



PROTECTING OUR DIGITAL RIGHTS

OVERVIEW

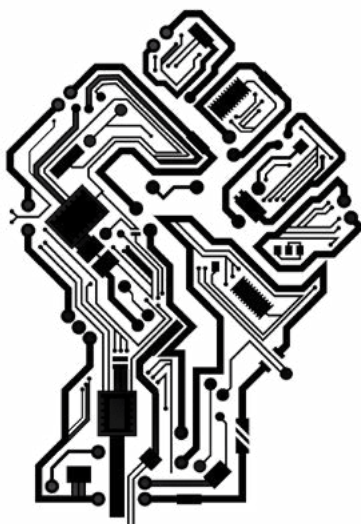
A 2011 report from the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression¹ called upon all states to maintain access to the internet at all times, and that inhibiting access to the internet constitutes a human rights violation. In 2016, the United Nations Human Rights Council released a non-binding resolution condemning intentional disruption of internet access by governments and reaffirming that ‘the same rights people have offline must also be protected online’². Spain, France, Canada, and Finland are among a growing number of nations that have already enshrined this access via constitutional amendment or statute, or through judicial rulings.

More and more Australians use the internet to conduct their everyday lives; for shopping, banking, to socialise, to plan their travel, to learn. Invisible to many is the way our rights online are being eroded, as successive governments have given law enforcement, intelligence agencies, and a wide range of other Government departments extraordinary powers of warrantless surveillance and data collection.

During the worst years of the Abbott-Turnbull Government, the Labor Party was exposed as deeply complicit in the erosion of digital rights, submitting to successive waves of flawed

legislation while maintaining the pretence of providing a check and balance through the compliant ‘Joint Standing Committee on Intelligence and Security’. It has been left to the Australian Greens and a handful of crossbenchers to provide the voice of opposition.

The Greens propose a new Human Rights Commissioner, a Digital Rights Commissioner, to scrutinise government legislation, policy, proposals and procedures, and to advise governments, private sector organisations and individuals on the impacts on the privacy, safety, security and accessibility of the internet for Australians.



THE GREENS WILL:

- **Establish a Digital Rights Commissioner**
- **Repeal the Mandatory Data Retention Scheme**
- **Update Australian privacy laws**

ESTABLISH A DIGITAL RIGHTS COMMISSIONER

Debates about digital rights in Australia have mostly been reactive; to the Snowden disclosures, the mandatory data retention scheme, and the internet filter. Those discussions have often centred on the false choice between individual privacy or national security. Now we are facing threats from the government that they will undermine encryption and extend their mass surveillance regime to include biometrics such as facial recognition. We need to be proactive, not just reactive, about protection our rights to privacy.

A Digital Rights Commissioner, working out of the Australian Human Rights Commission, will serve both as an advocate in response to existing law, and proactively as new law is proposed. The Commissioner will ensure that concerns about safety, accessibility, privacy, and security are addressed as legislation is being developed, not half-heartedly considered after legislation is introduced. The Commissioner will work with the Office of the Information Commissioner and the Privacy Commissioner, but without the statutory limitations the Privacy Commissioner faces.

The Commissioner will ensure that human rights held by people offline are protected online, in accordance with a unanimous 2013 UN General Assembly resolution³, which recognised the need for special measures for all states to review their obligations in light of rapid technological change and to establish or maintain oversight and accountability of all State surveillance of communications, their interception, and the collection of personal data.

REPEAL THE MANDATORY DATA RETENTION SCHEME

Unwilling Australian Internet Service Providers are now required by law to retain two years' worth of private location and personal contact data on every one of their users, which a wide range of government agencies can access at any time, without judicial oversight. The Greens fought to prevent the introduction of this mandatory data retention legislation, but were defeated by combined vote of Labor, Liberal and National. The Australian Greens will repeal this mass surveillance regime.

UPDATE AUSTRALIAN PRIVACY LAWS

2018 marks 30 years of the Australian Privacy Act 1988. Our privacy laws are outdated and insufficient to protect Australians' right to privacy. On 25 May 2018, the European Union's General Data Protection Regulation (GDPR) came into effect, for all companies that hold data within or as a result of doing business with citizens of the EU. The GDPR represents current best practice regarding standards for the protection of data, as it is consent-based and gives individuals the rights of access, erasure, and transfer of their personal data. Under the Australian Privacy Act 1988, the Government's agenda of surveillance, and the rise of surveillance capitalism, young Australians might never be able to exercise their right to privacy and live their lives free from surveillance, interference of their communications, and where they are not merely reduced to marketable and malleable data points. The Australian Greens will update and strengthen Australian privacy laws to be inline with the EU GDPR and uphold our right to privacy.



¹ www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

² www.article19.org/data/files/Internet_Statement_Adopted.pdf

³ www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/167&referer=/english/&Lang=E