

From: [REDACTED]
 Sent: Tuesday, 20 March 2018 7:25 AM
 To: Owens1, Helen
 Cc: Patteson, Carolyn; [REDACTED]
 Subject: News overnight: Request for briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Hi Helen,

I'm told that overnight reports have emerged that the Cambridge analytica issue has grown and that Facebook has appointed a data forensics firm to investigate.

Can this please be taken into account in the brief (QTB) that come up today?

s.47F

On 19 Mar 2018, at 5:30 pm, [REDACTED] > wrote:

For Official Use Only

Hi Helen,

The Guardian ran a story today on the use of personal data 'harvested' from facebook (and 3rd party apps that integrate with the platform) and its use in profiling users as an input into election campaigns:

https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-faceook-nix-bannon-trump?CMP=Share_AndroidApp_Tweet

This followed a media release (please see below) in which privacy advocates call into question the use of personal data for political purposes and whether this is occurring without informed consent.

Labor (Senator Don Farrell) then asked Minister Fifield about this in Question Time today.

We have since had a call from Fran Kelly's producer asking the Minister to speak with her tomorrow – specifically to discuss data harvesting and the example of Cambridge Analytica.

With this in mind, would you please put together a short briefing document outlining legislative frameworks for data privacy issues, including:

- What relevant legislation exists
- Who is responsible for it
- What relevant agencies exist for reporting and enforcement

I understand [REDACTED] sought similar information when this last came up so you might have something in the archives.

Please note that the Attorney-General's office is also putting together a QTB for us for tomorrow in case this comes up again so you might coordinate with the AG's Department. They will also deal with the Fran Kelly media enquiry.

s.47F

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Sent: Monday, 19 March 2018 5:14 PM
To: [REDACTED]

Subject: RE: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

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Hi [REDACTED]

We have had one question this afternoon from Fairfax. The response is below and it partially answers your policy questions. We will find what we can on the other points as well. I'm sure there is an existing brief somewhere that provides an overview of the legislative frameworks.

It does in the vast majority fall into our space so no issues from my end if media queries are sent our way – subject to any issues from you [REDACTED]?

The Office of the Australian Information Commission is the relevant government agency – this is the agency the Privacy Commissioner is a part of. We will pull together what we have from existing briefings for your boss – is he definitely doing RN or is he looking to refer that on?

Cheers
[REDACTED]

Response from AG

In Australia, the collection, use, storage, access and disclosure of personal information by government agencies and certain private sector organisations is governed by the *Privacy Act 1988*.

The Privacy Act contains an exemption for members of an Australian Parliament, local government councillors and registered political parties in relation to political acts and practices.

This exemption is designed to encourage freedom of political communication and support the operation of the electoral and political process.

The exemption does not authorise entities who are subject to the Privacy Act to disclose personal information that will be used by politicians or registered political parties for political purposes.

An individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the national privacy regulator, the Office of the Australian Information Commissioner.

Background

- The exemption for political acts and practices in Privacy Act section 7C is primarily intended to ensure political parties can maintain databases containing personal information about individual voters.

- The exemption applies to employees, contractors, subcontractors and volunteers of Parliamentarians and political parties.
- The exemption is not unprecedented in Commonwealth law: an example is the way that the Commonwealth *Electoral Roll Act 1918* provides registered political parties with access to electoral roll information.
- The exemption has received bipartisan support at various stages in the past, however the Australian Law Reform Commission's 2008 review of privacy laws recommended its repeal (subject to some amendments to the Privacy Act to prevent the Act from purportedly infringing the constitutional doctrines of parliamentary privilege and the implied freedom of political communication).
- Civil society groups the Australian Privacy Foundation, Digital Rights Watch, Electronic Frontiers Australia, and Future Wise issued a joint media release on 19 March 2018 calling on Australian political parties to disclose any previous relationships with Cambridge Analytica, and to state whether they believe that Cambridge Analytica's activities (as quoted in the New York Times and other media outlets) would meet 'the definition of consent required by Australian law': see <https://privacy.org.au/2018/03/19/media-release-australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>.

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To: [REDACTED]
Cc: [REDACTED]
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- What relevant legislation exists
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I thought to reach out to you and check if you've had similar approaches from media?

Further, do you have any ideas about the questions above and would it be appropriate if we refer media enquiries to you?

s.47G

s.47G

s.47G

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s.47G

Adviser

Office of Senator the Honourable Mitch Fifield

Phone +61 2 6277 7480

s.47F

www.communications.gov.au

19 MAR 2018

Australian Digital Rights Organisations Call For Politicians To Clarify Their Dealings With Cambridge Analytica

Posted by [Liam Pomfret](#)

[No comments](#)

JOINT MEDIA RELEASE BY ELECTRONIC FRONTIERS AUSTRALIA, FUTURE WISE, AUSTRALIAN PRIVACY FOUNDATION, AND DIGITAL RIGHTS WATCH

In light of the revelations that Cambridge Analytica has reportedly misused the data of over 50 million people on Facebook, Australia's leading digital and civil rights advocates call on all Australian governments and political parties to categorically answer the following questions:

- Have you, at any time, engaged the services of Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you, at any time, been provided with data on Australian citizens by Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you ever provided any Government data such as voter rolls to Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Do you believe that the linkage of this sort of data to generate sensitive political data meets the definition of consent required by Australian law?

Many Australian political parties and ministers have reportedly met with Cambridge Analytica over the past few years. We must know who in the Australian political sphere believes in informed consent, and who does not.

The New York Times and The Guardian have reported that Cambridge Analytica accessed the Facebook profiles of 50 million people without their informed consent. People who trusted Facebook to keep their private information private; people who did not give their informed consent that their data be shared in this way.

Facebook has since suspended Cambridge Analytica from its platform, as well as its parent company Strategic Communication Laboratories.

Australian governments are pushing to collect more and more data on Australians, and to link it with larger and larger datasets. Australians must be confident that the custodians of our data will look after our best interests, proactively, and with due care and skill. We must know that our data is not being collected merely for narrow, self-interested reasons. We must be sure that this data is not being shared without our informed consent.

These should be simple questions for any government or political party to answer. We look forward to seeing how trustworthy they really are.

MEDIA CONTACTS

For Electronic Frontiers Australia

Justin Warren

Phone: 0412 668 526

Email: media@efa.org.au

For Future Wise

Dr Trent Yarwood

Phone: 0403 819 234

Email: trent@futurewise.org.au

For Australian Privacy Foundation

Liam Pomfret

Email: liam.pomfret@privacy.org.au

For Digital Rights Watch

Tim Singleton Norton

Email: info@digitalrightswatch.org.au

<https://www.efa.org.au/2018/03/19/australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>

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[REDACTED]

From: [REDACTED]
Sent: Wednesday, 21 March 2018 8:49 AM
To: [REDACTED]; [REDACTED]
Cc: Owens1, Helen
Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For the QTB – see below - advice from Andrew at OAIC.

From: Andrew Solomon [mailto:andrew.solomon@oaic.gov.au]
Sent: Tuesday, 20 March 2018 6:24 PM
To: [REDACTED]
Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

[REDACTED], some comments below.

Kind regards

Andrew Solomon | Assistant Commissioner
Dispute Resolution Branch
Office of the Australian Information Commissioner
GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au
M: +61 408 267 078 | T: +61 2 9284 9708 | andrew.solomon@oaic.gov.au

From: [REDACTED]
Sent: Tuesday, 20 March 2018 5:50 PM
To: Andrew Solomon <andrew.solomon@oaic.gov.au>
Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi Andrew

One further question – in regards to the below, are you able to outline any linkages between the Privacy Act and Australian Consumer Law? **We don't have expertise on the Australian Consumer Law. It is administered by the ACCC.**

Regards
[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 March 2018 2:53 PM
To: 'Andrew Solomon' <andrew.solomon@oaic.gov.au>
Cc: [REDACTED]; Owens1, Helen
<Helen.Owens1@communications.gov.au>
Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hello Andrew,

The Minister's adviser has come back asking some further questions in relation to (possibly) the Privacy Act – see shaded yellow questions below.

Do these questions relate to the Privacy Act and would you be able to provide a response?

We are hoping to have this updated for tomorrow's question time.

Appreciate your assistance.

Kind regards,

Australian privacy protections

- The Government is absolutely committed to appropriately protecting all Australians' right to privacy.
- In Australia, the collection, use, storage, access and disclosure of personal information by government agencies and certain private sector organisations is governed by the *Privacy Act 1988*.
- An individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the national privacy regulator, the Office of the Australian Information Commissioner (OAIC). **Please note that political acts and practices of political representatives (including political parties), their contractors and subcontractors if done in connection with an election, referendum or other aspect of the political process are exempt from the Privacy Act 1988 (see section 7C). Therefore this dot point may mislead individuals into thinking they can make a privacy complaint about actions which are actually exempt from the Privacy Act. I would suggest changing "has been used for political purposes" to just "has been misused".**
- The following types of data held by government agencies are protected (by the Privacy Act)?
 - **The Privacy Act protects "Personal information". This is an all-encompassing term – it is not possible to list all the types of information that fall into the category of personal information as it includes all information about an individual including opinions about an individual. You might want to include some 'examples' of personal information eg, contact information, health information, financial information.**
 - B
 - C
- Private sector organisations are also covered with some examples of protected data by the Privacy Act? Australian Consumer Law? Other industry specific Acts?) being:
 - Telecommunications
 - Energy providers
 - Financial services

Not sure what this question is getting at. Private sector orgs and non-for-profits are covered if over \$3million turnover or are health service providers, or trade in personal information etc... (see: <https://www.oaic.gov.au/privacy-law/rights-and-responsibilities#who-has-responsibilities-under-the-privacy-act>. The data protected by the Privacy Act is "personal information" – see above for examples.

Investigations by the Privacy Commissioner

- The Commissioner has a wide range of powers to promote compliance with the Privacy Act, both by social media platforms and other organisations regulated by the Act.
- These involve powers to investigate a complaint, conduct an investigation on the Commissioner's own initiative, or conduct an assessment of an organisation's activities.
- The Commissioner has completed a number of investigations of online social platforms, for example the investigation into information handling practices of dating website Ashley Madison, conducted jointly with the Federal Trade Commission in the US and the Office of the Privacy Commissioner of Canada.
- The Commissioner also regularly provides advice and guidance to Australians about how they can protect their privacy online.
- The Government understands that the national privacy regulator, the Commissioner, is undertaking preliminary inquiries of Facebook Australia to determine how this incident may have affected Australian Facebook users.
- The progress of and any outcomes from these inquiries are a matter for the Commissioner.
- There is no explicit power for the Communications Minister to direct the Privacy Commissioner to investigate a matter.
- However, the Attorney-General may direct the Commissioner to report to him about the outcome of an investigation that is conducted on the Commissioner's own initiative (see s 30 of the Privacy Act).
- Can the Attorney-General refer a matter for investigation? E.g. The Treasurer can refer matters to the ACCC and instigate an investigation. **There is no provision in the Privacy Act for this.**

From: Andrew Solomon [<mailto:andrew.solomon@oaic.gov.au>]

Sent: Tuesday, 20 March 2018 11:03 AM

To: Owens1, Helen <Helen.Owens1@communications.gov.au>

Cc: [REDACTED]

Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen,

Hope this is of assistance. See points below.

