

**Joint Committee on Justice**  
**Opening Statement by Ronan Lupton SC\***

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**28 June 2022**

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**1. Introduction and background**

- 1.1 Chairperson and members of the Joint Committee on Justice (the “**Joint Committee**”), I would like to thank you for the invitation to appear before you and to contribute to your current deliberations and discussions on the General Scheme of the Communications (Retention of Data) (Amendment) Bill 2022 (the “**General Scheme**”).
- 1.2 I am a Senior Counsel based in the Law Library, Dublin. I practise in the areas of commercial, competition, chancery, media, and regulatory law. I have taught criminal and constitutional law at professional level. I currently lecture at UCD on the Data Protection and Privacy Diploma course on a part time basis, in complement to my practice at the Bar.
- 1.3 I chair the Association of Licensed Telecommunications Operators – ALTO, CLG. I am an independent advisor to the ISPCC advising on Internet content and harm related issues. I have also recently been appointed to an Expert Group formed by Minister Catherine Martin TD to consider the issue of Individual Complaints under the Online Safety and Media Regulation (“**OSMR**”) Bill 2022.
- 1.4 Prior to commencing practice at the bar. I was Head of Regulatory Affairs at Verizon in Dublin and I also held a pan-European interconnect policy role.

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\* B.A. (Hons) (Business Management); M.Sc. (Strategic Management); Dip. Legal Studies; Barrister-at-Law; PgDip (EU Competition Law); current study: M.A.(EU Competition Law)

- 1.5 I commenced my career in telecommunications in 1998, and I have been involved in policy formulation and matters related to the Internet and telecommunications markets since around 2002.
- 1.6 I have served on the Department of Justice Internet Advisory Board – IAB, the Internet Safety Advisory Council and later the Internet Safety Advisory Committee – ISAC, from 2006 until 2014. Those committees are reformed under the remit of the Minister for Communications and the group are now called the National Advisory Council for Online Safety – NACOS.
- 1.7 I have also served as a non-executive director of the Internet Service Providers Association of Ireland – ISPAI, which now operates and supervises the hotline.ie service.
- 1.8 I was appointed as a member of the Internet Content Governance Advisory Group – ICGAG,<sup>1</sup> in 2014 and I have also contributed to the work of the Law Reform Commission and the Report on Harmful Communications and Digital Safety.<sup>2</sup>
- 1.9 I have worked extensively in the area of service provider compliance the Communications (Retention of Data) Act 2011 and I have carefully followed all legal and regulatory developments in this area – giving rise to the General Scheme now under consideration.

## 2. Positioning

- 2.1 My evidence and remarks to the Joint Committee are made as an independent legal expert and can also be attributed to ALTO. The area of focus under discussion and review by the Joint Committee is relevant to my legal practice and pertinent to my role as ALTO chair.

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<sup>1</sup> ICGAG Report: <https://www.dccae.gov.ie/en-ie/communications/publications/Pages/Internet-Content-Governance-Advisory-Group-Report.aspx>

<sup>2</sup> LRC Report: <https://www.lawreform.ie/news/report-on-harmful-communications-and-digital-safety.683.html>

2.2 On Sunday 26 June 2022, I send a set of Observations to the Joint Committee on Justice for its consideration. I do not intend to repeat those submissions here, instead I will **append** the Observations with this Opening Statement.

2.3 I intend to address four areas in my evidence to the Joint Committee:

- (i) Backdrop to the General Scheme – *Digital Rights Ireland – Dwyer* – Section 6(1)(a) of the 2011 Act – New Communications (Data Retention and Disclosure) Bill;
- (ii) Strategic Concerns – effecting State Agencies and service providers;
- (iii) The Murray Report and *Corcoran* Decision; and
- (iv) Other Concerns within the General Scheme.

### 3. **Conclusion**

3.1 Taking account of the three areas that I have made Observations on. I call on the Committee to take utmost account of current and emergent European Law and policy trends concerning Data Retention and the timing of this legislation prior to making any recommendations.

3.2 The Committee should report as widely as it can on the area of legislative reform and in particular concerning criminal justice matters connected to Data Retention.

3.3 It is quite clear to me that robust laws will act as a disincentive to bad faith actors, and properly enable An Garda Siochana and other State Agencies. However, as should be obvious, those robust laws must be compliant with the Constitution and Charter of Fundamental Rights, as interpreted through the various decisions of the Court of Justice of the European Union.

3.4 I make myself available to the Committee to clarify anything arising in this Statement.

**Ronan Lupton SC**

**Chair of ALTO**