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Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600

4 March 2005
By facsimile: 02 6277 5794

Dear Sir/Madam,

Re: Inquiry into the Privacy Act 1988

The Consumer Credit Legal Centre (NSW) Inc. (CCLC) is a community legal centre specialising in financial services, particularly matters and policy issues related to consumer credit, banking and debt recovery. It is the only such Centre in NSW, and it has a particular focus on issues that affect low income and disadvantaged consumers.

CCLC provides free legal advice and assistance to consumers concerning banking, credit, debt and related matters. We also educate consumers about their rights and obligations in the field, and seek to identify and recommend changes to areas of law that we see as requiring improvement.

Please find enclosed CCLC's submission to the above inquiry. Should you require further information please do not hesitate to contact the writer on (02) 9212 4216.

Yours faithfully,

Agnes Chong
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encl.

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Consumer Credit Legal Centre (NSW) Inc.

submission to

Senate Legal and Constitutional Committee

Inquiry into the Privacy Act 1988 (Cth)

February 2005

Part 1. Introduction

1.1. About Consumer Credit Legal Centre (NSW) Inc.

The Consumer Credit Legal Centre (NSW) Inc ('CCLC') is a community legal centre specialising in financial services, particularly matters and policy issues related to consumer credit, banking and debt recovery. It is the only such Centre in NSW, and it has a particular focus on issues that affect low income and disadvantaged consumers.

CCLC provides free legal advice and assistance to consumers concerning banking, credit, debt and related matters. We also educate consumers about their rights and obligations in the field, and seek to identify and recommend changes to areas of law that we see as requiring improvement.

1.2. About this submission

CCLC welcomes the opportunity to make submissions to the Senate Committee Legal and Constitutional into the *Privacy Act* 1988 ('the Act'). We note that CCLC recently made a submission to the Office of the Federal Privacy Commissioner's Review of the private sector provisions of the *Privacy Act* 1988.

We have had the benefit of reading the draft submission of the Australian Privacy Foundation and we fully endorse their submission. We have made additional submissions in relation to credit reporting and the complaints-handling capabilities by the OFPC which are not covered in the APF submission.

In our previous submission to the OFPC Review of the private sector provisions of the Act, we were gravely concerned that the credit reporting provisions of the Act (Part IIIA) were not being specifically reviewed, even though CCLC and other consumer groups have long lobbied for their review. We are pleased that the wider scope of the present Inquiry will allow us to make recommendations for reform that may improve the current credit reporting regime, especially in light of the media attention that has been directed to this issue in recent weeks.

We address Terms of Reference (a) the overall effectiveness and appropriateness of the *Privacy Act* 1988, with particular reference to Part IIIA of the Act, and (c), the resourcing of the Office of the Federal Privacy Commissioner and whether current levels of funding and the powers available to the Federal Privacy Commissioner enable her to properly fulfill her mandate.

We also make the additional point that generally, opt-in is the preferred option for consenting to be contacted for direct marketing purposes. This should apply equally to charities and their fundraising efforts. We submit that it does not seem to be in the interest of charities to contact people who do not wish to be contacted. Certainly, public opinion is clearly focused on stopping unwanted calls at home regardless of source.

CCLC regularly assists clients and callers about credit reporting. We have also assisted a number of consumers in rectifying misleading or inaccurate information on their credit report, such that we have detailed knowledge of the processes and frustrations involved. In 2003 we assisted Consumer Credit Legal Service (Vic) in making a joint submission to the Privacy Commissioner about the wide range of non-credit providers that have access to the credit reporting system and the consequences of the ruling that permits this situation to continue. We believe that we are in a position to provide valuable insight into this area.

Part 2. Term of Reference (a)

The overall effectiveness and appropriateness of the *Privacy Act* 1988 as a means by which to protect the privacy of Australians

In our view, the credit reporting system as regulated by Part IIIA of the Act, the Credit Reporting Code of Conduct, and the National Privacy Principles, presents many unique problems which need to be addressed. While the above regulations provide some safeguards, consumers do not enjoy their full benefit because industry players may follow the letter (at best) but not the spirit of the law. Many credit providers who use the system do not do so responsibly, and there is little incentive for them to do so. We believe many other systemic problems are not identified or remedied.

We further submit that the OFPC is not an effective regulator of the credit reporting regime. Further, while the OFPC may conduct audits of credit reporting agencies to determine if there are any systemic breaches of the *Privacy Act* or the Code of Conduct, and have in fact done so in the past, the OFPC is no longer able to do so due to their work load and reduced resources since the introduction of the private sector provisions.

In our casework and advice experience, the problems in relation to credit reporting can be summarised as follows:

- Inaccuracies occur easily but are difficult to correct;

credit reporting system, the report shows that another common problem with respect to credit reporting is that debtors are often threatened with having a default listed, or actually having a default listed, as a collection tool, including as a means of locating the debtor.

CCLC also contends that the current complaints handling system is so ineffective that it in fact compounds the problems listed above. Some of the problems in relation to the complaints system are as follows:

- Lack of accessible, fair and effective dispute resolution;
- Lack of response by credit reporting agency Baycorp Advantage Ltd ('Baycorp') and by the Federal Privacy Commissioner when complaints are raised by consumer advocates in relation to possible systemic issues;
- Lack of transparency of Baycorp of the Federal Privacy Commissioner in relation to policies relating to credit reporting procedures;
- Complaints confusion, where it is unclear who has responsibility to resolve complaints. Unless the matter is resolved by Baycorp, Baycorp refers consumers to the Federal Privacy Commissioner (as required by the Act), but the FPC refers to the credit provider; and
- Length of time taken for FPC to resolve complaints.

Taken as a whole, CCLC submits that the legislative regime is not effective in dealing with these problems. We now discuss these problems in more detail with reference to the relevant sections of Part IIIA.

2.1. Inaccuracies occur easily but are difficult to correct

Section 18G of the Act specifies that a credit reporting agency must take reasonable steps to ensure that personal information in a credit report is accurate, up-to-date, complete and not misleading[1]. However, CCLC's experience is that there is not sufficient incentive for credit providers to take these steps.

Currently, credit reporting operates on the "honour system". That is, Baycorp accepts a default listing from a credit provider and records the listing on the consumer's credit report without checking the accuracy of the listing by viewing relevant documentation. As a result, the accuracy of credit reporting information is heavily reliant on the systems in place by the credit provider to ensure the accuracy of the information listed.