Kind regards

Andrew Solomon | Assistant Commissioner

Dispute Resolution Branch

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

M: +61 408 267 078 | T: +61 2 9284 9708 | andrew.solomon@oaic.gov.au

From: Owens1, Helen [<mailto:Helen.Owens1@communications.gov.au>]

Sent: Tuesday, 20 March 2018 10:05 AM

To: Angelene Falk <angelene.falk@oaic.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>

Cc: [REDACTED]

Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Thanks Angelene.

H

From: Angelene Falk [<mailto:angelene.falk@oaic.gov.au>]
Sent: Tuesday, 20 March 2018 9:59 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>
Cc: [REDACTED]
Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen

Andrew Solomon will be in touch to help you out.

Angelene

From: Owens1, Helen [<mailto:Helen.Owens1@communications.gov.au>]
Sent: Tuesday, 20 March 2018 9:51 AM
To: Angelene Falk <angelene.falk@oaic.gov.au>
Cc: [REDACTED]
Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Good Morning Angelene,

Hope that this email finds you well.

I have and urgent Question Time Brief that I need some assistance with from your end if I could.

It is about the allegations that Cambridge Analytica had used Facebook Data to target and manipulate 230 million US citizens in the last US Election.

Our Minister is preparing for more questions on this in Question Time today.

The assistance I need from you as answers to the following question:

1. What is the role of the Privacy Commissioner in regards to social media platforms?

The *Privacy Act 1988* regulates organisations and agencies that operate in Australia. This includes organisations, such as the major social media platforms, that are headquartered overseas but have an 'Australian link' (as defined in s 5B(2) of the Privacy Act).

As the regulator for the Privacy Act, the Commissioner can conduct an investigation to determine whether these organisations have complied with the Australian Privacy Principles.

2. Can the Minister refer an issue to the Privacy Commissioner for investigation?

There is no explicit power for the Communications Minister to direct the Privacy Commissioner to investigate a matter.

However, the Attorney-General may direct the Commissioner to report to him about the outcome of an investigation that is conducted on the Commissioner's own initiative (see s 30 of the Privacy Act).

The Communications Minister could informally refer a matter to the Privacy Commissioner and request that the Commissioner investigate a matter. The Commissioner would then decide whether to investigate in accordance with the OAIC's regulatory action policy.

3. What is the OAIC doing to protect the privacy of Australians online and particular on social media platforms?

The Commissioner has a wide range of powers to promote compliance with the Privacy Act, both by social media platforms and other organisations regulated by the Act. These involve powers to investigate a complaint, conduct an investigation on the Commissioner's own initiative, or conduct an assessment of an organisation's activities. The Commissioner has completed a number of investigations of online social platforms, for example the [investigation into information handling practices of dating website Ashley Madison](#), conducted jointly with the Federal Trade Commission in the US and the Office of the Privacy Commissioner of Canada. The Commissioner also regularly provides advice and guidance to Australians about how they can protect their privacy online.

Unfortunately I would require this information by **no later than 1100 am** please.

My contacts working on this are [REDACTED]

Any assistance you can provide would be greatly appreciated.

Cheers
Helen

From: [REDACTED]

Sent: Tuesday, 20 March 2018 9:14 AM

To: Owens1, Helen <Helen.Owens1@communications.gov.au>

Subject: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi Helen,

[REDACTED] were in with the Minister this morning and he asked that the brief be structured as follows please:

1. What is the allegation?
 - a. Facebook is accused of enabling...XYZ....
 - b. Cambridge Analytica is said to have done...ZYX...
2. Are there any investigations in train?
 - a. E.g. The UK Parliamentary Committee is...
 - b. E.g. The US Justice Department (?) has received a referral...(just making this up. Is there anything?)
3. What is the Australian regulatory context?
 - a. Australian consumers have their data protected under the Privacy Act...
4. The role of the Privacy Commissioner is....
 - a. Government
 - b. Private
5. Facebook's Terms and Conditions are....

6. Industry self-regulation includes....

might relay a better version of this to you.

As you know, the AG's office is working on a brief too.

s.47F

From

Sent: Tuesday, 20 March 2018 7:25 AM

To: Owens1, Helen <Helen.Owens1@communications.gov.au>

Cc: Patteson, Carolyn <Carolyn.Patteson@communications.gov.au>;

Subject: News overnight: Request for briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

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s.47G

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

Adviser

Office of Senator the Honourable Mitch Fifield

Phone +61 2 6277 7480

s.47F

www.communications.gov.au

19 MAR 2018

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Posted by [Liam Pomfret](#)

[No comments](#)

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For Electronic Frontiers Australia

Justin Warren

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Dr Trent Yarwood

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<https://www.efa.org.au/2018/03/19/australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>

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From: Andrew Solomon <andrew.solomon@oaic.gov.au>
Sent: Tuesday, 20 March 2018 11:19 AM
To: Owens1, Helen
Cc: [REDACTED]
Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen,

A heads up that we're just about to publish the statement below.

Andrew

Statement from the Australian Information and Privacy Commissioner on Facebook and Cambridge Analytica

I am aware of the reports that users' Facebook profile information was acquired and used without authorisation. My Office is making inquiries with Facebook to ascertain whether any personal information of Australians was involved.

I will consider Facebook's response and whether any further regulatory action is required. The *Privacy Act 1988* confers a range of privacy regulatory powers which include powers to investigate an alleged interference with privacy and enforcement powers ranging from less serious to more serious regulatory action, including powers to accept an enforceable undertaking, make a determination, or apply to the court for a civil penalty order for a breach of a civil penalty provision.

If anyone has concerns about how their personal information has been collected or managed they can get in touch with my office at www.oaic.gov.au or on 1300 363 992.

From: Owens1, Helen [mailto:Helen.Owens1@communications.gov.au]
Sent: Tuesday, 20 March 2018 11:09 AM
To: Andrew Solomon <andrew.solomon@oaic.gov.au>
Cc: [REDACTED]

Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Thanks Andrew. WE appreciate your assistance.

H

From: Andrew Solomon [mailto:andrew.solomon@oaic.gov.au]
Sent: Tuesday, 20 March 2018 11:03 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Cc: [REDACTED]

>

Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen,

Hope this is of assistance. See points below.

Kind regards

Andrew Solomon | Assistant Commissioner
Dispute Resolution Branch
Office of the Australian Information Commissioner
GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au
M: +61 408 267 078 | T: +61 2 9284 9708 | andrew.solomon@oaic.gov.au

From: Owens1, Helen [<mailto:Helen.Owens1@communications.gov.au>]
Sent: Tuesday, 20 March 2018 10:05 AM
To: Angelene Falk <angelene.falk@oaic.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>
Cc: [REDACTED]
>
Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Thanks Angelene.

H

From: Angelene Falk [<mailto:angelene.falk@oaic.gov.au>]
Sent: Tuesday, 20 March 2018 9:59 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>
Cc: [REDACTED]
Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen

Andrew Solomon will be in touch to help you out.

Angelene

From: Owens1, Helen [<mailto:Helen.Owens1@communications.gov.au>]
Sent: Tuesday, 20 March 2018 9:51 AM
To: Angelene Falk <angelene.falk@oaic.gov.au>
Cc: [REDACTED]
>
Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Good Morning Angelene,

Hope that this email finds you well.

I have an urgent Question Time Brief that I need some assistance with from your end if I could.

It is about the allegations that Cambridge Analytica had used Facebook Data to target and manipulate 230 million US citizens in the last US Election.

Our Minister is preparing for more questions on this in Question Time today.

The assistance I need from you as answers to the following question:

1. What is the role of the Privacy Commissioner in regards to social media platforms?

The *Privacy Act 1988* regulates organisations and agencies that operate in Australia. This includes organisations, such as the major social media platforms, that are headquartered overseas but have an 'Australian link' (as defined in s 5B(2) of the Privacy Act).

As the regulator for the Privacy Act, the Commissioner can conduct an investigation to determine whether these organisations have complied with the Australian Privacy Principles.

2. Can the Minister refer an issue to the Privacy Commissioner for investigation?

There is no explicit power for the **Communications** Minister to direct the Privacy Commissioner to investigate a matter.

However, the **Attorney-General** may direct the Commissioner to report to him about the outcome of an investigation that is conducted on the Commissioner's own initiative (see s 30 of the Privacy Act).

The **Communications** Minister could informally refer a matter to the Privacy Commissioner and request that the Commissioner investigate a matter. The Commissioner would then decide whether to investigate in accordance with the OAIC's regulatory action policy.

3. What is the OAIC doing to protect the privacy of Australians online and particular on social media platforms?

The Commissioner has a wide range of powers to promote compliance with the Privacy Act, both by social media platforms and other organisations regulated by the Act. These involve powers to investigate a complaint, conduct an investigation on the Commissioner's own initiative, or conduct an assessment of an organisation's activities. The Commissioner has completed a number of investigations of online social platforms, for example the [investigation into information handling practices of dating website Ashley Madison](#), conducted jointly with the Federal Trade Commission in the US and the Office of the Privacy Commissioner of Canada. The Commissioner also regularly provides advice and guidance to Australians about how they can protect their privacy online.

Unfortunately I would require this information by **no later than 1100 am** please.

My contacts working on this are [REDACTED].

Any assistance you can provide would be greatly appreciated.

Cheers
Helen

From: [REDACTED]
Sent: Tuesday, 20 March 2018 9:14 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Subject: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi Helen,

[REDACTED] were in with the Minister this morning and he asked that the brief be structured as follows please:

1. What is the allegation?
 - a. Facebook is accused of enabling...XYZ....
 - b. Cambridge Analytica is said to have done...ZYX...
2. Are there any investigations in train?
 - a. E.g. The UK Parliamentary Committee is...
 - b. E.g. The US Justice Department (?) has received a referral...(just making this up. Is there anything?)
3. What is the Australian regulatory context?
 - a. Australian consumers have their data protected under the Privacy Act...
4. The role of the Privacy Commissioner is....
 - a. Government
 - b. Private
5. Facebook's Terms and Conditions are....
6. Industry self-regulation includes....

[REDACTED] might relay a better version of this to you.

As you know, the AG's office is working on a brief too.

s.47F

From: [REDACTED]
Sent: Tuesday, 20 March 2018 7:25 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Cc: Patteson, Carolyn <Carolyn.Patteson@communications.gov.au>; [REDACTED]
[REDACTED]

Subject: News overnight: Request for briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Hi Helen,

I'm told that overnight reports have emerged that the Cambridge analytica issue has grown and that Facebook has appointed a data forensics firm to investigate.

Can this please be taken into account in the brief (QTB) that come up today?

s.47F

On 19 Mar 2018, at 5:30 pm, [REDACTED] > wrote:

For Official Use Only

Hi Helen,

The Guardian ran a story today on the use of personal data 'harvested' from facebook (and 3rd party apps that integrate with the platform) and its use in profiling users as an input into election campaigns:

https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-faceook-nix-bannon-trump?CMP=Share_AndroidApp_Tweet

This followed a media release (please see below) in which privacy advocates call into question the use of personal data for political purposes and whether this is occurring without informed consent.

