

The Access Card – fallacies and facts



**Australian
Privacy
Foundation**

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Good evening.

I would like to thank PIAC for their invitation to address this forum on the so-called Access Card.

By way of background, the Australian Privacy Foundation was formed in 1987, to fight the Australia Card proposal. We obviously won that campaign, and have since become the leading non-governmental organisation dedicated to protecting the privacy rights of Australians.

We are opposed to the idea of a national identity card for Australians, but that is by no means the only issue we deal with. Relying entirely on volunteer effort and without government funding, we aim to focus public attention on emerging issues which pose a threat to the freedom and privacy of Australians. In the past year for example we have worked on issues as diverse as electronic health records, telecommunications privacy, the census, e-passports and workplace surveillance.

For more information about what we do, or to make a nomination for your favourite privacy invader for the 2006 Big Brother Awards, you can check out our website, at www.privacy.org.au

I would also encourage you to look at our website for more information about the so-called Access Card. In particular, our comprehensive Information Paper on the proposal pulls together every public resource we can find, to explain exactly what we do and don't know about the card, the chip, the database, and how the system will work. My comments tonight really only skim the surface of the issues and concerns presented in that paper.

Now to the topic at hand – the Access Card, facts and fallacies.

At the outset I wish to state that although we are privacy advocates, we appreciate that privacy is not an absolute interest. Privacy must of course be balanced against other public interests such as law enforcement and national security – but we will be concerned to know that the balance is right.

Our concern will be particularly raised whenever a new technology, law, policy or practice is proposed, that would introduce some element of surveillance or 'dataveillance' of a population of people, not just those individuals who are genuine suspects. We prefer to see schemes which are more limited or targeted in their application and intent, and which use the least privacy-invasive route to achieve their outcomes.

I should also point out that we are not opposed to smartcard technology per se. We are not luddites. We can see the potential benefits that smartcard technology can deliver – including better data security than magnetic stripe technology, and if designed right, further privacy-enhancing possibilities.

However having said all that, I wish to nail our colours firmly to the mast and state: we are opposed to a national identity card. And the Access Card, whether Joe Hockey likes it or not, is a national identity card.

I believe that the Access Card proposal should be opposed for six reasons: it is unjustified, unprecedented, unpopular, unsafe, wasteful, and discriminatory.

But before I run through these six points to you, I wish to just for a moment dwell on the process by which this proposal has been developed.

The other night, as I was reading that thrilling page-turner known as the Hansard transcript of Senate committee hearings into budget estimates, I came across a little gem that perhaps sums up the farce that passes for public accountability in Joe Hockey's Department of Human Services, which now comprises Medicare, Centrelink, the Child Support Agency and a few other smaller agencies.

This was entirely unrelated to the development of the Access Card, but in the same hearings we learnt that Centrelink recently awarded a contract for more than \$400,000 in consulting services to a former senior public servant, without putting that contract out to tender. A \$400,000 contract, but no competitive tendering process, to ensure either value for money, or to avoid accusations of favouritism or bias. Hardly an open and transparent process; hardly ethical is it? Oh but what was the contract for, you ask? Ethical advisory services.

And so we have seen with the development of the Access Card proposal. There have been twists and turns, and not a lot of clarity or transparency.

We know that a Privacy Impact Assessment was commissioned by the Government on the proposal, but the Government has refused to release it, contrary to a commitment Joe Hockey gave me that he would.

First we were told it was because the report was not complete; then they had to admit that was not true, it was indeed complete.

Then we were told the report would not be released because it *was* complete, and therefore it was irrelevant and outdated.

We were told the assessment was based on an earlier version of the proposal; but then again the KPMG "business case" still being touted by the Government as in support of its plans was also based on the same, earlier

model. So if the Privacy Impact Assessment is obsolete, then so are the Government's cost estimates.

Then we were told that the Privacy Impact Assessment report could not be released because it was "cabinet-in-confidence". But again, so was the KPMG report, and the Government happily released bits of that report – bits that were positive, anyway.

It's not only in relation to the question of *releasing* its privacy advice that the Government has had made mischief.

Public servants told the Senate Committee in May that the Privacy Impact Assessment made no recommendations; then three months later they "clarified" that statement by reversing it, admitting that the Privacy Impact Assessment report did make recommendations. Of course, they're not going to tell us what those recommendations are, because they say it has all been superceded now anyway, now that Allan Fels is on the case.

