

Committee Secretary
Senate Standing Committees on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra
ACT 2600

9th July 2012

For the attention of the Senate Legal & Constitutional Affairs Legislation
Committee

**Re: Inquiry into the Privacy Amendment (Enhancing Privacy Protection)
Bill 2012**

Kimberly-Clark Australia Pty Ltd (KCA) is writing in support of the submission made by the Australian Direct Marketing Association.

KCA is an FMCG company which is a subsidiary of Kimberly-Clark Corporation, a US based multi-national. Brands marketed by KCA include Kleenex®, Huggies®, U by Kotex® to Australian consumers. KCA also markets to B2B and B2G sectors through Kimberly-Clark Professional and to the Health Care sector through Kimberly-Clark Health Care. We use personal information to communicate with our customers, to ensure we can tailor messaging and to ensure we are delivering on our customer expectations by regularly seeking feedback.

We agree to the issues and recommendations outlined in the submission made by the Australian Direct Marketing Association on behalf of the marketing and advertising community. In particular:

- **Prohibition on direct marketing:** We share concern that the inclusion of a “prohibition on direct marketing” will cause considerable confusion within our organisation as to whether direct marketing is permitted or not – particularly with our marketing and compliance teams. It will also cause confusion with our customers who may incorrectly believe that direct marketing is no longer permitted.

We therefore support the removal of the term ‘prohibition’ on direct marketing and agree to ADMA’s recommendation that the wording revert to the positive;

- **Using data collected from third parties for marketing and advertising:** We support ADMA’s suggested amendments to APP 7.3(d) regarding use of personal information collected from a party other than the individual.

The approach proposed by the Government, requiring an opt-out to be

included in all communications to our customers if we use third party data will:

- (i) cause us compliance difficulties as it is not possible for us to include this amount of information in all communication channels – e.g. online advertisements, certain social media channels and twitter.
- (ii) discourage use of third party data cleansing and updating services. We currently use these services to maintain the accuracy of our data. However, in future this will automatically trigger the requirements of APP7.3(d) with regard to our customer communications and therefore we will be less inclined to perform such operations.
- (iii) impact on the ability for us to communicate effectively with our customers and provide them with best possible products and services for their needs. For example, KCA uses a “life cycle” approach in our Baby and Childcare marketing to create awareness of products such as toilet training aids for members whose children are at an appropriate age for our on-line Huggies Baby Club
- (iv) degrade the customer experience, which is absolutely critical to our brand reputation and the manner in which we are perceived by consumers in the market. For example, Kimberly-Clark uses consumer information as an “early warning” system for potential product quality concerns and on occasions contacts consumers seeking further information as part of this process. It also runs a “consumer feedback” process on our Customer Contact handling as a means of improving service which also involves contacting consumers who have contacted us.

In this regard we are supportive of ADMA’s proposal to always provide direct access to our privacy policy through which our customers and prospects can opt-out of further marketing from us.

- **Anonymity and pseudonymity:** as an organisation we strive to maintain high standards of data accuracy. The provision that requires our organisation to offer individuals the right to deal with us on an anonymous or pseudonymous basis will impact of our ability to maintain accurate records as it will be unclear whether the information we hold is correct or not.

It also makes it difficult for us to take action, either internally or externally on a contact to correct a concern which negates the purpose of a customer contact.

We support the notion of anonymity where appropriate but request pseudonymity be removed or strictly confined to limited circumstances

so that we can comply with our requirements with regard to data accuracy.

- **Transborder disclosure of personal data:** We share concerns regarding the new liability provisions that apply with regard to transborder data disclosure. Our organisation takes significant steps to ensure data that is transferred is protected to the level required by Australian law. However, there are instances where data may be subject to actions or attacks outside of our control such as to operational failure, fraud, sabotage and hacking and these must be taken into consideration before imposing liability. This is a particular concern when using cloud computing.
- **Fines and penalties:** We also request clarification around fines and penalties. Being a company that is subject to the Privacy Act it is essential that we have an understanding of the potential extent of fines and penalties for our risk assessment purposes.

If you would like further information or detailed examples of how the new proposed privacy provisions will impact on our customers please do not hesitate to contact me.

Yours sincerely

Ross Hearne
General Manager, Corporate Services
Kimberly-Clark Australia Pty Ltd