



Office of the Secretary
Federal Trade Commission
Room 159 H
600 Pennsylvania Avenue NW
Washington, DC 20580
United States of America

Dear Secretary

Alternative Forms of Privacy Notices, Project No. P034815

I am writing to you about the advance notice of proposed rulemaking (ANPR) announced by eight US federal regulators in which they request public comment on ways to improve the privacy notices financial institutions provide to consumers under the Gramm-Leach-Bliley Act (GLB Act).

I am writing in my capacity as the Federal Privacy Commissioner of Australia and in my capacity as the convenor of the 25th International Conference of Data Protection and Privacy Commissioners that was held in Sydney in September 2003.

As convenor, I sponsored a resolution that was unanimously adopted by all Commissioners at the conference which called for improved privacy notices for consumers. The nub of the resolution set out requirements that Commissioners considered essential to appear in an easily comprehended 'Condensed Notice' to be made available to consumers. A copy of the resolution is attached.

As such, Data Protection and Privacy Commissioners support the broad direction being taken by the Federal Trade Commission and the other regulators in seeking to improve notices provided under the Gramm-Leach-Bliley Act. Commissioners noted in the Conference resolution the importance of achieving global consistency in the way organisations communicate this information.

In drafting the resolution, we kept in close contact with developments in the United States where similar concerns had already been identified, including the work of the Center for Information Policy Leadership directed by Martin E Abrams. The Center has pioneered some excellent work on the 'short' or 'layered' notice approach to improving privacy notices.

A group of data protection commissioners has worked with the Center since the adoption of the resolution on ways of implementing the Conference resolution worldwide. We are working informally with a group of interested business and consumer representatives towards this end, with the aim of reporting further to the 26th Conference of Commissioners when they meet in Poland in September 2004.

I hope that this letter of support assists the Federal Trade Commission and the other regulators in the important work of improving consumer understanding and involvement in the management of their personal information. I wish the Federal Trade Commission and the other regulators well in your work.

Given his interest in this particular issue, I am also writing in similar terms to the Comptroller of the Currency, John D Hawke, Jr.

Yours sincerely

A handwritten signature in black ink that reads "Malcolm Crompton". The signature is written in a cursive, flowing style.

Malcolm Crompton
Federal Privacy Commissioner

15 April 2004

**25TH INTERNATIONAL CONFERENCE OF DATA PROTECTION &
PRIVACY COMMISSIONERS
SYDNEY, 12 SEPTEMBER 2003**

**Resolution on improving the communication of data protection and privacy
information practices**

Proposer: Privacy Commissioner, Australia

Co-sponsors:

- Commissioner for Data Protection and Access to Information, Brandenburg, Germany;
- Commission Nationale de l'Informatique et des Libertés, France
- Data Protection Commissioner, Czech Republic;
- Hellenic Data Protection Authority,
- Independent Centre for Privacy Protection, Schleswig-Holstein,
- State Data Protection Inspectorate, Republic of Lithuania,
- Dutch Data Protection Authority.

Resolution

That the 25th International Conference of Privacy and Data Protection Commissioners resolves that:

- 1 The conference calls the attention of organisations, in both public and private sectors, to the importance of:
 - improving significantly their communication of information on how they handle and process personal information;
 - achieving global consistency in the way they communicate this information;and by these means
 - improving individuals' understanding and awareness of their rights and choices and their ability to act on them; and
 - putting an incentive on organisations to improve, and make more fair, their information handling and processing practices as a consequence of this awareness.

- 2 The conference endorses the following means of achieving these goals:
 - development and use of a condensed format for presenting an overview of privacy information that is standardised world wide across all organisations which sets out:
 - the information that is most important for individuals to know; and
 - the information that individuals are most likely to want to know; and
 - the use of simple, unambiguous and direct language;
 - the use of the language of the website or form which is used to collect information;
 - confining the format to a limited number of elements which, consistent with the above, covers important data protection principles like:
 - who is collecting the personal information and how to contact it (at least the official name of the organisation and physical address);
 - what personal information the organisation collects and by what means;
 - the purposes for which the organisation is collecting the personal information;
 - whether the personal information is to be disclosed to other organisations and, if so, the kinds or names of organisations and for what purposes;
 - the privacy choices the individuals have and how to exercise them easily, in particular, choices about whether personal information can be disclosed to third parties for unrelated but lawful purposes and about which personal information individuals must provide to receive a service;
 - a summary of the individual's rights of access, correction, blocking or deletion;
 - the independent supervisory body to which individuals may complain if they are concerned that their rights have been breached.
 - the use of appropriate means to enable individuals to find further information easily including:
 - information that any applicable law requires an organisation to provide, including rights of access, correction, blocking or deletion, and how long an organisation retains personal information; and
 - a complete explanation of the information summarised in the condensed format; and
 - the complete statement of an organisation's information handling and processing practices.
- 3 The conference agrees that such standardised and condensed format should be consistent with all national laws that may apply, and is to be in addition to, where necessary, and consistent with, any notices that an organisation is legally required to give an individual.

- 4 The conference is aware of the importance of the timing of presentation of data protection and privacy information to the individual. For example, it is particularly desirable for information to be presented automatically at the point where individuals have the chance to choose what information they give, and whether information can be disclosed to third parties. In other cases it may be appropriate to leave individuals to seek data protection and privacy information via obvious links. The conference is aware of the important work the EU Article 29 Data Protection Working Party has done on the automatic presentation of data protection and privacy information in *Recommendation 2/2001 on certain minimum requirements for collecting personal data on-line in the European Union*.
- 5 The conference considers the timing for the presentation of the condensed format (which takes into account both the on and off-line environments) would be a fruitful area of further work for Data Protection and Privacy Commissioners.
- 6 The Conference is also aware of related activities such as the development of computer languages describing privacy policies. It encourages the further development of ways to translate those policies into the standardised and condensed format.
- 7 The conference sees these as first steps to encourage better practice in the way organisations communicate privacy information about how they handle or process personal information. The conference is aware of initiatives in this area and encourages any such initiatives to improve communication between organisations and individuals. The Conference looks forward to working with organisations and interest groups that are taking such steps and it expects to take further steps to improve on communications between organisations and individuals in future conferences.