

- The ACC considers that **telecommunications providers** should be **required** to provide **reasonable assistance** in enforcing the criminal law.
- Section 313 of the *Telecommunications Act* provides a mechanism for the ACC to seek assistance, however there is no effective sanction for any failure by telecommunications providers to assist (some have refused to assist).
- The ACC agrees with the finding of the PJCIS that the TIA Act should be amended to include provisions which clearly express the scope of the obligations which require telecommunications to provide assistance to law enforcement regarding telecommunications interception and access.
- The ACC has also stated that the obligation to assist should apply to all providers, including ancillary providers.

## BACKGROUND

Under section 313 of the *Telecommunications Act 1997* (Cth), officers and authorities of the Commonwealth, States and Territories are able to require telecommunications carriers and carriage service providers to provide reasonable assistance in enforcing the criminal law and laws imposing pecuniary penalties.

The ACC has used section 313 to seek assistance from telecommunications providers to assist with enquiries relevant to its investigations. However, there is no obligation on providers to assist and the ACC has been refused assistance on some occasions.

### Statistics – in camera - PROTECTED

- 10 x total requests under s313 TA between 2012 and 2014
- 1 x pending
- 7 x successful
- 2 x approaches made where the service provider advised that they would not comply as they considered the request beyond the scope of the legislation, and considered that s313 is not binding on them, other than in emergency situations.
- These instances impaired the ACC's ability to develop a full intelligence picture for the purpose of an investigation.

*Note: Due to confidentiality agreements with service providers, it is inappropriate to name which service provider did not assist.*