



The privacy landscape in Australia

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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



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Asia Pacific



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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



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Extra-territorial application

Facebook and Cambridge Analytica



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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

Scope of proposed changes

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



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Slides removed from public version.
For details on changes to the Australian
Privacy Act contact Privcore:
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?

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