There are at least 2 cases of which we are aware where Baycorp have found that the listings made by certain credit providers were highly inaccurate and accordingly banned those credit providers from accessing the credit reporting system. Those credit providers are One.Tel and First Netcom Holdings Pty Ltd. In August 2004, 65,000 default listings by One.Tel were removed for being potentially inaccurate because the company did not have proper systems in place to update customer credit default listings once a debt had been paid. This indicates that systemic and one-off inaccurate listings from credit providers do occur, and it also begs the question as to whether

[1] Section 18G(a).

appropriate and adequate audits and systems are in place to ensure data quality of credit report listings. Given both the One.Tel and First Netcom listing inaccuracies were in place for some years before detection, it indicates a much deeper problem with the way that the system functions and leaves the possibility of widespread inaccuracies wide open.

In 2004, CHOICE magazine[2] conducted a survey that found that credit reports had an error rate of over 30%. A clear majority of these (over 80%) were mistakes in relation to personal details, such as wrong licence numbers, mispelt names, employment details or street names, wrong dates of birth, addresses recorded they had not lived at.

A short time later, 60 people contacted CCLC in the context of a survey in relation to debt collection to express their dissatisfaction with the credit reporting system. Of those 60 callers, 29 stated that their credit reports contained inaccuracies, and a further 23 contended their report was accurate but unfair in the circumstances. In attempting to get the inaccurate or incorrect listing removed, only 6 had made a complaint to the Federal Privacy Commissioner, and of those, there was only 1 instance where the incorrect listing was removed.

In a different survey conducted by CCLC in the course of research for our Debt Collection Report, 22% of the respondents to the online survey had a default listing for a debt they denied. Respondents to the telephone survey also reported inaccurate listings[3].

Case Study A

Mr X was contacted by a bank for a credit card debt. He denied the debt as his signature had been forged. It took 4 years for the bank to start an investigation into the matter. A default listing was still made on his credit report after he had clearly said that his signature had been forged.

Case Study B

A caller to our survey had a default listing on his credit report, but he believed he did not owe the debt. However, Baycorp insisted it was accurate. He paid it so that he could get his listing marked as paid so he could get a loan.

Case Study C

A NSW caller had default listings from Telstra even though he never had any dealings with them, and 3 inquiry listings from lenders he had never dealt with.

[2] See "Reporting on the credit reporters", *Consuming Interest*, Autumn 2004, p. 6.
[3] A full account of the survey results is included in Chapter 10 Of the *Report into Debt Collection*, April 2004, available from http://www.cclcnsw.org.au.

Case Study D

Mr D obtained a credit card from the well known department store David Jones. The card was not used for several years. On one occasion Mr D tried to use his card and was told that the card had expired through a lack of use. No money was owed.

Later that year he applied for a loan to build an extension to his house. The loan was rejected as his credit report had a default listing from the David Jones credit card. Knowing this to be untrue, as the card had expired and no money was owing on the card, Mr D called David Jones. He was told that he had to pay the amount owing. Only by doing this could he remove the default listing on his credit report and have his loan approved.

Mr D was put under considerable stress to make a payment. Desperate for money he paid David Jones the amount owing, even though he adamantly believed that he did not owe David Jones any money and had not defaulted on any payments. The default listing was removed from his credit report and his loan was approved.

Subsequently David Jones contacted Mr D and informed him that they had made a mistake. They refunded the money that he had paid and gave him a fifty dollar gift voucher as consolation.

Unfortunately, these instances of inaccurate credit reports occur all too often. Incorrect or inaccurate listings can have a real detrimental effect on consumers, who may find it extremely difficult to obtain credit for the duration of the listing. Further, there is also the possibility that these errors and the lack of system in place to prevent them will affect other innocent consumers due to the risks of mismatching.

We submit that the high rate of errors needs to be addressed, and that there needs to be a further obligation on the part of a credit reporting agency to ensure accuracy.

2.2. Difficulty in removing inaccurate listings

Despite the requirement that information on a person's credit report be accurate, at present there is no effective or adequate procedures in place to ensure that this is the case.

Section 18J(1) of the Act places an obligation on the credit reporting agency to take reasonable steps to make appropriate corrections, deletions and additions to ensure that the personal information contained in the report is accurate, up-to-date, complete and not misleading. However, section 18J(2) immediately follows which provides for the inclusion of a statement on the report in circumstances where the credit reporting agency "does not amend" the information. This poor drafting effectively provides no incentive for the credit reporting agency to comply with the requirement of ensuring that the credit report is accurate. In practice, all that the credit reporting agency is required to do under this section is to include a statement of the amendment

sought and to notify people nominated by the individual of the amendment made, if any, or the statement of the amendment sought.

In many such instances, we submit that the consumer is left in a very vulnerable position. The only recourse for the individual is to make a complaint to the Privacy Commissioner. It will take six *or more* months for the complaint to be heard and in the meantime the individual is unable to access credit.

As documented in the *Report into Debt Collection*, some debt collectors use the threat of listing as a collection tool. In some instances, a default may be listed on a person's credit report despite the fact that they have disputed and are in fact still disputing liability for the debt. This often has the effect of coercing the consumer to pay off the debt even though s/he is not liable for it in order to have the listing removed or marked as 'paid' so that s/he can then apply for credit.

In the CCLC's view, a creditor or debt collector should not be able to list a debt when the alleged debtor has denied liability for the debt until liability is ascertained. If the disputed debt has already been listed as a default or a 'serious credit infringement' the creditor or debt collector should be obliged to remove the listing pending the outcome of an investigation by the OFPC.

Case Study E

A caller had a default listed by Vodaphone even though there was never any default. The person rang Baycorp when he found out about the default and told them he had paid. He was asked to prove it, but he didn't have the records because it was 4 years ago. When Vodaphone checked their computer records, they discovered within 15 minutes that it had indeed been a mistake. They apologised and said they would remove the listing. Because of the default listing, the person's applications for credit, including credit card, personal and car loans, were rejected. Now because he made these 6 or 7 applications which were rejected, they have now become enquiries on the report which has made it even harder for him to get credit. He had to ask his father to borrow money for him.

Case Study F

The caller moved out of a house and cancelled the phone bill but the next occupant used the same account and made $1500 worth of calls. The caller disputed the bill. He complained to the creditor but nothing was done. His application was rejected when he applied to Energy Australia for an electricity account.

Case Study G

A caller was listed as a clearout for a $300 debt, which had blown out to $750, including fees. The creditor settled for $530, which has been paid by the caller, but the creditor has refused to lift the listing.

