

# ACCESS CARD NO WAY

accesscardnoway.net

The Secretary  
Senate Finance and Public Administration Committee  
Department of the Senate  
Parliament House  
Canberra ACT 2600

28 February 2007

## **Submission - Human Services (Enhanced Service Delivery) Bill 2007**

The Access Card No Way Campaign was founded in June 2006 to stop the introduction of an ill-considered proposal to Register the Australian adult population, and create a database and infrastructure that invite further encroachment on the citizens personal sphere of private space and action.

1. We ask that the Committee recommend to the Senate the suspension of debate on this Bill until the completion of the Departmental reviews of the 'Consumer and Privacy Taskforce' of the Access Card Office, and a full independent review of the financial case for the Bill be provided to the Senate and the Public. The rushed nature of the legislation, the enquiries, the architecture and the civil service explanations to Senate Estimate hearings give no confidence that we can even have a debate on the merits of this proposal. This item should be considered as separate and distinct from the general arguments against the Bill itemised below.

### **RECOMMENDATION (item 1)**

**That the Senate adjourn debate until the Department provides a new and unedited financial case for the proposed scheme, and the consultation process of the 'Consumer and Privacy Taskforce' can complete its advisory role on the architecture and delivery of the Card.**

2. The Access Card No Way Campaign has found no comfort in the Reports of the Consumer and Privacy Taskforce nor the Draft Exposure Bill and subsequent revisions before and during Parliamentary debate. The proposal as described in the Bill is overbearing and a ridiculous imposition to solve administrative failings of the Human Services Department and Medicare Australia.
3. Two stand out features of principle are
  - (a) the denial of citizenship *de facto* to any person without an Access Card, no disaster relief, no veterans benefits, no social services, no health services – to gain admission requires interviews, photo's and a bundle of personal identification documents that the Government is entitled to keep permanently.
  - (b) the storing of the bio-metric photo in a central Register and the linking of this to all other files with a single key – the National Register, this is the standard treatment of suspected felons.
4. The Campaign opposes the present Bill and strongly recommends that if fraudulent activity in Medicare Australia is suspected that efforts be made to find those defrauding the system, without calling in 16 million 'suspects' and giving them a fifteen minute interview.
5. If the Human Services Department seriously thinks there is a multiplicity of documents required for the Department it is within their power to simplify and rationalise the Departments programmes. Joining with Medicare and making the systemic problems of the Department the business of the whole Government may suit the Sir Humphrey's' but is not sound Public Administration.
6. The advice given by Attorney General Ruddock in June 2005 is sound–

*“We do not support the approach where all personal information is centralised on one database, and a single form of identification is issued.*

*This could increase the risk of fraud because only one document would need to be counterfeited to establish identity.”<sup>1</sup>*

At present the criminal and terrorists have to create a number of documents, or have access to a diverse range of public files to pilfer the information to spoof the system. This new Register will create a single repository of identity documents and will be a honey pot for those wishing to steal or create identities. In addition the ‘not an ID’ Access Card will be considered a high quality positive ID on visual inspection by Government and private parties. It will be the first and probably only piece of fake plastic required for fraud.

7. Identity searches for legally sanctioned purposes. The government also ignores all of the other powers it has to permit a range of extensive background checks on people – these powers are spread across a plethora of legislation at both a state a federal level:

- Crimes Bill amendments
- Anti-Money Laundering and Counter-Terrorism Financing Act 2006
- the AusCheck Bill;
- the Aviation Security Act;
- the most recent amendment proposed under the Taxation Act

If the Federal Government has any need to enquire into the financial or personal details of any citizen with just cause they have every opportunity already to obtain the information. To require all the citizens to behave as if they must conform to such scrutiny inverts the paramount notions of the Common Law. The citizen is innocent until proven guilty and the citizen shall not be searched or harassed without sufficient cause.

In this case, the average citizen is well within their rights to see view the Access Card as gratuitous and representing a gross and aimless intrusion into their lives.

In view of this record, one must ask if such a card will really give it any significant revenue gathering capacity and whether the privacy cost is worth it.

8. Any Government system that requires information or stores information should – as a default explicitly stated in legislation – require the very minimum necessary for the system to function and for all unnecessarily collected data to be removed at the earliest opportunity. The current Bill does not meet this standard.
9. A cost benefit analysis of any policy initiative would normally require that a putative problem policy area be large and/or significant enough to warrant government attention and corresponding policy measures.

