

Submission in Response to the Keeping Jobs from Going Off-shore (Protection of Personal Information) Bill 2009

Submitted by:

Dr Catriona Wallace

Director

callcentres.net Pty Ltd

Level 4, 121 Walker Street,

North Sydney, NSW 2059

10 June 2010

In Opposition to the Bill

The parties signed to this submission stand in opposition to the proposed Keeping Jobs from Going Off-shore Bill. Our position is that the legislation is flawed in its proposed intention and execution and if enacted it will:

1. Limit the growth and increasing sophistication of the Australian contact centre industry;
2. Cause considerable damage to Australia's relationship with neighbouring Asian countries;
3. Indirectly limit the growth of jobs in Australia;
4. Negatively affect Australia's GDP;
5. Reduce the positive social impacts that off-shored work provides to countries in the Asia-Pacific region;
6. Negatively impact the collegiate exchange of best practice and information related to the contact centre industry across countries in Asia Pacific.

It is our strong opinion that the Keeping Jobs from Going Off-shore Bill should be dismissed and no part of the proposed legislation be enacted.

Introduction

1. My name is Dr Catriona Wallace and I am the Director of callcentres.net Pty Ltd, a research, analyst, consulting and publishing company dedicated to the Asia-Pacific contact centre and outsourcing sectors.
 2. callcentres.net, established in 1997, with offices based in Sydney, Melbourne, Singapore and Malaysia is regarded as the primary commentator and analyst for the contact centre and call centre outsourcing sectors in the Asia Pacific region.
 3. I am also Adjunct Faculty at the Australian Business School, UNSW.
 4. I note that I have read the Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009 and I am fully versed on its content. I have also read the First and Second Readings.
 5. I note that I attended Senator Fielding's office on 8th October 2009 in order to have a discussion with the Senator about the intention and content of the Bill. I was in company with the CEO of Excelior, Mr John Watkison, CEO of Stellar, Mr John Hollingsworth and CEO of Salmat Salesforce, Mr Andrew Hume. We were informed upon arrival at the Senator's office that the Senator was not able to meet with us, so we consulted with Senior Advisor, David Lipshutz.
 6. I have provided Senator Fielding with a book titled *The Services Shift*, (Kennedy & Sharma, 2009) which discusses global trends in outsourcing and off-shoring and I have provided the Senator a copy of the 2009 Australian Contact Centre Industry Benchmarking Report, authored by myself.
 7. I write this submission on behalf of the parties signed beneath.
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Structure of this Submission

This submission is structured in the following sections:

Section 1 will describe the current status of the Australian Contact Centre Industry and outsourced and off-shored markets.

Section 2 will discuss the terms of reference of the Bill and will note relevant points of opposition.

Section 3 will provide Concluding Remarks.

Section 1: The Current Status of the Australian Call, Contact Centre, Outsourcing and Off-shoring Sectors.

[Please note the definition of a *call centre* is a business unit in which the workers' primary function is to handle in-bound and/or out-bound telephone calls. The definition of a *contact centre* is a business unit where the workers' primary function is to handle in-bound and/or out-bound telephone calls, as well as handle emails, web-chat, internet enquiries or other channels of customer interaction.]

Statistics cited in this section are sourced from *callcentres.net's 2009 Australian Contact Centre Industry Benchmarking Report*.

1. Currently there are about 3,925 call or contact centres in Australia and about 205,000 seats (call centre workstations). The industry typically grows at about 7% per annum in seat size (excluding 2009 where the impact of the economic downturn resulted in a 1% growth in seat size);
2. Over 80% of all customer interactions in Australia are handled by a contact centre and this figure increases year on year. Of the 16 million calls handled per day by contact centres in Australia about 80% are regarded as basic and routine;
3. The industry employs over 260,000 people in Australia, including 212,000 who work as call centre agents (operators working on the frontline);
4. About 12% of the industry is operated by outsourced contact centres (about 475 centres) and about 20% of these are off-shored contact centres (about 100 centres);
5. From 2008 to 2009 there has been a three-fold increase in the number of Australian based organisations which regard outsourcing and off-shoring as one of their top 10 business priorities (callcentres.net Convergys Outsourcing and Off-shoring Report 2009), due to pressures to reduce operating costs and difficulties in recruiting employees;
6. The contact centre industry in 2009 generated \$49 billion of revenue in 2009, from in-bound and out-bound calls, a 7% increase on 2008;
7. The primary industries that off-shore contact centre work include the Telecommunications sector, IT Technical Support, Financial Services and Hospitality;
8. The Australian contact centre industry currently has excellent relationships with industry associations in countries including: Singapore, Malaysia, Philippines, Thailand, India, China, Indonesia and Korea. Australia is a highly respected contact

