [https://pirateparty.org.au/wiki/Policies/Foreign\\_Policy\\_and\\_Treaty\\_Making#Treaties\\_and\\_diplomacy](https://pirateparty.org.au/wiki/Policies/Foreign_Policy_and_Treaty_Making#Treaties_and_diplomacy).

*Q. Do you have a position on the prospective Trade in Services Agreement?*

From a principled perspective, this is equivalent to the TPP, in that the negotiations have been remarkably secretive, to the point that, and this is only known through leaks, even the agreement itself is only to be made public several years after it has been agreed. This is the executive tail wagging the legislative dog.

*Q. Do you believe that the current processes for negotiating preferential trade agreements (either bilateral, such as the agreement with China or plurilateral, such as the TPP) are acceptably transparent and consistent with democratic principles?*

Absolutely not. As can be seen from our previous answers, transparency and accountability are the core issues with these agreements. Were these procedural issues to be rectified, there is a great chance that the agreements would not have as much vested-interest rubbish in them.

### **Copyright Reform**

In 2013 the Australian Law Reform Commission (ALRC) recommended that Australia adopt a number of reforms to modernise the Copyright Act, particularly a broadening of the currently limited fair dealing exceptions to a much broader, flexible fair use exception, in line with US copyright law.

In December 2015, the Government released draft legislation which included reforms which address a number of key issues (such as extending the Safe Harbour scheme and facilitating the implementation of the Marrakesh Treaty) but which fall well short of the introduction of a broad, flexible fair use exception.

In April 2016 the Productivity Commission issued a draft report which supported the ALRC's recommendation for Australia to adopt a broad, flexible fair use exception.

*Q. Do you support the limited reforms proposed by the Government in December 2015?*

As a stepping stone in a game of inches, yes.

*Q. Do you support the introduction of a broad, flexible fair use exception into Australia's Copyright Act?*

Yes. Our policies go well beyond the recommendations of the ALRC, and can be read in full at <https://pirateparty.org.au/wiki/Policies/Copyright>

### **Copyright Enforcement**

*Q. Do you support the legislation passed in 2015 that gives copyright holders the ability to seek Federal Court injunctions to block access to Internet sites that they believe are primarily facilitating copyright infringement?*

No. "Primarily facilitating" is too weak a standard. Our position is that restrictions on people's rights should be based on evidence of actual harm. It is not in society's best interest to criminalise the proportion of consumers who sometimes copy, when it has been shown time and again in non-partisan studies to not negatively affect the market, let alone society.

*Q. Do you support a scheme that will require Internet Service Providers to serve notices on their customers that are alleged to have infringed copyright? If so, who should bear the cost for this scheme?*

No. We see ISPs as common carriers. This position is taken to protect the more-important privacy and free-speech rights that people have. Our position is to protect non-commercial distribution of data, as there is no evidence that prosecuting file-sharers benefits society.

### **Censorship**

*Q. Do you support the introduction of mandatory internet filtering to try to prevent access to 'harmful content'?*

No. We support the right of people to filter their own devices, including those used by their children, but mandatory internet censorship, other than being ineffective, for now, sets a terrible precedent that goes to the heart of our ability to communicate freely. Even a little bit of censorship is too much. For our full policy text regarding censorship, see [https://pirateparty.org.au/wiki/Policies/Digital\\_Liberties](https://pirateparty.org.au/wiki/Policies/Digital_Liberties).

### **Office of the Australian Information Commission**

*Q. Do you support sufficient and long-term resourcing for the functions of the Office of the Australian Information Commissioner, including the appointment of the three statutory Commissioners (Information, Privacy and Freedom of Information – at present these roles are held by one person)?*

We support adequate funding and staffing for offices that are independently resourced to protect our personal privacy, our right to a transparent and accountable government, as well as any other positions that help safeguard the liberties we expect in our society.

### **Mandatory Data Breach Notification**

*Q. Do you support the introduction of a mandatory data breach notification scheme for entities covered by the Privacy Act (the current government committed to pass such legislation in 2015 but it has yet to happen)?*

Yes. For information, see [https://pirateparty.org.au/wiki/Policies/Civil\\_Liberties#Privacy](https://pirateparty.org.au/wiki/Policies/Civil_Liberties#Privacy)

### **Civil Cause of Action for Privacy Breaches**

*Q. Do you support the introduction of a civil cause of action for serious breaches of privacy?*

Yes, we support the APF's recommendations regarding the introduction of a tort for misuse of private information and for intrusions into seclusion. For more information, see [https://pirateparty.org.au/wiki/Policies/Civil\\_Liberties#Privacy](https://pirateparty.org.au/wiki/Policies/Civil_Liberties#Privacy)

### **Census Data**

Starting with the August 2016 Census, the Australian Bureau of Statistics will begin retaining identity information (names and addresses) collected as part of the Census.

*Q. Do you support this change?*

No, we have called for a boycott of the census, because, despite its value for evidence-based policy based on accurate demographics, its potential for misuse, either by hackers, or by a bad government, is too risky to cooperate with.

## **Health Records**

The implementation of the MyHealth (Personally Controlled Electronic Health Records) program was recently changed from an 'opt-in' to an 'opt-out' arrangement.

*Q. Do you support the implementation of the MyHealth electronic health record system on an 'opt-out' basis (ie where the default is to include everyone unless they proactively opt-out), or do you believe it should revert to an 'opt-in' approach?*

We support the MyHealth electronic health record system returning to an 'opt-in' system. Any time that there are centralised records, there is a significant risk for abuse. We support people's privacy rights and medical information is particularly sensitive. As such, we have significant reservations concerning the creation of this centralised system and the processes that have been followed in its development, the privacy impacts of its use, especially around the areas of data access, sharing, maintenance, and deletion.