

Legal and Constitutional Affairs Legislation Committee

PO Box 6100
Parliament House
Canberra ACT 2600

17 November 2022

By email

Dear Senators,

RE: Written opening statement on Privacy Legislation Amendment (Enforcement and Other Measures) Bill 2022

Electronic Frontiers Australia welcomes Parliament's moves to change the incentives for how organisations manage Australians' personal information. EFA has long argued that current incentives reward the over-collection of personal information and encourage lax standards for keeping our information safe.

However, we are concerned that the proposed Bill will create perverse incentives. For example, some organisations may view the substantial fines as an existential threat and may prefer to hide or cover up a breach, hoping to avoid discovery. Similarly, some organisations may prefer a protracted legal process with a small chance of success to simply admitting error and helping to repair the damage done.

We also note that fines of any size are not paid to the actual victims: the innocent Australians whose privacy was violated. They had no control over what was done with their personal information and yet they are the ones that must clean up the mess made by organisations that failed them. Punishing organisations after the fact—potentially *years* later—does nothing to help individuals when they need it most, nor does it restore the privacy that was lost.

Parliament must also take responsibility for its own role in over-collection. For decades now successive Parliaments have passed more and more legislation that mandates the collection and retention of personal information in the name of 'national security'. Our national security has instead been placed at risk. All Australians are now at constant risk of having their most intimate secrets stolen by those who mean them or Australia harm.

It is time for privacy to take priority.

We urge Parliament to give people the power to protect themselves. From over-collection of personal information by organisations—private and public, large and small—and also from the inevitable data breaches that keep occurring.

We don't need a saviour, we need a government that helps us help ourselves. One that works with us, not merely for us, and certainly not against us.

Yours sincerely,

Justin Warren
Chair
Electronic Frontiers Australia

About EFA

Established in January 1994, EFA is a national, membership-based, not-for-profit organisation representing Internet users concerned with digital freedoms and rights.

EFA is independent of government and commerce, and is funded by membership subscriptions and donations from individuals and organisations with an altruistic interest in promoting civil liberties in the digital context.

EFA members and supporters come from all parts of Australia and from diverse backgrounds. Our major objectives are to protect and promote the civil liberties of users of digital communications systems (such as the Internet) and of those affected by their use and to educate the community at large about the social, political, and civil liberties issues involved in the use of digital communications systems.