

Submission

on the

Human Services (Enhanced Service Delivery) Bill 2007

to the

Senate Finance and Public Administration Committee

Department of the Senate

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1. Introduction

The Human Services (Enhanced Service Delivery) Bill 2007 has been referred by the Senate to the Senate Finance and Public Administration Committee for inquiry. Public submissions have been sought and are due by 28 February 2007. The Committee is due to report to the Senate by 15 March 2007.

The Bill would establish a register of all persons entitled to access health and social services and benefits from Medicare, Centrelink, Australian Hearing, CRS Australia, Health Services Australia and the Department of Veterans' Affairs and provide for an Access Card which will be required in order to access any of these services from 2010.

It is proposed that the card would have printed on it the name, photo and signature of the card holder, the unique card number and the card expiry date.

The card would include a microchip which is expected to include the name, address, details of children or other dependants, digitised photo, signature, card number, expiry date, gender, concession status and Personal Identification Number (PIN) of the card holder.

A separate section of the microchip would be available for the card holder to store personal information which could be protected by a Personal Identification Number.

The Bill states¹ that "It is not an object of this Act that access cards be used as national identity cards." However, there are valid concerns that, despite this and other safeguards, the Bill would establish an infrastructure that could easily facilitate the future imposition of a national identity card linked to a national database with extensive personal information on each card holder.

2. The objects of the Bill

The objects of the Bill are set out in Section 6 (1) as follows:

"The objects of this Act are:

- (a) to reduce the complexity of accessing Commonwealth benefits, particularly for those who are most in need of assistance; and
- (b) to facilitate a more convenient, user-friendly and reliable method of accessing Commonwealth benefits; and
- (c) to reduce fraud on the Commonwealth in relation to the provision of Commonwealth benefits; and
- (d) to improve access to Australian Government relief in emergency situations; and
- (e) to permit access card holders to use their access cards for such other lawful purposes they choose."

2.1 Reducing complexity and facilitating access

There is perhaps a case for rationalizing the means of accessing the various Commonwealth benefits but this does not require the conflation of the Medicare card with the means used to access social security and similar benefits. For many Australians (perhaps 8 million) the only Commonwealth benefits they access are Medicare payments.

The government is insisting that the access card is neither compulsory nor a national identification card. However, given that all taxpayers fund the Medicare system and all, or nearly all, Australians make some use of medical services that are covered by Medicare it is disingenuous of the government to suggest the access card is 'not compulsory'. It is only 'not compulsory' to someone who is willing to forego entirely the use of a service for which they are taxed.

2.2 Reducing fraud

Part D of the KPMG Access Card Business Case dealing with fraud has been deleted from the public release version of the document.² This makes it difficult for the public to assess the validity of the claim that the expenditure on establishing the access card (over \$1 billion) is likely to result in significant reduction of losses from social security and Medicare fraud. It is unclear what percentage of fraud is due to the use of false identities, compared to claims under a correct identity to benefits to which a person is not entitled. An access card could only help reduce the latter category substantially if it is in fact to be used to link tax, employment and banking information.

2.3 Personal use of the access card

It hardly seems the proper business of government to be providing individuals with a standardized smart card for personal use. This is more properly a commercial enterprise in which businesses ought to be able to offer competitive products to consumers. This could be seen as a sweetener to soften concerns about privacy and government intrusion.

It is suggested that information such as next of kin details, details of drug allergies and your organ donor status could be usefully stored on the personal section of the microchip. It is also stated that this personal information be protected with a Personal Identification Number (PIN). It is not obvious how emergency services could access this information if the card holder is unconscious unless they have card readers that can override PIN security. If this is envisaged then the whole security of the personal information is compromised.

3. The purposes of the access card and function creep

The Explanatory Memorandum claims³ that Section 41 which states that "A Commonwealth officer in a participating agency may only use your access card: (a) for the purposes of this Act; or (b) with your consent" together with Section 7, which states that "The purposes of this Act are to facilitate the provision of benefits, services, programs or facilities to some or all members of the public (whether under a Commonwealth law or otherwise), where that provision involves a participating agency [listed in Section 5 of the Bill]" is "intended to constrain the use of the access card and to address concerns about function creep".

However, all this means is that any 'function creep' will require amendment to the legislation.

The larger concern with function creep is that once the investment of billions of dollars has been made in the access card and the database to support it, there will be a momentum, difficult to resist, to expand the use of the access card for additional purposes. Given that nearly every adult Australian citizen and permanent resident will have an access card it would not be a large step to turn it into a national identity card.

The access card is, despite the government's stated intention and the provisions of this Bill (including Section 6 (2) that "It is not an object of this Act that access cards be used as national identity cards"), a substantial step towards just such a card. This step can only be avoided by abandoning the access card, or at least substantially reducing its scope by dropping its Medicare function.

4. Information on the access card

4.1 Information on the surface of the card

Section 30 provides that the surface of the card contain the following: name, card number, card expiry date, photograph, signature, date of birth (optional) and DVA or Blind disability support pensioners information (if applicable and where the card holder requests it).