There is a fundamental contradiction in this entire approach: the Government says, "you can trust us with all your data", but "we can't trust you to see our privacy advice".

Trust is a big issue here. The Government has also played a very clever game of sidelining all engagement with privacy issues, by saying Allan Fels will deal with it. Anytime someone has asked a tough question about privacy, that is Joe Hockey's answer: you can trust us to get it right, because we've got Allan Fels figuring it out for us, and everybody trusts Allan Fels.

But again, there is a contradiction here. Is Allan Fels inside the tent such that his advice will be listened to, or is he outside the tent such that we can be assured of his independence?

The Minister Joe Hockey has continually described Professor Fels' Taskforce as independent. I disagree. I do not make these comments intending to detract in any way from the personal integrity and independence of Professor

Fels or his Taskforce members, but to reflect on the circumstances in which they find themselves.

The Taskforce has no statutory existence. The Taskforce has no written terms of reference. The Taskforce has no budget appropriation – if they want to spend money, they must ask the Minister. The Taskforce has no powers to compel the Government, or anybody else, to answer their questions, or to produce documents. The Taskforce has no statutory protection against actions for breach of confidence, or defamation, when it publishes its reports.

Furthermore the Taskforce is considered by the bureaucracy as simply part of the “implementation group” within the Department of Human Services. The Taskforce reports to the Minister, rather than to Parliament. The Taskforce members are employed by Joe Hockey’s Department. And the Taskforce members can be removed by his Department, at any time, for any reason.

By any measure, the Taskforce is not independent of the Government.

We also now know that the Taskforce reported to the Minister in September. Six weeks later, their report was only made public yesterday afternoon, *after* the Minister’s address to the Press Club, and his release of the Government’s response to the Taskforce.

Given the lack of terms of reference, formal powers, statutory or financial independence, and the existence of a Departmental representative on the taskforce, we are concerned that the Government sees the purpose of the Consumer and Privacy Taskforce as just to smooth the passage of the project, and lull Australians into a false sense of security, rather than genuinely make input into the design process or speak on behalf of the public interest.

The fact that the Government has already rejected one of the Taskforce’s key recommendations confirms my suspicions. The Taskforce recommended that the unique, personally identifying number not appear on the face or back of

the card, because that is the single biggest factor in the card becoming an all-purpose national ID card.

Joe Hockey has repeatedly said he doesn't want this to be a national ID card, but yesterday he turned around and rejected the fundamental recommendation from the Taskforce, that could have prevented that very spectre.

So enough about the flawed process, let's look at the proposal itself. What's so wrong with a national ID card anyway? Here's a few thoughts:

"This proposal assumes, to say ... 'We have a problem ... We cannot stop enough welfare cheating'. In other words ... we have a systems failure under the present system so we have to turn everybody into a card subject to deal with that systems failure.

The assumption of the [Access Card proposal is therefore] that every Australian is a cheat. It involves establishing a level of intrusion of a draconian kind into the day to day activities of many people.

The individual right of privacy [is] the right of people who are not breaking the law to go about their business and do transactions without unnecessary interference.

[This proposal] is a major invasion of individual privacy. It will impose unacceptably large additional costs on business operations. It will concern and worry a large number of elderly citizens in Australia.

Our opposition to [the Access Card] has been based on a very sound Liberal principle; that ... individual rights can be reduced or limited only if it can be demonstrated that there is a total public good in reducing or limiting individual rights in some way.

If the Government really believes ... that it is in the interests of the Australian public to have an ID card ... why does it not have a referendum? Why do we not go to the Australian public and have a clear, unvarnished vote?

If the Government thinks that it can go ahead with this identity card in the [face] of mounting public opposition, if it really believes that it can introduce an identity card that no other common law nation in the world has introduced ... if it really believes it can introduce an identification database that will expose every Australian citizen to a potential invasion of privacy such as we have never before seen in this country, if the Government believes that it can get away with that - it really has totally lost touch with reality.”

They are strong, fighting words, don't you think? I would like to lay claim to them. But sadly I did not write the last 350 words. Instead I have shamelessly lifted those words from the pages of history – the history of the Australia Card debates.

Except for changing the language from “Australia Card” to “Access Card”, those words were last spoken in 1987. Those words were spoken by a well-known and fierce opponent of identity cards - John Howard.

As they say, plus ca change ...

Well now for some of my own words on the Access Card.

