



INTERNET ASSOCIATION OF AUSTRALIA LTD
ABN 71 817 988 968
ACN 168 405 098
PO Box 8700
Perth Business Centre WA 6849
Phone: 1300 653 132

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To: Australian Retail Credit Association

By email: crcode@arca.asn.au

RE: Variations to the Privacy (Credit Reporting) Code 2014

The Internet Association of Australia (**IAA**) thanks the Australian Retail Credit Association (**ACRA**) for the opportunity to submit IAA's perspective on the proposed variations to the *Privacy (Credit Reporting) Code 2014 (Current CR Code)* for the development of the *Privacy (Credit Reporting) Code 2024 (New CR Code)*.

IAA is a member-based association representing Australia's Internet community. Our membership comprises largely of small to medium-sized Internet Service Providers. We understand that many of our members fit the definition of a 'credit provider' for the purposes of the *Privacy Act 1988 (Cth) (the Act)* and are, therefore, subject to the Current CR Code and would continue to be subject to the New CR Code upon its implementation.

This submission is primarily in representation of these members, and the broader telecommunications industry. Accordingly, it focuses on proposals of particular relevance to our members.

PROPOSAL 6

Would there be a better way to draft these definitions? If so, what approach would be better?

Do you agree with the substance of the definitions? Are there situations where a different definition would be more appropriate?

We appreciate the intention behind this proposal to clarify how certain aspects of the CR Code work in different circumstances, such as in the case of telecommunications providers. We understand that given the rolling 'credits' provided by telecommunications providers, the definitions for "*the day on which the consumer credit is entered into*" (**Account Open Day**) and "*the day on which the credit is terminated or otherwise ceases to be in force*" (**Account Close Day**) which focus on the specific instance of each 'credit' under the Current CR Code may not be appropriate in the context of telecommunications providers.

However, we question the implications of these proposed changes and how this would interact with the overall objectives of a robust credit reporting framework that strives to balance the interest of individuals and the protection of their personal information while ensuring entities have sufficient information necessary to provide individuals with credit.

In particular, we raise concerns about the potential implications of the definition of Account Close Day under the New CR Code, which, for telecommunications services, would be the day that the

“*service provision ceases.*” We note that under the New CR Code, an account would be considered ‘closed’ for credit reporting purposes, regardless of whether credit remains unpaid.

Notwithstanding the need to draft a definition that caters for rolling credits as is provided under a telecommunications account, the proposal to link the definition to ‘service provision’ does not reflect the actual circumstances surrounding credits. We are thereby concerned this obfuscates the purpose of the credit reporting regime as the new definition would not be an accurate reflection of an individual’s credit account.

It is not clear how or whether this inconsistency would impact the overall credit reporting regime but we raise that it may cause issues that are not considered, or if considered, not addressed in the Consultation Paper.

If you are a telecommunications/utility service provider, how much time would be needed to transition to the proposed definition(s)?

In addition, in implementing the New CR Code and its new definitions, we expect 6 months may be a reasonable transition period. However, we view that during these 6 months, further guidance should be provided to telecommunications providers to help them understand and apply the New CR Code. A transition period without meaningful engagement is unlikely to be of great assistance.

We are generally concerned about the lack of guidance on the complex framework surrounding credit reporting, particularly as it relates to telecommunications providers. As mentioned in the ACRA Consultation Paper, much of the Current CR Code has been drafted with financial services in mind. Hence, it is difficult for telecommunications providers to navigate, especially the smaller entities IAA represents.

We also note that it is unclear whether the CR Code Working Group includes representation from the telecommunications industry to ensure that the New CR Code is effective and practical as it relates to telecommunications matters.

For this reason, we strongly recommend and request that the ACRA collaborate with the OAIC, and the telecommunications industry to develop guidance materials and engage in an awareness campaign that helps telecommunications providers understand how the New CR Code would apply to their context. IAA would be happy to work with the ACRA and other stakeholders to that end.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (**IAA**) is a member-based association representing the Internet community. Founded in 1995 as the Western Australian Internet Association (**WAIA**), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia