

## Annex 1

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### 7 Australian Privacy Principle 7—direct marketing

#### ~~Prohibition on Direct marketing~~

- ~~7.1 If an organisation holds personal information about an individual, the organisation must not use or disclose the information for the purpose of direct marketing.~~

~~Note: An act or practice of an agency may be treated as an act or practice of an organisation, see section 7A.~~

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#### ~~Exceptions—personal information other than sensitive information~~

~~7.2 Despite subclause 7.1, an~~ organisation may only use or disclose personal information (other than sensitive information) about an individual for the purpose of direct marketing if:

- (a) the organisation collected the information from the individual; and
- (b) the individual would reasonably expect the organisation to use or disclose the information for that purpose; and
- (c) the organisation provides a simple means by which the individual may easily request not to receive direct marketing communications from the organisation; and
- (d) the individual has not made such a request to the organisation.

~~7.2 Despite subclause 7.1, an~~ organisation may only use or disclose personal information (other than sensitive information) about an individual for the purpose of direct marketing if:

- (a) the organisation collected the information from:
  - (i) the individual and the individual would not reasonably expect the organisation to use or disclose the information for that purpose; or
  - (ii) someone other than the individual; and
- (b) either:
  - (i) the individual has consented to the use or disclosure of the information for that purpose; or
  - (ii) it is impracticable to obtain that consent; and
- (c) the organisation provides a simple means by which the individual may easily request not to receive direct marketing communications from the organisation; and
- (d) in each direct marketing communication with the individual:
  - (i) the organisation includes a prominent statement that the individual may make such a request; or
  - (ii) the organisation otherwise draws the individual's attention to the fact that the individual may make such a request; or  
(iii) the organisation provides access to its website or other company resource which includes a direct link to the organisations privacy policy through which the individual can may easily make such a request; and
- (e) the individual has not made such a request to the organisation.

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### ~~Exception—sensitive information~~

- 7.3 ~~Despite subclause 7.1, a~~An organisation may only use or disclose sensitive information about an individual for the purpose of direct marketing if the individual has consented to the use or disclosure of the information for that purpose.

### *Exception—contracted service providers*

- 7.4 ~~Despite subclause 7.1, a~~An organisation may only use or disclose personal information for the purpose of direct marketing if:
- the organisation is a contracted service provider for a Commonwealth contract; and
  - the organisation collected the information for the purpose of meeting (directly or indirectly) an obligation under the contract; and
  - the use or disclosure is necessary to meet (directly or indirectly) such an obligation.

### *Individual may request not to receive direct marketing communications etc.*

- 7.5 If an organisation (the **first organisation**) uses or discloses personal information about an individual:
- for the purpose of direct marketing by the first organisation; or
  - for the purpose of facilitating direct marketing by other organisations;
- the individual may:
- if paragraph (a) applies—request not to receive direct marketing communications from the first organisation; and
  - if paragraph (b) applies—request the organisation not to use or disclose the information for the purpose referred to in that paragraph; and
  - request the first organisation to provide its source of the information.
- 7.6 If an individual makes a request under subclause 7.5, the first organisation must not charge the individual for the making of, or to give effect to, the request and:
- if the request is of a kind referred to in paragraph 7.5(c) or (d)—the first organisation must give effect to the request within a reasonable period after the request is made; and
  - if the request is of a kind referred to in paragraph 7.5(e)—the organisation must, within a reasonable period after the request is made, notify the individual of its source unless it is impracticable or unreasonable to do so.

### *Interaction with other legislation*

- 7.7 This principle does not apply to the extent that any of the following apply:
- the *Do Not Call Register Act 2006*;
  - the *Spam Act 2003*;
  - any other Act of the Commonwealth, or a Norfolk Island enactment, prescribed by the regulations.