CCLC submits that the current legislative regime provides no protection whatsoever in these circumstances. We reiterate our submission above that there needs to be adequate systems in place to ensure data quality, which must also include effective procedures for the removal of incorrect listings. At the very least, we submit that where a debt is in dispute, no listing should be made until the credit provider provides sufficient proof of the debt.

Recommendation

- The creditor should not be able to list a debt (and must remove an existing listing) when the alleged debtor has denied liability for the debt until liability is ascertained

- Section 18R should be amended such that a civil penalty is imposed on a credit reporting agency or credit provider that gives to any other person a credit report containing false or misleading information whether intentionally or otherwise.

2.3. Permitted contents of credit information files - Section 18E

Section 18E prohibits the inclusion of personal information in a person's credit information file except for a list of permitted contents as enumerated in s 18E(1). Permitted contents include inquiries by credit providers and the amount of credit sought in the application[4]; current credit providers[5]; credit that is at least 60 days overdue and the credit provider has taken steps to recover the amount[6]; court judgments[7] and bankruptcy orders[8] made against the person; and the opinion of a credit provider that the individual has committed a serious credit infringement[9].

Section 18E(8)(c) provides that a credit provider is not to give to a credit reporting agency personal information relation to an individual if they did not, at the time of, or before, acquiring the information, inform the individual that the information might be disclosed to a credit reporting agency.

2.3.1. Old and small debts should not be listed

The Credit Reporting Code of Conduct imposes an additional requirement that statute barred debts cannot be listed[10]. However, it is permissible to list a debt a few months, weeks or even days before it becomes statute barred. The effect of this is to extend the

[4] Section 18E(1)(b)(i).
[5] Section 18E(1)(b)(v).
[6] Section 18E(1)(b)(vi).
[7] Section 18E(1)(b)(viii).
[8] Section 18E(1)(b)(ix).
[9] Section 18E(1)(b)(x).
[10] Credit Reporting Code of Conduct 2.8.

adverse consequences of the default nearly five (or seven in the case of a listing for a 'serious credit infringement') years beyond the limitation period. This is inconsistent with the policy prohibiting the listing of statute barred debts and should not be allowed. In CCLC's view the creditor should not be allowed to list a default later than one year after the issue of the default notice. Similarly, small debts should not be listed. The consequences of listing a debt for $100 or $200 or even $500 far outweighs the misdemeanour. Many small debts are telecommunications debts and appear to be related to problems with billings systems, billing errors and change of address problems. Small, possibly disputed debts are unlikely to be relevant to a risk assessment for future credit. The main concern is that businesses who are *not* credit providers in accordance with an accepted definition (like telcos and utilities) have access to the system due to Determination No. 1.

Recommendation

- The creditor should not be allowed to list a default later than one year after the issue of the default notice.
- The creditor should not be allowed to list a default below a minimum amount ($500).
- Determination No. 1 should be revoked.

2.3.2. Inquiries

In our advice and casework experience, it is becoming increasingly common for a person's application for credit to be rejected solely on the basis on the number of inquiries on the person's credit report, despite there being no default listings. Worse, it is arguable that consumers are being penalised for shopping around. The current regulatory regime that allows for inquiries to be listed on a credit report in fact can have adverse consequences on a prudent consumer, as the next case study shows.

Case Study H

The caller's credit report was not wrong but it was misleading because there were too many inquiries leading to rejection. The caller had a number of inquiries but some were the result of shopping around. For example, she had 3 inquiries for a car purchase as co-borrower for her daughter. Another instance, she had two entries for the same car loan because the dealer messed up the contract and had to do enter another one. She had several phone inquiries because she was very canny with money and liked to switch providers regularly to catch the best deals. She used to have 2 Myers cards with a cumulative $10,000.00 limit and never defaulted, but when she applied for a Myers card to buy a fridge she was rejected because of too many inquiries on her credit report.

Case Study I

The caller had an incorrect inquiry listing on her report. There were also two addresses on there that she could not remove. There was an inquiry listing for when she just made an inquiry about a car, she only showed them the drivers' licence but never applied in writing, but it still appeared on her credit report.

We contend that the listing of inquiries on credit reports is completely ambiguous and misleading for credit providers in relation to the assessment of credit.

Recommendation

- We recommend that not all inquiries should be listed. If a consumer notifies the credit provider that they are merely shopping around, the inquiry should not be listed until the loan is actually taken. Rejected inquiries should not be listed.

2.3.3. Full File Credit Reporting

It has been said that Australia's credit reporting system of using only the data as permitted by section 18E, or 'negative' data, is more restrictive than most of the developed world[11]. In recent weeks, much attention has been directed towards the issue of credit reporting and the push by some sectors towards "positive credit reporting" or "full file reporting". This is likely to involve the permission of further information to be listed on a person's report, including current credit providers. CCLC has grave concerns about the likely impact of any such move, including the increased access by lenders to more information on borrowers and the associated privacy concerns.

Some finance industry players argue that the current system is inadequate and that it contributes to increasing over-indebtedness. They contend that:

- Industry lending practices have little to do with consumer debt overcommitment;
- Consumer debt overcommitment can be significantly addressed by:
  - Improving consumer financial literacy; and
  - Allowing lenders to access more personal credit information; and
- The sector wants access to more personal credit information so that it can reduce debt overcommitment.

Their apparent concern for high levels of consumer debt is disingenuous to say the least. In addition, they have released a number of 'studies' promoting positive credit reporting to supposedly 'address the problem of credit defaults or consumer overindebtedness'. We have seen evidence of self-serving industry responses to these issues in the past, such as a report published by Visa[12]. Mastercard has also published research that was used to exaggerate claims that extending the credit reporting system would reduce defaults (only one of a number of likely scenarios according to the

[11] Cornell, A. "Balancing the needs of privacy and protection", *The Australian Financial Review*, Monday 21 February 2005, p. 57.

[12] See the consumer response to such a report at http://www.consumersfederation.com/documents/ResponsetoClaimsmadebyVisa_000.pdf

sourced research) and playing down the impact that "positive" credit reporting could have on increasing consumer debt. We are aware of the establishment of two industry forums, or coalitions, raising "concerns" about consumer overcommitment and issues, while promoting "positive credit reporting" and financial literacy as a way of reducing consumer defaults.

More recently, Dun and Bradstreet released a Briefing Note arguing that the present "negative credit reporting is not meeting the needs of consumers, credit providers and ultimately, the Australian economy". These studies purport to justify the move towards positive credit reporting, but none of these studies present a consumer viewpoint. Moreoever, this and other self-serving industry reports promote a distorted and misleading view about the causes of consumer financial problems.