Labor (Senator Don Farrell) then asked Minister Fifield about this in Question Time today.

We have since had a call from Fran Kelly's producer asking the Minister to speak with her tomorrow – specifically to discuss data harvesting and the example of Cambridge Analytica.

With this in mind, would you please put together a short briefing document outlining legislative frameworks for data privacy issues, including:

- What relevant legislation exists
- Who is responsible for it
- What relevant agencies exist for reporting and enforcement

I understand [REDACTED] sought similar information when this last came up so you might have something in the archives.

Please note that the Attorney-General's office is also putting together a QTB for us for tomorrow in case this comes up again so you might coordinate with the AG's Department. They will also deal with the Fran Kelly media enquiry.

[REDACTED]
s.47F

From: [REDACTED]
Sent: Monday, 19 March 2018 5:14 PM
To: [REDACTED]

Subject: RE: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

We have had one question this afternoon from Fairfax. The response is below and it partially answers your policy questions. We will find what we can on the other points as well. I'm sure there is an existing brief somewhere that provides an overview of the legislative frameworks.

It does in the vast majority fall into our space so no issues from my end if media queries are sent our way – subject to any issues from you [REDACTED]?

The Office of the Australian Information Commission is the relevant government agency – this is the agency the Privacy Commissioner is a part of. We will pull together what we have from existing briefings for your boss – is he definitely doing RN or is he looking to refer that on?

Cheers



Response from AG

In Australia, the collection, use, storage, access and disclosure of personal information by government agencies and certain private sector organisations is governed by the *Privacy Act 1988*.

The Privacy Act contains an exemption for members of an Australian Parliament, local government councillors and registered political parties in relation to political acts and practices.

This exemption is designed to encourage freedom of political communication and support the operation of the electoral and political process.

The exemption does not authorise entities who are subject to the Privacy Act to disclose personal information that will be used by politicians or registered political parties for political purposes.

An individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the national privacy regulator, the Office of the Australian Information Commissioner.

Background

- The exemption for political acts and practices in Privacy Act section 7C is primarily intended to ensure political parties can maintain databases containing personal information about individual voters.
- The exemption applies to employees, contactors, subcontractors and volunteers of Parliamentarians and political parties.
- The exemption is not unprecedented in Commonwealth law: an example is the way that the Commonwealth *Electoral Roll Act 1918* provides registered political parties with access to electoral roll information.
- The exemption has received bipartisan support at various stages in the past, however the Australian Law Reform Commission's 2008 review of privacy laws recommended its repeal (subject to some amendments to the Privacy Act to prevent the Act from purportedly infringing the constitutional doctrines of parliamentary privilege and the implied freedom of political communication).
- Civil society groups the Australian Privacy Foundation, Digital Rights Watch, Electronic Frontiers Australia, and Future Wise issued a joint media release on 19 March 2018 calling on Australian political parties to disclose any previous relationships with Cambridge Analytica, and to state whether they believe that Cambridge Analytica's activities (as quoted in the New York Times and other media outlets) would meet 'the definition of consent required by Australian law': see <https://privacy.org.au/2018/03/19/media-release-australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>.

From: [REDACTED]
Sent: Monday, 19 March 2018 5:01 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

The Guardian ran a story today on the use of personal data 'harvested' from facebook (and 3rd party apps that integrate with the platform) and its use in profiling users as an input into election campaigns:

https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-facebook-nix-bannon-trump?CMP=Share_AndroidApp_Tweet

This followed a media release (please see below) in which privacy advocates call into question the use of personal data for political purposes and whether this is occurring without informed consent.

Labor (Senator Don Farrell) then asked Minister Fifield about this in Question Time today.

We have since had a call from Fran Kelly's producer asking the Minister to speak with her tomorrow – specifically to discuss data harvesting and the example of Cambridge Analytica.

Minister Fifield has asked me to put together a short briefing document outlining legislative frameworks for data privacy issues, including:

- What relevant legislation exists
- Who is responsible for it
- What relevant agencies exist for reporting and enforcement

I thought to reach out to you and check if you've had similar approaches from media?

Further, do you have any ideas about the questions above and would it be appropriate if we refer media enquiries to you?

s.47G [REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED].

[REDACTED]

[REDACTED]

Adviser
Office of Senator the Honourable Mitch Fifield

19 MAR 2018

Australian Digital Rights Organisations Call For Politicians To Clarify Their Dealings With Cambridge Analytica

Posted by [Liam Pomfret](#)

[No comments](#)

JOINT MEDIA RELEASE BY ELECTRONIC FRONTIERS AUSTRALIA, FUTURE WISE, AUSTRALIAN PRIVACY FOUNDATION, AND DIGITAL RIGHTS WATCH

In light of the revelations that Cambridge Analytica has reportedly misused the data of over 50 million people on Facebook, Australia's leading digital and civil rights advocates call on all Australian governments and political parties to categorically answer the following questions:

- Have you, at any time, engaged the services of Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you, at any time, been provided with data on Australian citizens by Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you ever provided any Government data such as voter rolls to Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Do you believe that the linkage of this sort of data to generate sensitive political data meets the definition of consent required by Australian law?

Many Australian political parties and ministers have reportedly met with Cambridge Analytica over the past few years. We must know who in the Australian political sphere believes in informed consent, and who does not.

The New York Times and The Guardian have reported that Cambridge Analytica accessed the Facebook profiles of 50 million people without their informed consent. People who trusted Facebook to keep their private information private; people who did not give their informed consent that their data be shared in this way. Facebook has since suspended Cambridge Analytica from its platform, as well as its parent company Strategic Communication Laboratories.

Australian governments are pushing to collect more and more data on Australians, and to link it with larger and larger datasets. Australians must be confident that the custodians of our data will look after our best interests, proactively, and with due care and skill. We must know that our data is not being collected merely for narrow, self-interested reasons. We must be sure that this data is not being shared without our informed consent.

These should be simple questions for any government or political party to answer. We look forward to seeing how trustworthy they really are.

MEDIA CONTACTS

For Electronic Frontiers Australia

Justin Warren

Phone: 0412 668 526

Email: media@efa.org.au

For Future Wise

Dr Trent Yarwood

Phone: 0403 819 234

Email: trent@futurewise.org.au

For Australian Privacy Foundation

Liam Pomfret

Email: liam.pomfret@privacy.org.au

For Digital Rights Watch
Tim Singleton Norton
Email: info@digitalrightswatch.org.au

<https://www.efa.org.au/2018/03/19/australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>

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From: Owens1, Helen
Sent: Tuesday, 20 March 2018 3:01 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: URGENT: Consumer Law in a QTB [DLM=For-Official-Use-Only]
Attachments: QB18-000066.docx

Security Classification:
 For Official Use Only

For Official Use Only

FYI – Others are struggling to see the link the ACL.

From: Spaseski, Sylvia
Sent: Tuesday, 20 March 2018 2:51 PM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>; [REDACTED]
 [REDACTED] Mason, Philip <Philip.Mason@communications.gov.au>; [REDACTED]
 [REDACTED] Silleri, Kathleen <Kathleen.Silleri@communications.gov.au>
Subject: RE: URGENT: Consumer Law in a QTB [DLM=For-Official-Use-Only]

For Official Use Only

Helen

I have added general knowledge of the Privacy Act to ares highlighted however much of what is being asked for is detail that an expert/ OGC or alternatively OAIC should provide. I too striggle to link the ACL.
 Sylvia

Sylvia Spaseski

Assistant Secretary / Consumer Broadband Services

P +61 2 6271 1754

[REDACTED] s.47F

Please consider the environment before printing this email.

From: Owens1, Helen
Sent: Tuesday, 20 March 2018 2:34 PM
To: [REDACTED] Mason, Philip
 <Philip.Mason@communications.gov.au>; [REDACTED] Silleri,
 Kathleen <Kathleen.Silleri@communications.gov.au>; Spaseski, Sylvia <Sylvia.Spaseski@communications.gov.au>
Subject: URGENT: Consumer Law in a QTB [DLM=For-Official-Use-Only]
Importance: High

For Official Use Only

Hi Kath and Sylvia

Can you please assist? Please see the bit in yellow where the MO has marked it up.

Thanks
H

From: Kathage, Tristan

Sent: Tuesday, 20 March 2018 2:31 PM

To: Mason, Philip <Philip.Mason@communications.gov.au>; [REDACTED]

[REDACTED] Owens1, Helen <Helen.Owens1@communications.gov.au>; Silleri, Kathleen <Kathleen.Silleri@communications.gov.au>; Spaseski, Sylvia <Sylvia.Spaseski@communications.gov.au>

Subject: RE: Consumer Law in a QTB [DLM=For-Official-Use-Only]

For Official Use Only

Hi Helen

Thanks for your call just now, in terms of an Australian Consumer Law angle on the Cambridge Analytica facebook issue.

As discussed, I'm not sure there is a strong ACL link.

[REDACTED] s.47G

[REDACTED] I think it would be tricky to show. The ACCC is the enforcement body, and Treasury is the policy department.

I agree with Phil that the privacy angle seems more relevant – because the Privacy Act regulates the use and disclosure of personal information, which is likely to cover the information that CA/Facebook have been using. The OAIC is the enforcement body, and AGD is the policy department.

Happy to discuss further.

Thanks,



[REDACTED]
[REDACTED]
Department of Communications and the Arts

[REDACTED] s.47F

2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601



[REDACTED]
[REDACTED]
Department of Communications and the Arts

[REDACTED] s.47F

2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601

From: Mason, Philip

Sent: Tuesday, 20 March 2018 2:29 PM

To: [REDACTED]

Subject: FW: Consumer Law in a QTB [DLM=For-Official-Use-Only]

For Official Use Only

I think this is more about consumer privacy. It's to do with Cambridge Analytics. Sylvia S or Kath Silleri may otherwise have views.



Philip Mason

Assistant Secretary / USO Taskforce
Department of Communications and the Arts
P +61 2 6271 1579

s.47F
philip.mason@communications.gov.au

2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601

communications.gov.au / @CommsAu
arts.gov.au / @artsculturegov

I would like to acknowledge the traditional custodians of this land on which we meet, work and live. I recognise and respect their continuing connection to the land, waters and communities. I pay my respect to Elders past and present and to all Aboriginal and Torres Strait Islanders.

From: Owens1, Helen

Sent: Tuesday, 20 March 2018 2:16 PM

To: Mason, Philip <Philip.Mason@communications.gov.au>

Cc: [REDACTED]

Subject: Consumer Law in a QTB [DLM=For-Official-Use-Only]

For Official Use Only

Hi Phil,

We have an urgent QTB that needs some information on consumer law.

Can you help?

H



Helen Owens


Assistant Secretary Content and Copyright Branch
Department of Communications and the Arts
P +61 6271 1932

2 Phillip Law Street, Canberra, 2601
GPO Box 2154 Canberra ACT 2601

—
communications.gov.au

[@CommsAu](https://twitter.com/CommsAu)

arts.gov.au

 [@artsculturegov](https://twitter.com/artsculturegov)

From: [REDACTED]
Sent: Tuesday, 20 March 2018 11:14 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QTB on data privacy [DLM=For-Official-Use-Only]
Attachments: QTB 8J - Data Harvesting - 20 March 2018.docx

For Official Use Only

Hi [REDACTED]

Please see our draft QTB attached. It's not complete, as the AGO has asked another area of AGD to add some points about interaction with foreign interference legislation. I'll send you through the final version when we have it.

