



AUSTRALIAN COLLECTORS &
DEBT BUYERS ASSOCIATION

20th November 2023

Mr Richard McMahon
Australian Retail Credit Association

By email: crancode@arca.asn.au

Dear Mr McMahon,

Submission in response to Consultation Paper: Variations to the *Privacy (Credit Reporting) Code 2014 V2.3 (CR Code)*

The Australian Collectors & Debt Buyers Association appreciates the opportunity to provide the attached Submission in response to the Australian Retail Credit Association in relation to its consultation on variations to the *Privacy (Credit Reporting) Code 2014 V2.3 (CR Code)*.

Please do not hesitate to contact the writer to discuss any aspect of the Submission.

Yours sincerely

AUSTRALIAN COLLECTORS & DEBT BUYERS ASSOCIATION

Jacob Maiore

Chair

Email: admin@acdba.com



AUSTRALIAN COLLECTORS &
DEBT BUYERS ASSOCIATION

Submission to
Australian Retail Credit Association:
Variations to the
Privacy (Credit Reporting) Code 2014 V 2.3

November 2023

Introduction

Australian Collectors & Debt Buyers Association (ACDBA) welcomes this opportunity to comment on ARCA's proposed variations to the Privacy (Credit Reporting) Code 2024.

ACDBA was established in 2009 for the benefit of companies who collect, buy and/or sell debt. Our members (refer Appendix 1) represent the majority of the collection market in Australia.

ACDBA members do not issue loans directly, rather they acquire defaulted loan portfolios from banks and other financial institutions. As assignees of regulated credit contracts, our members have obligations under the CR Code, and frequently interact with the Credit Reporting System.

We note that only two proposals within the consultation were thought to have direct impact on members, so in an effort to assist, we have only responded to those proposals.

Response

Proposal 15

We understand that Proposal 15 seeks to amend the CR Code so that consumer credit is reported as 'closed' on the earlier of the date the credit is terminated, credit is charged off, or credit is repaid.

We understand that the proposed updated wording is consistent with some interpretations of the *Privacy Act 1988 (Cth)* ('**Act**'). We welcome the clarity.

The date that credit is terminated impacts the retention periods under section 20W of the Act. Consumer Credit Liability Information may be retained by the credit reporting bureau for a maximum of 2 years from the date that consumer credit is terminated or otherwise ceases to be in force.

While debts assigned to debt purchasers remain due and valid obligations of the debtor, the product of the above position is that valuable CCLI data held by debt purchasers will no longer be visible to prospective lenders. This is a loss to the credit-reporting scheme and leads to less accurate credit profiles of consumers.

In circumstances where a default may not exist, and where the original creditor's CCLI information has been purged pursuant to the retention periods in s20W of the Act, it creates a blind spot. This may result in loans being approved for consumers who are unable to repay them, or may only be able to do so with substantial hardship.

While it is beyond the purview of this consultation, the ability to capture our member's CCLI information should be strongly considered in any future reforms to the Act and the Code further updated. We would invite discussion on how we can assist with this.

Proposal 24

Some members have expressed concern with regard to Proposal 24. This will require members to make significant updates to their privacy policies to meet the obligation.

Noting that OAIC research shows only 20% of people read a privacy policy¹, the cost imposts may outweigh any benefit to consumers. In circumstances where debt collectors and debt purchasers often experience difficulty in communicating with its customer base, the benefit is further diminished.

Conclusion

In conclusion, while we support the overall intent of the proposed variations to improve consumer outcomes, we have raised some practical concerns stemming from our on-the-ground experience.

With constructive collaboration between industry, consumer groups and regulators, optimal solutions can be found that balance competing objectives. This may require staged approaches, gathering evidence before acting, or small tweaks to provisions to add nuance. Flexibility and openness to incremental improvements will achieve the best results.

We appreciate the consultative approach taken and the opportunity to provide feedback. If we can be of any further assistance throughout the process, we would welcome contact from ARCA.

Contact

For any enquiry in relation to this Submission, please contact:

Mr Jacob Maiore
Chair
Australian Collectors & Debt Buyers Association
PO Box 1003
SPRING HILL QLD 4000

Telephone: 02 4925 2099
Email: admin@acdba.com

¹ OAIC: [Australian Community Attitudes to Privacy Survey 2020](#)

Appendix 1

Members of Australian Collectors & Debt Buyers Association

- Axxess Recoveries & Collections Pty Ltd
- CCC Financial Solutions Pty Ltd
- CFMG Pty Ltd t/as reminda
- Charter Mercantile Pty Ltd
- CollectAU Pty Ltd
- Complete Credit Solutions Pty Ltd
- Credit Corp Group Limited (ASX: CCP)
- Lyndon Peak Pty Ltd t/as Access Mercantile Services
- PF Australia Pty Ltd
- PRA Australia Pty Ltd
- Recoveries Corporation Holdings Pty Ltd
- Standard8 Advisory Pty Ltd
- Strategic Collections Pty Ltd