The Barron and Staten (2000) report[13] is often cited as putting the case forward for a comprehensive US-style system to be introduced in Australia, emphasising the finding that it is likely to lower default rates. However, CCLC submits that this is in fact a misrepresentation of the findings of the research, which also shows that the likely impact of more comprehensive credit reporting is a 'dramatic penetration of lending into lower socio-economic groups, making a variety of consumer loans available across the income spectrum", as well as a "reduction in loan losses that would have accompanied such market penetration in the past"[14].

As Carolyn Bond, Chair of the Consumers Federation of Australia stated in a recent press release[15], "Rather than use the information to lend more prudently, lenders tend to increase lending significantly, and while the default *rate* might not increase, the *number* of defaults will."

Further, we submit that comparisons with only the US system to justify positive credit reporting are misleading in itself. In order to properly evaluate the effectiveness of the present regime, we submit that a more independent global comparison needs to be considered.

The European Credit Research Institute (ECRI) is a non-profit international association in Brussels which principal goal is to promote the study of the various aspects of the retail financial services sector at the European Union level. In 2002, ECRI released a report that decisively shows that there is no correlation between the use of a positive credit reporting system and reduced levels of over-indebtedness. After examining the different approaches taken to protect private data in the EU and the US and the particular issues arising in the field of credit bureaus, it concludes that,

> **"The evidence found in European and US markets does not support the argument that there is a relationship between positive registries and lower levels of indebtedness. We observe that countries with positive credit registries, such as the UK, the US, Germany and the Netherlands, also have a high level of indebtedness, whereas Italy and Spain, which also operates positive registries,**

[13] Barron, J., Staten, M. "The Value of Comprehensive Credit Reports: Lessons from the US Experience".
[14] Barron, J., Staten, M. "The Value of Comprehensive Credit Reports: Lessons from the US Experience", p. 28.
[15] Consumers Federation of Australia Press Release, Wednesday 16 February 2005.

rank at the lower end of the table. On the other hand, France and Belgium, which only permit the operation of negative registries, have also kept low levels of indebtedness. Moreover, one must bear in mind that so far, no relationship can be established between indebtedness and over-indebtedness in light of existing statistical data."[16]

Further, the ECRI research report confirms what consumer groups have been advocating for many years, and that is, that access to positive information will more likely tempt some credit institutions to use predatory practices and might exceed acceptable limits in granting credit to 'good payers'[17], and further, that "since credit bureaus are based on reciprocity, stored data will be available to all those inputting data into the registry, which, in the case of positive data, represents a sizeable number of organisations. This, in turn, gives rise to further concerns about privacy"[18].

In the Australian context, there are a number of reasons why full-file credit reporting should not be introduced. CCLC is of the view that there is presently considerable information available to credit providers that they do not use. Our casework experience suggests that credit providers are not using information they already have to hand in risk assessment. In relation to credit cards in particular the following occurs with disturbing regularity:

- Borrowers are given credit limit increases to enable them to borrow amounts that, on the basis of the income stated on their original application form, they clearly can not afford. No attempt is made to determine whether that income has increased. Further, in many cases such application forms clearly state that the borrower is an aged pensioner or a disability support pensioner, making an increase in income highly unlikely.
- Borrowers are given credit limit increases when they are in default on other accounts with the same lender.
- Borrowers are given credit limit increases when they have struggled to meet even the minimum payment on their existing account and this is apparent from even a cursory examination of their account statements.
- Borrowers are granted credit card accounts when they already have multiple cards (or other loans) with the same lender, and the application form does not ask about whether or not they have other cards or accounts and their respective credit limits.
- The lender is also able to check the borrower's other current credit providers, which are listed under the current reporting system.

Further, borrowers usually sign consents as part of their credit application that would readily allow credit providers to make other inquiries to ascertain credit worthiness. These consents are rarely used.

The failure of credit providers to lend appropriately based on the information they have is reason why reform is required in relation to lending practices generally.

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[16] Riestra, A. "Credit Bureaus in Today's Credit Markets", European Credit Research Institute, Brussells, 2002, at page 22.
[17] Riestra, p. 23.
[18] Riestra, p. 23

Lastly, positive or full credit reporting is fraught with privacy and security risks. While in theory access to a one-stop source of information for credit providers in assessing credit risk may sound like a good idea, in practice this means that a large database of information about millions of people is maintained by one or more third parties. If the current system is used as a model, these third parties are private sector, profit motivated businesses that effectively sell this information (or access to it) with no particular accountability to the consumers affected by their actions. The addition of more information on this system (potentially a manifold increase in the amount of data) carries with it a number of serious risks:

- the errors that occur in the current system will increase in proportion to the amount of data, magnifying the above effects;
- this data would be potentially very valuable and the temptation to sell it for marketing and other unauthorised purpose could be difficult to resist (if only by unscrupulous employees);
- this concentration of electronically stored data could also be the target of identity fraudsters and other people with illegal intent.

There are a number of problems with the accuracy and integrity of the current credit reporting system. Any attempt to extend the system would magnify those problems. Consumer privacy is essential and the integrity of the existing credit reporting system must not be in doubt before considering any proposal to extend that system. Further, there must be a sound justification for attempting such extension and we do not believe any such justification has been made out to date.

2.4. Use and Disclosure

Section 18E(8)(c) requires that a credit provider must not give to a credit reporting agency personal information relating to an individual if the credit provider did not, at the time of, or before, acquiring the information, inform the individual that the information might be disclosed to a credit reporting agency.

CCLC submits that the problem is that the consent is bundled into a group of other (sometimes unrelated) consents in a loan application form. This is also a view held by the former Federal Privacy Commissioner Malcolm Crompton as stated in a press release on 23 May 2002.

CCLC considers that the bundled consent issue has *not* been addressed by industry. All the standard loan application forms from major banks use bundled consent. We enclose a sample example privacy statement from St George Bank (see Attachment A). We are dismally surprised at the extent to which the statement is unreadable. Notice the small font, the blurred ink, the unevenness of the spaces between each word, and worst still, between the letters. We are also appalled at the lack of headings, the lack of any formatting, the lack of bullet points for listing multiple items, and the lack of paragraphs for easy reading. It is almost designed not to invite consumers to read it.

It is clear that industry is reluctant to address this issue and this issue is in need of urgent review to specifically include a principle forcing the unbundling of consents in

relation to personal information. We would further add that any principle would require clear disclosure to the individual of their rights in relation to the separate consents.

In the case of a bundled consent, where an organisation typically seeks a blanket sign off to use personal information for multiple purposes, the reality is in many cases: no sign-off, no product/service. In other words, there is a complete absence of choice, let alone informed consent, on the part of the individual.