At a quick glance the biggest impact on your QTB is probably that the OAIC is making preliminary enquiries of Facebook Australia. We understand that the OAIC doesn't plan to publicise this unless asked, but they have advised that they're happy for it to be included in Ministers' speaking points.

Happy to discuss – please let us know if you need anything further.

Regards

[REDACTED] | A/g Assistant Director
Information Law
Civil Law Unit
Attorney-General's Department
[REDACTED] | **W:** www.ag.gov.au

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:56 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

As discussed [REDACTED]

Thanks,



[REDACTED]
Policy Officer / Online Content and Gambling Section / Content and Copyright
Department of Communications and the Arts
[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:39 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Sorry [REDACTED] forgot to mention that this is an urgent one. We would need your feedback by **11 am this morning**.

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:38 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

Following your discussion with [REDACTED] I'm writing about a QTB we are preparing for this morning.

Would greatly appreciate if you could sanity check this document, noting we have included your response in the body of one of the questions.

Please get in touch if you have any questions, or if you are not the correct person to contact.

Many thanks in advance,



[REDACTED]
Policy Officer / Online Content and Gambling Section / Content and Copyright
Department of Communications and the Arts

[REDACTED]
2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601

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[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:45 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]
Attachments: 20032018 QTB data privacy.docx

For Official Use Only

Hi [REDACTED]

Best for you to speak to someone in AGD about this.

[REDACTED] – could you please direct [REDACTED] to the right person.

Cheers

[REDACTED] Senior Adviser
Office of the Hon Christian Porter MP | Attorney-General

s.47F [REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:39 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Sorry [REDACTED] forgot to mention that this is an urgent one. We would need your feedback by 11 am this morning.

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:38 AM
To: [REDACTED]
Subject: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

Following your discussion with [REDACTED] I'm writing about a QTB we are preparing for this morning.

Would greatly appreciate if you could sanity check this document, noting we have included your response in the body of one of the questions.

Please get in touch if you have any questions, or if you are not the correct person to contact.

Many thanks in advance,

2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601

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From: [REDACTED]
Sent: Tuesday, 20 March 2018 12:15 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QTB on data privacy [DLM=For-Official-Use-Only]
Attachments: QTB 8J - Data Harvesting - 20 March 2018 - updated version.docx

For Official Use Only

Thanks [REDACTED], no worries. And yes, Andrew Solomon told us the statement was coming a short while ago and that he's been in touch with you as well.

Please see our revised QTB attached, happy to discuss.

From: [REDACTED]
Sent: Tuesday, 20 March 2018 11:52 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Thanks so much. We have included certain dot points/background you sent through, adapting them for our Minister.

We have been in contact with OAIC and got their input too.

By the way: they have provided us with a heads up that they will be issuing a statement on the matter, so it may be worth updating your QTB to reflect this. Andrew Solomon is the person we have liaised with about this

Many thanks again for your help!!



[REDACTED]
 Policy Officer / Online Content and Gambling Section / Content and Copyright
 Department of Communications and the Arts

[REDACTED]
 2 Phillip Law Street, Canberra ACT 2601
 GPO Box 2154 Canberra, ACT 2601

From: [REDACTED]
Sent: Tuesday, 20 March 2018 11:14 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

Please see our draft QTB attached. It's not complete, as the AGO has asked another area of AGD to add some points about interaction with foreign interference legislation. I'll send you through the final version when we have it.

At a quick glance the biggest impact on your QTB is probably that the OAIC is making preliminary enquiries of Facebook Australia. We understand that the OAIC doesn't plan to publicise this unless asked, but they have advised that they're happy for it to be included in Ministers' speaking points.

Happy to discuss – please let us know if you need anything further.

Regards

[REDACTED] | A/g Assistant Director
Information Law
Civil Law Unit
Attorney-General's Department

| W: www.ag.gov.au

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:56 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

As discussed [REDACTED]

Thanks,



[REDACTED]
Policy Officer / Online Content and Gambling Section / Content and Copyright
Department of Communications and the Arts

[REDACTED]
2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:39 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Sorry [REDACTED] forgot to mention that this is an urgent one. We would need your feedback by 11 am this morning.

From: [REDACTED]

Sent: Tuesday, 20 March 2018 10:38 AM

To: [REDACTED]

Subject: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

H [REDACTED]

Following your discussion with [REDACTED], I'm writing about a QTB we are preparing for this morning.

Would greatly appreciate if you could sanity check this document, noting we have included your response in the body of one of the questions.

Please get in touch if you have any questions, or if you are not the correct person to contact.

Many thanks in advance,



[REDACTED]
Policy Officer / Online Content and Gambling Section / Content and Copyright
Department of Communications and the Arts

[REDACTED]
2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601

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[REDACTED]

From: Owens1, Helen
Sent: Tuesday, 20 March 2018 1:40 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB - for urgent review - Data harvesting [SEC=UNCLASSIFIED]
Attachments: CURRENT - QTB 8J - Data Harvesting - as at 20 March 2018.docx

Security Classification:
UNCLASSIFIED

UNCLASSIFIED
FYI

From: [REDACTED]
Sent: Tuesday, 20 March 2018 1:36 PM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Subject: FW: QTB - for urgent review - Data harvesting [SEC=UNCLASSIFIED]

UNCLASSIFIED
FYI

From: [REDACTED]
Sent: Tuesday, 20 March 2018 1:33 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB - for urgent review - Data harvesting [SEC=UNCLASSIFIED]

UNCLASSIFIED
Hi [REDACTED]

Final QTB attached on the FB issue.

Note that the Privacy Commissioner has said he is now looking at the issue.

Cheers
[REDACTED]

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From: [REDACTED]
Sent: Tuesday, 20 March 2018 2:53 PM
To: Andrew Solomon
Cc: [REDACTED]; [REDACTED]; Owens1, Helen
Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Security Classification:

For Official Use Only

For Official Use Only

Hello Andrew,

The Minister's adviser has come back asking some further questions in relation to (possibly) the Privacy Act – see shaded yellow questions below.

Do these questions relate to the Privacy Act and would you be able to provide a response?

We are hoping to have this updated for tomorrow's question time.

Appreciate your assistance.

Kind regards,

Australian privacy protections

- The Government is absolutely committed to appropriately protecting all Australians' right to privacy.
- In Australia, the collection, use, storage, access and disclosure of personal information by government agencies and certain private sector organisations is governed by the *Privacy Act 1988*.
- An individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the national privacy regulator, the Office of the Australian Information Commissioner (OAIC).
- The following types of data held by government agencies are protected (by the Privacy Act)?
 - A
 - B
 - C
- Private sector organisations are also covered with some examples of protected data by the Privacy Act? Australian Consumer Law? Other industry specific Acts?) being:
 - Telecommunications
 - Energy providers
 - Financial services

Investigations by the Privacy Commissioner

- The Commissioner has a wide range of powers to promote compliance with the Privacy Act, both by social media platforms and other organisations regulated by the Act.
- These involve powers to investigate a complaint, conduct an investigation on the Commissioner's own initiative, or conduct an assessment of an organisation's activities.
- The Commissioner has completed a number of investigations of online social platforms, for example the investigation into information handling practices of dating website Ashley Madison, conducted

jointly with the Federal Trade Commission in the US and the Office of the Privacy Commissioner of Canada.

- The Commissioner also regularly provides advice and guidance to Australians about how they can protect their privacy online.
- The Government understands that the national privacy regulator, the Commissioner, is undertaking preliminary inquiries of Facebook Australia to determine how this incident may have affected Australian Facebook users.
- The progress of and any outcomes from these inquiries are a matter for the Commissioner.
- There is no explicit power for the Communications Minister to direct the Privacy Commissioner to investigate a matter.
- However, the Attorney-General may direct the Commissioner to report to him about the outcome of an investigation that is conducted on the Commissioner's own initiative (see s 30 of the Privacy Act).
- **Can the Attorney-General refer a matter for investigation? E.g. The Treasurer can refer matters to the ACCC and instigate an investigation.**

From: Andrew Solomon [mailto:andrew.solomon@oaic.gov.au]

Sent: Tuesday, 20 March 2018 11:03 AM

To: Owens1, Helen

Cc: [REDACTED]

Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen,

Hope this is of assistance. See points below.

Kind regards

Andrew Solomon | Assistant Commissioner

Dispute Resolution Branch

Office of the Australian Information Commissioner

GPO Box 5218 SYDNEY NSW 2001 | www.oaic.gov.au

M: +61 408 267 078 | T: +61 2 9284 9708 | andrew.solomon@oaic.gov.au

From: Owens1, Helen [mailto:Helen.Owens1@communications.gov.au]

Sent: Tuesday, 20 March 2018 10:05 AM

To: Angelene Falk <angelene.falk@oaic.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>

Cc: [REDACTED]

>

Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Thanks Angelene.

H

From: Angelene Falk [mailto:angelene.falk@oaic.gov.au]

Sent: Tuesday, 20 March 2018 9:59 AM

To: Owens1, Helen <Helen.Owens1@communications.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>

Cc: [REDACTED]

[REDACTED]

Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen

Andrew Solomon will be in touch to help you out.

Angelene

From: Owens1, Helen [<mailto:Helen.Owens1@communications.gov.au>]

Sent: Tuesday, 20 March 2018 9:51 AM

To: Angelene Falk <angelene.falk@oaic.gov.au>

Cc: [REDACTED]

Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Good Morning Angelene,

Hope that this email finds you well.

I have an urgent Question Time Brief that I need some assistance with from your end if I could.

It is about the allegations that Cambridge Analytica had used Facebook Data to target and manipulate 230 million US citizens in the last US Election.

Our Minister is preparing for more questions on this in Question Time today.

The assistance I need from you as answers to the following question:

1. What is the role of the Privacy Commissioner in regards to social media platforms?

The *Privacy Act 1988* regulates organisations and agencies that operate in Australia. This includes organisations, such as the major social media platforms, that are headquartered overseas but have an 'Australian link' (as defined in s 5B(2) of the Privacy Act).

As the regulator for the Privacy Act, the Commissioner can conduct an investigation to determine whether these organisations have complied with the Australian Privacy Principles.

2. Can the Minister refer an issue to the Privacy Commissioner for investigation?

There is no explicit power for the **Communications** Minister to direct the Privacy Commissioner to investigate a matter.

However, the **Attorney-General** may direct the Commissioner to report to him about the outcome of an investigation that is conducted on the Commissioner's own initiative (see s 30 of the Privacy Act).

The **Communications** Minister could informally refer a matter to the Privacy Commissioner and request that the Commissioner investigate a matter. The Commissioner would then decide whether to investigate in accordance with the OAIC's regulatory action policy.

3. What is the OAIC doing to protect the privacy of Australians online and particular on social media platforms?

The Commissioner has a wide range of powers to promote compliance with the Privacy Act, both by social media platforms and other organisations regulated by the Act. These involve powers to investigate a complaint, conduct an investigation on the Commissioner's own initiative, or conduct an assessment of an organisation's activities. The Commissioner has completed a number of investigations of online social platforms, for example the [investigation into information handling practices of dating website Ashley Madison](#), conducted jointly with the Federal Trade Commission in the US and the Office of the Privacy Commissioner of Canada. The Commissioner also regularly provides advice and guidance to Australians about how they can protect their privacy online.

