

Chapter 1

Introduction

Terms of reference

1.1 On 24 June 2010, the Senate agreed to the following:

(1) That the following matter be referred to the Finance and Public Administration Legislation Committee for inquiry and report by 1 July 2011:

Exposure drafts of Australian privacy amendment legislation.

(2) That, in undertaking this inquiry the committee may consider the exposure draft of the Australian Privacy Principles and the draft companion guides on the Australian privacy reforms, and any other relevant documents tabled in the Senate or presented to the President by a senator when the Senate is not sitting.

1.2 Following the commencement of the 43rd Parliament, the Senate agreed to the committee's recommendation that the inquiry be re-adopted with a reporting date of 1 July 2011.

Conduct of the inquiry

1.3 On the same day that the inquiry was referred to the committee, the Australian Privacy Principles (APP) Exposure Draft and Companion Guide were tabled in the Senate.¹ The APP Exposure Draft is one of four parts of the first stage response to the Australian Law Reform Commission's (ALRC) recommendations for the reform of Australian privacy laws. The committee agreed that it would report on this first part of the inquiry by 21 September 2010. Following the commencement of the new Parliament, the committee agreed to table the report by the end of the second sitting week in February 2010. This was subsequently extended to allow the committee further time to consider the matters before it.

1.4 The committee advertised the inquiry in *The Australian* and contacted a number of organisations and individuals, inviting submissions to be lodged by 27 July 2010. However, the committee continued to receive submissions during the new Parliament. The committee received 43 public submissions and two confidential submissions. The list of submissions is available at Appendix 1.

1.5 The committee held a public hearing in Canberra on 25 November 2010. Details of the public hearing are at Appendix 2. Following the public hearing, the committee provided the Department of the Prime Minister and Cabinet with an extensive list of questions on notice. The submissions, Hansard transcript of evidence

1 *Journals of the Senate*, 24 June 2010, p. 3762.

and answers to questions on notice may be accessed through the committee's website at http://www.aph.gov.au/Senate/committee/fapa_ctte/foi_ic/index.htm.

1.6 The committee would like to thank all those who contributed to the inquiry.

Structure of the report

1.7 The report is structured as follows:

- chapter 2 of the report provides a background to the *Privacy Act 1988*, the inquiry undertaken by the Senate Legal and Constitutional Affairs References Committee into the Privacy Act in 2005, and the reviews by the Office of the Privacy Commissioner and the ALRC;²
- chapter 3 canvasses general issues raised in relation to the exposure draft;
- chapters 4 to 16 discuss the key issues raised in relation to each APP together with an overview of the ALRC's comments on each principle; and
- chapter 17 presents a summary of the committee's conclusions.

1.8 The Information Privacy Principles and the National Privacy Principles are provided in Appendix 3 and the exposure draft of the Australian Privacy Principles is provided at Appendix 4.

References

1.9 On 1 November 2010 the Office of the Privacy Commissioner was integrated into the Office of the Australian Information Commissioner. The submission from the Office of the Privacy Commissioner (OPC) was received before this change took place and this report therefore refers to the Office of the Privacy Commissioner.

2 Senate Legal and Constitutional Affairs References Committee, *The real Big Brother: Inquiry into the Privacy Act 1988*, June 2005; Office of the Privacy Commissioner, *Getting in on the Act: The Review of the Private Sector Provisions of the Privacy Act 1988*, March 2005; Australian Law Reform Commission, *For Your Information: Australian Privacy Law and Practice*, May 2008, ALRC 108.