



Electronic Frontiers
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Richard Glenn
Assistant Secretary
Business and Information Law Branch
Attorney-General's Department, Canberra

Wednesday 24th April 2013

Dear Mr Glenn,

Re: Exposure Draft Privacy Amendment (Privacy Alerts) Bill

Thank you for providing EFA with the opportunity to review the Exposure Draft Privacy Amendment (Privacy Alerts) Bill. Following are our comments on the issues on which you have requested feedback.

General comments

EFA has long been a supporter of the introduction of regulations requiring notification of data breaches involving private data, is therefore appreciative of the work undertaken by the Department to draft this proposed bill and looks forward to its introduction to the Parliament.

EFA is itself a very small organisation that handles private data (for a membership that is highly sensitive about the security of that data), and data security is therefore a high priority for the organisation. The additional costs incurred by the organisation in maintaining a high level of data security are not significant and are considered an unavoidable operational cost that would be massively outweighed by the costs to the organisation that would be incurred should any data breach occur. EFA believes that all other organisations should similarly approach the issue of security of any private data they handle as a core, priority consideration and an unavoidable operational cost.

Specific questions

(1) What is likely to be the 'paper burden' or administrative costs (quantified if possible) to private sector organisations under the mandatory scheme in the Exposure Draft Bill? In particular, what will be the burden for entities that:

- a. Have existing systems in place to comply to make notifications (where necessary) consistent with the existing voluntary Data Breach Notification Guide of the Office of the Australian Information Commissioner?, and*
- b. Have no systems in place and may have 'start up' costs?*

EFA comments

The additional burden of compliance for a mandatory scheme for organisations that have existing systems in place (as described in a. above) would be minimal.

The burden of compliance for organisations without existing systems would be more significant, primarily concerning the establishment of internal procedures and training staff, however the costs involved are likely to be mostly one-off and EFA believes such costs should be considered a normal business overhead for any organisation handling private data.



In both cases, communication to customers, members or stakeholders is a routine operational practice for which most organisations will have existing systems in place, and the additional expense involved with sending a notification about a data breach should therefore not be significant. To the extent that there is an additional cost involved, this should act as an incentive for organisations to prioritise data security more highly than they may at present.

(2) In your view, will particular industry sectors incur costs disproportionately under the scheme in the Exposure Draft Bill than other regulated entities under the Privacy Act 1988?

EFA does not believe that any particular industry sectors will incur disproportionate costs under the proposed scheme.

(3) Will the scheme in the Exposure Draft Bill result in any restrictions on competition?

Though the impact of any new regulation will be more significant on smaller organisations, EFA believes that data security and compliance with the proposed scheme should be considered as a normal operational cost, in line with other regulations that all organisations must comply with, such as other privacy regulations, workplace safety regulations, etc.

EFA therefore does not believe that the proposed scheme will result in any material restrictions on competition.

(4) Will the costs impact on private sector organisations be different if the commencement of the mandatory scheme in the Exposure Draft Bill was delayed beyond 12 March 2014 (ie beyond the date that the key measures in the Privacy Amendment (Enhancing Privacy Protection) Act 2012 commence).

EFA believes that the costs for the private sector associated with the implementation of the proposed scheme may be higher if the commencement is delayed beyond March 2014, as there are potential efficiencies to be gained for organisations in dealing with both sets of regulations concurrently.

About EFA

Established in January 1994, Electronic Frontiers Australia, Inc. (EFA) is a national, membership-based non-profit organisation representing Internet users concerned with on-line freedoms and rights.

EFA is independent of government and commerce, and is funded by membership subscriptions and donations from individuals and organisations with an altruistic interest in promoting online civil liberties. EFA members and supporters come from all parts of Australia and from diverse backgrounds.

Our major objectives are to protect and promote the civil liberties of users of electronic communications systems (such as the Internet) and of those affected by their use and to educate the community at large about the social, political and civil liberties issues involved in the use of electronic communications systems.

Thank you again for providing EFA with this opportunity to provide input to the legislative process. We look forward to the prompt introduction of this bill to the Parliament.

Yours sincerely,

Jon Lawrence
Executive Officer