



17 September 2026

Attorney-General's Department

Submitted online and by email to privacyreform@ag.gov.au

Dear Department,

Submission to Privacy Reform – Consultation on Exposure Draft Legislation

Thank you for the opportunity to comment on your consultation paper and exposure draft Privacy Amendment (Personal Data Protection) Bill 2026 (**Bill**). As the external dispute resolution (**EDR**) scheme recognised by the OAIC for Australia's telecommunications sector, we regularly receive complaints from telecommunications consumers about privacy concerns.

We welcome the proposed amendments to make the Privacy Act's principles more flexible, for example by broadening its definition of 'personal information' to cover information that 'relates to' an identified or reasonably identifiable individual, rather than information 'about' such an individual. We support the Bill's focus on protections relating to the security of personal information, and on giving individuals more control over how their personal information is dealt with.

These changes are time-critical, as digital platforms and other emerging businesses are collecting an increasingly large volume and variety of information about individuals using their services.

While we broadly support the proposed reforms, their enhanced privacy protections may only be readily accessible to individuals where they can avail themselves of an OAIC-recognised EDR scheme.

Access to EDR will be important to help individuals navigate the new, more flexible Australian Privacy Principles

The Bill's flexible approach to the core Australian Privacy Principles (**APPs**) would replace current APPs 3, 4, and 6 with a simplified framework for the collection, use, and disclosure of personal information. The proposed 'fair and reasonable' test for this framework would generally permit APP entities to collect, use, or disclose personal information only where doing so is fair and reasonable in the circumstances. What is fair and reasonable in the circumstances is to be determined by reference to a list of factors set out in proposed new APP 3.2, such as how a reasonable person would expect their information to be handled in the circumstances.

As an industry ombudsman scheme, we are experienced in applying fair and reasonable decision-making in our complaint-handling. With appropriate guidance from the OAIC, we will be in a strong position to apply the new fair and reasonable test in a complaints context.

However, where a sector does not have a recognised EDR scheme for the purposes of privacy complaints, individuals may not be well equipped to seek redress for breaches of the new framework. We see in our complaints individuals struggling to understand privacy obligations and articulate privacy-related claims effectively. Recognised EDR schemes play an important role in helping individuals frame their privacy concerns by reference to the APPs, and accounting for power imbalances between individuals and APP entities.

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The intent of the proposed reforms is that, where there is no recognised EDR scheme for a sector, individuals would generally be expected to raise privacy concerns using APP entities' internal dispute resolution (**IDR**) schemes, before approaching the OAIC. Given the broad principles-based approach of the new test, non-expert individuals are unlikely to be equipped to present arguments relating to the test in an IDR context without assistance. Where a sector does not have a recognised EDR scheme in place, the new framework may motivate an increased number of escalated complaints to the OAIC, as individuals may struggle to have their concerns resolved via IDR.

We note the OAIC announced in March 2026¹ that it would be taking a more robust approach to determining whether individual privacy complaints warrant investigation, in line with its shift to a greater focus on enforcement action. In this context and in the absence of a relevant EDR scheme, there is a real risk that the Bill's enhanced privacy protections will not be meaningfully accessible to some individuals.

Individuals will struggle to enforce the proposed right to erasure of personal information without access to an EDR scheme for digital platforms

We support the proposed new APP 14, which would (subject to exceptions) give an individual the right to erasure of personal information relating to them held by large digital platforms (**LDPs**). This is a sensible measure empowering individuals to protect their information, given the levels of personal information retained and used by LDPs and the privacy risks presented by data breaches.

However, as there is currently no recognised EDR scheme for digital platforms in Australia, individuals will generally need to rely on LDPs' IDR schemes when trying to enforce the right to erasure. The very significant power imbalances between individuals and LDPs will result in individuals struggling to enforce their rights under APP 14 without escalating their concerns to the OAIC.

While complaints about digital platforms are currently outside our jurisdiction, consumers regularly contact our office seeking to complain about digital platforms. We know from our experience receiving these contacts that digital platforms' existing IDR processes are not consistently helping consumers to resolve their concerns. Earlier this year, we commissioned research by the Consumer Policy Research Centre (**CPRC**) exploring how Australian consumers experience harm and seek redress when dealing with digital services.² The CPRC's research found 67% of consumers who complain about their experience with a digital platform are dissatisfied with the outcome.

We continue to advocate for an Australian digital platforms ombudsman, and our office is well positioned to adopt this role, subject to an appropriate framework being in place for managing EDR complaints about digital platforms.

Larger telcos may be subject to the proposed right to erasure

Larger telcos may be subject to the proposed APP 14, as they may satisfy the definition for LDPs in proposed section 6EB of the Privacy Act.

Larger telcos may:

- satisfy the gross revenue test in subsection 6EB(2); and
- supply 'relevant electronic services' under paragraph 6EB(1)(a), because they supply SMS and MMS services that allow end-users to communicate with each other. Some also supply email services.

The consultation paper does not directly refer to telcos being subject to the right to erasure, and telcos have not traditionally been considered operators of digital platforms. If larger telcos are covered by the right, it is likely we will have a role in dealing with complaints about

¹ OAIC, [Handling privacy complaints – a new approach for a new era](#), 2 March 2026.

² CPRC, [Someone to Turn To](#), June 2026.

erasure requests lodged with those telcos. We ask government to clarify the application of proposed APP 14 to telcos that supply 'relevant electronic services' and satisfy either the gross revenue test or the end-users test in subsection 6EB(8).

If it is the intent that telcos are covered by the right to erasure, we question the justification for the right applying only to larger telcos. A distinction between larger and smaller digital platforms may be reasonable given the diversity of digital services in the online space, the variety of information they collect, and differences between their information management systems and in their overall levels of resourcing. However, this reasoning may not be as readily applicable in the telecommunications sector, where large and small telcos alike broadly supply the same services and collect the same classes of information from their customers.

We look forward to learning the outcome of this consultation, and participating in any future consultation on privacy reforms.

Yours sincerely

Cynthia Gebert

Telecommunications Industry Ombudsman