Applying this logic to the Access Card initiative, the message being sent in proposing the Access Card, is that not a small, but rather a very sizeable chunk (indeed the majority) of the Australians are inherently and perennially dishonest and untrustworthy. Furthermore, that Australians are so clever, cunning and determined in their illegal activities, that they need this level of surveillance. That's what those who support the access card are saying about their own countrymen.

Ironically, these same politicians trust and hope that these constituents will have faith and trust in them as politicians and vote them back into office at the next election, but apparently, they cannot and should not be otherwise trusted to regulate their affairs.

10. The level of care and trust required to operate a National Register is completely absent. In the past three years we have had 600 cases of inappropriate use of personal information on Human Services. It has been claimed that this represents the triumph of the audit procedures. We would point out it shows the level of care needed for the system has been absent, and requires a period of proof to justify confidence. Ministerial assurances on such an important matter simply are not sufficient. Constantly closing the door after the horse has bolted is not an adequate safeguard.
11. The language used in the Bill to arrange the powers and regulation of the proposal is severely deficient. The outrageous item 17 'Other Information' in the Register database list - information as determined by the Secretary will not be a

legislative instrument. This Bill cuts to the person of the citizen and their rights to act and move without restraint and without fear of unwarranted intrusion.

The Bill would virtually delegate to the Minister and the Secretary a host of responsibilities that would normally be covered by legislation. This would be an abdication of responsibility by Parliament and an especially serious one given the public concern about ID cards. There are 29 separate calls for Ministerial/Secretarial discretion including a number involving the issuing of Cards – in effect decisions on *de facto* status as full citizens. A well-worded piece of legislation would require transparent oversight and independent methods of appeal before the Committee and the Parliament could contemplate such a far-reaching programme.

12. The Department and the Minister claim there are legislative defences against the Access Card becoming an ID Card. Michael Pearce SC has studied the Bill and believes that the amendment of two clauses will make the Card a fully fledged ID card.

- Deletion of cls 6(2), 45 and 46.
- Deletion of “not” in cl 42

The appalling feature of this proposal is the way in which the Department and their IT consultants are looking to such a bold new future. This was identified by Huxley as ‘The Brave New World’ and Orwell as ‘1984’. Rather than looking at this expansion of Government intrusion as a last resort to be placed under the strictest of controls, it is obvious that PR consultants have been hired to find ways around peoples ‘reluctance’ to embrace this Departmental Paradise. The choice of ‘Access Card’ as the name smells of spin. The wide range of Departmental and Ministerial discretion, the constant reference to important changes ‘not being legislative instruments’ are all totally inimicable to the foundation concepts of Common Law Governmental systems.

13. It should be noted that in so far as the Parliament is the expression of the will of the people – a complex issue we admit – the continued rejection of ID Cards in polls, and the express rejection of the Access Card in recent online polls suggests that care should be taken in legislating against the peoples will.<sup>2</sup>

13. There are a vast number of particular errors in drafting and failures to deal with the complexities of the Departmental and societal requirements of such a measure. A number of submissions from other parties will deal with those failings – we are happy to discuss them in verbal submission. However, we regard the essential message that should be enunciated is – Access Card, No Way.

**RECOMMENDATION (items 2-12)**

**That the Senate reject the Bill. This Bill is totally inappropriate to any use that has been proposed by the Department and the Government. No evidence of fraud or improved national security has been shown to the public that would valid such an inflation of the State at the expense of the citizen. No evidence has been shown that the people desire such a system.**

For further information or comment please email Tim Warner at the Campaign on [info@accesscardnoway.net](mailto:info@accesscardnoway.net)

---

<sup>1</sup> Australian Government – Attorney generals site – speech to Smart Card Summit see pts 57 & 58 - [http://www.ag.gov.au/agd/WWW/MinisterRuddockHome.nsf/Page/Speeches\\_2005\\_Speeches\\_29\\_June\\_2005\\_-\\_Speech\\_-\\_Opening\\_Keynote\\_Address\\_to\\_Australian\\_Smart\\_Cards\\_Summit\\_2005](http://www.ag.gov.au/agd/WWW/MinisterRuddockHome.nsf/Page/Speeches_2005_Speeches_29_June_2005_-_Speech_-_Opening_Keynote_Address_to_Australian_Smart_Cards_Summit_2005)

<sup>2</sup> See [www.theage.com.au](http://www.theage.com.au) for results of the poll 27 Feb 07, et al