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Meet the Privacy Commissioner Timothy Pilgrim

From March 2014 the Privacy Act will see changes that will provide access to additional sets of information for the retail credit industry.

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WINTER 2013

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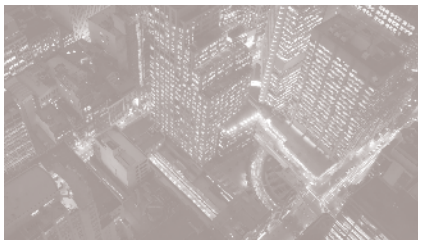

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> *At one time, industry associations were primarily pressure groups engaged in public policy debates; however today industry associations build co-operation, foster information sharing, offer training and provide a wide range of services designed to help their members improve business performance.*

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WELCOME TO THE CREDIT REPORT

Welcome to this edition of *The Credit Report*.

In this edition we continue our coverage of the developing framework for the credit reporting reforms associated with the *Privacy Amendment (Enhancing Privacy Protections) Act 2012* – including articles from the OAIC, government and industry stakeholders.

Rightly, the ARCA Board felt it was important for ARCA to lead the development of the revised Credit Reporting Code of Conduct (CR Code) which will accompany these reforms to credit reporting - especially after we were invited to undertake that task by the regulator. Yet, reflecting on the past few months as we completed the task, I have been questioning how our appointment as code developer has impacted our relationship with our Members.

The traditional role of industry associations is typically one of:

- coordinating, developing and preserving the interests of the industry they represent
- providing Members with the benefits obtained from co-operation with other firms in the industry in a manner that works within the various competition concerns
- assisting Members through knowledge building, knowledge deployment, and standard setting in developing and participating in self-regulation and codes of practice, and influencing public policy to improve regulatory frameworks
- creating common benefits by monitoring industry trends and developments, conducting research and training, and engaging in advocacy and outreach activities to community stakeholders.

At one time, industry associations were primarily pressure groups engaged in public policy debates; however today industry associations build cooperation, foster information sharing, offer training and provide a wide range of services designed to help their members improve business performance.

Having regard to the general purpose of ARCA, as the code developers we have had to take a broad approach to that task and navigate a middle ground between the differing interests of government, the regulator who has to approve the CR Code, the concerns of ARCA Members and those of the broader industry, as well as consumer and privacy advocates.

With the application to approve and register the Credit Reporting Code of Conduct now with the OAIC, I am looking forward to ARCA once again providing the more traditional services of an industry association.

In this edition, you will see advertised two key initiatives that are currently underway, namely

- the ARCA National Conference due to be held 20 – 22 November 2013, and
- the continued development of the Privacy and Credit Compliance Solutions (PCCS) program.

I trust these exciting initiatives will assist Members – and the broader retail credit industry – to build cooperation and foster information sharing in an effort to improve and enhance the credit environment in Australia.

Damian Paull
Chief Executive Officer

PCCS

Privacy & Credit Compliance Solutions

AUSTRALASIAN RETAIL CREDIT ASSOCIATION

aicm Australian Institute of CREDIT MANAGEMENT

Here are 8 reasons why you should attend the AICM – ARCA Seminars

1 If you or your organisation provide credit on terms of 7 days or more for goods and/or services then you and your organisation will need to adhere to the new provisions of the Privacy Act.

2 If you provide goods and/or services on hire purchase, a leasing arrangement or rental agreement then you will be caught by the new Privacy Act.

3 Regardless of your annual turnover you will be affected by the changes to the Privacy Act. There is no threshold. The Act applies irrespective of turnover and number of staff.

4 If you do any of the following you will be governed by the new legislation:

a) only keep credit information that you have obtained from the customer

b) only access credit reporting information

c) provide credit information to a credit reporting body

5 Commercial credit is caught by the operation of the new Privacy Act.

6 There will soon be a new Credit Reporting Code of Conduct. The new Credit Reporting Code will have the status of legislation and a breach of the new Code will be treated as if you had breached the Act.

7 The APPs and credit reporting are interrelated. Adhering to just the new Australian Privacy Principles will not be sufficient.

8 The focus of the legislation in relation to credit information is very broad. Comprehensive credit reporting is a minor part of these reforms. Therefore the credit reporting changes will directly impact on the broader commercial and consumer credit function.

www.privacyreforms.com.au

Meet Australian Privacy Commissioner, Timothy Pilgrim

BY JESSICA COLACINO

After completing a Bachelor of Arts from Sydney University, Timothy Pilgrim held senior management positions in a range of Australian Government agencies, including the Australian Taxation Office and the Child Support Agency, before being appointed to the Office of the Privacy Commissioner as Deputy Privacy Commissioner in February 1998. In July 2010 Pilgrim was appointed to the role of Australian Privacy Commissioner.

