

From: Graham Greenleaf [SMTP:graham@austlii.edu.au]
Sent: Thursday, May 18, 2000 12:01 PM
To: Cornish, Catherine (REPS)
Subject: Supplementary submission - Inquiry into Privacy Bill

Dear Ms Cornish,

Supplementary Submission

(i) I would like to draw to the attention of the Committee a new document from the Article 29 Data Protection Working Party, which has only become available today - Opinion 4/2000 on the level of protection provided by the "Safe Harbor Principles" (16 May), a copy of which I attach.

On an initial reading, the A29 Working Party is continuing to take a very critical approach to the Safe Harbor proposal, and also stresses that the US situation is so unusual that it should not be regarded as a precedent.

There are many points in the A29 Working Party's Opinion which reinforce the arguments in my submission that significant deficiencies in the Bill before the Committee will result in considerable difficulties in Australia obtaining a Decision of 'adequacy', and that any such Decision is likely to be so heavily qualified, particularly in relation to 'small' businesses, that it will be a serious disadvantage to all Australian businesses, and particularly to small businesses wanting to protect privacy, and to companies with employees both in Europe and Australia.

(ii) I would also like to suggest to the Committee that it is very important that it obtain from the Government at its hearings next week a precise and well documented estimate of the percentage of all Australian businesses that will fall within the category of 'small business operator' exempt from the Bill. It would also be very informative to obtain estimates of which business sectors exempt 'small business operators' will fall into. The Explanatory Memorandum does not provide this information.

There is a real risk that such a high percentage of all Australian businesses will be exempt from the Act that it will (i) provide little meaningful protection to Australians; and (ii) result in most or all Australian businesses being refused a finding of 'adequacy' by the EU.

Yours sincerely,

Graham Greenleaf



A29(May).doc



ATT302051.ATT