Further, we are in agreement with the views put forward by Electronic Frontiers Australia Inc in their submission to OFPC Review of the private sector provisions that 'bundled consent' obtained does not constitute proper consent to use and/or disclose the information for secondary purposes. They state that "Individuals cannot give free and informed consent when they are presented only with broad and/or vague statements concerning possible uses and disclosures, and/or told that services will not be provided if they do not "consent" to the bundle. However, as we see no purpose in using bundles unless the organisation is assuming these result in valid consent, it would appear individuals' personal information is being used and disclosed for purposes for which they did not consent and would not reasonably expect (i.e. in breach of NPP 2.1(a))."

Some organisations utilising such an approach will no doubt argue justification in the interests of business efficiency. However, among the less ethical operators, there may be multiple reasons for seeking an all-encompassing privacy sign-off. In some cases, the motivation is to derive revenue from secondary use of personal data. In the case of some fringe lenders, a bundled consent may support a broader range of options for pursuing a defaulting debtor.

Case Study J

The caller contacted One.Tel to ask if he could use their Internet service without entering into a contract, as he only wanted to use it for a month. The operator talked to the manager and verbally agreed. They later sent out a copy of the contract which did not mention anything they talked about on the phone. He didn't sign it but he sent it back. He stopped using the Internet service after more than 1 month, but they kept on chasing him for money. They could not produce a copy of a signed contract, as he didn't sign anything. When he applied for a car loan, he was rejected for credit.

It is clear that the individual is frequently faced, in contracting for goods or services, with privacy statements that are at best confusing, due either to their verbosity or convoluted terminology, or at worst designed to diminish the individual's ability to protect his or her personal information from misuse. The legislative intent must be strengthened by imposing unequivocal requirements on organisations offering goods and services. Firstly, standards should be mandated for the presentation of privacy clauses relating to positioning in document, type size, line spacing and maximum number of words. Plain English should, of course, be encouraged. Secondly, the wording related to the primary use of collected data must be physically separated from statements relating to the secondary use of data. Thirdly, the individual must be explicitly required to "opt-in" to the use of personal information for each individual non-primary use of personal information that is contemplated by the contract,

although is some cases we contend that some secondary uses can be mandatory, e.g. insurance claims investigation, that notice and acknowledgement may be sufficient. Fourthly, any attempt by an organisation to make delivery of a product or service dependent on an individual's consent to use of data for non-primary purposes should be re-examined.

It will be important to ensure that internet applicants are equally protected alongside users of more traditional channels. Implementation of the above requirements for electronic commerce may need specific design focus to ensure maximum effectiveness.

2.5. Timing of disclosure

CCLC submits that a person must be notified at the time of listing. At present, the only notification provision is section 18M of the Act, which requires a credit provider to provide written notice to a person whose credit application has been refused, citing, among other things, that the refusal was based wholly or partly on information derived from a credit report relating to that person.

We contend that this is insufficient in view of the principle that every individual has the right to know what information is being held about them. We further argue that to provide notification of a listing only after the consumer has been adversely affected by the listing (i.e., after being refused for an application for credit) is against the principles of natural justice.

CCLC considers the timing of disclosure as being a critical issue. It is absolutely essential that disclosure occurs at the relevant time that information is to be disclosed. This is also the principle underlying NPP 2.1 (b). Currently, this is *not* the case with credit reporting of defaults and clearout listings. Often the individual consents to the listing of the default at the time of the application, which is often *years* before the actual default is listed.

Based on CCLC's casework and advice experience, individuals expect (and this is a reasonable expectation in our view) that s/he will be informed when his/her information is disclosed to a credit reporting agency. We have received calls from individuals that only became aware of a disclosure (for example, a default listing) to a credit reporting agency years after the actual disclosure.

In our February 2004 survey, out of 29 people with inaccurate credit reports, only three people found out about the problem within 3 months of listing; eleven people found out between 3 and 12 months; four people between 2 and 4 years; and other individuals found out about the inaccuracy 4 or 5 years after the original listing. As most people only became aware of the problems when they were rejected for credit, we contend that these numbers will not give a complete picture of how widespread the problem of incorrect listings is as some people may simply not know of the incorrect listings.

A more disturbing problem associated with this is that this means identity fraud also goes unnoticed because of the failure to disclose. CCLC believes that individuals need to know as soon as possible about any identity fraud so that relevant authorities can be informed. Further, in some circumstances undetected identity fraud can actually lead to issues of national security if the identity fraud remains ongoing for some years undetected.

Case Study K

P was contacted out of the blue by a debt collector, X Collection, regarding an alleged debt to a major bank that they had bought. He had never had any dealings with either X Collection or the bank in question, but they insisted that it was his debt, citing that it was the same name and the same date of birth. X Collection listed P as a 'clear-out' on his credit report, but refused to investigate whether or not there might have been any errors, and instead told P to contact the bank directly to request copies of the original credit applications.

We assisted P in his negotiations with the bank, which admitted that they no longer held any documents since it had been 9 years since the account was opened, and agreed to abandon the debt.

However, the process of getting the incorrect listing removed from P's credit reporting was even more difficult. The bank refused to assist because it was X Collection that made the listing, and X Collection took a long time to take steps to correct it. Further, the incorrect 'clear-out' listing would have prevented P from applying for credit successfully.

Case Study L

A former flatmate stole a caller's identity and fraudulently used her details to get a Telstra account and chalked up a debt of $409.00. She complained to Telstra, the debt collector Alliance Factoring, Baycorp, and the Privacy Commissioner, and also the Police. Nothing happened for 18 months at the time of the call, the OFPC even suggested she should just pay the debt.

The above case studies illustrate the ease with which fraud, and in particular identity fraud, can occur and the adverse consequences of that identity fraud. In the current political climate where national security is of such prominence in public debate, it is essential to address issues of identity fraud and privacy and their impact on national security.

In the CCLC's view, when a creditor or debt collector lists a default or a 'serious credit infringement' on a debtor's credit report the listing agency should be obliged to notify the debtor in writing at his or her last known address. In addition, notification of listing will enable a person who believes he or she should not have been listed, for example, because the debt had already been paid, to dispute the listing immediately and not three or four years later when rejected for a credit card or a home loan.

This is especially important because Baycorp and most credit providers put the burden on the consumer to prove that they are innocent, and the burden is often very high, requiring at times 3 or 4 documents for identification. This is particularly difficult where a consumer finds out about an error years after the listing and will not have the necessarily records to prove that they did not owe the debt or that it had been paid already.

