

The Committee Secretary
Senate Standing Committees on Legal and Constitutional Affairs
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CANBERRA ACT 2600

Attention: Mr Tim Bryant

By email: legcon.sen@aph.gov.au

20 June 2013

PRIVACY AMENDMENT (PRIVACY ALERTS) BILL 2013

The Insurance Council of Australia (Insurance Council)¹ is pleased to provide a short submission to the Legal and Constitutional Affairs Legislation Committee's (Committee) inquiry into the *Privacy Amendment (Privacy Alerts) Bill 2013*. The Insurance Council previously provided comments to the Office of the Australian Information Commissioner's (OAIC) Discussion Paper on mandatory data notification (October 2012) as well as preliminary comments on the draft Bill to the Attorney General's Department (May 2013).

Given the short time frame provided for comments to the Committee, the **attachment** highlights the key issues that the Insurance Council has previously raised and which, we submit, have not been sufficiently clarified by the Bill's Explanatory Memorandum.

Insurance Council members take their privacy obligations very seriously and collect, use and disclose a significant amount of personal (names, addresses) and sensitive (health details) information in the course of providing quotes, issuing policies, and paying insurance claims.

In the absence of the regulations referred to in the Bill, or revised guidance referred to in the Explanatory Memorandum, it has been difficult to comment conclusively on the legislation. For instance, the 'general publication conditions' are unknown. Such conditions will be critical to a proper consideration of the impact of the Bill as they trigger the proposals to publish a copy of a breach statement on an entity's website and in each State in at least one newspaper. The Explanatory Memorandum (p. 57) foreshadows further practical guidance around the concept of 'real risk of serious harm' in revised OAIC guidance.

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. March 2013 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$39.2 billion per annum and has total assets of \$116.1 billion. The industry employs approximately 60,000 people and on average pays out about \$101 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

Given the Bill is proposed to commence on 12 March 2014, early consultation on the Bill's regulations and OAIC's guidance is imperative.

Yours sincerely

Robert Whelan
Executive Director & CEO