The Consumer and Privacy Taskforce noted⁴ that: “The Access Card number starts to develop at least some of the features of a UPI [unique personal identifier] to the extent that it becomes the common number linking a set of unrelated separate transactions: for example Medicare payments, child support arrangements, organ donor status, concessional status or Centrelink benefits. UPIs are a crucial element of national identity card systems and the Taskforce draws attention, again, to the Government’s clearly stated position that the Access Card is not, nor is it intended to become, a national identity card.

“The question of UPIs has been a fraught one within the privacy debate for many years, and indeed some overseas countries specifically prohibit their creation for national identity purposes.

“The Access Card number, which is a limited UPI confined to health and social services purposes should not be allowed to develop into, an expanded or comprehensive UPI for each Australian. One way of preventing this development is to ensure that access to the Access Card number itself is limited as far as possible and its details are revealed to as few people or institutions as possible – indeed only those with a real need to know.”

The Taskforce recommended that “the Government notes the Taskforce’s conclusion that there is a strong case for the number to be removed from the reverse of the card and reconsider the decision that the Access Card itself displays a card number, instead storing the number out of plain sight in the chip and the SCRS. In the alternative, the Government give consideration to making the inclusion of a unique number on the reverse of the card a matter of genuine choice for the individual cardholder.”⁵

The Taskforce also recommended that “further work be undertaken to assess the value and utility of including the digitised signature on the Access Card itself, noting that the Taskforce’s preferred position is for it not to be included”.⁶

It is disturbing that the government has rejected two key, thoughtful recommendations from its own Consumer and Privacy Taskforce.

4.2 Information in the Commonwealth’s area of the chip

Section 34 provides for various items of information to be stored in the Commonwealth’s area of the chip. This will include the Medicare number as well as ‘such information as is determined by the Secretary’ along with personal identification information, including a digitized signature and photograph.

This information can be protected by a Personal Identification Number. However, it appears that card readers that can access this information will be ubiquitous.

“It is proposed that pharmacies, General Practitioners, Ambulance Officers, Human Services agencies and Department of Veterans’ Affairs offices will have card readers.

“It is also likely third parties who need to validate concession information will have card readers. These third parties will only be able to verify your identity and determine if you are eligible for concession status. They will not have access to any other information.”⁷ It is not clear how this last provision will be enforced.⁸ There is nothing explicit in the Bill dealing with such access. Discussions are underway with States and Territories about how transport services will access concession information on the cards.

Indeed Section 45 provides that it is not an offence if a “person intentionally requires you to produce your access card or someone else’s access card” and “the requirement is ... made to establish that: (i) you hold, or someone else holds, a benefit card; or (ii) you have, or someone else has, a Medicare number.”

5. Improved offence of copying

In an earlier submission by Festival of Light Australia on the exposure draft of this Bill it was observed that:

“It is an offence to record or make use of an access card number but there do not appear to be any offences dealing with recording or using other information on the access card. This seems to be a serious flaw in the Bill. As it stands a person would not appear to be committing an offence (at least under this Bill) if they require you to produce your access card in order to establish that you hold a benefit card (in order, say, to qualify for a concession on some service) and take the opportunity to record all the information on the card other than the card access number.”

That submission recommended that:

“If the Bill is proceeded with it should be amended to include offences to prevent the recording and use of information, other than the card number, contained on the card other than for the purposes of the Act.”

The government acknowledged this concern in its summary of issues in submissions⁹:

“Others suggested that the protections did not go far enough and should be extended to the copying of photographs and signatures ... In response to submissions, the prohibition on copying or recording the access card number will be extended in the Human Services (Enhanced Service Delivery) Bill 2007 to the recording or copying of photographs and signatures.”

The Bill provides for such an offence in Section 57.

6. Conclusion and recommendations

The Bill seeks to implement the government’s plan for a single access card for all government health and social services benefits but the stated objects of the Bill do not sufficiently justify the proposal for a single access card.

The provisions in the Bill designed to stop ‘function creep’ are not sufficient to retard the momentum the access card will inevitably have to develop into a national identity card.

The Bill does not implement the recommendations of the Consumer and Privacy Taskforce that neither the card number nor the digitised signature appear on the card.

Recommendation 1: The case for a single access card for all Commonwealth health and social services benefits has not been made out. The Committee should recommend that the Senate reject the Bill at this time.

Recommendation 2: If the Bill is proceeded with it should be amended to remove all the provisions relating to Medicare, which should continue to use a specific purpose card.

Recommendation 3: If the Bill is proceeded with it should be amended so that neither the card number nor the digitised signature appears on the card.

7. Endnotes

¹ Section 6 (2)

² http://www.accesscard.gov.au/various/kpmg_access_card_business_case.pdf, p.73

³ Explanatory Memorandum p.41

⁴ http://www.accesscard.gov.au/various/Consumer_privacy_rp2.pdf, p.42

⁵ http://www.accesscard.gov.au/various/Consumer_privacy_rp2.pdf, p.44

⁶ http://www.accesscard.gov.au/various/Consumer_privacy_rp2.pdf, p.38

⁷ <http://www.accesscard.gov.au/technology.html>

⁸ <http://www.accesscard.gov.au/Concessions.html>

⁹ <http://www.accesscard.gov.au/offences.html>