As I said before, I believe that the Access Card proposal should be opposed for six reasons: it is unjustified, unprecedented, unpopular, unsafe, wasteful, and discriminatory.

The Access Card proposal is unjustified because:

The 'business case' appears pre-determined – it is just a case of a technology (and a Minister) looking for an application.

The stated objective is to improve access to health & welfare benefits – but the business case provides no evidence that the Access Card will achieve this objective.

The government's strategy appears to be to soft-sell only the fringe, optional applications, to divert attention from the main game. For example the Minister yesterday announced that we will each "own" our cards, whatever that means. He called it "the people's card", he likened it to a mini-iPod, and he suggested you could 'personalise' the card by adding your own shopping list to the spare capacity on the card's chip.

As proof that this strategy does successfully divert attention away from the main game, I offer you this insightful question asked of Mr Hockey in the Press Club yesterday by Glen Milne. Glen Milne used this terrific opportunity, to grill the Minister about any aspect of the Access Card proposal, in order to ask this: whether perhaps the Union Jack should appear in the design of the card, as well as the Southern Cross?

The proposal is unjustified because there is no mythical person who is going to have 17 cards reduced to one. The Government has had to admit that a small number of people hold perhaps 3 or 4 cards at most.

Those 'consumer convenience' benefits simply don't stack up for the majority of Australians, who only hold a Medicare card. Why do we need \$1 billion spent establishing a new national database and replacing one card with another – why not just upgrade the Medicare card from magnetic stripe to smartcard technology?

The other claimed 'consumer benefits' are also being over-sold, because we don't need the Access Card to deliver them:

- the idea of a single customer sign-on, and the ability to change your address once, across a range of government departments, is coming later in 2006 anyway
- Medicare "swipe and go" rebates are coming in 2007 anyway

- as for the inclusion of basic e-health details: the AMA have questioned this idea's utility; and the model has been promised and failed before in the MediConnect, HealthConnect, and Tasmanian Medicare smartcard trials
- and the delivery of emergency relief, which was clearly an afterthought in the wake of Cyclone Larry, with no discussion in the business case by KPMG about how else this could be achieved.

If these consumer benefits of the “people’s card” were genuine, there would be no need to make the card compulsory. It just doesn’t stack up as benefiting you or I.

KPMG says the business case only stacks up for the government if they make the card compulsory. Even so the KPMG-identified benefits to the government are in relation to Centrelink-based fraud – that only relates to 22% of the population. Why do the other 78% need to be affected at all?

The proposal is unprecedented because:

There will be a personal number that is both unique and universal – meaning every person will have one, and the number will be unique to that person – that is included on a card carried by at least every adult.

Australians do not currently have assigned to them a single, universal and unique number on a government-issued document: drivers’ licence numbers and passport numbers are unique but not universally held; current Medicare card numbers are universal but not unique, because they can cover more than one family member; and tax file numbers are not printed on a card for your wallet, and their use outside selected purposes is strictly prohibited.

So the Access Card system will involve a unique number for every Australian – both adults and children.

The proposal is also unprecedented in that every adult will have to turn up, re-prove their identity, and be photographed.

There will be a national population database, including information about your family and relationships with other people, as well as your biometric photo. The photos are intended to be suitable for facial recognition technology, so that, for example, the police could get an image from a CCTV camera and scan the Access Card database to find out who that person is. That is not possible now with the digital but not biometric driver's licence photos held by the RTA.

There will also be a card for every adult, with your name, signature, photo and that unique national ID number clearly visible – contrary to the recommendations of Professor Fels' Taskforce.

The use of the ID number is not going to be limited to only accessing health and welfare benefits. Yesterday Joe Hockey said that "proposed legislation will prevent the card being required by a bank or other organization as the only allowable form of identification. People may, however, choose to use the access card to assist in proof of identity at those locations."

So that still means that both government and business can ask to see your card. They could legitimately say: Access Card or passport, you choose. Guess which one you'll be using – the one that fits in your wallet. The legislation preventing 'mandatory' demands for the card as 'proof of ID' will be about as effective as the legislation which already prevents driver's licences being asked for as ID. Try exercising your right to refuse, and see just how difficult your life becomes.

But because of the unique and universal ID number, both governments and businesses can start to confidently link records, data-match and profile customers, in a way that is simply not possible in the absence of a single, national, unique identity number.

