Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018

(Amendments to be moved by Senator Wong, on behalf of the Opposition, in committee of the whole)

AMENDMENTS TO THE SCHEDULE OF AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES

(1) Amendment (3), item 4B, paragraph 6(1D)(b), omit “as soon as practicable after”, substitute “before the end of”.

(2) Amendment (39), after subsection 317LA(1), insert:

(1A) The AFP Commissioner must not give an approval under paragraph (1)(b) unless satisfied of the matters specified in section 317P.

(3) Amendment (68), omit subsection 317WA(7), substitute:

(7) For the purposes of the assessment under paragraph (6)(a) in relation to a technical capability notice proposed to be given to a designated communications provider, both of the assessors must be satisfied that:

(a) the proposed technical capability notice would not contravene section 317ZG or section 317ZGA; and

(b) the requirements imposed by the proposed technical capability notice are reasonable and proportionate; and

(c) compliance with the proposed technical capability notice is practicable; and

(d) compliance with the proposed technical capability notice is technically feasible; and

(e) the proposed technical capability notice is the least intrusive measure that would be effective in achieving the legitimate objective of the proposed technical capability notice.

(4) Amendment (68), omit subsection 317WA(11), substitute:
Report of the assessors to be binding on the Attorney-General

(11) If:
   (a) a notice is given under subsection (1) in relation to a technical capability notice proposed to be given to a designated communications provider; and
   (b) a copy of the report relating to the proposed technical capability notice is given to the Attorney-General under subsection (6); and
   (c) each assessor is not satisfied with the matters set out in subsection (6);
the Attorney-General must not proceed to give the technical capability notice.

[assessment and report]

(5) Amendment (73), omit subsection 317YA(7), substitute:

(7) For the purposes of the assessment under paragraph (6)(a) in relation to a technical capability notice as proposed to be varied, both of the assessors must be satisfied that:
   (a) the technical capability notice as proposed to be varied would not contravene section 317ZG or section 317ZGA; and
   (b) the requirements imposed by the technical capability notice as proposed to be varied are reasonable and proportionate; and
   (c) compliance with the technical capability notice as proposed to be varied is practicable; and
   (d) compliance with the technical capability notice as proposed to be varied is technically feasible; and
   (e) the technical capability notice as proposed to be varied is the least intrusive measure that would be effective in achieving the legitimate objective of the proposed technical capability notice.

[varying technical capability notices]

(6) Amendment (73), omit subsection 317YA(10), substitute:

Report of the assessors to be binding on the Attorney-General

(10) If:
   (a) a notice is given under subsection (1) in relation to a proposed variation of a technical capability notice; and
   (b) a copy of the report relating to the technical capability notice as proposed to be varied is given to the Attorney-General under subsection (6); and
   (c) each assessor is not satisfied with the matters set out in subsection (6);
the Attorney-General must not proceed to vary the technical capability notice.

[varying technical capability notices]

(7) Amendment (85), after subsection 317ZF(16), insert:

(16A) For the purposes of a request made under subsection (16) to authorise disclosure, the Attorney-General must authorise the disclosure:
   (a) except to the extent that the disclosure would prejudice a particular investigation or prosecution; and
   (b) unless the Attorney-General determines that there are operational reasons for the disclosure not to be made.

[unauthorised disclosure of information]

(8) Amendment (100), omit the amendment.
(9) Amendment (101), omit the amendment.