



On 14 October 2009, the Federal Government released its first stage response to the Australian Law Reform Commission (**ALRC**) Report 108 delivered on 13 May 2008. The three volume report recommended 295 changes to improve Australia's privacy framework.

The first stage response to the ALRC Report provided an outline of the Government's position on 197 recommendations contained in ALRC the report. These recommendations involve:

- Redrafting and updating the structure of the *Privacy Act* 1988 (Cth) in an attempt to improve its structure, clarity and consistency and make it more user friendly.
- Developing a single set of privacy principles. The ARLC's recommendation that the redrafted Privacy Act should apply to the exclusion of State and Territory laws dealing specifically with the handling of personal information by organisations has been accepted in principle although a national scheme will not be implemented at this stage. The Government stated that it 'will work with its State and Territory counterparts to progress this matter through further discussions'. As such, the first stage reforms will apply to Commonwealth Government agencies (**agencies**) and relevant businesses within the private sector (**organisations**).
- Addressing the impact of new technologies on privacy. These recommendations respond to emerging technologies that have occurred since the Privacy Act was enacted over 20 years ago and the impact this has had on privacy. The Privacy Commissioner will be granted the power to exercise his or her discretion in conducting research on matters relating to privacy, including privacy enhancing technology.
- Strengthening and clarifying the Privacy Commissioner's powers and functions. These powers will include the ability to direct an agency to provide a Privacy Impact Assessment (and report such failure to the Minister) and conduct Privacy Performance Assessments of organisations.
- Introduction of comprehensive credit reporting and enhanced protections for credit report information.
- Enhancing and clarifying the protections around the sharing of health information and the ability to use personal information to facilitate research in the public interest.

The Government's first stage response will require legislative amendment to the Privacy Act. The Government is now preparing exposure draft legislation in relation to this first stage response and this legislation is expected to be released in early 2010.

Once the first stage reforms have been progressed, the Government proposes to release stage two of its response, which will consider the remaining 98 recommendations in the ALRC Report. These reforms will focus on:

- proposals to clarify or remove certain exemptions from the *Privacy Act*;
- introducing a statutory cause of action for serious invasion of privacy;
- serious data breach notifications;
- privacy and decision making issues for children and authorised representatives;
- handling of personal information under the *Telecommunications Act* 1997; and
- national harmonisation of privacy laws (partially considered in stage one).

The amended privacy legislation, presently being drafted, will be the first tranche of changes to the current privacy regime in Australia. Those changes will be followed closely by the second stage reforms.

A complete copy of the first stage response entitled 'Enhancing National Privacy Protection' is available at <http://www.pmc.gov.au/privacy/alrc.cfm>.

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