So while you may think "of course the bus company needs to know I am a concession holder to sell me a concession ticket", and "fair enough that Australia Post needs to know my identity before I post a parcel to my granny overseas, because I might be a terrorist", that is a very different proposition to the bus company, post office or anyone else being able to link up that disparate information about where you buy your bus tickets, what videos you rent, where you post your mail to, or what concessions you've asked for. All of which is possible without anyone getting information off the so-called secure chip or off the government's so-called secure database – all they'll need is the ID number that's printed on your card.

The Minister said yesterday that he "will not be amalgamating the agency databases or creating a centralised database holding all your information in one place". He said: "We will keep your existing agency records with the relevant agency – where they are now."

That's lovely of course. But you don't need to amalgamate databases when you have everyone identified by a single, unique and universal national identity number – you just link the data together when you want to. The Minister's comments also conveniently ignore the fact that he's proposing a whole new national population database to sit on top of the existing ones.

Of course, the Minister has also said that the card is not compulsory. You don't have to have one. But if you don't, you will get no Medicare rebates or 'free' healthcare, no PBS medicines, and no Centrelink or Veteran's pensions, disability pension, carers' payments, baby bonus, AusStudy or unemployment benefits. The flow-on effect also means no concession fares or pensioner discounts on public transport, electricity bills, council rates, etc.

So maybe the super-wealthy can have privacy, but the rest of us can't afford it.

The proposal is unpopular too:

A Morgan poll conducted in July 1985 on the idea of a "national ID card", not long after the Australia Card was first mooted, found: 68% in favour, 25% opposed, and 7% undecided. By the end of the Australia Card debates in 1987, support had dropped from 68% to less than 10%. More than 90% of the population in 1987 opposed the idea.

Since the 1980s, support for the idea has never got beyond a high of ~70%, a peak achieved just after September 11. A repeat Morgan poll conducted in July 2005, just after the London bombings, found only 62% in favour, 32% opposed, and 6% undecided.

We predict a similar pattern now: as details about the identity card and system emerge, opinion will shift from ~ 60% support to over 90% opposition.

The proposal is also unsafe and self-defeating:

A single ID card, a single ID number, and a single national population database is all contrary to the National Identity Security Strategy, which aims to combat identity fraud and identity theft.

That's because single, national systems are inherently weak. They mean that only one document needs to be forged, or only one public servant needs to be bribed, or only one database needs to be hacked into, to perpetrate identity fraud and identity theft. Both the Deputy Commissioner of Taxation and the Principal Criminologist with the Australian Institute of Criminology have suggested that the Access Card proposal will lead to increased identity theft. The Access Card is a gift to organised crime.

The proposal is also wasteful:

The Government's estimates are that the Access Card will cost at least \$1.1 billion over 4 years; and will return up to \$3 billion over 10 years, starting in 2010.

I've done the maths. The return on investment at the end of the 14 years would be higher if the money was sitting in the bank. Not a special bank, not even a term deposit, just my everyday savings account. Joe Hockey, the offer is there.

And of course there are the opportunity costs. If we as a community are serious about improving people's "access" to health benefits, we could do so much more with \$1 billion. I am informed that \$1 billion could instead deliver 11 new hospitals, or could be used to establish universal dental care. Why isn't that on the table?

And finally, **the proposal is discriminatory:**

I believe that this proposal will likely entrench social disadvantage for those people who currently struggle with producing evidence of their identity – in particular, remote indigenous communities, homeless people, people with disabilities, and people of NESB.

According to the KPMG business case, the plan for people who cannot produce adequate evidence of their identity is to issue them with an Access Card that includes a flag, indicating 'low confidence' in their identity. That to me says you will be branded as a second-class citizen. It will likely lead to both "service denial" and "identity denial".

This concludes my comments on the so-called Access Card. The process is dodgy, and the proposal is flawed.

Following Joe Hockey's decision yesterday not to follow the recommendations of the Taskforce that would prevent his "people's card" becoming a national ID card, we now know for sure that this is a national identity card, and we oppose it as unjustified, unprecedented, unpopular, unsafe, wasteful and discriminatory.

If you feel the same way, I urge you to support our campaign against the ID card.

You can support the campaign by joining the Privacy Foundation or sending in a donation, writing letters to your local paper, harassing your local federal MP, organising your own community groups, and generally making mischief and mayhem for the Government, until they realise that, like the sale of the Snowy, this is a political hot potato that must be dropped.

I'd like to conclude by thanking you for your attention this evening.