centre industry and is seen as the leading contact centre market in the region. Much information and best practice is shared across borders with our Asian neighbours as the region works together to attract contact centre work to the Asia-Pacific region, which benefits all countries, including Australia;

9. A joint committee of Asia-Pacific Leaders of Contact Centre Industry Associations was established in 2008 (APCCAL) of which Australia has two Associations, The ATA and The CCMA represented. The committee aims to progress the combined interests of the Asia-Pacific contact centre industries on an international stage, in order to attract more contact centre work to Asia-Pacific, especially in light of growing competitive interests in regions such as Eastern Europe, Latin America and Africa;
10. Currently the Australian contact centre industry suffers numerous challenges including:
 - a) A high employee turnover rate of 28% per annum (72,800 employees leave their call centre job per annum).
 - b) A cost of replacing a call centre employee of \$20,000 (recruitment, training and lost productivity) which costs the industry \$1,456,000,000 per annum.
 - c) A high cost of labour – AU\$45,000 base salary for an experienced agent.
 - d) A reduction in operating costs of 5% and a reduction in technology spend of 17% in the last 12 months.
 - e) Budgetary constraints, inadequate head count and the ‘need to do more with less’ is regarded as the primary challenges for Australian contact centres in the next 12 months.
11. The Australian contact centre industry is projected to grow another 6% in 2010 where by these challenges will become more acute.
12. In sum, the Australian contact centre industry:
 1. Is in a growth period, predicted to grow by 6% in seat size in 2010;
 2. Is under pressure to reduce costs, service more calls and generate more revenue;
 3. Has inadequate head count to meet business requirements;
 4. Has a disengaged workforce, the majority of whom would prefer to work in other jobs;
 5. Has high employee turnover and a reducing pool of labour due to the high percentage who choose to leave the industry;
 6. Spends \$1.5billion annually on replacing agents who leave contact centre jobs;
 7. Has significant difficulty in recruiting suitable candidates for jobs in Australia;
 8. Has excellent relationships with neighbouring Asian countries, which provides benefit for Australian-based companies and the economy.

Section 2: Terms of Reference of the Bill

This section will note the Terms of Reference of the Bill and provide according commentary.

1. Term of Reference: Objects

The objects of this Act are:

(a) to ensure that personal information held by businesses in Australia is not transferred overseas without the informed consent of the individual to whom the information relates;

Response

The proposed legislation is flawed in its inadequate distinction, division and description of exactly what constitutes customer service related personal information as opposed to back office personal information. Justification is provided below:

1. The inadequacy of point a) of the Objects is that legislation does not make distinction between customers' personal information for 'front office' (customer service related work) and 'back office' (administrative processing) information. That is, for many years Australian based organisations have been sending customers' personal information off-shore for back office processing. Examples of this include form or application processing;
2. Indeed 58% of Australian based organisations which outsource, outsource IT services; 31% outsource back office administration and processing; 33% outsource customer interaction related processes (such as after-hours calls); 27% outsource Human Resource related functions, such as payroll; and 24% off-shore Financial services (callcentres.net Merchants Business Process Outsourcing Report, 2009);
3. In a research study conducted in 2009 (callcentres.net IBM Customer Interaction Study) we identified 14 sub-processes in the customer interaction process from quotation to completion of the transaction. Only one third of these sub-processes were handled by the contact centre and two-thirds were handled by the back office e.g. warranties, accounts payable. Thus the precision of the Bill to be executed at exactly the correct stage in the 14 sub-processes that determines it is a customer service or call centre related process versus a back office process will be inexact.
4. Our conclusion is that the ability for the legislation to be able to distinguish between 'customer service' and 'call centre' related personal information (noted in the Bill) and 'back office' customer personal information is highly dubious.

