

**American Express Submission
on the
Privacy Amendment (Private Sector) Bill 2000
May, 2000.**

American Express has had a long involvement in the formulation of privacy matters/legislation in markets around the world including the European Union, Canada, New Zealand, Taiwan, and Hong Kong. American Express conducts business in accordance with a variety of local regulatory privacy regimes.

Based on this experience, and the company's own corporate commitment to the protection of customers privacy, American Express welcomes the development of formal privacy protection and the accompanying certainty for Australian businesses and consumers.

The benefits of sophisticated information gathering and processing to consumers and companies are significant. Targeted marketing techniques offer convenience to customers; cost-effectiveness to product providers; and generally make available to the marketplace a wider range of competitive products and services. Legislation should seek to find an appropriate balance between these benefits and the legitimate need to safeguard the individual's privacy.

The draft Federal legislation is a positive development for both business and consumers and has the potential to provide a sensible and comprehensive uniform system of national coverage. In so doing it will avoid duplication and inconsistency which would almost certainly occur through a multiplicity of State-based legislation.

In reviewing the draft Bill it should be noted that American Express has no issue with the proposed regime, and strongly supports the notion of a co-regulatory approach. It is the American Express view that business has a leadership role to play in privacy protection and should be seen to be actively involved. Quite simply, protecting privacy is good business and is good for business.

American Express already participates in the self-regulatory scheme with the Australian Direct Marketing Association's Code Authority. This body has been set up to hear matters and to enforce ADMA's Code. American Express is an industry representative on this body which meets every quarter to review complaints.

One concern expressed in the Explanatory Memorandum was that some businesses could be subjected to a variety of codes and/or consumers become confused about avenues for redress. It is felt that both concerns can be easily addressed via the many government, consumer and industry organisations and through the advice and guidance of media coverage of privacy and the choices available to consumers.

History of American Express and Privacy

American Express has taken a leadership role in protecting customer privacy and has long held it as a key focus for attention within the company.

In 1974 the company was the first in the card industry to offer consumers in the US the option of being excluded from mailing lists used for marketing offers. In 1978 American Express was the first company to introduce a Privacy Code of Conduct which provided a clear statement for customers and employees of the company's responsibilities in the area of privacy.

As changes in the field of information processing and marketing have increased consumer concerns, American Express has continuously reviewed and updated its privacy policies. In January 1991 the company issued the American Express Consumer Privacy Principles which were amended in 1997 to include on-line business initiatives.

In those principles American Express commits, among other things to:

- Collect only relevant information about consumers and tell them how it is to be used
- Provide choices for customers about how their data will be used
- Ensure information quality
- Ensure information security safeguards are in place
- Limit the release of customer information to third parties only with the customer's consent (or when required by law or regulatory authority); and explain the reasons to customers whenever a service is denied or terminated.
- Respond to customers' requests for explanations
- Extend privacy principles to business relationships
- Hold Employees responsible for privacy.

In February 1998 a Customer Internet Privacy Statement was posted on the corporate web site at www.americanexpress.com. This statement, based on the company Privacy Principles, is easily accessible on every page of the Web site, and provides a full description of Web site security, information collection and use, how to decline e-mail offers, and a statement about American Express's commitment to privacy protection.

Further in February 1998 the company provided customers with the opportunity to decline receiving email offers online. Customers can use the 'Set Email Preference' page to change their choices at any time.

In 1999 the company announced the appointment of Vice President Privacy and Data Protection reporting into the Vice-Chairman of American Express to be responsible for ensuring privacy protection is a key focus for all business units.

Further to these initiatives, American Express has continued a practice it commenced some twenty years ago of 'informed consent' ----a principle which can be found

underlying much legislation in overseas jurisdictions. The two elements to this concept are:

- Telling the customer why the information is needed and how it will be used;
- Providing the opportunity to say 'no' and to 'opt-out'.

The response rates to the 'opt-out' option vary from market to market...however the response rate rarely rises to 4%, and in fact the reverse often applies when Cardmembers do not receive the same offer as others.

Uses of Customer Information at American Express

While American Express does not rent or sell its data base to any third party, it regularly rents/purchases lists from other sources for prospecting purposes. These lists are purchased or rented according to a strict criteria and are subsequently coded to respond to any queries from consumers regarding the origin of their details.

Sophisticated data gathering and processing techniques offer a number of advantages to both customers and companies marketing goods and services. These techniques enable companies to offer their products to those customers who are more likely to want those products than the broader population. Not only is this more cost effective than other forms of advertising, it also offers customers the advantage of receiving offers that are likely to be of greater interest and thereby limiting unnecessary mail.

The key to making American Express direct marketing programs transparent, effective and fair to the individual, however, is the ability for individuals to 'opt-out'---that is, to decide they do not want promotional mail. American Express has long had an 'opt-out' program available to Cardmembers around the world.

American Express cannot over-emphasise the importance of opt-out programs in a balanced approach to privacy protection. It places the privacy choice on those who should decide ie the consumers. If he/she chooses to receive mail because he/she likes the product or services then there should be no impediment to doing so. Conversely, if it is felt that privacy is being infringed upon or there is a desire not to receive mail then the decision should be easily made. It is a situation where both consumers and business achieve their objectives.

While American Express experience shows that the large majority of customers do wish to receive offers (and hence tend not to accept the invitation to have their names removed from marketing lists), it is in the company's overall interest to take additional steps to ensure that communications to customer are limited to offers and information that are of genuine interest.

For instance, the availability of relevant customer information allows American Express to make a restaurant offer available only to those customers in the vicinity of a certain restaurant, or to advising Cardmembers of the opening of an American Express Representative Travel Office close to their address. It assists in avoiding offering

products/information to customers who already have it. The availability of prospect lists from outside sources, including names and addresses of individuals who have responded to other product offers, likewise allows American Express to limit solicitation to those individuals who are most likely to want an American Express product or service.

Filling a customer's mailbox with irrelevant mail seriously undermines a valuable relationship and results in negative feelings towards an organisation. Additionally it has the potential to become a substantial waste both financially and environmentally for the company.

A second important use of customer information is to ensure that financial services are offered only to those customers who can reasonably be expected to use them responsibly. American Express seeks information directly from Cardmembers as part of the Card application process. With the individual's consent provided on the application, listed references are verified and inquiries made about that individual from a credit reference bureau. These checks are essential to ensure that individuals are not provided the opportunity to incur excessive debt.

American Express would welcome the opportunity to discuss its approach to privacy in greater detail or to provide information on its experience in other regulatory regimes if appropriate.

For further information please do not hesitate to contact either Colm Lorigan, American Express General Counsel (02-9271-3346) or Di Collins, Director Public and Consumer Affairs (02-9271-1823) or fax 02-9271-2554.

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