



Submission to

Senate Inquiry into the Privacy Legislation Amendment
(Enforcement and Other Measures) Bill 2022

on behalf of

Australian Association of National Advertisers

November 2022

Australian Association of National Advertisers

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Introduction

The AANA is the peak body for advertisers and has represented national advertising for 90 years. It represents the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

The advertising, marketing and media industry plays a fundamental economic role in society - contributing approximately \$40 billion to the Australian economy and employing over 200,000 people¹. It is the driver of consumer choice and, by promoting competition, helps consumers get better value for money. It enables innovation to be brought to market and stimulates economic growth and jobs. Advertising also plays a crucial role in funding free access to news, free to air television, free digital entertainment, music, email, social media and other media services as well as subsidising the cost of public transport infrastructure.

AANA is the trusted custodian of the advertising self-regulatory system with five Codes that govern responsible advertising in Australia. AANA works with our members and the wider advertising industry to educate and encourage compliance and best practice in data collection and use.

The AANA's Children's Advertising Code applies to all Australian advertising, including digital advertising. The Code contains a requirement for advertisers to obtain express parental or guardian consent prior to engaging in any activity that will result in the collection or disclosure of such personal information. Personal information is defined as information that identifies the child or could identify the child.

The AANA supports the objective of enabling users to have transparency, choice and control over how their personal information is used. We believe that the notion of 'value exchange' goes hand in hand with the requirement for consent to be freely given, specific, informed and unambiguous. It is vital that we achieve the right balance between protecting privacy, ensuring a thriving market place and protecting the vulnerable from inappropriate content and advertising.

The AANA supports the evolution of the Privacy Act to make it fit for purpose for the digital era.

Submission

The AANA welcomes the opportunity to participate in the Senate Inquiry into the Privacy Legislation Amendment (Enforcement and Other Measures) Bill 2022 (the Bill).

The Bill focuses on enforcement and penalties and the AANA supports its narrow remit. Given the interaction between this Bill and the wider review being undertaken into the Privacy Act, we believe that substantive changes to laws around data collection and retention should be part of that wider privacy review.

The proposed increase in penalties and provision of greater powers to the Australian Information Commissioner are understandable given recent events. However, given the strong penalties, there should also be a focus on education and support for the industry, particularly small businesses, so they can understand their obligations in relation to data collection and protection. There also needs to be greater support for industry in the battle against online hackers as cyber security becomes one of the greatest threats to Australians' privacy.

As part of this Senate Inquiry, we would like to raise the issue of the need for the government to determine priorities when it comes to online privacy and online safety. Both are equally important goals. However, it needs to be determined whether it is more important for children and other

¹ *Advertising Pays: the economic, employment and business value of advertising*, June 2016
<http://www.advertisingpays.com.au/>

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vulnerable groups (such as problem gamblers) to be protected from certain content (including certain advertisements) or whether it is more important for users to have absolutely privacy and anonymity. If online safety is the priority, some data collection is necessary to achieving this.

Flowing from this issue, is the need to determine appropriate and valid uses for data and safe data retention and cyber security practices. For example, advertisers have long sought some way to track and audit whether the digital advertising they pay for is actually delivered. Various methods exist to track digital advertising, however privacy concerns have contributed to not being able to properly audit digital ad spend. This continues to present governance issues for companies as they are unable to prove whether ads have been served. This is just one issue which needs to be part of the wider conversation around privacy and appropriate data collection and use.

The AANA looks forward to continuing to represent the interests of the advertising industry in this conversation

Further Consultation

The AANA would welcome an opportunity to discuss in more detail the issues raised in this submission.