Unfortunately I would require this information by **no later than 1100 am** please.

My contacts working on this are [REDACTED]

Any assistance you can provide would be greatly appreciated.

Cheers
Helen

From: [REDACTED]

Sent: Tuesday, 20 March 2018 9:14 AM

To: Owens1, Helen <Helen.Owens1@communications.gov.au>

Subject: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi Helen,

[REDACTED] were in with the Minister this morning and he asked that the brief be structured as follows please:

1. What is the allegation?
 - a. Facebook is accused of enabling...XYZ....
 - b. Cambridge Analytica is said to have done...ZYX...
2. Are there any investigations in train?
 - a. E.g. The UK Parliamentary Committee is...
 - b. E.g. The US Justice Department (?) has received a referral...(just making this up. Is there anything?)
3. What is the Australian regulatory context?
 - a. Australian consumers have their data protected under the Privacy Act...
4. The role of the Privacy Commissioner is....
 - a. Government
 - b. Private
5. Facebook's Terms and Conditions are....
6. Industry self-regulation includes....

[REDACTED] might relay a better version of this to you.

As you know, the AG's office is working on a brief too.

[REDACTED]
[REDACTED]
s.47F

From: [REDACTED]
Sent: Tuesday, 20 March 2018 7:25 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Cc: Patteson, Carolyn <Carolyn.Patteson@communications.gov.au>; [REDACTED]
[REDACTED]

Subject: News overnight: Request for briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Hi Helen,

I'm told that overnight reports have emerged that the Cambridge analytica issue has grown and that Facebook has appointed a data forensics firm to investigate.

Can this please be taken into account in the brief (QTB) that come up today?

[REDACTED]
s.47F

On 19 Mar 2018, at 5:30 pm, [REDACTED] > wrote:

For Official Use Only

Hi Helen,

The Guardian ran a story today on the use of personal data 'harvested' from facebook (and 3rd party apps that integrate with the platform) and its use in profiling users as an input into election campaigns:

https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-facebook-nix-bannon-trump?CMP=Share_AndroidApp_Tweet

This followed a media release (please see below) in which privacy advocates call into question the use of personal data for political purposes and whether this is occurring without informed consent.

Labor (Senator Don Farrell) then asked Minister Fifield about this in Question Time today.

We have since had a call from Fran Kelly's producer asking the Minister to speak with her tomorrow – specifically to discuss data harvesting and the example of Cambridge Analytica.

With this in mind, would you please put together a short briefing document outlining legislative frameworks for data privacy issues, including:

- What relevant legislation exists
- Who is responsible for it
- What relevant agencies exist for reporting and enforcement

I understand [REDACTED] sought similar information when this last came up so you might have something in the archives.

Please note that the Attorney-General's office is also putting together a QTB for us for tomorrow in case this comes up again so you might coordinate with the AG's Department. They will also deal with the Fran Kelly media enquiry.

[REDACTED]
s.47F

From: [REDACTED]
Sent: Monday, 19 March 2018 5:14 PM
To: [REDACTED]

[REDACTED] > [REDACTED]

Subject: RE: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

We have had one question this afternoon from Fairfax. The response is below and it partially answers your policy questions. We will find what we can on the other points as well. I'm sure there is an existing brief somewhere that provides an overview of the legislative frameworks.

It does in the vast majority fall into our space so no issues from my end if media queries are sent our way – subject to any issues from you [REDACTED]?

The Office of the Australian Information Commission is the relevant government agency – this is the agency the Privacy Commissioner is a part of. We will pull together what we have from existing briefings for your boss – is he definitely doing RN or is he looking to refer that on?

Cheers
[REDACTED]

Response from AG

In Australia, the collection, use, storage, access and disclosure of personal information by government agencies and certain private sector organisations is governed by the *Privacy Act 1988*.

The Privacy Act contains an exemption for members of an Australian Parliament, local government councillors and registered political parties in relation to political acts and practices.

This exemption is designed to encourage freedom of political communication and support the operation of the electoral and political process.

The exemption does not authorise entities who are subject to the Privacy Act to disclose personal information that will be used by politicians or registered political parties for political purposes.

An individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the national privacy regulator, the Office of the Australian Information Commissioner.

Background

- The exemption for political acts and practices in Privacy Act section 7C is primarily intended to ensure political parties can maintain databases containing personal information about individual voters.

- The exemption applies to employees, contractors, subcontractors and volunteers of Parliamentarians and political parties.
- The exemption is not unprecedented in Commonwealth law: an example is the way that the Commonwealth *Electoral Roll Act 1918* provides registered political parties with access to electoral roll information.
- The exemption has received bipartisan support at various stages in the past, however the Australian Law Reform Commission's 2008 review of privacy laws recommended its repeal (subject to some amendments to the Privacy Act to prevent the Act from purportedly infringing the constitutional doctrines of parliamentary privilege and the implied freedom of political communication).
- Civil society groups the Australian Privacy Foundation, Digital Rights Watch, Electronic Frontiers Australia, and Future Wise issued a joint media release on 19 March 2018 calling on Australian political parties to disclose any previous relationships with Cambridge Analytica, and to state whether they believe that Cambridge Analytica's activities (as quoted in the New York Times and other media outlets) would meet 'the definition of consent required by Australian law': see <https://privacy.org.au/2018/03/19/media-release-australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>.

From: [REDACTED]
Sent: Monday, 19 March 2018 5:01 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

The Guardian ran a story today on the use of personal data 'harvested' from facebook (and 3rd party apps that integrate with the platform) and its use in profiling users as an input into election campaigns:

https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-facebook-nix-bannon-trump?CMP=Share_AndroidApp_Tweet

This followed a media release (please see below) in which privacy advocates call into question the use of personal data for political purposes and whether this is occurring without informed consent.

Labor (Senator Don Farrell) then asked Minister Fifield about this in Question Time today.

We have since had a call from Fran Kelly's producer asking the Minister to speak with her tomorrow – specifically to discuss data harvesting and the example of Cambridge Analytica.

Minister Fifield has asked me to put together a short briefing document outlining legislative frameworks for data privacy issues, including:

- What relevant legislation exists
- Who is responsible for it
- What relevant agencies exist for reporting and enforcement

I thought to reach out to you and check if you've had similar approaches from media?

Further, do you have any ideas about the questions above and would it be appropriate if we refer media enquiries to you?

s.47G

Adviser

Office of Senator the Honourable Mitch Fifield

Phone +61 2 6277 7480

s.47F

www.communications.gov.au

19 MAR 2018

Australian Digital Rights Organisations Call For Politicians To Clarify Their Dealings With Cambridge Analytica

Posted by [Liam Pomfret](#)

[No comments](#)

JOINT MEDIA RELEASE BY ELECTRONIC FRONTIERS AUSTRALIA, FUTURE WISE, AUSTRALIAN PRIVACY FOUNDATION, AND DIGITAL RIGHTS WATCH

In light of the revelations that Cambridge Analytica has reportedly misused the data of over 50 million people on Facebook, Australia's leading digital and civil rights advocates call on all Australian governments and political parties to categorically answer the following questions:

- Have you, at any time, engaged the services of Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you, at any time, been provided with data on Australian citizens by Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you ever provided any Government data such as voter rolls to Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Do you believe that the linkage of this sort of data to generate sensitive political data meets the definition of consent required by Australian law?

Many Australian political parties and ministers have reportedly met with Cambridge Analytica over the past few years. We must know who in the Australian political sphere believes in informed consent, and who does not.

The New York Times and The Guardian have reported that Cambridge Analytica accessed the Facebook profiles of 50 million people without their informed consent. People who trusted Facebook to keep their private information private; people who did not give their informed consent that their data be shared in this way.

Facebook has since suspended Cambridge Analytica from its platform, as well as its parent company Strategic Communication Laboratories.

Australian governments are pushing to collect more and more data on Australians, and to link it with larger and larger datasets. Australians must be confident that the custodians of our data will look after our best interests, proactively, and with due care and skill. We must know that our data is not being collected merely for narrow, self-interested reasons. We must be sure that this data is not being shared without our informed consent.

These should be simple questions for any government or political party to answer. We look forward to seeing how trustworthy they really are.

MEDIA CONTACTS

For Electronic Frontiers Australia

Justin Warren

Phone: 0412 668 526

Email: media@efa.org.au

For Future Wise

Dr Trent Yarwood

Phone: 0403 819 234

Email: trent@futurewise.org.au

For Australian Privacy Foundation

Liam Pomfret

Email: liam.pomfret@privacy.org.au

For Digital Rights Watch

Tim Singleton Norton

Email: info@digitalrightswatch.org.au

<https://www.efa.org.au/2018/03/19/australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>

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[REDACTED]

From: Owens1, Helen
Sent: Tuesday, 20 March 2018 1:43 PM
To: [REDACTED]
Subject: FW: Data Privacy QTB - reference to ACC's digital platforms inquiry [DLM=For-Official-Use-Only]

For Official Use Only

H [REDACTED]

We did not include this in the one we sent up earlier but maybe for an updated version?

H

From: [REDACTED]
Sent: Tuesday, 20 March 2018 1:22 PM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Cc: [REDACTED]
Subject: Data Privacy QTB - reference to ACC's digital platforms inquiry [DLM=For-Official-Use-Only]

For Official Use Only

Hi Helen,

The Minister also suggested we should have the following in mind in constructing our QTB:
<https://www.accc.gov.au/media-release/accc-seeking-views-on-news-and-digital-platforms-inquiry>

[REDACTED]
s.47F

From: Owens1, Helen
 Sent: Wednesday, 21 March 2018 10:33 AM
 To: [REDACTED]
 Cc: [REDACTED]
 Subject: FW: Proposed change to structure of QTB/TPs on Data Breaches [SEC=UNOFFICIAL]
 Attachments: QB18-000066.docx

Hi [REDACTED]

I have had a discussion with the team here about the structure of the QTB and the outline you have suggested below.

We have dealt quite closely with the OAIC previously about privacy and data breaches especially in relation to correspondence. Much of the advice they provide is fairly high level and they take pains to stress that it is not legal advice and would not bind the Commissioner in the event that a complaint is made to the OAIC. While they have not in the past objected to the use of this advice for responding to general enquiries, their preference is for the Department to refer enquiries about the *Privacy Act 1988* to the OAIC. You will have heard this morning that the Privacy Commissioner is now investigating if any Australians have been effected by the breach.

In relation to the QTB, we would suggest that the Minister refer any queries regarding the Privacy Act to the Australian Information Commissioner/ Attorney General and ACCC matters to the Treasurer (Treasury Department). s.47F [REDACTED]

With regards to the Online Content Scheme set out in the *Broadcasting Services Act 1992* (Schedules 5 and 7) regulates prohibited and potentially prohibited online content in Australia based on the National Classification Scheme. The type of content captured under this scheme is content relating to serious criminal activity, for example content that represents an incitement to violence, child exploitation and child sexual abuse material and would not generally be relevant in relation to data breaches or privacy concerns.

s.47G [REDACTED]

I have attached the latest draft for you to have a look over.

