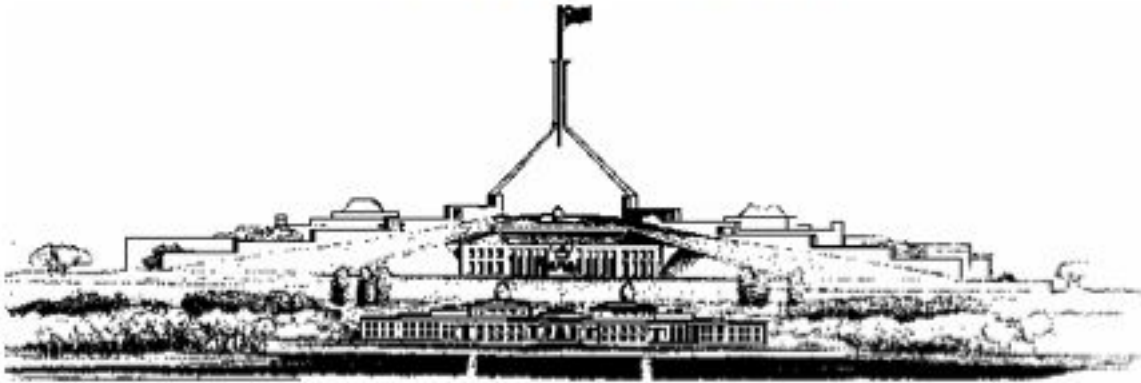




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES
TELECOMMUNICATIONS
AMENDMENT (INTEGRATED PUBLIC
NUMBER DATABASE) BILL 2009

Second Reading

SPEECH

Thursday, 26 February 2009

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SPEECH

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Questioner
Speaker Gibbons, Steve, MP

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Mr GIBBONS (Bendigo) (11.47 am)—I am pleased to participate by speaking on the Telecommunications Amendment (Integrated Public Number Database) Bill 2009, especially as, in part, it relates to potential communications difficulties that are likely to be experienced during national disasters such as the horrific bushfires we experienced in Victoria on 7 February, Black Saturday, and in particular the impact in my electorate of Bendigo, as we have experienced the worst disaster in our history as a result of those firestorms. When I spoke last week in the debate on the condolence motion for the victims of the bushfires in Victoria, I mentioned the tragic death of one person and the total destruction of 59 homes in the Bendigo fires. The Victorian Department of Primary Industries has provided me with its assessment of farm losses in the fires at Redesdale, and I will speak about these briefly before speaking to the bill.

The fires affected 85 rural properties around Redesdale and almost 6,500 hectares of land were damaged. Most of this is grazing pasture, but of note was the impact on two commercial olive-growing operations at Barfold, where more than 300 hectares of olive trees were affected. Most of the livestock death toll was sheep, with more than 900 accounted for so far, and another 420 sheep are reported as missing. Fortunately, though, there was no loss of human life in this fire.

The full cost of the recent fires in Victoria is still being calculated and, of course, the fire season is by no means over yet, as one of my staff can attest, having spent most of Monday on alert at his property near Daylesford. Among the many matters that will be investigated by the forthcoming royal commission is the effectiveness of the warnings that were, or were not, issued to residents in the fire-affected areas. We do not expect our volunteer and professional emergency services workers to operate without timely, accurate and relevant information about the threats they face, and we should not expect homeowners to make life and death decisions about when to leave their properties, or what action to take to defend them, without having access to the same sort of information. Indeed, our emergency management organisations have said that rapid and appropriate responses by the public are critical to restricting the impact that emergencies have on our communities. The public cannot be expected to respond appropriately to an emergency without an effective warning system. Emergency management organisations have asked for a telephone based warning capacity to supplement other warning systems, such as radio, public address systems or television alerts. At this point, I will pay tribute to the efforts of ABC radio, in particular the staff at ABC in central Victoria, during the recent fires in my electorate. The required information was provided in a calm, efficient manner and it was accurate and comprehensive, and I am sure the community very much appreciate those efforts; they were outstanding.

Telephone based emergency warning systems have been the subject of discussions between the Commonwealth, states and territories since 2004. Until July 2008, no agreement could be reached between the states and territories on the use of the integrated public number database to make warning calls to all landlines and mobile phones in a fire threatened area. The IPND is the most comprehensive and accurate Australian public number database available and its information is continually updated. It is an industry-wide database of all residential and business phone numbers, both listed and unlisted, and other subscriber information, such as names and addresses. The IPND contains around 50 million Australian telephone numbers and other information such as whether a service is a residential or business number and the type of telecommunications service delivered by each number. Telstra maintains the IPND as a condition of its carrier licence, and all carriers and carriage service providers are required to provide subscriber information to populate the database. At the July 2008 meeting of the Council of Australian Governments, the Rudd government secured the agreement of the states and territories that emergency access to the IPND was a priority and that policy agreement between the states and territories was required by December 2008. This was duly achieved.