2. Term of Reference: Object

(b) to protect employment in Australia by reducing the outsourcing of customer service and call centre jobs overseas

Response

The stemming of off-shored contact centre work will not protect employment in Australia, and may in fact have the net effect of reducing it. Justification is provided below:

1. One of the greatest challenges the Australian contact centre industry faces is that 66% of the 260,000 employees regard their contact centre job as a transitional or 'Gateway' job, which is a stepping stone to other roles outside of the contact centre or regarded as short term work. Only one third of the industry regard their contact centre job as a career they wish to pursue;
2. In a related vein, across the industry contact centre workers rate their satisfaction with their contact centre job as only 'somewhat satisfied' with about 6 in 10 workers stating that they are disengaged workers. The routine and mundane nature of contact centre work is one of the key drivers of employee disengagement;
3. Employee tenure for those staff who left their contact centre jobs in the last 12 months is 25 months. Of the employees who have left their contact centre jobs in the last 12 months, 73% choose not to continue working in the contact centre industry in Australia. Thus the industry has been in a 'recruitment crisis' for the last five years;
4. The economic downturn has resulted in a reduction of employee attrition in contact centres reducing from 49% in 2008 to 28% in 2009. This result, albeit reasonably positive on the face of it, has resulted in what the industry now terms large groups of "Trapped and Disengaged" workers – those who are disengaged but who are not confident to leave their contact centre job to go elsewhere. This phenomenon is a considerable issue in the industry due to the correlation between employee disengagement and customer disengagement;
5. Disengagement in contact centre results from 1) general dissatisfaction with the job, 2) a lack of variety and discretion in work, 3) a lack of flexible work conditions, and 4) lack of competitive remuneration compared to other industries (callcentres.net, 2008);
6. 6 in 10 contact centre managers state that recruiting suitable employees in Australia is extremely difficult (callcentres.net Kelly Recruitment Index 2008);

7. As there is a direct and demonstrable positive correlation between contact centre employee engagement and customer engagement, we are seeing a reduction in the Australian consumers' rating of their experience with Australian contact centres, dropping from a score of 67/100 in 2008 to 64/100 in 2009 (*callcentres.net & Avaya Contact Centre Consumer Index, 2010*);
8. By off-shoring work that is transactional in nature, or routine and mundane, the contact centre work that remains onshore becomes one of higher skill, more complex in nature and more value added for the customer. Thus the contact centre work remaining in Australia is one that is more interesting, more challenging, more relationship focused, more problem solving thereby making for a better, higher status, higher skilled and higher paid job;
9. Although it is difficult to find academic or market research related to the affects of off-shoring on the Australian economy, lessons can be learned from the US;
10. In a book titled *The Services Shift* (Kennedy & Sharma 2009) the authors quote McKinsey research which argues that:
 - a) Of the total number of people employed in the United States, 127 million, the estimated number of off-shored jobs is 250,000, which equates to less than 2% of workers who may have been dislocated from their jobs in the US.
 - b) McKinsey (2005) estimates that for every \$1 of US services that are off-shored, the global economy will generate \$1.46 of which \$1.13 goes to the US.
 - c) The US Government also stated that in 2008 the US GDP was \$124.4 billion higher as a result of off-shoring and will generate about 320,000 new jobs, a net increase of 70,000 jobs.
11. Thus the object of the Bill, 'to protect Australian jobs' is flawed as the industry struggles to find enough suitable candidates to fill the existing contact centre jobs. Many of these jobs are not valued by Australian workers who will potentially only work in a contact centre role for a short amount of time;
12. In conclusion our position is that the off-shoring of routine and mundane contact centre work will result in a higher more sophisticated level of contact centre work remaining onshore. Subsequently employees will be more engaged, more skilled and be paid more. The Australian consumer will benefit not only from cost savings passed on from organisations who offshore but also from interacting with more

engaged employees when dealing with contact centres onshore.

