

Committee Secretary
Senate Standing Committees on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra
ACT 2600

9th July 2012

For the attention of the Senate Legal & Constitutional Affairs Legislation
Committee

**Re: Inquiry into the Privacy Amendment (Enhancing Privacy Protection)
Bill 2012**

Pareto Phone and Pareto Fundraising are writing in support of the submission made by the Australian Direct Marketing Association.

Pareto Phone is a Telephone Fundraising Agency that works solely on behalf of charities and not for profit organisations and Pareto Fundraising is a full service Direct Marketing agency who works for the same constituents. Both organizations use personal information to communicate on our clients' behalf with their supporters and prospective supporters to raise more money for the relevant cause. Personal information is used at a basic level to address mail and or telephone calls but in addition past transactional behaviours, donations of time and written opinions from attitudinal surveys are used in communications to ensure tailored messaging and a richer donor experience which fully recognizes and rewards their tenure of support for the cause

We agree to the issues and recommendations outlined in the submission made by the Australian Direct Marketing Association on behalf of the marketing and advertising community. In particular:

- **Prohibition on direct marketing:** We share concern that the inclusion of a "prohibition on direct marketing" will cause considerable confusion with our clients as to whether direct marketing is permitted or not. This will have a direct, financial and reputation effect on our business and could inhibit the raising of much needed fund for our charity clients;

We therefore support the removal of the term 'prohibition' on direct marketing and agree to ADMA's recommendation that the wording revert to the positive;

- **Using data collected from third parties for marketing and advertising:** We support ADMA's suggested amendments to APP 7.3(d) regarding use of personal information collected from a party other than the individual.

The approach proposed by the Government, requiring an opt-out to be included in all communications to customers and prospects where third party data is used will:

- (i) cause our clients compliance difficulties as it is not possible for them to include this amount of information in all communication channels – e.g. online advertisements, certain social media channels and twitter.
- (ii) discourage the use of services that we strongly recommend such as cleansing and updating services. These are currently used by our clients to maintain the accuracy of their data. However, as the use of such services will, in future, automatically trigger the requirements of APP7.3(d) with regard to customer communications, our clients will be less inclined to perform such operations. This will mean complaints from both existing supporters and new prospects that the information is not accurate. This will also result in increasing numbers of wastage in Charity direct marketing campaigns – a luxury no not for profit organization can afford.
- (iii) impacts on the ability for our clients to communicate effectively with their customers and provide them with best possible products and services for their needs.
- (iv) degrades the customer experience offered by our clients, which is absolutely critical to their brand reputation and the manner in which they are perceived by consumers in the market.

In this regard we are supportive of ADMA's proposal to ensure our clients always provide direct access to their privacy policy through which our customers and prospects can opt-out of further marketing from us. Pareto Phone have actively been promoting and to some extent, policing this for the last 7 years. We recommend to all our clients that they review their privacy policies and ensure that they are up to date and clearly on the website.

- **Anonymity and pseudonymity:** We require that our clients maintain high standards of data accuracy. The provision that requires organisation to offer individuals the right to deal with organisations on an anonymous or pseudonymous basis will impact of our clients ability to maintain accurate records as it will be unclear whether the information we hold is correct or not.

We support the notion of anonymity where appropriate but request pseudonymity be removed or strictly confined to limited circumstances so that our clients can continue to comply with our requirements with regard to data accuracy.

- **Transborder disclosure of personal data:** We share concerns regarding the new liability provisions that apply with regard to transborder data disclosure. Our organisation takes significant steps to ensure data that is transferred overseas is protected to the level required by Australian law. However, there are instances where data may be subject to actions or attacks outside of our control such as to operational failure, fraud, sabotage and hacking and these must be taken into consideration before imposing liability. This is a particular concern when using cloud computing.
- **Fines and penalties:** We also request clarification around fines and penalties. Being a company that is subject to the Privacy Act it is essential that we have an understanding of the potential extent of fines and penalties for our risk assessment purposes.

If you would like further information or detailed examples of how the new proposed privacy provisions will impact on our customers please do not hesitate to contact me.

Yours sincerely

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Pareto Fundraising

Pareto Phone & Pareto Fundraising