The notification of listing should include information about what to do if the recipient wants to dispute the listing. The CCLC acknowledges that the debtor's last known address will not always be his or her current address. Nevertheless, this would enable debtors who receive the information to attempt to address any outstanding issues between the creditor and themselves or to negotiate an outcome. It would certainly reduce the incidence of unexpected and often unexplained default listings on people's credit reports.

Recommendation

- The listing agency should be obliged to notify an alleged debtor that a default or a 'serious credit infringement' has been listed on his or her credit report, within 14 days of listing. It should provide the debtor with information about how to dispute an inaccurate listing at the same time.

2.6. OFPC review of Credit Reporting Code of Conduct

CCLC submits that the Credit Reporting Code of Conduct needs to be reviewed.

Part 3. Term of Reference (c)

The OFPC's approach to handling complaints leaves much to be desired. CCLC's experience is that the complaints handling process is inconsistent, inefficient and lacks transparency. We believe that large numbers of individuals 'drop out' of the system. While some problems are quickly resolved, more complex problems or problems involving less co-operative organisations can be much more difficult to resolve.

In the context of credit reporting, the lack of transparency is particularly evident. In February 2004, 60 people contacted CCLC in the context of a survey in relation to debt collection to express their dissatisfaction with the credit reporting system. Of those 60 callers, 29 alleged that their credit reports contained inaccuracies, and a further 23 contended their report was accurate but unfair in the circumstances. In attempting to get the inaccurate or incorrect listing removed, only 6 had made a complaint to the OFPC, and of those, there was only 1 instance where the incorrect listing was removed. CCLC is concerned that the OFPC is able to investigate only

around 50% of complaints within 60 days, and that sometimes it may even take more than 6 months for a complaint to be even dealt with.

The publicly available guidelines published by Baycorp are very broad. We are often unaware of the internal approach taken by Baycorp in relation to a number of issues. We are therefore unable to identify whether Baycorp (or a credit provider member) has acted outside accepted guidelines, or whether it may need to dispute Baycorp's interpretation of the legislation. This limits our ability to act quickly in relation to consumer complaints. We are also concerned about the lack of information provided to us when we raise issues of what we believe may be a repeated or systemic problem. While our client's problem may be resolved, we are rarely advised whether there has been any response to what might be a broader problem with a particular credit provider. We believe that the OFPC provides advice to Baycorp that goes beyond the advices published by the OFPC, and that consumer advisors should be aware of what that advice is.

In the case of credit reporting, a complaint is required to be made in writing 3 or 4 times, to Baycorp, then the OFPC, then the credit provider, then back to the OFPC. The OFPC requires written proof of complaint to the credit provider before the OFPC would investigate. This requirement to complain in written form three, or possible more times cannot be said to be an effective complaint mechanism.

We believe that a complaints procedure which refers the consumer back to the credit provider is unworkable. We also believe that under the Act and the Credit Reporting Code of Conduct, it is the credit reporting agency's responsibility to undertake any research and liaise with the relevant member when a credit report is disputed by the consumer.

An issue of even more concern is the lack of procedural fairness in the complaints handling procedure. CCLC is concerned that the OFPC completes partial investigations of matters and then declines to investigate the matter further pursuant to the Act. Consideration of all the evidence and having an appropriate process in place for the OFPC to make a final determination regarding a complaint is essential to ensure procedural fairness.

Case Study M

In or around March 98, C raised with the car yard the issue of a false deposit disclosed on a sales contract. The false deposit allowed the car yard to arrange finance with an unrelated credit provider. A credit provider closely related to the car yard then listed a default for the amount of the false deposit. C made a detailed complaint to the Privacy Commissioner and the Office of Fair Trading ('OFT') in May 98. The Privacy Commissioner initially appeared to investigate the matter on the basis that a debt was owed though no documentary evidence to that effect existed. The Privacy Commissioner asked C to answer a number of questions including whether he had ever been notified by the credit provider that they intended make a listing. This was despite the fact that C's primary complaint was that he had never had any dealings with the credit provider.

The Privacy Commissioner refused to investigate the matter further until the OFT's investigation were finalised, despite the fact that in the interim C's ability to access further credit was severely limited.

In Aug/Sep99, the Privacy Commissioner recommenced investigations when the OFT failed to provide satisfactory compensation to C.

C in the intervening 18 months requested credit on two occasions and on each occasion was refused on the basis of his credit report. In one instant he had the opportunity to refinance his fixed loan contract with an interest rate of 22% to a much lower rate.

The credit provider, despite requests to do so, failed to produce any evidence substantiating the existence of a contract between the parties, the existence of a privacy act authorisation or of any notification to list with the credit report.

Yet despite this the Privacy Commissioner refused to award compensation, but as the credit provider had agreed to provide staff training and remove the default listing the Privacy Commissioner was not willing to take the matter further. 22 months after the initial complaint, this recommendation was made.

C was so disillusioned with the process that he decided not to take the matter further.

Case study N

Mr D was a new immigrant. His English was poor and he cannot read or write English. On 22/3/01 he entered into a contract to buy whitegoods under a loan agreement. Every month he would pay instalments in person to the retailer as he was not aware of any other means of payment.

On July of that year he moved residence from Adelaide to Sydney. He assumed that he would be able to pay using the same method as the retailer had an office in Sydney. He contacted the retailer and enquired the best means of making payment. He was told that he could only pay in cash in person. As he lived in Sydney he could not do this.

On the 14/12/02 the retailer listed Mr D as a "clearout". This is similar to a default but with more serious consequences. It is listed for seven years instead of the five years for a default listing. Further it is used to indicate a fraud or a serious credit infringement. Mr D had committed neither fraud nor given indication of an intent to not pay the loan.

Mr D was contacted by a debt collector and then paid the debt in full when he was told how to do this. A year still remained on the loan contract at the time he paid out the loan in full. The listing of a "clearout" remained on his credit report. The retailer was contacted by CCLC and asked to remove the "clearout" listing as it was inaccurate. The retailer refused and a complaint was sent to the Privacy

Commissioner. However, the Privacy Commissioner dismissed the complaint under s. 41(2)(a) and declined to investigate the matter.

Case Study O

The caller had two files, one in her maiden name and one in her married name. This appeared to be having the effect of getting her rejected for credit, as the mere fact of having used two names seemed to imply she was a fraudster. She complained to Baycorp, a solicitor and the OFPC, who told her it would be a waste of time because there would be a 6 month wait. Nothing was done in the end.