"I've been in the Australian public service for just over 29 years with a career that's focused on a number of agencies that have dealt with large amounts of personal information and the community," Pilgrim explained.

On an international level, Pilgrim has worked to ensure that Australia is equipped to deal with global privacy challenges. For example, when the APEC Privacy Framework was introduced in 2004 he played a key role in its implementation, with the aim of promoting a consistent approach to information privacy protection across APEC member economies, as well as a consistent approach to the regulations for co-operation on cross-border enforcement matters.

"The APEC Privacy Framework was an important step in dealing with issues of cross-border transfers of personal information in a region where there wasn't a lot of established privacy regulators. It recognised the value and importance of personal information as a facilitator to business, and the need and the desire of the community to maintain protection around the collection of that information," Pilgrim said.

"However, this is only one example of how privacy regulators around the globe are working together. We have also worked to establish a range of national and international networks for counterpart privacy regulators to share information and consider co-operation on enforcement matters."

These networks include the APEC Cross-border Privacy Enforcement Agreement, Asia Pacific Privacy Authorities (APPA) forum and the Global Privacy Enforcement Network (GPEN).

"GPEN is an informal network of 32 privacy enforcement authorities designed to facilitate cross-border co-operation in the enforcement of privacy laws," Pilgrim explained.

From March 2014 the Privacy Act will see changes that will provide access to additional sets of information for the retail credit industry. Pilgrim notes that the new provisions that go with this will require that information to be handled appropriately and also kept secure.

"The changes to the Privacy Act provide a very good opportunity for the credit industry, in that it's opening up and giving access to new data and credit information on individuals in Australia. There is an important balance that needs to be achieved and what the reforms to the Act have done is recognise that there is a need for additional sets of information, including access to payment history, which will allow lenders to make good decisions about who they provide credit to. In the end this benefits individuals as it allows the lenders to work within their customers' ability to repay a loan and give them credit where it's appropriate," Pilgrim said.

"This information is going to be of great use to the credit industry, although with it comes responsibility. It is increasing the amount of information organisations hold and the onus is going to be on those organisations to ensure they appropriately protect that information securely - having systems in place and by making sure that the information is used only in accordance with the reason that they were able to collect it."

Pilgrim explained that with the changes to the Privacy Act comes new powers for himself as Commissioner to undertake regulatory work and privacy performance assessments of organisations.

"I'm going to have a new set of powers for when I undertake an investigation of my own volition. I will be able to make a determination in an own motion investigation, which I currently can't do.

"These can require organisations to undertake certain acts to remedy the situation. I will be able to get written undertakings from organisations about what they are going to do to resolve a particular issue and if they don't comply with those written undertakings I will be able to have those enforced through the court.

"In the case of serious or repeated offences I will be able to seek civil penalties. Those civil penalties will be up to the value of $340,000 against individuals and up to $1.7 million against companies. There are some new remedy powers that go with the Privacy Act and recognise that what we are doing here is making more data available and that data needs to be treated sensitively," he said.

PROTECTING THE PRIVACY OF EVERY AUSTRALIAN

By Shayne Neumann, MP, Parliamentary Secretary to the Attorney-General.

When the Privacy Act was introduced in 1988, the then Attorney-General, the Hon Lionel Bowen MP, stated:

'The enormous developments in technology for the processing of information are providing new and, in some respects, undesirable opportunities for the greater use of personal information.'

These words could have been spoken today. In the 25 years since Australia decided it needed a legislative basis for privacy protection it seems little has changed.

It would seem appropriate that another Labor Government continues to protect the privacy of every Australian, of every Australian family.

The *Privacy Amendment (Enhancing Privacy Protection) Act 2012* received Royal Assent on 12 December 2012 and will commence on 12 March 2014. These are the most significant privacy reforms in over 20 years.

While Australia's privacy legislation is considered "the gold standard" according to McAfee global chief privacy officer Michelle Dennedy, these reforms are long-overdue. They will bring Australia's privacy framework into the digital age.

In the digital age, as Australians connect with each other through social media, purchase footy tickets or pay bills online, it is vital that we protect consumers' personal information.

These reforms give consumers more power to opt out of direct marketing, new rights to correct their credit report, and tighten up the rules for corporations sending personal information offshore.

Additionally, the laws will give the Commonwealth Privacy Commissioner new powers to resolve complaints, conduct investigations and get a remedy for consumers.

Our privacy laws must continue to meet community expectations.

For the first time we will have comprehensive credit reporting, which is likely to lower levels of indebtedness through more accurate assessments of an individual's creditworthiness.

The new Act will benefit consumers by:

- Making it easier for individuals to access and correct their credit reporting information.
- Protecting victims of identity theft and fraud by allowing them to prohibit, for a specified period, the disclosure of credit reporting information about them without their consent
  - this will not affect the general right of credit providers to report suspected unlawful activity (such as identity fraud to the police).
- Regulating more tightly and clearly the use and disclosure of personal information for direct marketing, particularly in the digital age (e.g. through online apps, social networking).

Australian businesses will benefit, with the Act ensuring the new privacy principles are technology neutral, relevant to a technology-driven environment, and have the flexibility to adapt to new technology as it develops, and modernise the credit reporting provisions to address the significant changes that have taken place since they were first enacted in 1990.

The Office of the Australian Information Commissioner has stated that appropriate notification should be provided to individuals about the disclosure of their repayment history information. The OAIC has more information on the reforms at www.oaic.gov.au

The Credit Report and ARCA would like to thank Shayne Neumann, Parliamentary Secretary to the Attorney-General, Parliamentary Secretary for Health and Ageing and Federal Member for Blair for providing this article. Requests were made to several members of the Opposition for their comment but none responded to our request by the print deadline.

ARCA NATIONAL CONFERENCE

(FORMERLY THE ARCRC)

Date: Wednesday 20 – 22 November 2013
Venue: Fairmont Resort, Blue Mountains

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ARCA is delighted to announce its 2013 National Conference – the premier Australasian retail credit risk conference. With over 200 delegates expected from across financial services, telecommunications and utilities, this conference will attract CROs, risk and compliance executives – focusing on the practical challenges and opportunities presented by regulatory changes, data analytics and collections best practices.

Keynote speakers

Keynote speakers invited include:

- Senior regulator, OAIC or similar
- Major bank economist
- UK academic
- Futurologist/demographer
- Panel of Australian/NZ CROs
- International collections expert

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Supporters' packages offer the opportunity to lock in discounted rates for delegates and the opportunity to provide speakers for the conference along with valuable branding rights. For more information please contact David Dee or Nigel Butler.

Sponsorship packages

Sponsors' expressions of interest are now welcome – please contact Nigel Butler, David Dee or Rebecca Murray. Packages include the gala dinner, cocktail function, recovery breakfast plus a range of other opportunities.

"The ARCA National Conference will be the premier annual retail credit risk conference in Australasia"

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A SUCCESSFUL FORMULA...

Following on from the success of the 2011 Australasian Retail Credit Risk Conference, the ARCA National Conference is led, as before, by Nigel Butler (ARCA Board) and David Dee (RFi) and is now backed by ARCA.

Running over two & a half days, networking opportunities will be provided via the Wednesday night cocktail party, Thursday night gala dinner and Friday morning recovery breakfast.

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CREDIT REPORTING: HOW READY IS THE INDUSTRY?

BY JENNIFER ROSS

ARCA Members are at various stages of readiness for the credit reporting changes – and their level of readiness can be quite commercially sensitive - so The Credit Report is delighted that Experian Credit Services and GE Capital were willing to share with you some insights into their readiness for the changes.

Last year Experian commissioned independent research with several lenders, including the big four banks, credit unions, telecommunications providers, energy providers, and smaller financial institutions. Within these organisations, senior leaders were interviewed from various areas of the businesses, including general management, operations, IT, risk and credit operations.

The aim of the research was to develop a clear picture of the readiness of the Australian finance industry for the introduction of positive credit reporting. It showed there was a disparity in the level of preparedness across different sectors.

Experian found that within organisations, some business groups believed they were ready for the transition to positive credit reporting, while others disagreed with this view.

Senior managers and credit officers believed the organisation was well prepared to transition to CCR, while IT and operations managers felt the changes would be significant and difficult to meet by commencement in March 2014. There was a disconnect between operations and risk managers in particular.

Experian's Managing Director, Credit Services, Genevieve Juillard, commented on the findings of the research.

"While most senior leaders were confident that their organisation can make the transition to comprehensive reporting before the March deadline, some raised concerns," Juillard explained.

"These concerns related to integrating existing data into supplier systems, providing new systems on time, lack of clarity about how new systems will operate, staff training and development, and price changes."

