

Chinese company Huawei in limbo over proposed foreign register

Written by Michelle Grattan, Professorial Fellow, University of Canberra

Chinese communications-equipment giant Huawei says it will wait to see the final form of the government's register of agents of foreign interests before deciding whether it should put itself on it.

Amid continued uncertainty about what privately-owned Chinese companies the register will include, Prime Minister Malcolm Turnbull said the assessment of whether someone was covered by the legislation "will have to be made by the people concerned".

Jeremy Mitchell, Huawei Australia's director of corporate affairs, told The Conversation: "We can't say whether we should sign up until we see the final law".

In proposed amendments to the draft legislation for the register, the government has narrowed the definition of "foreign principals" to foreign governments, foreign government-related entities, foreign political organisations and foreign government-related individuals.

This leaves a question mark over non-state Chinese companies including Huawei and Landbridge, both widely considered to have links to the regime.

Read more: [**View from The Hill: Would Landbridge be on or off the government's register of foreign interests?**](#)

The secretary of the Attorney-General's department would have a power to issue a notice stating a company was considered a foreign government-related entity. This could be appealed to the Administrative Appeals Tribunal.

Attorney General Christian Porter, appearing with Turnbull at a joint news conference on an

unrelated matter, said there were “a number of features that you would use to determine whether or not any enterprise or company or body is a foreign government-related entity.”

As to Huawei, “it’s a question that they would necessarily ask themselves.

“But most importantly, anyone who was employed or acting under their instructions in Australia and engaged in political communication, or lobbying or parliamentary lobbying, would need to make that assessment themselves. So ultimately, that is a question that would be asked by the company itself and the people working for that company.”

Under criteria set by the government, a company would be considered to be related to a foreign government or political organisation if one or more of the following apply:

-

the foreign principal holds more than 15% of the issued share capital;

-

the foreign principal holds more than 15% of the voting power;

-

the foreign principal is in a position to appoint at least 20% of the company’s board of directors;

-

the directors are under an obligation, formal or informal, to act in accordance with the directions, instructions or wishes of the foreign principal;

-

the foreign principal is in a position to exercise, in any other way, total or substantial control over the company.

Mitchell said Huawei was a private company that was not linked to the Chinese regime.

The company locally has an Australian board, chaired by John Lord. Huawei Australia is fully owned by the Chinese company, which is a co-operative owned by its employees.

“We will do anything the government requires us to do under the law,” Mitchell said. “We’ll want to see what the final legislation passed is - what the law looks like and make a final decision on that. We’ll see where it ends up”.

Huawei is regarded with great concern by Australia’s intelligence agencies and has been banned from involvement in the National Broadband Network.

The Australian government agreed to largely finance an internet cable between the Solomon Islands and Sydney after the Solomons proposed to use Huawei to build it. The federal government [did not want](#) Huawei connecting into Australia’s network.

On Wednesday, during a visit by Solomon Islands Prime Minister Rick Houenipwela, Turnbull announced Australia would also help fund the construction of a domestic telecommunications cable network linking remote provinces to Honiara.

Former trade minister Andrew Robb, who works for Landbridge, is overseas on holiday and said he had not had a detailed look at the new legislation for the register.

But, “as I have said many times publicly, my situation needs to be determined in light of the fact that I have not spent even one minute over the last two years on Landbridge business in Australia.

“Landbridge is a global company, and I have been engaged on global projects. I don’t need legislation to understand my responsibilities as a former cabinet minister,” he said by email.

Chinese company Huawei in limbo over proposed foreign register

Written by Michelle Grattan, Professorial Fellow, University of Canberra

Michelle Grattan does not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.

Authors: Michelle Grattan, Professorial Fellow, University of Canberra

Read more <http://theconversation.com/chinese-company-huawei-in-limbo-over-proposed-foreign-register-98258>