Let me know where you would like to go from here.

H

From: [REDACTED]
 Sent: Wednesday, 21 March 2018 9:22 AM
 To: Owens1, Helen <Helen.Owens1@communications.gov.au>
 Cc: [REDACTED]
 Subject: Proposed change to structure of QTB/TPs on Data Breaches [SEC=UNOFFICIAL]

Hi Helen,

The following structure has been proposed overnight for the QTB and TP's on Data Breaches. Can you please take this into consideration in the redraft your team are working on this morning?

The online space is a complex environment, there is no single law or regulator for the entire internet. As is the case in everyday life 'offline', a range of regulators are responsible for different facets of the law.

Australian Consumer Law is enforced by the ACCC, and applies to [insert examples where it is used online]. Penalties of [\$XXXX] can apply if a company or person is found to have breached the law.

Australian Privacy Law, under the Privacy Act 1988, is enforced Office of the Australian Information Commissioner (OAIC). The law applies to cases such as [dissemination of personal data without consent of the user, etc etc]. Penalties of [\$XXXX] can apply if a company or person is found to have breached the law.

Classification of online content hosted in Australia is regulated under Scheduled 5 and 7 of the BSA, and is enforced by the Office of the eSafety Commissioner in the ACMA. This scheme applies to cases such as [insert] and the Commissioner has the power to [insewrt powers/penalties here].

Terrorist material...

...Etc

etc

etc

[REDACTED]

[REDACTED]

Adviser

Office of Senator the Honourable Mitch Fifield

Phone +61 2 6277 7480

[REDACTED]

s.47F

www.communications.gov.au

[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:55 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]
Attachments: 20032018 QTB data privacy.docx

For Official Use Only

As discussed [REDACTED]

Thanks,

[REDACTED]

Policy Officer / Online Content and Gambling Section / Content and Copyright

Department of Communications and the Arts

[REDACTED]

[REDACTED]

2 Phillip Law Street, Canberra ACT 2601

GPO Box 2154 Canberra, ACT 2601

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:39 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Sorry [REDACTED] forgot to mention that this is an urgent one. We would need your feedback by 11 am this morning.

From: [REDACTED]
Sent: Tuesday, 20 March 2018 10:38 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: QTB on data privacy [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

Following your discussion with [REDACTED] I'm writing about a QTB we are preparing for this morning.

Would greatly appreciate if you could sanity check this document, noting we have included your response in the body of one of the questions.

Please get in touch if you have any questions, or if you are not the correct person to contact.

Many thanks in advance,

[REDACTED]

Policy Officer / Online Content and Gambling Section / Content and Copyright

Department of Communications and the Arts

[REDACTED]

[REDACTED]

2 Phillip Law Street, Canberra ACT 2601

GPO Box 2154 Canberra, ACT 2601

[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 March 2018 5:26 PM
To: Owens1, Helen
Cc: [REDACTED]
Subject: QB18-000066 draft re Facebook and data harvesting [DLM=For-Official-Use-Only]

For Official Use Only

Here we go Helen, to be finalised in the morning ([REDACTED] and I will be in at our normal time around 8am) once we have OAIC's input.

We will upload the IMS one into PDMS once we've settled the content.

Thanks,

[REDACTED]

Record Title [QB18-000066 draft re Facebook and data harvesting](#)
Record Number PAD/18/27633

[REDACTED]

From: Owens1, Helen
Sent: Tuesday, 20 March 2018 11:37 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: data privacy qtb [DLM=For-Official-Use-Only]
Attachments: QB18-000066.docx

For Official Use Only

[REDACTED] changes in track please add to the AGDs comments.

From: [REDACTED]
Sent: Tuesday, 20 March 2018 11:14 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Cc: [REDACTED]
Subject: data privacy qtb [DLM=For-Official-Use-Only]

For Official Use Only

Hi Helen,

Please see attached QTB (have created in PDMS, but am advised you prefer as a doc...then I can upload as an external into pdms 😊)

This version is subject to AGD cross-checking though (they haven't got back to us yet).

Thanks,



[REDACTED]
Policy Officer / Online Content and Gambling Section / Content and Copyright
Department of Communications and the Arts

[REDACTED]
2 Phillip Law Street, Canberra ACT 2601
GPO Box 2154 Canberra, ACT 2601

Powick, Taryn

From: Owens1, Helen
Sent: Wednesday, 21 March 2018 9:46 AM
To: [REDACTED]
Cc: [REDACTED] DLO
Subject: RE: Proposed change to structure of QTB/TPs on Data Breaches [SEC=UNOFFICIAL]

[REDACTED]
 Please see below from [REDACTED]

[REDACTED] are sitting down with the Minister at 1300 to talk through this.

We should be on standby for further changes between 1300 and 1400.

[REDACTED] would like to see our revised version by mid- morning please.

Let's try and aim for 1130 at the latest.

Thanks!

H

From: [REDACTED]
Sent: Wednesday, 21 March 2018 9:22 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Cc: [REDACTED] DLO <DLO@communications.gov.au>
Subject: Proposed change to structure of QTB/TPs on Data Breaches [SEC=UNOFFICIAL]

Hi Helen,

The following structure has been proposed overnight for the QTB and TP's on Data Breaches. Can you please take this into consideration in the redraft your team are working on this morning?

.....
 The online space is a complex environment, there is no single law or regulator for the entire internet. As is the case in everyday life 'offline', a range of regulators are responsible for different facets of the law.

Australian Consumer Law is enforced by the ACCC, and applies to [insert examples where it is used online]. Penalties of [\$XXXX] can apply if a company or person is found to have breached the law.

Australian Privacy Law, under the Privacy Act 1988, is enforced Office of the Australian Information Commissioner (OAIC). The law applies to cases such as [dissemination of personal data without consent of the user, etc etc]. Penalties of [\$XXXX] can apply if a company or person is found to have breached the law.

Classification of online content hosted in Australia is regulated under Scheduled 5 and 7 of the BSA, and is enforced by the Office of the eSafety Commissioner in the ACMA. This scheme applies to cases such as [insert] and the Commissioner has the power to [insewrt powers/penalties here].

Terrorist material...

...Etc

etc

etc



Adviser

Office of Senator the Honourable Mitch Fifield

Phone +61 2 6277 7480

s.47F

www.communications.gov.au

[REDACTED]

From: [REDACTED]
Sent: Tuesday, 20 March 2018 11:57 AM
To: Owens1, Helen; [REDACTED]
Subject: RE: QB18-000066 : PDMS Notification - Record Assigned [DLM=For-Official-Use-Only]

For Official Use Only

Yep, it was the correct one!!

Thanks (Sorry I missed the UK and US refs)

From: Owens1, Helen
Sent: Tuesday, 20 March 2018 11:56 AM
To: [REDACTED]
Subject: RE: QB18-000066 : PDMS Notification - Record Assigned [DLM=For-Official-Use-Only]

For Official Use Only

I did some edits. In PDMS – but got the error document is checked out message when I sent it through to parliamentary!! Can you check with them that the right one was cleared through.

You will tell by the fact that Question number 1 had the reference to the US and UK removed.

ARRRAGH!

From: [REDACTED]
Sent: Tuesday, 20 March 2018 11:46 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Subject: RE: QB18-000066 : PDMS Notification - Record Assigned [DLM=For-Official-Use-Only]

For Official Use Only

Try again now sorry.

From: Owens1, Helen
Sent: Tuesday, 20 March 2018 11:45 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: QB18-000066 : PDMS Notification - Record Assigned [DLM=For-Official-Use-Only]

For Official Use Only

It just disappeared from my PDMS inbox?

From: noreply@pws.gov.au [<mailto:noreply@pws.gov.au>]
Sent: Tuesday, 20 March 2018 11:42 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>

Cc: [REDACTED]

Subject: QB18-000066 : PDMS Notification - Record Assigned [DLM=For-Official-Use-Only]

DLM=For-Official-Use-Only

[REDACTED] has assigned QB18-000066 - Data privacy and legislative frameworks to OWENS1, Helen.

Requests can be actioned via your [PDMS Inbox](#).

Thank you

PDMS Notification Service

Note: Please do not reply to this message.

Notice:

The information contained in this email message and any attached files may be confidential information, and may also be the subject of legal professional privilege. If you are not the intended recipient any use, disclosure or copying of this email is unauthorised.

DLM=For-Official-Use-Only

DATA PRIVACY AND LEGISLATIVE FRAMEWORKS

The Government is aware of reports about the acquisition of Facebook data during the US election.

1. What are the allegations?

- Based on media reports, there are allegations that a company, Cambridge Analytica, used Facebook-based data to create profiles on between 50 and 230 million people without their informed consent and used this information with a view to influencing voting behaviour.

2. What investigations and by whom are happening overseas?

- It is well reported that former Federal Bureau of Investigations (FBI) Director Robert Mueller is investigating possible Russian collusion in the US election.
- It is also well reported that in the UK, there have been separate inquiries by the Electoral Commissioner, and by the British Information Commissioner's Office, into the possibility that there were data breaches relating to Brexit
- Facebook announced that it had hired a digital forensics firm to conduct a thorough audit of Cambridge Analytica to determine whether it has retained data.

3. What are the privacy protections in Australia through legislation?

- The Government is absolutely committed to appropriately protecting all Australians' right to privacy.
- In Australia, the collection, use, storage, access and disclosure of personal information by government agencies and certain private sector organisations is governed by the *Privacy Act 1988*.

- The Privacy Act contains an exemption for members of an Australian Parliament, local government councillors and registered political parties in relation to political acts and practices.
- This exemption is designed to encourage freedom of political communication and support the operation of the electoral and political process.
- The exemption **does not** authorise entities who are subject to the Privacy Act to disclose personal information that will be used by politicians or registered political parties for political purposes.
- An individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the national privacy regulator, the Office of the Australian Information Commissioner.
- The Government understands that the national privacy regulator, the Australian Information Commissioner, is undertaking preliminary inquiries of Facebook Australia to determine how this incident may have affected Australian Facebook users.
- The progress of and any outcomes from these inquiries are a matter for the Commissioner.
- Any individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the Office of the Australian Information Commissioner (OAIC).

4. What are the privacy protections the role of the Privacy Commissioner, and in particular the regulations around social media?

- The Privacy Act 1988 regulates organisations and agencies that operate in Australia. This includes organisations, such as the major social media platforms, that are headquartered overseas but have an 'Australian link' (as defined in s 5B(2) of the Privacy Act).
- As the regulator for the Privacy Act, the Commissioner can conduct an investigation to determine whether these organisations have complied with the Australian Privacy Principles.

5. Can the Minister refer an issue to the Privacy Commissioner for investigation?

- There is no explicit power for the Communications Minister to direct the Privacy Commissioner to investigate a matter.
- However, the Attorney-General may direct the Commissioner to report to him about the outcome of an investigation that is conducted on the Commissioner's own initiative (see s 30 of the Privacy Act).
- The Communications Minister could informally refer a matter to the Privacy Commissioner and request that the Commissioner investigate a matter. The Commissioner would then decide whether to investigate in accordance with the OAIC's regulatory action policy.

