



SENATE FINANCE AND PUBLIC ADMINISTRATION

LEGISLATION COMMITTEE

Exposure Drafts of Australian Privacy Amendment Legislation: Part II Credit Reporting

SUPPLEMENTARY SUBMISSION

Submission Number: 31b

Submitter Details: Law Council of Australia



15 April 2011

The Committee Secretary
Senate Finance and Public Administration Committee
P O Box 6100
Parliament House
CANBERRA ACT 2600

Via email: fpa.senate@aph.gov.au

Dear Sir or Madam,

The Privacy Committee of the Business Section of the Law Council of Australia (**Privacy Committee**) welcomes the opportunity to be consulted on important legislative developments, and has provided separate comments in relation to the current review of proposed privacy legislation.

The Committee is composed largely of practitioners in private practice, in academia, and in organisations with significant interest in privacy laws.

The legal profession in Australia will, of course, bring a diverse range of views to matters of public policy and to the best ways to implement public policy. In this regard, the Privacy Committee notes that it has been provided with a copy of a submission prepared by the Law Institute of Victoria which expressed some of the points of view held among practitioners.

Because of the divergent views, the Privacy Committee has kept its submission short and at a structural and policy level.

The Privacy Committee generally supports the relevant conclusions of the Australian Law Reform Commission in relation to credit reporting information and the Federal Government's response to them.

The Privacy Committee believes that the ALRC report and the Government's response already set an appropriate balance between consumer empowerment and financial sector efficiency. Further, the Privacy Committee does not see the need for substantive changes to policies to put consumers more "in the drivers seat".

Specifically, the Committee:

- does not support express notification of each use and disclosure. This would be impractical and substantially increase costs passed on to consumers for little demonstrated benefit;
- does not support any restriction on commercial parties' ability to recover reasonable costs;
- does not support further restrictions on the ability for credit providers and reporting agencies to use credit information and de-identified information for purposes that are currently permitted; and
- supports the availability of pre-screening services with a commercial effect similar to current market practice. In this regard, the LIV proposal at its point 5 for a simple "how to contact the relevant credit reporting agency to opt out of pre screening" should be considered further and may be a worthwhile privacy enhancement.

In implementation of the policy initiatives, the Privacy Committee observes that a drafting style has been adopted that will not assist ready understanding of the initiative which is unfortunate.

Thank you for giving the Privacy Committee the opportunity to comment.

Yours faithfully,

Margery Nicoll
Deputy Secretary-General