13. There is no substantial evidence to show that the off-shoring of jobs causes a net reduction in employment in Australia.

3. Term of Reference: Consent to transfer personal information

5 Consent requirements for the transfer of personal information

- (1) An organisation in Australia or an external Territory (the ***transferring organisation***) must not transfer personal information about an individual to an organisation in a foreign country (the ***receiving organisation***) unless the requirements of this Part have been met.

6 Countries certified as having adequate protection

If the receiving organisation is located in a country that is certified as having adequate privacy protections, the transferring organisation may transfer personal information about an individual to the receiving organisation only if:

- (a) the transferring organisation has informed the individual of the intention to transfer personal information; and
- (b) the individual has not objected to the transfer.

7 Countries not certified as having adequate protection

If the receiving organisation is located in a country that is not certified as having adequate privacy protections, the transferring organisation may transfer personal information about an individual to the receiving organisation only if:

- (a) the transferring organisation has specifically informed the individual, in writing, of:
 - (i) the intention to transfer information to a country that is not certified as having adequate privacy protections; and
 - (ii) the content of the information proposed to be transferred; and
 - (iii) the purpose of transferring the information; and
 - (iv) the identity of the receiving organisation or organisations; and
- (b) the individual has consented to the transfer, in writing, not more than 12 months prior to the transfer of the information.

9 Certification of privacy protections

- (1) The Minister may certify that a country has ***adequate privacy protections***, if the Minister is satisfied that the law of the country effectively upholds principles for the fair handling of information that are substantially similar to the National Privacy Principles.

Response

The classification of countries that pass ‘adequate privacy protections’ appear to be biased toward countries that have mature economies. Therefore the enactment of the Bill will pose serious risk to Australia’s relationships with neighbouring developing countries in Asia. Justifications are provided below:

1. In discussing with Senior Advisor to Senator Fielding, David Lipshutz, if the proposed legislation was to be applied to all countries, internationally, it was pointed out that the intention of the legislation was to allow work to be off-shored to mature economies such as the US or Europe where it is assumed that these countries have adequate data privacy laws, but not to developing economies such as in Asia.
2. It appears that the Senator and his Advisors assume that developing countries in Asia do not have adequate privacy legislation.
3. I have had consultation with Contact Centre Industry Association Leaders in Singapore, Philippines, Malaysia, Indonesia, China and Thailand, all of whom have expressed great concern with Senator Fielding’s proposed legislation.
4. Oscar Sanez, Head of the Business Processing Association of Philippines (BPAP) expressed in an email, dated 14 October, 2009:

“We in BPAP we see this move to be discriminatory, short-sighted and contrary to the principles of global trade which helps to promote the economic development of trading countries (service trade). I would like to add that the point on data risk is also without basis as countries like the Philippines are following the guidelines on Data Privacy based on the APEC Data Protection principles. We have established these guidelines 4 years ago through the leadership of our Dept of Trade and we are now at the intermediate stage of passing our Data Privacy Act in our Congress also based on these guidelines. To-date, we have not experienced any major data breach due to the high level of commitment to these guidelines by BPAP members.”

5. Peter Gossler, the Executive Director of the Contact Centre Association of Singapore stated in an email dated 11 June 2010:

“Singapore and Australia enjoy a strong and profitable relationship based on the principles of free trade. Both countries are fervent believers in the removal of barriers to free trade and have subsequently enjoyed a strong trading relationship. Services play a very strong part of that relationship with ‘Services Exports’ from Australia to Singapore amounting to A\$3.2billion in 2009. In the opinion of the CCAS, the Anti-Off Shoring Bill highlights a lack of understanding of the broader economic opportunity presented to Australia by Singapore and the rest of Asia; as it attempts to contravene the Singapore-Australia Free Trade Agreement (SAFTA) which came into force on the 28th July 2003.”

