



**Australian
Privacy
Foundation**

<http://www.privacy.org.au>

Secretary@privacy.org.au

<http://www.privacy.org.au/About/Contacts.html>

20 June 2013

The Chair
Senate Legal and Constitutional Affairs Committee

Dear Senator Crossin

Re: Privacy Amendment (Privacy Alerts) Bill 2013

The APF draws attention to the seriously negative impact on the democratic process that is inherent in the provision by the Parliament of only 1-1/2 working days, during which civil society organisations are expected to discuss, draft and finalise a Submission to your Committee.

The APF's Submission in relation to this Bill comprises this covering letter and the attachments.

Data Breach Notification was enacted in many States of the USA a decade ago, and has been under discussion in Australia for many years. The APF's Policy Statement on Data Breach Notification is attached.

The Privacy Alerts Bill is a pale imitation of a Data Breach Notification statute. The APF identified a large number of serious deficiencies in the draft. See the second attached document, dated 4 May 2013 and entitled 'Supplementary Policy on Data Breach Notification Legislation'.

The 'Supplementary Policy' was based on an earlier version of the Bill. We understand that the Bill before the Committee may have two material differences from the draft we reviewed:

- (1) s.3, which adds s.13(4A) to the Privacy Act, and thereby makes breaches of this legislation 'interferences with privacy'. If so, then para. 6.2 of our 'Supplementary Policy' (Non-Compliance to be an Interference with Privacy) has been addressed;
- (2) ss.26ZB(8), (9), (10) and (11), which weaken an already inadequate instrument still further. The existence of these provisions makes para. 9 of our 'Supplementary Policy' (Publication of Data Breach Notifications by the OAIC) even more important than before.

The APF submits that the Bill should be substantially amended, in line with the APF's Policy Statement generally, and with the APF's Supplementary Policy more specifically, in order to provide Australian citizens and consumers with meaningful protections.

Yours sincerely

Roger Clarke
Chair, for the Board of the Australian Privacy Foundation