

**SENATE STANDING COMMITTEE ON
FINANCE AND PUBLIC
ADMINISTRATION**

LEGISLATION COMMITTEE

**Exposure Drafts of Australian Privacy
Amendment Legislation**

SUBMISSION

SUBMISSION NUMBER: 35

SUBMITTER

Catholic Education Office - Archdiocese of Melbourne



Catholic Education Office
Archdiocese of Melbourne

In reply please quote:

13 August 2010

Ms Christine Mc Donald
Secretary to the Senate Finance and Public Administration Committee
PO Box 6100
Parliament House
CANBERRA, ACT 2600

Dear Ms McDonald

Re: Exposure Draft of Australian Privacy Amendment Legislation- Small Business Exemption

Thank you for the opportunity to comment on the proposed changes to the Australian Privacy Principles as detailed in the Exposure Draft released by the Cabinet Secretary in June 2010.

As the Director of Catholic Education in the Archdiocese of Melbourne I wish to raise an issue on behalf of Catholic schools in the Archdiocese and more generally in Victoria.

Catholic schools in Victoria are most concerned about **the scope of the small business exemption** in ss.6D to 6EA of the current Privacy Act (the issue). I note that the Companion Guide to the Exposure Draft states that the current **small business exemption** will remain and ss.6D to 6EA will be re-enacted in the new Privacy Act, and that it indicates that consideration will be given to the retention of this exemption in the second stage response to the Australian Law Reform Commission's recommendations.

I will comment comprehensively on the issue and other matters connected with the second stage amendments when they are released for public comment, in the meantime I wish to flag the following concern.

While many Catholic schools fall within the 'small business exemption' as presently worded simply because they have an annual turnover of less than \$3,000,000. A Catholic school is not technically a 'business' in the normal commercial sense. It does not strive to make a profit. It is supported by the considerable voluntary efforts of the school community and the Catholic Church and relies heavily on government funding for its revenue. The annual turnover amount is an arbitrary sum, and in many cases the actual turnover of the school varies from year to year, often around the exemption limit.

There is considerable inequity, uncertainty and arbitrariness about the application of **the small business exemption as currently worded**. It has led to inconsistencies in its application between Catholic Schools, and in some cases the imposition of a heavy financial compliance burden which has impacted on their already strained financial resources. It is my view that a more appropriate exemption ought to be included in the Privacy Act to exclude its application to our Schools.

1 of 2

Please could you request the Committee to consider these issues in its further deliberations on the future of the 'small business' exemption at the second stage of its response to the Australian Law Reform Commission's recommendations.

Yours sincerely

Stephen Elder
DIRECTOR OF CATHOLIC EDUCATION