6. Mr Mike Mi, President of the China Contact Centre & CRM Association stated on 10 June 2010,

“As founding member of Asia Pacific Contact Center Association Leaders (APCCAL), ATA and CCMA are APCCAL members as well, we have a common goal of promoting the contact center industry and service excellence in the region. We believe that globalization is the inevitable trend of future business, thus it is our responsibility to strength our business capability by cooperate with regional partners not vice versa. I agree with the points mentioned in this paper that by proposed bill will have very limited positive influence on Australian contact center industry but many negative impacts in the time to come. I wish all the concerned parties, especially senator’s office can take our opinions into consideration when you make your final decision.”

7. Mr Mark Manolas, President of the Thailand Contact Centre Association, stated on 9 June 2010,

“I agree and endorse all comments [of this submission]”

8. Mr Andi Anugrah, President of the Indonesian Contact Centre Association, has stated on 10 June 2010,

“We will support and sign the draft submission”

9. Currently, through collegiate organisations such as APCCAL, the Asia-Pacific contact centre industry shares much information and best practice across the region. Indeed my company acts as the Official Evaluators for the Malaysian Contact Centre Industry Awards and I have been a judge on the Contact Centre Association of Singapore’s Award process. This sharing and co-operation of Asia-Pacific countries will be put at significant risk if the proposed legislation is enacted.
10. The clause of the Bill related to the need to gain permission from an individual customer to release their personal information to an off-shored location poses concerns related to its execution. It may be the case that half of Australian customers grant permission for their personal information to be sent off-shore and half do not. In this case does the organisation need to have operations off-shore and onshore conducting the same processing function, thereby creating considerable inefficiencies, which will inevitably be passed on to the customer by way of additional cost? This is highly likely.
11. An additional point I would like to make regarding the offshoring of Australian based contact centre work, is the direct benefits that accrue to the local people and communities in developing countries who undertake the work.
12. I n December 2009, as part of the Asia Pacific Breakthrough Summit, an event held in Melbourne, hosted by the Victorian Government, Australia’s response to the Millennium Development Goals (MDG) was discussed. In particular the event focused on the MDGs that focused on the health and well-being of women and girls in developing countries in the region, *MDG #3 Promote Gender Equality and Empowerment of Women*, and what role Australia was playing in these goals.

13. Myself, in company with outsourcers, Aegis UCMS, Stellar, Salmat and Excellior, hosted a public session, titled Social Impacts of Off-shoring, where we had sponsored women from Philippines and India who worked in outsourced contact centres to share their stories about the change made in their lives and others as a result of contact centre work being conducted in their country.
14. The women talked about the strong positive professional effects that their work provided them, their families and communities. The women commented that once they would only had menial or manual work to perform. The opportunity to work in a contact centre has provided independence, self esteem, pride and hope which then they role model to their children.
15. We also see in countries like India and Philippines, a far higher percentage of women in management positions than we do in Australia.
16. Additionally, the Australian based outsourcers typically become an integral part of a local community, with a number sponsoring orphanages, literacy programmes and training of underprivileged people, who may have no other such opportunity.
17. The conclusion of the session held on the Social Impacts of Off-shoring was unanimous agreement from the 100+ attendees that the off-shoring of Australian contact centre jobs provided significant benefit to developing countries, particularly for underprivileged women, and that this benefit far outweighed the issue of dislocation of local Australian jobs (although this cost is not trivialised).
18. Hence, the off-shoring of contact centre jobs to developing countries in Asia-Pacific assists Australia achieve its responsibilities under the requirements of the Millennium Development Goals.

Our conclusion is that the Bill appears to be discriminatory in its intentions and has considerable racial undertones. The enactment of the proposed legislation poses a serious reputational risk to Australia and will lead to the breakdown of established and fruitful relationships with neighbouring countries.

Section 3: Concluding Remarks

1. It is our position that the Keeping Jobs from Going Off-shore Bill be quashed in its entirety;
 2. The Bill is flawed in its intention of maintaining employment in this country and instead may result in restricting the growth in size and sophistication of the contact centre industry;
 3. The Bill is flawed in its proposed execution, as it will not be able to distinguish between customer service personal information related processes and back office administrative personal information, much of which is already off-shored;
 4. The enactment of the Bill will put upward pressure on the cost of providing service, thereby accruing additional fees to the Australian consumer;
 5. The Bill will damage the relationships with Asian countries that currently benefit Australia and will limit the contribution that Australia makes to the well being and development of neighbouring countries;
 6. We ask that the Senate give due consideration to the points made in this submission.
-

Signing Parties

The undersigned endorse the position and the points made in this submission.

