



Our reference: D2020/010610

Ms Taryn Morton
Department of the Senate
Parliament House
Canberra ACT 2600

By email: Economics.Sen@aph.gov.au

RE: Senate Economics References Committee – Inquiry into Foreign Investment Proposals

Dear Ms Morton

I am writing to submit amendments to the transcript of the Committee’s hearing into Foreign Investment Proposals held on 15 May 2020 at pages 36 and 37 (enclosed), provide a response to the questions taken on notice and correct evidence.

Questions on Notice

Question One

The Acting Chair asked if any enquiries the Australian Information Commissioner had received intersected with the Foreign Investment Review (FIRB) and whether the Information Commissioner had any communications with the FIRB about data breaches and privacy issues.

Response

I confirm there is no record of any enquiry, complaint, or Notifiable Data Breach (NDB) in respect of the FIRB. In respect of Freedom of Information enquiries relating to the FIRB, I have received no complaints, vexatious declaration application requests and there are currently no open Information Commissioner reviews.

However, there have been a total of four Information Commissioner reviews in respect of the FIRB since the establishment of the Office of the Australian Information Commissioner in 2010.

Question Two

Senator Patrick asked whether the Australian Information Commissioner or the Office of the Australian Information Commissioner (OAIC) have had interactions with the FIRB, including the provision of policy advice or advice in relation to acquisitions.

The Australian Information Commissioner responded to the effect that no such interactions came to mind and took the question on notice.

Response

The OAIC has identified one interaction between the OAIC and the FIRB. This was a request for comment on a foreign investment proposal from 2011. The OAIC provided advice that we had no specific concerns about the particular proposal, provided the personal information would continue to be subject to the *Privacy Act 1988*, and any contravention of that Act is capable of enforcement in Australia.

Correction to Evidence

The Acting Chair asked the Australian Information Commissioner how many enquiries she had received and how many enquiries have been actioned.

The Australian Information Commissioner responded:

“In terms of individual complaints, last financial year we had over 3,000 complaints. We receive between 20,000 and 25,000 phone inquiries per year. In terms of notifiable data breaches, we had around 950 in the first year of operation, and to date, up until May this year, we've similarly had a figure of 904 notifiable data breaches from 1 July until today's date. In terms of the kinds of breaches that we see through the notifiable data breaches scheme, the majority are around cyber and cyber intrusion and the issue of compromised credentials. The next most significant cause is through human error—sending emails to the wrong address or other aspects that I think prey upon our human frailty.”

Correction

I provide the following corrections to the above response:

- Since 2016-17 the Office of the Australian Information Commissioner has generally received between 18,000 and 22,000 enquiries per year across all its functions.

- The number of eligible data breach notifications received between 1 April 2018 – 31 March 2019, which was the first four complete quarters since the scheme commenced, was 964.
- The number of eligible data breach notifications received for the period of 1 July 2019-15 May 2020 is 921 notifications.

If you have further enquiries please contact [REDACTED]

or phone [REDACTED].

Yours sincerely,

[REDACTED]
Angelene Falk
Australian Information Commissioner
Privacy Commissioner

25 May 2020