From CCLC's advice and casework experience, the response from the OFPC in Case Study N is a common occurrence. In this respect, many consumers are further frustrated by the process. As illustrated by *X v Commonwealth Agency* [2004] PrivCmrA 4, complaints are often dismissed under s. 41(2)(a) if the Privacy Commissioner is satisfied that the respondent has dealt adequately with the complaint, even if the complainant does not agree. We endorse the position of Professor Graham Greenleaf as espoused in his submission to the Review that in these cases, the Privacy Commissioner should proceed to make a determination under s. 52 of the Act.

In addition, we submit that the introduction of the private sector provisions in the *Privacy Act* has had a direct impact on the complaints handling capabilities of the OFPC. The number of complaints has increased but there has been no substantial increase in funding. It has also meant that the OFPC is no longer able to conduct audits of the public sector.

In February 2004, in answering a question from Senator Ludwig at a hearing of the Senate Legal and Constitutional Legislation Committee, the then Privacy Commissioner Malcolm Crompton said that he was aware of at least 5 pieces of legislation and bills before the Parliament at the time that may have an impact on people's privacy, and that their implementation may result in more complaints to the OFPC[19]. However, in each of the cases, no addition funding to deal with the increase in demand was allocated.

On 5 February 2004, Mr Crompton said in a radio interview with Chris Uhlmann on ABC 666 Canberra that,

> **"What has happened is that we have had a surprising response to the wider private sector privacy law that came into place a couple of years ago where our complaints workload has gone up five-fold – quintupled. Unfortunately we were only funded for a doubling of the complaints workload before that came into place and we haven't been given further funding. What we have had to do instead has been to reallocate resources within the office into the complaints area. Got a lot more people doing work in there, but unfortunately it's not enough to clean up the**

[19] Senate Legal and Constitutional Legislation Committee Office of the Federal Privacy Commissioner, 16 February 2004, Question 29. The five legislation and bills in question were *Higher Education Support Act* 2003, *Migration Legislation Amendment (Identification and Authentication) Act* 2004, *Spam Act* 2003, *Australian Sports Drug Agency Amendment Bill* 2004, and *Privacy Amendment Bill* 2003.

backlog, so much as to try and stop the backlog getting any longer. So we're doing our best but there is a very finite resource restraint unfortunately.

"I'd like to be able to offer a better service than I am able to offer. Up to now for example in the areas that directly affect individuals I have literally had to cancel the audit program that the office is empowered under the law to conduct. That means I am no longer able to audit federal agencies or credited organisations for the way they do their business simply because I haven't got the resources. I have moved them instead into trying to handle the individual complaints that people make, because I think that is the first line that we have to offer to people. But even having done that and reduced resources in other parts of the office unfortunately I haven't been able to reduce the backlog."

The resourcing of the OFPC is essential on a number of fronts. Firstly, more resources need to be available in order to improve the complaints-handling capabilities of the OFPC; secondly, the OFPC must be resourced to undertake all of its duties authorised under the Act including the auditing of the public sector; thirdly, community awareness is difficult to improve without further resources.

We have had the benefit of reading the draft submission of Professor Graham Greenleaf to the OFPC Review of the private sector provisions of the Act and we recommend his specific submission and their reasoning, including:

- The OFPC should publish online a comprehensive manual of its complaint resolution policies and procedures, and keep it up-to-date.

- The OFPC should reform its procedures for reporting privacy complaints as follows, of which the first and second recommendations are by far the most important:

    - *Criteria of seriousness* A set of publicly stated criteria of seriousness on the basis on which a Commissioner's Office decides that a summary of the complaint resolution should be published. The following seven criteria of seriousness are recommended for consideration.

        a. If a complaint involves the exercise of enforcement powers by a Commissioner,(where a Commissioner has such powers) then this is a strong indicator that it is significant, unless it is merely repetitive of many other complaints. If the numbers are small, all such complaints should be reported to avoid any need for selection.
        b. Although a complaint is dismissed because it does not involve a breach of IPPs or an Act (or for another reason), it is still significant if its dismissal involved a new interpretation of the law (or its application in a significant new context). It may also be significant in demonstrating that certain practices of public bodies and companies do not breach privacy laws (which may or may not be controversial).
        c. Although a complaint is settled to the satisfaction of the parties, it is still significant if it involves a new interpretation of the law (or its application in a significant new context). Mediation may involve conditions being imposed on what can be reported, and requirements of anonymity, but is not in itself a reason for non-reporting.
        d. If a case involves a different example or a remedy, or the provision of

a remedy on a scale which is new, it is significant even if no new interpretation of the facts is involved.

e. Even if a complaint involves no new interpretation of law, or no new/greater remedy, repeated examples of very important types of complaints are worthwhile. However, separate but similar complaints should not be bundled together, as this confuses the facts of cases and impedes consistent citation mechanisms.

f. Findings that are contested by one of the parties to the complaint are usually worth reporting, as they may indicate both significant areas of disagreement within the community (and so law reform might be desirable), or areas where the Commissioners' interpretation of the law could be questioned.

g. The criteria of 'seriousness' will change over time, with illustrative complaints being more valuable in the early years of administration of new legislation, even if no significant interpretations or remedies are involved (eg first application in an industry).

- *Adherence to criteria* There should be confirmation in each Annual Report that the criteria for reporting adopted by the OFPC have been adhered to. Statistics on the ratio of published summaries to resolved complaints should also be published.

- *Naming complainants* Complainants should be able to elect to be named in reports, except where this is inconsistent with a mediated settlement.

- *Naming private sector respondents* In relation to private sector respondents, the OFPC does not identify respondents in reported cases. The detailed study suggests four criteria which favour identification and five criteria against identification of private sector respondents (it recommends general identification of public sector respondents). These factors may justify a default position of non-identification, provided it is coupled with a readiness in Commissioners to identify where the interests of the complainant, others who may have been harmed by the conduct, or the public interest, justify identification, and subject to any strong reasons which would make identification unfair in the particular case. This is of course subject to the requirements of the Act.

- *Level of detail* Commissioners need to ensure that their complaint summaries contain sufficient detail for interested parties to obtain a full understanding of the legal issues involved and the essential steps in the Commissioner's reasoning leading to their resolution. In relation to remedies, sufficient of the factual circumstances are needed for the adequacy of the remedy to be understood in relation to the seriousness of effect on the complainant, and to allow comparison with potentially comparable complaints (subject to the privacy interests of the complainant).

- *'One stop' reporting* Privacy Commissioners should report on their own websites at least minimal details of appeals and judicial review of their own decisions, and of other Court and Tribunal decisions concerning the

Acts they administer.