6. What is the OAIC doing to protect the privacy of Australian online and in particular on social media platforms?

- The Commissioner has a wide range of powers to promote compliance with the Privacy Act, both by social media platforms and other organisations regulated by the Act.
- These involve powers to investigate a complaint, conduct an investigation on the Commissioner's own initiative, or conduct an assessment of an organisation's activities.
- The Commissioner has completed a number of investigations of online social platforms, for example the investigation into information handling practices of dating website Ashley Madison, conducted jointly with the Federal Trade Commission in the US and the Office of the Privacy Commissioner of Canada.
- The Commissioner also regularly provides advice and guidance to Australians about how they can protect their privacy online.

7. What are the implications for Australia?

- There is no evidence that Australians are impacted by these events. If there was evidence, we would of course refer the matter to the Privacy Commissioner.
- While this is a lesson for all of us to keep an eye out, it is important to not overreact while we do not have all the facts.
- We must engage with social media platforms to harness the benefits of their reach, while also protecting Australians from inappropriate use, storage, access and disclosure of personal information.

Background

Cambridge Analytica — reported data harvesting activities

The New York Times and the Observer published a joint report on 18 March 2018 that US data analytics firm Cambridge Analytica harvested data of 50 million Facebook users without permission in 2014 for use in political campaigns.

The data was reportedly obtained by a third party firm, which offered online ‘personality tests’ through Facebook. Although Facebook understood the third party firm was only using data about the Facebook users who took the test (and their Facebook friends) for ‘academic purposes’, the data was allegedly instead provided to Cambridge Analytica.

Facebook claims that the incident is not a data breach, but instead that the third party firm and Cambridge Analytica breached Facebook’s terms of service. Facebook has engaged a digital forensics firm to audit the incident.

Australian media coverage / other responses

The report has received wide print, online and television coverage in the Australian media. Fairfax Media (‘Coalition and Labor distance themselves from “dark arts” campaigning firm Cambridge Analytica’, 19 March 2018) reported on domestic implications, noting that Australia has stronger privacy laws than the United States and quoting the Attorney-General’s statement that the exemption in the Privacy Act 1988 for political acts and practices does not authorise businesses to disclose personal information to political parties.

Senator Jordon Steele-John (Australian Greens) issued a media release on 19 March 2018 expressing concern about the use of data harvesting techniques in Australian elections (including in the recent South Australian election), and calling on the Australian Competition and Consumer Commission to consider investigating this kind of activity.

Civil society groups the Australian Privacy Foundation, Digital Rights Watch, Electronic Frontiers Australia, and Future Wise issued a joint media release on 19 March 2018 calling on Australian political parties to disclose any previous relationships with Cambridge Analytica, and to state whether they believe that Cambridge Analytica’s activities would meet ‘the definition of consent required by Australian law’.

Regulatory response to the incident

It is not clear how many Australians have been affected by this incident, or whether the incident constitutes a breach of the Privacy Act 1988 or other Australian laws. It may not, if the data harvesting fell within the classes of data collection, use and disclosure described in Facebook’s privacy policy and terms of use, to which Facebook users have consented.

The Office of the Australian Information Commissioner (OAIC) advised the Attorney-General’s Department on 20 March 2018 that it is making preliminary inquiries of Facebook Australia about this incident (i.e., to establish whether it is necessary to launch an investigation or take other enforcement action).

The OAIC has advised that it will be issuing a statement on Facebook and Cambridge Analytica.

Privacy Act exemption for political acts and practices — rationale and criticisms

The exemption for political acts and practices in section 7C of the Privacy Act is primarily intended to ensure political parties can maintain databases containing personal information about individual voters.

The exemption applies to employees, contactors, subcontractors and volunteers of Parliamentarians and political parties.

The exemption is not unprecedented in Commonwealth law: an example is the way that the Commonwealth Electoral Roll Act 1918 provides registered political parties with access to electoral roll information.

The exemption has received bipartisan support at various stages in the past, however the Australian Law Reform Commission's 2008 review of privacy laws recommended its repeal (subject to some amendments to the Privacy Act to prevent the Act from purporting to infringe the constitutional doctrines of parliamentary privilege and the implied freedom of political communication). The former Government's response to that review in October 2009 did not respond to this recommendation (along with other recommendations left to a second stage Government response, which never occurred).

In February 2017, when the Senate debated the Privacy Amendment (Notifiable Data Breaches) Bill 2017, the Australian Greens (Senator Ludlam) called on the Government to repeal the exemption (along with the Privacy Act exemption for businesses with an annual turnover of less than \$3 million).

	Contact Officer	SES Contact Officer
Name:		Helen Owens
Title:	A/g Director, Online Content & Gambling Section	Assistant Secretary, Content & Copyright Branch
Landline:		02 6271 1932
Mobile:	s.47F	s.47F
Last updated:	20 March 2018	

DATA HARVESTING – Talking Points

- The Government is absolutely committed to appropriately protecting all Australians' right to privacy.
- The Privacy Act contains 13 Australian Privacy Principles (APPs) which regulate how private sector organisations with an annual turnover above \$3 million, and most Australian Government agencies, can handle personal information.
 - Smaller businesses which trade in personal information (regardless of annual turnover) are also subject to the APPs.
- The APPs promote responsible and transparent handling of personal information, including through requirements to notify individuals of how their personal information will be used.
- The national privacy regulator, the Australian Information Commissioner, has today announced that he is undertaking preliminary inquiries of Facebook Australia to determine how this incident may have affected Australian Facebook users.
- The Commissioner will consider Facebook's response and whether any regulatory action is required.
- As noted in the Commissioner's public statement made earlier today, the Privacy Act 1988 provides a number of regulatory powers to investigate an alleged interference with privacy.
- It also provides enforcement powers which include powers to accept an enforceable undertaking, make a determination, or apply to the court for a civil penalty order for a breach of a civil penalty provision
- The progress of and any outcomes from these inquiries are a matter for the Commissioner.
- Any individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the Office of the Australian Information Commissioner (OAIC).

If asked: how does the Privacy Act apply to political parties?

- The Privacy Act contains an exemption for members of an Australian Parliament, local government councillors and registered political parties in relation to political acts and practices.
- This exemption is designed to encourage freedom of political communication and support the operation of the electoral and political process.
- However, the exemption does not authorise entities who are subject to the Privacy Act (such as social networking services) to disclose personal information that will be used by politicians or registered political parties for political purposes.

DATA HARVESTING

Cambridge Analytica — reported data harvesting activities

- The *New York Times* and the *Observer* published a joint report on 18 March 2018 that US data analytics firm Cambridge Analytica harvested data of 50 million Facebook users without permission in 2014 for use in political campaigns.
- The data was reportedly obtained by a third party firm, which offered online ‘personality tests’ through Facebook. Although Facebook understood the third party firm was only using data about the Facebook users who took the test (and their Facebook friends) for ‘academic purposes’, the data was allegedly instead provided to Cambridge Analytica.
- Facebook claims that the incident is not a data breach, but instead that the third party firm and Cambridge Analytica breached Facebook’s terms of service. Facebook has engaged a digital forensics firm to audit the incident.

Australian media coverage / other responses

- The report has received wide print, online and television coverage in the Australian media. Fairfax Media (‘Coalition and Labor distance themselves from “dark arts” campaigning firm Cambridge Analytica’, 19 March 2018) reported on domestic implications, noting that Australia has stronger privacy laws than the United States and quoting the Attorney-General’s statement that the exemption in the *Privacy Act 1988* for political acts and practices does not authorise businesses to disclose personal information to political parties.
- Senator Jordon Steele-John (Australian Greens) issued a media release on 19 March 2018 expressing concern about the use of data harvesting techniques in Australian elections (including in the recent South Australian election), and calling on the Australian Competition and Consumer Commission to consider investigating this kind of activity.
- Civil society groups the Australian Privacy Foundation, Digital Rights Watch, Electronic Frontiers Australia, and Future Wise issued a joint media release on 19 March 2018 calling on Australian political parties to disclose any previous relationships with Cambridge Analytica, and to state whether they believe that Cambridge Analytica’s activities would meet ‘the definition of consent required by Australian law’.

Regulatory response to the incident

- It is not clear how many Australians have been affected by this incident, or whether the incident constitutes a breach of the *Privacy Act 1988* or other Australian laws. It may not, if the data harvesting fell within the classes of data collection, use and disclosure described in Facebook’s privacy policy and terms of use, to which Facebook users have consented.
- The Office of the Australian Information Commissioner (OAIC) announced publicly on 20 March 2018 (see **Attachment A**) that it is making preliminary inquiries of Facebook Australia about this incident (i.e., to establish whether it is necessary to launch an investigation or take other enforcement action).
- The incident may also be relevant to the Australian Competition and Consumer Commission’s (ACCC) ‘Digital Platforms’ inquiry’ (commenced in December 2017) into media competition and advertising. The ACCC is using this inquiry to consider whether Australians are aware of the volume of data that social networking services hold about them, and how that data is used. Similar issues have been considered through previous OAIC surveys of Australian community attitudes to privacy.

Privacy Act exemption for political acts and practices — rationale and criticisms

- The exemption for political acts and practices in section 7C of the Privacy Act is primarily intended to ensure political parties can maintain databases containing personal information about individual voters.
- The exemption applies to employees, contactors, subcontractors and volunteers of Parliamentarians and political parties.
- The exemption is not unprecedented in Commonwealth law: an example is the way that the Commonwealth *Electoral Roll Act 1918* provides registered political parties with access to electoral roll information.
- The exemption has received bipartisan support at various stages in the past, however the Australian Law Reform Commission’s 2008 review of privacy laws recommended its repeal (subject to some amendments to the Privacy Act to prevent the Act from purporting to infringe the constitutional doctrines of parliamentary privilege and the implied freedom of political communication).
 - The former Government’s response to that review in October 2009 did not respond to this recommendation (along with other recommendations left to a second stage Government response, which never occurred).
- In February 2017, when the Senate debated the Privacy Amendment (Notifiable Data Breaches) Bill 2017, the Australian Greens (Senator Ludlam) called on the Government to repeal the exemption (along with the Privacy Act exemption for businesses with an annual turnover of less than \$3 million).

Privacy Act Notifiable Data Breaches scheme — possible application to this incident

- Part IIIC of the Privacy Act contains the Notifiable Data Breaches scheme, which requires all entities subject to the Privacy Act to notify affected individuals and the Australian Information Commissioner following a data breach of personal information that poses a likely risk of serious harm.

- The scheme only applies to data breaches that occur from 22 February 2018, when the scheme commenced. On available information, it does not appear that this incident involved a data breach of the kind covered by the scheme in any event, although a proper assessment would require more information.
- In any case, the decision about whether to notify a data breach under the Privacy Act is a matter for the entity who experienced the data breach, or for the Australian Information Commissioner (who has the power to direct an entity to notify a data breach and otherwise respond to non-compliance with the notification requirements).