Based on Experian's extensive experience in other markets, it is advising Australian lenders to become familiar and adept at using comprehensive data well in advance of the compliance date next year.

"Organisations should look to use data holistically within their organisation. This will influence the way they manage risk, shape products and services they offer to consumers and how credit is allocated. It can also be used to create efficiencies and better processes," Juillard said.

"This will take the risk out of the transition – the biggest risk that lenders face is not starting their planning early for the introduction of a comprehensive credit environment. Those who get familiar with the data early on can gain a competitive advantage."

GE Capital was keen to talk to The Credit Report and shared with us what it had been working on in getting ready for the March 2014 deadline. Poli Konstantinidis, Head of Risk Infrastructure - GE Capital, said the organisation had structured its preparation in three categories: industry, compliance and infrastructure.

"The industry piece is something we've been involved in for years, in fact dating back pre Australian Law Reform Commission recommendation on positive credit reporting in 2008," Konstantinidis said.

"More recently, we continue to work closely with ARCA on key elements associated with the transition to positive credit reporting (such as the Credit Reporting Code drafting, data standards development, and industry implementation plans). Internally we have a

lot of focus on compliance and ensuring we adhere to our day one obligations."

Konstantinidis notes that the company is frequently running cross functional workshops to ensure they understand their requirements as a credit provider, and also to build and refine their controls accordingly.

"Typically, these detailed reviews involve legal, risk, compliance, IT & operational readiness.

"The final piece – infrastructure – is all about our ability to extract and send data requirements under the new legislation (including the new data sets). A key component of our preparation is communication, and we've been fortunate to have a very strong engagement across our entire business."

Staff have also been undertaking on-going training and education in readiness as the organisation's understanding of some of the operational aspects evolves through the CR Code drafting process.

"As a project team, we commenced training via a kick off session immediately after the Bill was given Royal Assent. This set the scene within our business that "there is no do nothing" option," Konstantinidis explained.

"These sessions enabled the project team to engage with business and functional SMEs to walk through specific components of the changes and build business requirements accordingly.

"As we progress our training efforts will increase, in particular regarding employee education, consumer notification and operational readiness."

GE has also been designing and implementing new systems to ensure that the data it collects is kept and shared in compliance with the new legislation.

"Compliance (which includes protection of personal credit information) is integral to our business. Additionally, the Act is actually a lot more deliberate about the type of information that can be sent and used. If you step back for a moment and look at things at a systemic level, you will notice that depending on how you interact with an entity, for example, a customer, a credit reporting bureau or a debt purchaser, there are different obligations," Konstantinidis said.

"Additionally, you need to be clear on the definition and interpretation of different types of data and associated permitted use and disclosures. With this comes greater emphasis on completeness, timeliness and accuracy of information. Data collection and storage activities also need to be reviewed."

For consumers, GE intends to conduct education, both from an internal employee and customer perspective.

"From an internal education perspective this aligns with our current training plans and from a customer standpoint we are currently working through our required notifications and are keen to align ourselves with a broader industry consumer education program," Konstantinidis explained.

According to Konstantinidis, GE has also, in some instances, looked to recruit staff with specific specialised skills.

"Mostly though we've reallocated or seconded internal resources to work on this initiative. This is particularly important as it allows the organisation to retain the knowledge it builds up through preparation and transitional phases of this legislative change. We've also been fortunate, being a global organisation, that we've been able to leverage our expertise in operating in a positive credit reporting environment."

Konstantinidis also has some final words for the industry as a whole.

"I can't stress the importance of industry wide engagement enough. Positive credit reporting should have wide ranging benefits if regulated properly and implemented effectively. Adopting a broad industry approach will assist in delivering a system which protects personal credit information, improves consumer transparency around credit reporting and further enables credit providers to lend responsibly."

MEASURING CONSUMER AWARENESS OF CREDIT REPORTING

BY JENNIFER ROSS

ARCA recently commissioned some consumer research by research agency Vision Critical as reported in the last edition of The Credit Report. We are now able to give a more comprehensive report on the outcomes of that research as well as provide a response from Dun and Bradstreet, one of the organisations who will now use the data.

To recap, the research explored consumer awareness of credit reporting and tested the strength of some messages that could be used as part of an education campaign.

Vision Critical found that around 59 percent of consumers had not heard of the term 'credit reporting' and most of those who had, associated the term negatively with banks.

Once respondents were challenged to work out what credit reporting was, around half then said they were worried about the sort of information the banks have. But when teased out a little more they could understand why banks want to know certain information.

