



Committee Secretary
Senate Standing Committee on Environment,
Communications and the Arts
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

Inquiry into Telecommunications Legislation Amendment (National Broadband Network Measures No. 1) Bill 2009

Thank you for the opportunity to comment on the Telecommunications Legislation Amendment (National Broadband Network Measures No. 1) Bill 2009 (the Bill).

My Office understands the purpose of the Bill is to amend the *Telecommunications Act 1997* to permit telecommunications carriers and other utilities to disclose 'protected network information' to the Commonwealth and other designated bodies. This would support the planning and roll-out of the National Broadband Network (NBN). By amending Part 27A of the Telecommunications Act, the Bill would enable the Commonwealth to collect important information about existing infrastructure such as ducts, conduits and poles which may be of use to the NBN.

It is unclear to my Office as to whether the 'protected network information' disclosed by carriers and utilities under the Bill will include personal information. In the Privacy Act 1988, personal information is defined as 'information ... about an individual whose identity is apparent, or can reasonably be ascertained from the information ...'.¹

Information does not have to include a person's name to be 'personal information'. For example, an address or telephone number on its own may not be personal information if the identity of the individual is not reasonably ascertainable. However, in some cases, an address in a remote geographic location may make it possible to ascertain a person's identity. Where this is the case the Privacy Act may apply.

My Office suggests that further consideration be given as to whether protected network information will include personal information as defined in section 6(1) of the Privacy Act. To this end we would suggest that consideration be given to a Privacy Impact Assessment

¹ *Privacy Act 1988*, s 6(1).

(PIA) being undertaken on the information flows being regulated through the provisions of the Bill. A PIA is an assessment tool that describes the personal information flows in a project and analyses the possible impacts of those flows on the privacy of individuals.

Doing a PIA will allow an assessment to be made as to whether protected network information will include personal information and, if so, what steps to can be taken to minimise any privacy impacts while meeting the objectives of the NBN scheme.

Information on the PIA process can be found in my Office's Privacy Impact Assessment Guide which is available at www.privacy.gov.au/publications/pia06/index.html.

For any further information on the matters discussed in this letter, please contact Andrew Solomon, Director Policy, on 9284 9800.

Yours sincerely



Karen Curtis
Australian Privacy Commissioner
16 July 2009