Signed:

Name: Dr Catriona Wallace

Position: Director

Organisation: callcentres.net

Date: 15th June 2010

Comments:

Signing Parties

The undersigned endorse the position and the points made in this submission.

Signed:

Name:

ANDREW HUME

Position:

HEAD OF CUSTOMER CONTACT SOLUTIONS

Organisation:

SARAWATI

Date:

10 JUNE 2010

Comments:

Signing Parties

The undersigned endorse the position and the points made in this submission.

Signed:

Name:  John Hollingsworth

Position: Chief Executive Officer

Organisation: Stellar Asia Pacific Pty Ltd

Date: 10 June 2010

Comments:

Name: JOHN ROGERS

Position: MD - SYKES AUSTRALIA PTY LTD

Organisation: SYKES

Date: 15/6/2010

Comments: SYKES HAVE ON & OFFSHORE CAPABILITIES
AND NEED THE ABILITY TO RECOMMEND
AND DELIVER THE BEST SOLUTION
FOR OUR CLIENTS.

Name: ANTHONY SEAEEG

Position: MANAGING DIRECTOR B.D

Organisation: SYKES.

Date: 15/6/2010.

Comments: ALL OFFSHORE DELIVERY IS DONE WITH THE PRINCIPALS AND AUSTRALIAN PRIVACY LAWS. WE OPERATE WITH THE FOLLOWING STANDARDS:

* PCI

* ISO

Signing Parties

The undersigned endorse the position and the points made in this submission.

Signed:

Name: *MIKE ADAMS*

Position: *CEO*

Organisation: *SEMA CONTACT CENTRES*

Date: *10/6/10*

Comments:

Signing Parties

The undersigned endorse the position and the points made in this submission.

Signed:

Name: Mike Mi

Position: President

Organisation: China Contact Center & CRM Association

Date: 2010.6.10

Comments:

As founding member of Asia Pacific Contact Center Association Leaders (APCCAL), ATA and CCMA are APCCAL members as well, we have a common goal of promoting the contact center industry and service excellence in the region. We believe that globalization is the inevitable trend of future business, thus it is our responsibility to strength our business capability by cooperate with regional partners not vice versa.

I agree with the points mentioned in this paper that by proposed bill will have very limited positive influence on Australian contact center industry but many negative impacts in the time to come.

I wish all the concerned parties, especially senator's office can take our opinions into consideration when you make your final decision.

Signing Parties

The undersigned endorse the position and the points made in this submission.

Signed:

Name: NAOMY MANOLAS

Position: CHAIRMAN

Organisation: CALL CENTRE ASSOCIATION
OF THAILAND

Date: 9/6/10.

Comments:

AGREE + ENDORSE ALL COMMENTS

Section 3: Concluding Remarks

1. It is our position that the Keeping Jobs from Going Off-shore Bill be quashed in its entirety;
 2. The Bill is flawed in its intention of maintaining employment in this country and instead may result in restricting the growth in size and sophistication of the contact centre industry;
 3. The Bill is flawed in its proposed execution, as it will not be able to distinguish between customer service personal information related processes and back office administrative personal information, much of which is already off-shored;
 4. The enactment of the Bill will put upward pressure on the cost of providing service, thereby accruing additional fees to the Australian consumer;
 5. The Bill will damage the relationships with Asian countries that currently benefit Australia and will limit the contribution that Australia makes to the well being and development of neighbouring countries;
 6. We ask that the Senate give due consideration to the points made in this submission.
-

Signing Parties

The undersigned endorse the position and the points made in this submission.

Signed:

Name:

ANDI ANUGRAH

Position:

CHAIRMAN

Organisation:

INDONESIA CONTACT CENTER ASSOCIATION (ICCA)

Date:

15 June 2010

Comments:

