

11 October 2024

To: Senate Legal and Constitutional Affairs Committee on Privacy and Other Legislation
Amendment Bill 2024 [Provisions]

Submitted via:

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/PrivacyAmendment47

Time to put an end to poor privacy protections – Australians deserve better

While the first tranche of privacy reforms is an important initial step with some key positive developments, Consumer Policy Research Centre (CPRC) urges the Federal Government to urgently commit to a clear timeline to close crucial gaps in Australia's privacy protections.

CPRC recommends the Federal Government to urgently commit to implementing the following measures:

- Modernise what it means to be identifiable to cover information obtained from any source and by any means.
- Put the onus on businesses by imposing a fair and reasonable obligation on collecting, sharing and using consumer data.
- Remove the small business exemption to ensure all businesses who collect, share and use consumer data are held accountable to treat people's data with care and respect.
- Empower the regulator to swiftly ban or restrict harmful practices that cause direct and clear consumer harms.

We also support the recommendation made by Digital Rights Watch for people to have the right to sue in court for breaches and misuse of personal information at scale, which is likely not covered by the current proposed statutory tort.

Australians are currently paying the price of poor privacy protections that rely purely on notification and consent, and a take-it-or-leave-it approach. Our privacy research released in July 2024¹, found that Australia's current privacy framework disproportionately places the burden on individuals to protect their safety online:

- Australians would need to spend an average of 30 minutes daily to fully adjust privacy settings on websites and apps rather than accept the company default.
- Australians need to spend an average of **two minutes per website/app** managing their privacy, versus our participant in Europe who just spent an average of **3.1 seconds per website/app**.
- Reading privacy policies for daily used sites/apps would take an **average of 14 hours**.
- **45% of participants struggled** to locate and adjust privacy settings.

¹ CPRC, 2024, *The cost of managing your privacy*, <https://cprc.org.au/report/cost-of-privacy>.

- Many sites either lack options to adjust privacy settings or make the process unnecessarily complex.

This week on 9 October 2024, the Australian Government was one of several OECD countries to adopt the *Ministerial Declaration on Protecting and Empowering Consumers in the Digital and Green Transitions*.²

The declaration specifically notes a commitment from governments who have adopted the declaration to strengthen their efforts to, “*identify and take action against ongoing and emerging consumer harms in digital markets*” and “*encourage businesses in digital markets to pay due regard to the interests of consumers and act in accordance with fair business, advertising and marketing practices, as well as the general principle of good faith*”. Strengthening the Privacy Act so the burden can shift away from consumers and towards businesses who are profiteering from people’s data fits squarely into this commitment.

Australians deserve protections that consumers in other jurisdictions take for granted, otherwise we will continue to have the situation where a consumer in Copenhagen using the same service through the same platform is better protected than a consumer in Canberra.

We would warmly welcome the opportunity to discuss our research or any of the issues raised in this submission. Please contact me on chandni.gupta@cprc.org.au to arrange a meeting or discuss anything further.

Yours sincerely



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² The Declaration is available at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0504>.