

Jackie Morris
A/Secretary
Legal and Constitutional Affairs Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600

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Our ref:A06/0051
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Dear Ms Morris

Inquiry into the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006

We are writing with respect to your invitation received at this Office on 9 November 2006 to provide comments in relation to the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006.

We understand that the current inquiry is concentrating on any issues resulting from changes made to the Bill following public consultations since the exposure draft of the legislation was made available for comments in February 2006. As you know we have previously commented on the exposure draft on 3 March 2006.

Owing to strict timeframes the Committee has to follow in conducting the inquiry, the complexity of the legislation and our limited resources, it is not possible for us to provide a considerate response within the allocated time frame.

We note, however, that our main concern, which related to small businesses being left unregulated in respect of their privacy obligations when dealing with personal information, seems to have been addressed. Under proposed Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006 certain amendments are being introduced to the Privacy Act 1988 (Cth), bringing small business operators under the umbrella of the Privacy Act in relation to activities, which are carried on for the purpose of compliance with the Anti-Money Laundering legislation.

The Office of the Privacy Commissioner (OPC), when commenting on the exposure draft, made specific suggestions as to the privacy provisions the legislation should have. While the proposed amendment to the Privacy Act is a good start, it falls short of what has been suggested by the OPC. May we suggest you take into account the views of the OPC as to the adequacy of the proposed amendments in terms of their practical implications for privacy compliance by small businesses.

We also note the view, expressed by the majority of privacy advocates, that it would be desirable to proscribe a mandatory Privacy Impact Assessment as part of the legislation. This view has been shared by the Committee and its report on the Exposure Draft dated April 2006 strongly suggested that such assessment be conducted.

We are aware of opposition to a PIA by the Minister in the past and have no knowledge whether this issue has progressed since. We strongly support the need for an independent Privacy Impact Assessment in order to judge whether the proposed legislation offers adequate privacy safeguards.

If you have any queries, please contact Alex Barski at Privacy NSW on (02) 9228 8581. Please quote the reference number at the top of this letter.

Yours sincerely

Phillipa O'Dowd
Acting Privacy Commissioner