

## Australian Privacy Foundation Election Challenge 2013

### Pirate Party Australia response

#### Privacy Processes

1. Does your Party commit to requiring the conduct of **Privacy Impact Assessments (PIAs)** on all projects that have significant potential to negatively impact people's privacy?

Yes.

2. Does your Party commit to the creation of **a privacy right of action** within the first year of the new Parliament? See the APF Policy

Yes.

3. Does your Party commit to requiring every organisation to establish and maintain **information security safeguards** commensurate with the sensitivity of the data?

Yes.

4. Does your Party commit to a mandatory notification scheme for **data breaches**?

Yes.

5. Does your Party commit to ensuring that **the Privacy Commissioner's decisions about complaints** are subject to appeal to the judicial system?

Yes.

6. Does your Party commit to an independent Review of the **performance of the Privacy Commissioner's functions**?

Yes.

#### Privacy Protections – Against Unreasonable Government Activities

7. Does your Party commit to the repeal of the many unnecessary and unjustified features of post-2001 **counter-terrorism legislation**?

Yes – Pirate Party Australia are committed to direct repeal of the following:

- Schedule 8 (anti sedition clauses) from 2005 Anti-Terrorism Act.
- The Intelligence Services Legislation Amendment Bill 2011
- The Classification (Publications, Films and Computer Games) Amendment (Terrorist Material) Bill 2007.
- The Broadcasting Services Amendment (Online Services) Act 1999.
- Section 313 of the Telecommunications Act.
- All legal mechanisms enacted to create records of Internet use among the general public.

We are also committed to seeking the following changes:

- Replacement of the Cybercrime Act with more appropriate legislation for the digital age.
- An independent review of the Telecommunications Interception and Access Act to ensure digital liberties and privacy are properly protected.
- A ban on future access to phone or internet metadata without a warrant.
- A ban on agencies obtaining private information on Australian citizens through the NSA or other offshore surveillance not subject to Australian protections and laws.

8. Does your Party commit to sustaining freedom from surveillance of people's online behaviour, communications and reading habits, by rejecting the recent proposals relating to '**data retention**' and to **the 'filtering' of Internet traffic**?

Yes.

9. Does your Party commit to the withdrawal of the power of the Australian Bureau of Statistics to impose **mandatory participation in ABS surveys**?

This is not currently a part of our platform, however, it may be investigated in future.

10. Does your Party commit to the conduct of a meaningful evaluation of **Body Scanners in Australian airports**?

We believe the body scanners should be removed from Australian airports in light of the current body of evidence demonstrating their ineffectiveness and invasiveness.

**Privacy Protections – Against Unreasonable Activities by Corporations**

11. What commitments is your Party making in relation to the regulation of **privacy-intrusive behaviour by social media services** such as Google and Facebook?

We are currently investigating workable systems for regulation which are technically feasible, not cost-prohibitive and still protect a user's ability to freely engage in a contracted service. We imagine that, at a minimum, a user's 'meta-data' should be kept for a limited time, with protections requiring an authority to possess a warrant in order to gain any user information. We hope to speak with the APF directly about this specific issue in the coming months. While most social media systems are beyond the control of Australian authorities, we do seek to prevent agencies in Australia obtaining private information from sources which are not subject to Australian protections and laws.

12. Does your Party commit to the establishment of effective protections against **abuses of privacy by the media**? See the APF Policy

Yes – APF recommendations have informed our policy on this issue.

### **Privacy Protections – Against Unreasonable Activities in All Sectors**

13. Does your Party commit to ensuring that all **visual surveillance** (such as CCTV, Automated Number Plate Recognition and through the use of drones) complies with the key principles of Justification, Proportionality, Transparency, Mitigating Measures, Controls and Audit?

Yes. Visual surveillance would require a warrant to be issued by a court and would be subject to requirements to state the purpose of surveillance, identify recipients, periodically destroy material, and submit regular, publicly available reviews. Legal sanctions would apply in cases where these requirements were not met.

14. Does your Party commit to implementation of Law Reform Commission recommendations in relation to **substance abuse testing**, within the first year of the new Parliament?

Our policy is very similar to that recommended by the Law Reform Commission. We believe Mandatory Privacy Impact Assessments should be required, and consultation with affected persons should be mandated. Assessment should occur with regard to the nature of the risks which testing is intended to address, and tested individuals must be provided with explicit information on the purpose of the tests, procedures to be employed, disclosure and use of information, and the rights of the individual.

15. Does your Party commit to regulation of the use of **biometrics, including genetic data**?

We believe the law governing biometrics is insufficient. Pirate Party Australia supports the establishment of an expert panel to examine the law with a mandate to ensure privacy is adequately protected and proper legal protections exist.

16. Does your Party commit to ensuring that clear and effective protections exist for all **personal health care data**?

Yes, we support the new APPs, and we are open to reviewing best practices and discussing methods by which more improvements could be made in the future.

17. Does your Party commit to preventing the **export of personal data** to data havens that provide less protection than Australia does?

We support the new APPs and the protections against data being exported. We would go further and extend this to small businesses, and other entities that do not fall under the definition of APP entity in the soon to be adopted amendments to the Privacy Act. There should be no loopholes by which people's agreed expectation of privacy should be subverted.

18. What commitments is your Party making in relation to the regulation of **mobile device tracking**?

We support the relevant APPs regarding collection of, dealing with and use of data, including for direct marketing. We recognise that despite legislative support, it will be difficult to ensure that people's privacy is protected on their own devices, so we would also encourage the use of self-help tools that allow selective blocking of tracking code, particularly for organisations that do not implement opt-in tracking or take part in re-targeting.

We also believe in ensuring individuals have a legally protected right to control data collection on devices they own. This should cover the duration for which data is retained, encryption and sending of data, and when data is deleted.