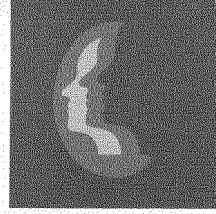


Our reference:89-0073-09BL
Your reference:gals5069



Committee Secretary
Joint Standing Committee on Electoral Matters
Department of House of Representatives
Parliament House
Canberra ACT 2601

House of representatives Standing Committee on
~~Economics, Finance and Public Administration~~
Electoral Matters

Submission No: *154*

Date Received: *13.7.02*

Secretary: *J. Blair*

Dear Secretary

Review of sections 89-92 of the *Commonwealth Electoral Act 1918* Access to the Electoral Roll and Elector Information

Thank you for the opportunity to make a submission to the Review. At this stage I would like to briefly raise with the Committee some of my main concerns. I would be pleased to lodge a supplementary submission or address the Committee at a later date.

The issue of access to the Electoral Roll is one that my Office has commented on in a previous submission to the Joint Standing Committee on Electoral Matters (JSCEM) in November 2000.¹ This and other issues in the submission (and the recommendations for action) are still relevant, and I do not intend to revisit them at this point. These are:

- Primary purpose of electoral roll;
- Secondary purposes authorised by law;
- Unauthorised use for (commercial) data matching purposes;
- Technological developments; and
- Political parties exemption in the Privacy Amendment (Private Sector) Bill 2000.

Public Registers

In addition, as part of a program of publication of Information Sheets to assist the community in understanding the new private sector privacy regime, I have undertaken a new initiative which is relevant to the Review – public consultation on the use of information held on public registers.

In June this year in response to a number of enquiries on the topic I released an Issues Paper on Privacy and the Collection of Publicly Available Information,² which seeks to discuss the collection of personal information from public registers in the context of the National Privacy Principles and elicit the community's, and other stakeholders' views on how information on public registers is accessed and matched by organisations and then used for direct marketing and other purposes. While the Issues Paper does not discuss access to the Electoral Roll in great detail, it does raise the types of concerns relating to access to public registers and 'fair collection' that are the subject of on-going consumer enquiries in relation to the Electoral Roll and beyond.

¹ www.privacy.gov.au/publications/ier.doc

² www.privacy.gov.au/publications/dgaps.doc

Key enquiries include:

- Does the Privacy Act apply to personal information collected from public sources?
- Does an organisation have to notify individuals when it collects information about them from the Electoral Roll or another public register or from a telephone directory?

The Issues Paper discusses the balance to be found between the purpose for which the information is originally collected and how it might then be used for other (commercial) purposes; how that could be considered fair and/or in the public interest; and how the Privacy Act applies to publicly available personal information including the obligations that an organisation might have under the National Privacy Principles (NPPs) when it collects personal information from publicly available sources.

NPP 1.2 says that 'An organisation must collect personal information only by lawful and fair means and not in an unreasonable intrusive way.' An organisation collecting publicly available personal information will therefore need to consider whether the collection of the personal information from, for example, the Electoral Roll is fair and lawful.

Advances in new technology have also made it easier for data - profiling, including the potentially highly intrusive practice where data on an individual is compiled from a number of public registers, matched with other datasets and then offered for sale. Unfortunately, due to the high regard for the integrity of the Electoral Roll, public access to paper copies, and the development of sophisticated scanning devices and computer sorting programs this is now a fairly low cost and widespread practice.

It is the Commissioner's view that the law should, unless there is a very strong public interest to the contrary, restrict the collection from, and use of, personal information on a public register to the primary purpose for which the register is set up and for which the information is therefore made public. This is because, generally speaking, individuals have no choice about whether to provide the information and little choice about its publication. Similar issues are raised in the recent report by the Federal Auditor General – *Australian National Audit Office: Report 42 Integrity of the Electoral Roll*

In conclusion, I would like to highlight some other issues of concern, which are consistently raised with our Office but are not specifically addressed in either the submission or the Issues Paper, these are:

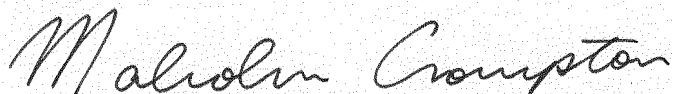
- access by individuals to data on the Electoral Roll that endanger persons fleeing from violent situations or who may be participating in witness protection programs, and
- the anomaly between holding silent telephone numbers and having contact details on the (publicly available) Electoral Roll. Many of our enquirers are not aware that it is possible to have a 'suppressed entry' on Roll, and are surprised when contacted by direct marketers, to be told that their contact details have been sourced from the Electoral Roll.

In addition, there also seems to be a continuing and widespread lack of awareness about the exchange of information between agencies such as Australia Post and the AEC. I hope that the Review will consider the need for more stringent legislative and administrative controls over authorised/unauthorised access to the Electoral Roll, coupled with community awareness campaigns (or more prominent notification) to consumers when information is shared between the Electoral

Roll and other public registers. I note that this is also a recommendation in the ANAO Report No.42.

If you wish to discuss any details of this submission or require further information from this Office in relation to the Review please contact Ms Barbra Luby on (02) 9284 9874.

Yours sincerely

A handwritten signature in cursive script that reads "Malcolm Crompton".

Malcolm Crompton
Federal Privacy Commissioner

22 July 2002