

The Secretary
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

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INQUIRY INTO THE PRIVACY AMENDMENT (PRIVACY ALERTS) BILL

In relation to the Bill under review the Fundraising Institute Australia believes that insufficient consideration has been given to the effect which mandatory data breach notification would have on charities and not-for-profit organisations. Government decision-makers seem unaware that fundraisers use extensive donor databases in the same way as business organisations do.

FIA's membership covers the majority of the charitable fundraising sector and we are unaware of any data breaches among our members. We cannot see how the considerable costs and inconvenience of a mandatory scheme is justified at all and it is certainly not justified at present when the sector has to deal with two major new pieces of regulation:

- Preparation for and implementation of the new Australian Privacy Principles under the Privacy Amendment (Enhancing Privacy Protection) Act which come into effect in March 2014, and
- Establishment of the Australian Charities and Not-for-Profit Commission (ACNC) which creates a legal requirement for registration by all charities. Preparation and implementation for this takes place at the same time as the Enhancing Privacy Protection measures during the 2013-14 financial year.

The additional burden and cost of mandatory data breach notification is both unwarranted and unwelcome particularly as the implementation date is proposed to coincide with that of the other measures.

FIA supports ADMA and other organisations who have pointed to the lack of a definition of 'serious breach'. FIA agrees that a Bill which is so flawed should not be passed by the Parliament. Without a definition of 'serious breach' it is impossible to make an accurate assessment of the regulatory impact.

In this context the Committee's attention should be drawn to the words of Assistant Treasurer David Bradbury in May 2012 during the consultation phase of the ACNC Bill. He admitted that the timeframes for that consultation - as is the case with this Privacy Alerts Bill as well - had been demanding on the sector.

"I know that many within the sector are enthusiastic about the reform agenda, but the rapid pace of change and the demanding timetables for consultation periods have tested this enthusiasm. I know that every minute spent reading a discussion paper or preparing a submission means the diversion of precious resources away from vital service delivery; or the selfless donation of time above and beyond the call of duty", the Minister said.

FIA is most concerned that the Government has given no consideration to the combined impact of all these regulatory burdens falling on the charitable fundraising sector at the same time.

FIA does not consider that mandatory data breach notification is justified per se, this particular Bill is deficient and the timing is inappropriate. For these reasons FIA urges the Committee to recommend that the Bill be withdrawn.

Yours sincerely

Rob Edwards
Chief Executive Officer
19th June 2013