This bill represents the Commonwealth's fulfilment of its part of the agreement with the states and territories to introduce legislation to facilitate access to the IPND. Individual states and territories will retain autonomy to decide when and how best to warn their citizens of emergencies and which telephone based warning system is most appropriate for their needs. The Commonwealth Attorney-General has consulted with the states and territories in developing a model for access to IPND information that will meet their needs. Given the

sensitive nature of the information contained in the IPND, access to this information is strictly limited under the Telecommunications Act. The historical advice to the Commonwealth has been that any plan to allow the states and territories access to the IPND as part of any emergency warning system would be best secured by a legislative amendment. However, in light of the Victorian bushfire emergency, the government has also sought advice from the Solicitor-General on an interim measure to allow access.

Based on this advice, the government has made a regulation under the Telecommunications Act 1997 enabling interim access to the IPND. This will enable immediate access to the IPND by individual states and territories who wish to implement a more limited system as soon as possible. But this is not a long-term solution and not a substitute for the amendments to the Telecommunications Act contained in this bill and the planned future access arrangements for the IPND. For example, privacy protections included in the regulations cannot be as strong as those included in this bill. Rigorous privacy protections are essential due to the sensitive nature of information contained in the IPND. The bill provides the Attorney-General with the powers to specify by legislative instrument who can use IPND information in the event of an emergency and what circumstances should be considered to be an emergency.

Emergency management personnel will only be permitted to access the data in the following circumstances: in the event of an actual emergency, in the event of a likely emergency or for testing purposes—that is, to test whether in the event of an emergency the alert would have reached the people that it needed to. The systems to deliver emergency warning messages are not covered by the bill, and their implementation will be the responsibility of the Attorney-General and the states and territories as part of managing emergencies and disasters in their jurisdictions.

Access to the IPND will be provided through a new secure database that provides real-time access to up-to-date telephone numbers while protecting the identity of individuals. The Commonwealth government will provide \$11.3 million for this purpose and a tender to build the database will be issued shortly. Under the COAG agreement, states and territories can retain autonomy about the warning systems they choose to implement, and they are then responsible for funding them.

Whatever system or systems are established, there remain technological challenges to overcome to enable any system to communicate with all telephones in a threatened area. Advice to the government is that current technology can only communicate with fixed landlines and mobile telephones on the basis of billing address only, rather than the location of the handset. This may mean some individuals in a threatened area will not receive a warning on their phone, and some outside a threatened area could receive irrelevant warnings. It is also possible that issuing mass alerts may have a detrimental impact on the telecommunications network. It is obviously important that calls to 000 can still be made when an emergency warning has been issued, and there is a requirement in the bill that reasonable steps be taken to ensure that the use of the IPND information does not adversely affect normal network operations. For example, this could involve staggering the calls over several minutes, rather than sending them all at once. To help address this, at the next COAG meeting the Commonwealth will offer the states and territories financial assistance for them to conduct collaborative research on the viability of a location based emergency warning system. The government has advised the states and territories that, if they are able to agree to a national system at the next possible COAG meeting, the Commonwealth will make a further financial contribution to establish such a system to be owned and operated by the states and territories.

This bill also contains safeguards to protect people's personal information. Use or disclosure of IPND information in any situation which is not an emergency as defined by law in the state or territory in question will be an offence. Given that the IPND information includes unlisted numbers and subscriber details—for example, names and addresses—the bill imposes penalties of up to two years imprisonment for misuse of IPND information. In addition, any agency that issues an emergency warning using the IPND information will be required to report each incident to the Attorney-General and the Australian Communications and Media Authority. Agencies will be required to report on the nature and location of the emergency or disaster, the number of telephone numbers disclosed, the number of persons to whom the numbers were disclosed and why. These reporting requirements are intended to allow identification of any possible misuse of IPND information quickly. Agencies responsible for issuing alerts will also be required to report annually to ACMA and the Office of the Privacy Commissioner on a similar basis.

This bill will also tidy up some of the uncertainty surrounding the operation of location-dependent carriage services. These are services that automatically route calls to the appropriate store or branch location of a business, depending on the caller's location. Taxi and food delivery services are some of the businesses that use this type

of service. Currently, the Telecommunications Act does not contain express authority for disclosure and use of information in the IPND for the purpose of providing LDCSs on a wide scale. Telstra's carrier licence does allow it, as the IPND manager, to make IPND information available for the purpose of providing LDCSs. The bill clarifies the Telecommunications Act by explicitly allowing carriers and carriage service providers supplying LDCSs to access listed public number information in the IPND.

The bill addresses key privacy concerns around the release of this data. For example, disclosure of IPND information relating to unlisted numbers is not permitted under the new amendments. Information from the IPND may only be disclosed to carriers and carriage service providers, and only that information necessary to provide an LDCS may be disclosed. In addition, a secondary disclosure and use offence has been included in the bill to further protect against the improper disclosure and use of information provided for an LDCS system.

Returning to the primary purpose of the bill, it is important to remember that telephone based emergency warning systems are only a supplement to, and not a replacement for, the range of measures currently used to warn the public of emergencies, such as television and radio, public address systems, doorknocking, sirens, signage and the internet. The introduction of this bill by the Rudd government is still only a step towards making telephone based emergency warning systems a part of Australia's disaster response capability. It is an important step, but it is not the silver bullet. There is much work that needs to be done, and I am sure that work will be done.

This bill will enable the states and territories to access information from the IPND in order to implement telephone based emergency warning systems, should they chose to do so. It is drafted to allow the states and territories the flexibility to develop and operate data management and emergency warning systems either individually or jointly. I commend this bill to the House.