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To: "Lindsay.Tanner.MP-aph.gov.au" <Lindsay.Tanner.MP@aph.gov.au>  
From: Jan Whitaker <jwhit@janwhitaker.com>  
Subject: Issues with the AML-CTF Legislation  
Cc: Joo-Cheong Tham <j.tham@unimelb.edu.au>,  
Jan Whitaker <jwhit@melbpc.org.au>,  
nigel waters <nigelwaters@iprimus.com.au>,  
"grenouf-choice.com.au" <grenouf@choice.com.au>,  
R.McClelland.MP@aph.gov.au,Craig.Emerson.MP@aph.gov.au,  
senator.faulkner@aph.gov.au

The Hon Lindsay Tanner, MP  
Minister for Finance and Deregulation

Dear Lindsay,

In light of your new responsibility for business deregulation, we would like to bring to your attention a piece of draft legislation that was left languishing in the dying days of the Howard Government - the second tranche of the AML-CTF Act.:<http://www.ag.gov.au/www/agd/agd.nsf/Page/RWPD0830133613430D1CA2572E90003CF54>

The AML-CTF Act is bad legislation in its enacted components, and even worse should the second tranche be passed. This is really the Financial Privacy Invasion Act in its current form. Not only is the first tranche legislation bad, requiring refitting of data collection and consumer relationships with financial services, the previous government could not even manage to meet its consumer education obligations out of the AG's department before the first implementation took effect 12 December.

Two of the consumer members of the Privacy Consultative Committee for AUSTRAC, Mr Nigel Waters representing the Australian Privacy Foundation and myself as community representative for CHOICE, request that the new Rudd Government:

1. Delay indefinitely the presentation of the second tranche that extends the onerous compliance obligations to thousands of small businesses such as legal firms, jewelers, accountants, real property managers and other groups that would be brought in should this bad legislation pass.
2. Review the onerous nature of the existing legislation which exceeds the requirements of the FATF 40 recommendations, which the previous government falsely claimed as justification.

Based on the FTR Act with its provisions for reporting 'suspicious transactions' which has led to a secret blacklist outside the coverage of the Privacy Act, and the lack of any realistic indexing the general financial transaction reporting level of \$10,000 to inflation since the original Act was implemented, this 'son of FTR' is far worse.

Through its 'Know Your Customer' requirements, the temptation for 'amateur' profiling based on ethnicity has been increased with no justification. The suspicious transactions reporting is a black hole of citizen reporting with no recourse to the Privacy Act to destroy incorrect data held by AUSTRAC. You may even be in it, Lindsay. The only people who could tell you most likely can't or won't. At any rate, it's there forever with no ability for a citizen to 'prove their innocence'. This data is available for additional profiling not only by the traditional law enforcement agencies charged with protecting the financial interests of the country, but also Child Support Agency, Centrelink, ASIC and many more. The Howard Government pushed the envelope in terms of spying on the financial dealings of all of us.

We ask the new Rudd Government to reconsider this domestic financial spying via our financial institutions. This is unAustralian and 'crime on speculation' instead of probable cause. Reduce the regulation of our financial institutions, cut the current red tape, and certainly stop from adding any more that would impose on small businesses as a result of the second tranche.

Thanks for your consideration.

Regards,  
Jan Whitaker, consumer rep for CHOICE  
Nigel Waters, Australian Privacy Foundation