- The OFPC should publish, at least annually, statistics of the remedies obtained where complaints are settled with some remedy being provided to the complainant, including statistics of the numbers of cases in which compensation was paid and the amounts of compensation paid.

- *Rummery and Federal Privacy Commissioner* [2004] AATA 1221 (22 November 2004) should be considered as a warning that all aspects of the Commissioner's practices concerning the awarding or negotiating of compensation may need review, and in particular those practices need to be more transparent so as to be susceptible to external comment, criticism and comparison with awards in comparable jurisdictions (as the AAT attempted to undertake in *Rummery*).

- The lack of merits review of s41 decisions can best be addressed by providing complainants with the rights to insist on a s52 Determination, once there is a right of appeal against s52 Determinations.

We contend that there has been a general failure by the OFPC to recognise the important role of consumer representative groups in the implementation of the regulatory regime. The OFPC should give priority to dealing with systemic concerns raised by consumer representatives, and other third parties including the media, without requiring a specific complaint to be brought, involving major resource effort and delays. Most importantly, this is also a view shared by the Federal Attorney-General, Philip Ruddock. When asked in a radio interview by Chris Uhlmann on ABC Canberra on 11 February 2004if the Privacy Commissioner had enough money to do his job, he replied:

> **"Well question you have to look at is whether or not he is getting an artificially large load of cases because there is a systemic problem. I mean he is claiming there's been a five-fold increase in complaints and that what has happened is that his budget has only been doubled. I mean there has been a substantial increase in resources that the Privacy Commissioner has received, but you have to look at the question, and we wwould do this in a budget context, about whether more resources are appropriate given just that there's an increase in the number of complaints, or whether you'd look behind the complaints and ask yourself whether there's a systemic problem that needs to be addressed."**

Further, in CCLC's experience there is no culture of compliance and there is no incentive for respondents to complaints to correct systemic flaws. In most cases, the worst outcome for a respondent is that they must amend the records. With respect to credit reporting, the cost of dealing with a small number of complaints is apparently less than the cost of ensuring the data is accurate in the first place.

As outlined above, there is a lack of information provided to us when we raise repeated or systemic problems. While the specific complainant's problem may be resolved, we are rarely informed whether there has been any response to what might be a broader problem with a particular respondent. We understand that the OFPC sometimes provides advice to major respondents that goes beyond anything made

public - consumer advisers should be aware of what that advice is.

We are also strongly of the view that the OFPC audit powers should apply to private sector organisations and compliance with the NPPs.

Attachment 'A'

st.george

Privacy Statement

What this statement is about
Your right to privacy is important to us. This statement explains your privacy rights and our rights and obligations in relation to your personal information.
The Privacy Act regulates the way St.George Bank Limited ("we") uses personal information provided about you. Please read the following information carefully as it sets out how we may use information about you.
CREDIT INFORMATION
What information can be disclosed?
The Privacy Act allows the following information about you to be disclosed:
- Details to identify you – that is, your name, sex, date of birth, current and 2 previous addresses, your current or last known employer, and your driver's licence number
- The fact that you have applied for credit and the amount or that we are a current credit provider to you
- Advice that payments previously notified as unpaid are no longer overdue
- Payments overdue for at least 60 days and for which collection action has started
- Cheques for more than $100 drawn by you which have been dishonoured more than once
in specified circumstances, that in our opinion you have committed a serious credit infringement, and
the fact that credit provided to you by us has been paid or otherwise discharged
Who can give or obtain credit information about you?
We may:
- obtain from a credit reporting agency or other business that provides information about credit worthiness credit reports containing personal or commercial credit information about you
- exchange credit information about you with any credit reporting agency, all credit providers named in this application or that may be named in credit reports issued by a credit reporting agency, any introducer referred to in the loan application, or any agent of ours assisting in processing the loan application
- give credit information about you to any guarantor or proposed guarantor of the loan you have applied for, for the purpose of enabling the guarantor to decide whether to act as a guarantor or to keep informed about the guarantee
- give and receive a banker's opinion for the purposes connected with your business, trade or profession and
confirm:
- your employment and income details from any employer, accountant or tax agent named in this application, or
- your income received on an investment property from any nominated real estate agent.
Motor Vehicle or Driver's Licence Registry
You authorise us to obtain personal information about you from any motor vehicle or driver's licence registry in Australia.
When can information be disclosed?
This information can be disclosed for the various purposes prescribed by the Privacy Act including:
assessing your application for consumer or commercial credit or to be a guarantor for the applicant, or assessing your credit worthiness, and
if you are in default under a credit agreement, notifying, and exchanging information with, other credit providers and any collection agent of ours.
PRIVACY GENERALLY
You need not give us any of the personal information requested in the application form or any other document or communication relating to the loan applied for.
However, without this information, we may not be able to process the application or provide you with an appropriate level of service.
You may request access at any time to personal information held by us about you and ask us to correct it if you believe it is incorrect or out of date.
How we may use your personal information
We use your personal information to:
- assess your financial position
- administer and manage the loan account, and
- facilitate our internal business operations, including - - - fulfilment of any legal requirements and confidential systems maintenance and testing.
Our right to disclose your personal information
We may disclose your personal information if it is necessary to do so in the following circumstances:
- To our external service providers for the purposes only of our business, for example property valuers and surveyors, real estate agents and auctioneers if property is offered as security for your loan, advisors, debt collection agents and mailing houses. Information is only disclosed on a confidential basis.
- To any persons acting on your behalf, including financial advisor, broker, solicitor or accountant, unless you tell us not to
- To other persons who have an interest in any property offered to us security
- To any party acquiring an interest in any business or in the loan and any related securities provided by you or any other person (including mortgages and guarantees)
- To government agencies in connection with your loan, for example to stamp and register mortgages
- To a mortgage insurer which provides lenders' mortgage insurance to us and which may be located outside Australia, and
- If you request us to do so or if you consent (for example for a direct debit or where the law requires or permits us to do so.
Use by the St.George Group
We may also use your personal information or give access to personal information about you to any member of the St.George Group to assess you total liability within St.George Group, analyse products and customer needs and develop new products.
Your authority to us
By signing this application you authorise us to collect, maintain, use and disclose your personal information in the manner set out in this privacy statement.
Declaration
1. The information I have supplied is correct and complete to the best of my knowledge and belief.
2. I have read and understood the Privacy Statement in this form and I consent to the collection, use and disclosure of personal information in accordance with the Privacy Statement. Where I have provided information about another individual (for example, a relative), I declare that the individual has been made aware of that fact and the contents of the Privacy Statement.

[redacted]

Date