Contact: [REDACTED]
Group: Civil Justice and Corporate

Phone: [REDACTED]
Cleared by: Michael Johnson

Date last updated: 20/03/2018

Attachment A: AUSTRALIAN INFORMATION COMMISSIONER PUBLIC STATEMENT — 20 MARCH 2018Facebook and Cambridge Analytica

20 March 2018

Statement from the Australian Information and Privacy Commissioner, Timothy Pilgrim PSM, on Facebook and Cambridge Analytica

I am aware of the reports that users' Facebook profile information was acquired and used without authorisation. My Office is making inquiries with Facebook to ascertain whether any personal information of Australians was involved.

I will consider Facebook's response and whether any further regulatory action is required. The *Privacy Act 1988* confers a range of privacy regulatory powers which include powers to investigate an alleged interference with privacy and enforcement powers ranging from less serious to more serious regulatory action, including powers to accept an enforceable undertaking, make a determination, or apply to the court for a civil penalty order for a breach of a civil penalty provision.

If anyone has concerns about how their personal information has been collected or managed they can get in touch with my office at www.oaic.gov.au or on 1300 363 992.

From: [Andrew Solomon](#)
To: [Annan Boag](#)
Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]
Date: Tuesday, 20 March 2018 10:08:31 AM

Annan,

Can you provide a few brief lines against the three points below please and send back to me (or alternatively some general info covering the points. We can attach the statement once cleared. Appreciated.

Andrew

From: Owens1, Helen [mailto:Helen.Owens1@communications.gov.au]

Sent: Tuesday, 20 March 2018 10:05 AM

To: Angelene Falk <angelene.falk@oaic.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>

Cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Thanks Angelene.

H

From: Angelene Falk [mailto:angelene.falk@oaic.gov.au]

Sent: Tuesday, 20 March 2018 9:59 AM

To: Owens1, Helen <Helen.Owens1@communications.gov.au>; Andrew Solomon <andrew.solomon@oaic.gov.au>

Cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Helen

Andrew Solomon will be in touch to help you out.

Angelene

From: Owens1, Helen [<mailto:Helen.Owens1@communications.gov.au>]

Sent: Tuesday, 20 March 2018 9:51 AM

To: Angelene Falk <angelene.falk@oaic.gov.au>

Cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: FW: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Good Morning Angelene,

Hope that this email finds you well.

I have an urgent Question Time Brief that I need some assistance with from your end if I could.

It is about the allegations that Cambridge Analytica had used Facebook Data to target and manipulate 230 million US citizens in the last US Election.

Our Minister is preparing for more questions on this in Question Time today.

The assistance I need from you as answers to the following question:

1. What is the role of the Privacy Commissioner in regards to social media platforms?
2. Can the Minister refer an issue to the Privacy Commissioner for investigation?
3. What is the OAIC doing to protect the privacy of Australians online and particular on social media platforms?

Unfortunately I would require this information by **no later than 1100 am** please.

My contacts working on this are [REDACTED]

Any assistance you can provide would be greatly appreciated.

Cheers
Helen

From: [REDACTED]

Sent: Tuesday, 20 March 2018 9:14 AM

To: Owens1, Helen <Helen.Owens1@communications.gov.au>

Subject: Structure of briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi Helen,

[REDACTED] were in with the Minister this morning and he asked that the brief be structured as follows please:

1. What is the allegation?
 - a. Facebook is accused of enabling...XYZ....
 - b. Cambridge Analytica is said to have done...ZYX...
2. Are there any investigations in train?
 - a. E.g. The UK Parliamentary Committee is...
 - b. E.g. The US Justice Department (?) has received a referral...(just making this up. Is there anything?)
3. What is the Australian regulatory context?
 - a. Australian consumers have their data protected under the Privacy Act...
4. The role of the Privacy Commissioner is....
 - a. Government
 - b. Private
5. Facebook's Terms and Conditions are....
6. Industry self-regulation includes....

[REDACTED] might relay a better version of this to you.

As you know, the AG's office is working on a brief too.

[REDACTED]
[REDACTED]
s.47F

From: [REDACTED]
Sent: Tuesday, 20 March 2018 7:25 AM
To: Owens1, Helen <Helen.Owens1@communications.gov.au>
Cc: Patteson, Carolyn <Carolyn.Patteson@communications.gov.au>; [REDACTED]

Subject: News overnight: Request for briefing: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

Hi Helen,

I'm told that overnight reports have emerged that the Cambridge analytica issue has grown and that Facebook has appointed a data forensics firm to investigate.

Can this please be taken into account in the brief (QTB) that come up today?

[REDACTED]
[REDACTED]
s.47F

On 19 Mar 2018, at 5:30 pm, [REDACTED] > wrote:

For Official Use Only

Hi Helen,

The Guardian ran a story today on the use of personal data 'harvested' from facebook (and 3rd party apps that integrate with the platform) and its use in profiling users as an input into election campaigns:
https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-faceook-nix-bannon-trump?CMP=Share_AndroidApp_Tweet

This followed a media release (please see below) in which privacy advocates call into question the use of personal data for political purposes and whether this is occurring without informed consent.

Labor (Senator Don Farrell) then asked Minister Fifield about this in Question Time today.

We have since had a call from Fran Kelly's producer asking the Minister to speak with her tomorrow – specifically to discuss data harvesting and the example of Cambridge Analytica.

With this in mind, would you please put together a short briefing document outlining legislative frameworks for data privacy issues, including:

- What relevant legislation exists
- Who is responsible for it
- What relevant agencies exist for reporting and enforcement

I understand [REDACTED] sought similar information when this last came up so you might have something in the archives.

Please note that the Attorney-General's office is also putting together a QTB for us for tomorrow in case this comes up again so you might coordinate with the AG's Department. They will also deal with the Fran Kelly media enquiry.

[REDACTED]
[REDACTED]
s.47F

From: [REDACTED]

Sent: Monday, 19 March 2018 5:14 PM

To: [REDACTED]
[REDACTED]

Cc: [REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

We have had one question this afternoon from Fairfax. The response is below and it partially answers your policy questions. We will find what we can on the other points as well. I'm sure there is an existing brief somewhere that provides an overview of the legislative frameworks.

It does in the vast majority fall into our space so no issues from my end if media queries are sent our way – subject to any issues from you [REDACTED]?

The Office of the Australian Information Commission is the relevant government agency – this is the agency the Privacy Commissioner is a part of. We will pull together what we have from existing briefings for your boss – is he definitely doing RN or is he looking to refer that on?

Cheers

[REDACTED]

Response from AG

In Australia, the collection, use, storage, access and disclosure of personal information by government agencies and certain private sector organisations is governed by the *Privacy Act 1988*.

The Privacy Act contains an exemption for members of an Australian Parliament, local government councillors and registered political parties in relation to political acts and practices.

This exemption is designed to encourage freedom of political communication and support the operation of the electoral and political process.

The exemption does not authorise entities who are subject to the Privacy Act to disclose personal information that will be used by politicians or registered political parties for political purposes.

An individual who is concerned that their personal information has been used for political purposes in breach of the Privacy Act should contact the national privacy regulator, the Office of the Australian Information Commissioner.

Background

- The exemption for political acts and practices in Privacy Act section 7C is primarily intended to ensure political parties can maintain databases containing personal information about individual voters.

- The exemption applies to employees, contactors, subcontractors and volunteers of Parliamentarians and political parties.
- The exemption is not unprecedented in Commonwealth law: an example is the way that the Commonwealth *Electoral Roll Act 1918* provides registered political parties with access to electoral roll information.
- The exemption has received bipartisan support at various stages in the past, however the Australian Law Reform Commission's 2008 review of privacy laws recommended its repeal (subject to some amendments to the Privacy Act to prevent the Act from purportedly infringing the constitutional doctrines of parliamentary privilege and the implied freedom of political communication).
- Civil society groups the Australian Privacy Foundation, Digital Rights Watch, Electronic Frontiers Australia, and Future Wise issued a joint media release on 19 March 2018 calling on Australian political parties to disclose any previous relationships with Cambridge Analytica, and to state whether they believe that Cambridge Analytica's activities (as quoted in the New York Times and other media outlets) would meet 'the definition of consent required by Australian law': see <https://privacy.org.au/2018/03/19/media-release-australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>.

From: [REDACTED]
Sent: Monday, 19 March 2018 5:01 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Data privacy and legislative frameworks in the context of data harvesting and user profiling for election campaigning [DLM=For-Official-Use-Only]

For Official Use Only

Hi [REDACTED]

The Guardian ran a story today on the use of personal data 'harvested' from facebook (and 3rd party apps that integrate with the platform) and its use in profiling users as an input into election campaigns:
https://www.theguardian.com/news/2018/mar/17/data-war-whistleblower-christopher-wylie-faceook-nix-bannon-trump?CMP=Share_AndroidApp_Tweet

This followed a media release (please see below) in which privacy advocates call into question the use of personal data for political purposes and whether this is occurring without informed consent.

Labor (Senator Don Farrell) then asked Minister Fifield about this in Question Time

today.

We have since had a call from Fran Kelly's producer asking the Minister to speak with her tomorrow – specifically to discuss data harvesting and the example of Cambridge Analytica.

Minister Fifield has asked me to put together a short briefing document outlining legislative frameworks for data privacy issues, including:

- What relevant legislation exists
- Who is responsible for it
- What relevant agencies exist for reporting and enforcement

I thought to reach out to you and check if you've had similar approaches from media?

Further, do you have any ideas about the questions above and would it be appropriate if we refer media enquiries to you?

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19 MAR 2018

Australian Digital Rights Organisations

Call For Politicians To Clarify Their Dealings With Cambridge Analytica

Posted by [Liam Pomfret](#)

[No comments](#)

JOINT MEDIA RELEASE BY ELECTRONIC FRONTIERS AUSTRALIA, FUTURE WISE, AUSTRALIAN PRIVACY FOUNDATION, AND DIGITAL RIGHTS WATCH

In light of the revelations that Cambridge Analytica has reportedly misused the data of over 50 million people on Facebook, Australia's leading digital and civil rights advocates call on all Australian governments and political parties to categorically answer the following questions:

- Have you, at any time, engaged the services of Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you, at any time, been provided with data on Australian citizens by Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Have you ever provided any Government data such as voter rolls to Cambridge Analytica or its parent company Strategic Communication Laboratories?
- Do you believe that the linkage of this sort of data to generate sensitive political data meets the definition of consent required by Australian law?

Many Australian political parties and ministers have reportedly met with Cambridge Analytica over the past few years. We must know who in the Australian political sphere believes in informed consent, and who does not.

The New York Times and The Guardian have reported that Cambridge Analytica accessed the Facebook profiles of 50 million people without their informed consent. People who trusted Facebook to keep their private information private; people who did not give their informed consent that their data be shared in this way. Facebook has since suspended Cambridge Analytica from its platform, as well as its parent company Strategic Communication Laboratories.

Australian governments are pushing to collect more and more data on Australians, and to link it with larger and larger datasets. Australians must be confident that the custodians of our data will look after our best interests, proactively, and with due care and skill. We must know that our data is not being collected merely for narrow, self-interested reasons. We must be sure that this data is not being shared without our informed consent.

These should be simple questions for any government or political party to answer. We look forward to seeing how trustworthy they really are.

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<https://www.efa.org.au/2018/03/19/australian-digital-rights-organisations-call-for-politicians-to-clarify-their-dealings-with-cambridge-analytica/>

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