The key learnings, according to ARCA, are that those people who have encountered credit reporting find it confusing and have a fear of what information is held about them.

Dun and Bradstreet's Director Marketing and Corporate Affairs, Danielle Woods said, "to echo the words of the previous Attorney-General, Nicola Roxon, these changes are the most significant since the Privacy Act was introduced in 1988. As such, we believe that as a credit reporting body, it's important we help Australians understand what the changes mean for them.

"Any new research that aids our understanding with respect to what Australians currently know and believe about our credit reporting system can only help us to fulfil our role as educators."

Woods said that the research results were generally in-line with what D&B had expected, particularly around the levels of awareness of the legislation changes, and the perception that credit reporting mostly benefits credit providers.

"Some of the noteworthy findings include that for 74 percent of respondents, credit reporting is important, while 9 in 10 believe it's important to know about the changes to credit reporting."

According to Woods these first two points are positive for the industry and demonstrate that Australians want to understand the impact of these significant reforms on them.

"There is a lot of misinformation that exists regarding credit reporting and the rules that regulate it. For example, 1 in 3 respondents believe anyone can access their report," she noted.

> *"Vision Critical found that around 59 percent of consumers had not heard of the term 'credit reporting'...*

"This particular finding highlights the need for education – the need to share the facts and correct the myths that currently exist."

Woods said that she was not surprised by the findings of the research.

"Our own research tells us that Australians are, for the most part, unaware of the changes to the Privacy Act. The Vision Critical research delved to a deeper level on this point, and it was encouraging to see that despite low awareness, credit reporting is largely considered important – as is knowing about the changes."

Vision Critical also used some new, cutting edge methods for undertaking its research such as undertaking live online chats with respondents, which is a much more fruitful way of undertaking qualitative surveys than the consumer focus groups.

ARCA is of the view that while providing a good base line on the current level of credit reporting knowledge and the changes to credit reporting law, the true value of the research was the identification of people's emotional response to messaging.

The use of online chats, in particular, was an innovative method for understanding how different language can trigger positive or negative responses. The next step is to communicate with consumers and educate them on the coming changes.

NAB'S SOLUTION FOR OVERCOMING FINANCIAL EXCLUSION

Not everyone has access to retail credit which can make even the most basic task of buying white goods difficult and can put those most vulnerable at the mercy of loan sharks. At least one bank has recognised this and found a successful solution.

BY OLLIE HOGUE

The purchase of a fridge, washing machine or other essential item is something that the majority of people in Australia take for granted. But the financially excluded are more likely to pawn their possessions or seek short-term credit from 'pay day' lenders.

With around three million Australians considered financially excluded and one in eight people in the country officially classed as poor, the issue of financial exclusion is substantial.

In 2004, National Australia Bank and Good Shepherd Microfinance launched the StepUP Loans program with the objective of providing the financially excluded with a pathway to financial inclusion and a financially stable future.

The program provides a low-interest loan worth up to $3,000 to low-income earners who cannot access affordable credit. Nine years on, the program has provided over 6,800 loans worth nearly $20 million.

Up until recently the program relied on anecdotal and on-the-ground evidence that it generated significant social and economic benefits to borrowers and communities. Now a recent survey of 500 loan recipients by the Centre for Social Impact (CSI) has provided the program with a detailed report of its social and economic impacts.

The survey found that after receiving a StepUP loan, 22.2% of the respondents moved up the financial inclusion ladder and almost 75% of respondents experienced improvements in social outcomes. Many loan recipients also felt more financially literate, confident and better able to manage their finances, according to the report.

Significantly, almost 65% of loan recipients who used fringe lenders in the past stopped borrowing from them after their loan, and others decreased the frequency of their use of fringe lenders.

The CSI determined that the program generates social and economic benefit valued at more than twice the total cost of the program – at $2.68 for every dollar invested due to factors - such as a reduced reliance on welfare, savings on fringe credit and reduced stress and anxiety.

More than half of respondents used the loan for motor vehicle expenses while household items made up the second largest category with 18.2% using the loan to fund items such as electrical goods and furniture.

Paula Benson, NAB's General Manager Corporate Responsibility said the research validated how important the partnership and program is to individuals and the economy.

Minister for Community Services Julie Collins has congratulated the program for providing assistance to thousands of vulnerable Australians and helping them to manage their money more effectively and independently.

> *... around three million Australians considered financially excluded and one in eight people in the country officially classed as poor, the issue of financial exclusion is substantial.*

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