



# The privacy landscape in Australia

**Annelies Moens**

Managing Director  
Privcore Pty Ltd and  
Senior Privacy Consultant,  
Asia Pacific, TrustArc

**TrustArc**

19 January 2022  
Consulting Team Update





# Overview

- My background
- Did you know?
- Where does Australia fit in the global privacy landscape?
- Extra-territorial application
- Current privacy law reform process in Australia
- What changes to expect?
- Next steps – government response and draft amendments to the Privacy Act
- Resources and questions



## Asia Pacific



Annelies Moens  
CIPP/E, CIPT, FAICD, CMgr FIML, FIP  
Senior Privacy Consultant  
New South Wales, Australia



With close to 20 years' experience, Annelies is a widely recognized global privacy expert and thought leader, trusted by business executives, government and privacy professionals. She works with clients globally to uplift privacy maturity.



# Did you know?

Tax file numbers  
led to privacy  
legislation in  
1988

Lengthy law  
... reform  
processes

APPs in effect in  
2014 and DB  
reporting in 2018

DB reporting 3  
months before  
GDPR in effect

No controller/  
... processor  
distinction

No EU  
adequacy -  
... small business  
not regulated





## Where does Australia fit?

### Where does Australia fit in the global privacy landscape?

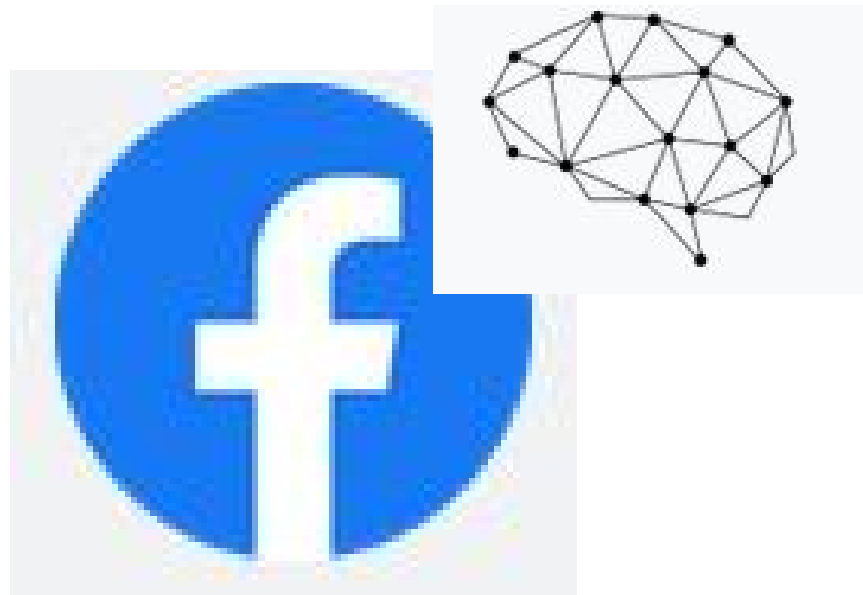
- Privacy law in place for over 30 years
- A dedicated federal privacy regulator
- Most states and territories have their own privacy legislation applying to state government agencies with their own privacy regulators
- High-level principle based regulation across jurisdictions
- Penalties have not been significant YET...
- Extra-territorial application



**Making privacy core business**



# Extra-territorial application



**Making privacy core business**



Preliminary report  
released Dec 2018 and  
Final report released  
July 2019

Why was the ACCC  
directed to commence  
the Inquiry?

Terms of Reference



# Digital Platforms Inquiry

Final Report

June 2019



Australian Government  
Attorney-General's Department

## Government Response

Round 1 – Issues Paper  
October 2020

166 submissions  
received

### Privacy Act Review

Issues Paper

October 2020





Government Response

Round 2 – Discussion  
Paper, October 2021

Submissions were due  
10 Jan 2022



Australian Government  
Attorney-General's Department

**Privacy Act Review**  
Discussion Paper

October 2021

67 proposals for change – Scope:

- Strengthen protections in the Privacy Act
- Introduce further penalties
- Establish an OAIC privacy code for digital platforms
- Establish a statutory tort for serious invasions of privacy and direct right of action
- New funding model – cost recovery and statutory levy scheme





## Who is impacted?

Every entity regulated by the Privacy Act – this includes:

- Private sector businesses with annual turnover >\$AU 3 million
- Private sector health service providers regardless of annual turnover
- Credit reporting bodies
- Residential tenancy database operators
- Any organisation handling TFNs in relation to TFN data
- ACT and Federal government agencies and their contractors
- Offshore entities that have a link with Australia (extra territorial application)

Individuals – will have greater recourse to address privacy concerns



**Making privacy core business**



Slides removed from public version.  
For details on changes to the Australian  
Privacy Act contact Privcore:  
[operations@privcore.com](mailto:operations@privcore.com)





## Next steps

- Government to be informed by further submissions on its Discussion Paper
- Draft amendments to the Privacy Act



# Resources



- A. Moens, [Submission: Privacy Act Review – Discussion Paper](#), January 2022
- Attorney-General's Department, [Discussion Paper](#), October 2021
- A. Moens, [Submission: Consultation on the Privacy Act Review](#), November 2020
- Attorney-General's Department, [Issues Paper](#), October 2020
- A. Moens, [Submission: Consultation on the ACCC's Digital Platforms Inquiry Final Report](#), September 2019
- ACCC, [Digital Platforms Inquiry – Final Report](#), June 2019
- A. Moens, "[The Digital Platform Inquiry is Catalysing Major Enforcement Changes to the Privacy Act](#)", Australian Institute of Company Directors Magazine, June 2019
- [Australian Privacy Act 1988](#)





# Questions?

[operations@privcore.com](mailto:operations@privcore.com)

[www.privcore.com](http://www.privcore.com)



**Making privacy core business**