



**Australian
Privacy
Foundation**

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Consultation Paper: International money transfers Public Interest Determination applications

This submission from the Australian Privacy Foundation (the Foundation) responds to the OAIC Consultation Paper: International money transfers Public Interest Determination applications.

In principle and subject to our further comments below the Foundation does not have any objection to the remaking of all three public interest determinations.

Public interest

The Foundation agrees that there is a public interest in ensuring that people can make International Money Transfers (IMTs). The Foundation concurs with the reasons set out to support the public interest in the Consultation Paper.

Agreements and protections should be put in place

The Consultation Paper notes that ANZ argued that there is no incentive for other financial institutions to agree to privacy safeguards because those overseas financial institutions are operating under their own privacy regime (page 10). This is an oversimplified explanation to avoid working towards a permanent solution to ensure compliance with the Australian Privacy Principles (APPs). This type of

exemption should not be a long-term solution for this issue. The APPs require consent for a reason and that is to ensure people have control over their personal information.

We are not suggesting there is time between now and February 2020 to find a solution. However, there can and should be an objective embedded into the determination to resolve the compliance issues. This could include:

- Making agreements where possible for commonly used IMTs with large financial institutions; and/or
- The OAIC working with other privacy regulators to make standards for IMTs.

There is currently a proposal to review the privacy laws in Australia following work by the ACCC on Digital Platforms. This review should be used as an opportunity to embed detailed protections for people using IMTs. This would negate the need for further PIDs.

The draft public interest determinations

Under point 9 of the ANZ PID it states at 9(1)(c) that:

ANZ takes a number of steps to ensure the security and confidentiality of the personal information.

The PID does not set out what steps these are and nor does the Consultation Paper. If there are further steps to be taken then these need to be set out in the PID. We find it incredible that the OAIC has not set out this relevant information. In any event, those steps should be set out in detail in the PIDs.

The Foundation continues to advocate that a key way to manage harm and to give effective control of personal information is to delete (not deidentify) personal information that is no longer in use or needed. For an IMT a key privacy protection would be to organise deletion of any personal information as soon as it is no longer needed. The PID should specifically provide for a mechanism to delete information where there was no consent obtained.

Accountability

ANZ, other ADIs and the reserve Bank should remain accountable for the handling of the beneficiary's personal information by the overseas financial institution. There are two reasons:

1. This would be consistent with obligations in handling personal information under the Privacy Act; and
2. As outlined above, provides a clear incentive to get agreements and other measures in place to ensure compliance.

If you have any questions please do not hesitate to contact Kat Lane.

Yours sincerely,



Kat Lane,

Vice-Chair

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About the Australian Privacy Foundation

The Australian Privacy Foundation (Foundation) is the primary national association dedicated to protecting the privacy rights of Australians. The Foundation aims to focus public attention on emerging issues that pose a threat to the freedom and privacy of Australians. The Foundation has led the fight to defend the right of individuals to control their personal information and to be free of excessive intrusions. The Foundation's primary activity is analysis of the privacy impact of systems and proposals for new systems.

The Foundation makes frequent submissions to parliamentary committees and government agencies. It publishes information on privacy laws and privacy issues. It provides continual background briefings to the media on privacy-related matters. Where possible, the Foundation cooperates with and supports privacy oversight agencies, but it is entirely independent of the agencies that administer privacy legislation, and regrettably often finds it necessary to be critical of their performance. When necessary, the Foundation conducts campaigns for or against specific proposals. It works with civil liberties councils, consumer organisations, professional associations and other community groups as appropriate to the circumstances. The Privacy Foundation is also an active participant in Privacy International, the world-wide privacy protection network.