

RECOMMENDATIONS

Chapter 3 General issues

Recommendation 1

3.21 The committee recommends that consideration be given to locating the credit reporting provisions in a schedule to the Privacy Act.

Recommendation 2

3.55 The committee recommends that the Exposure Draft be reviewed to ensure that the provisions are clear and concise.

Recommendation 3

3.56 The committee recommends that the definitions be reviewed to ensure consistency across the Privacy Act and, to the extent possible, that definitions are standalone provisions.

Recommendation 4

3.67 The committee recommends that the Exposure Draft be amended to incorporate all of the relevant requirements of the Australian Privacy Principles for both credit reporting agencies and credit providers, in addition to the more specific or different requirements for credit reporting.

Recommendation 5

3.97 The committee recommends that the Department of the Prime Minister and Cabinet undertake consultations to ensure that the needs of industry and consumers are addressed during the lead up to the implementation of the new credit reporting regime.

Recommendation 6

3.98 The committee recommends that the Office of the Australian Information Commissioner consult with industry and consumer advocates to provide guidance on any consumer education campaigns in relation to the new credit reporting system.

Recommendation 7

3.112 The committee recommends that consideration be given to including a requirement in the provisions for the powers and functions of the Australian Information Commissioner that a regular audit of a randomly selected credit reporting agency and a credit provider in Australia be conducted by the Australian Information Commissioner.

Chapter 4 Serious credit infringements, identity theft and hardship

Recommendation 8

4.23 The committee recommends that consideration be given to a change of approach in dealing with serious credit infringements to allow for those listings, not relating to intentional fraud, to be dealt with in a different manner.

Recommendation 9

4.49 The committee recommends that the Exposure Draft be reviewed to ensure that the intent of the Government's response to ALRC Recommendation 57–5, that credit reporting agencies be required to advise a credit provider that they are unable to release information due to an individual's concerns about possible fraud, is clearly provided for.

Recommendation 10

4.50 The committee recommends that the time of the initial ban period be extended from 14 days to 21 days.

Recommendation 11

4.69 The committee recommends that consideration be given to expanding the meaning of new arrangement information to include circumstances where an individual seeks new terms or conditions for their original consumer credit before they default.

Chapter 5 Complaints handling

Recommendation 12

5.37 The committee recommends that the time period for the correction of credit information be amended to 15 days.

Recommendation 13

5.39 The committee recommends that that issue of extensions of time to respond to requests for correction of records be addressed in the Credit Reporting Code of Conduct.

Recommendation 14

5.83 The committee recommends that consideration be given to implementing the recommendations of the Office of the Australian Information Commissioner in relation to the substantiation issue.

Chapter 6 Credit reporting agency provisions

Recommendation 15

6.61 The committee recommends that the opt out provisions in section 110 be reviewed to ensure consistency with other consumer credit regulatory regimes.

Recommendation 16

6.65 The committee recommends that section 115 be reviewed in light of the Office of the Australian Information Commissioner's comments relating to disclosure of de-identified information and the rules to be issued.

Recommendation 17

6.87 The committee recommends that the Credit Reporting Code of Conduct include requirements in relation to the standard of information provided to a consumer in relation to accessing free credit reports and those for which there is a charge.

Recommendation 18

6.108 The committee recommends that consideration be given to providing in subsection 126(4) a general requirement for notification of destruction of credit reporting information to all recipients of credit reporting information in cases of fraud and not only limited to when an individual makes such a request.

Chapter 7 Credit provider provisions

Recommendation 19

7.23 The committee recommends that section 132 be reviewed to ensure that the disclosure obligations on credit providers in relation to 'credit information' protect all credit information collected by credit providers.

Recommendation 20

7.26 The committee recommends that greater clarity be provided as to the timeframes for disclosure of default information pursuant to paragraph 132(2)(e) either in the Credit Reporting Code or in guidance from the Office of the Australian Information Commissioner.

Chapter 8 Division 4 and penalty provisions

Recommendation 21

8.6 The committee recommends that a definition of the term 'credit manager' be provided.

Recommendation 22

8.13 The committee recommends that further consideration be given to the regulation of credit eligibility information provided by credit providers to debt collectors that are small business operators.

Recommendation 23

8.39 The committee recommends that consideration be given to provide increased funding for the Office of the Australian Information Commissioner to effectively and efficiently investigate breaches of the credit reporting provisions.

Recommendation 24

8.43 The committee recommends that consideration be given to the inclusion of consumer remedies, similar to those that exist in the National Consumer Credit Protection Act such as compensation, for consumers adversely affected by contraventions of the credit reporting provisions.

Chapter 9 Definitions

Recommendation 25

9.10 The committee recommends that the definition of 'court proceedings information' be reconsidered to ensure that summonses cannot be listed on a consumer's credit information file.

Recommendation 26

9.15 The committee recommends that the definition of 'identification information' be reviewed to ensure that it does not restrict the ability of credit reporting agencies and credit providers from meeting other regulatory requirements.

Recommendation 27

9.19 The committee recommends that section 181 be reviewed to provide for greater clarity and certainty in the meaning of 'publicly available information' as proposed by the Office of the Australian Information Commissioner.

Recommendation 28

9.27 The committee recommends that the meaning of 'default information' be reviewed to ensure that statute barred debts are prohibited from being listed.

Recommendation 29

9.48 The committee recommends that consideration be given to the inclusion of provisions for grace periods in relation to information in repayment histories.

Recommendation 30

9.70 The committee recommends that section 192 be reviewed to ensure that onerous conditions are not placed on individuals accessing their credit reporting information via the National Relay Service, in particular the need to provide written authorisation. Further, the committee recommends the Department of the Prime Minister and Cabinet, in undertaking the review, consult the National Relay Service and the Office of the Australian Information Commissioner.