



Dr Roger Clarke
Chair
Australian Privacy Foundation
GPO Box 1196
SYDNEY NSW 2001

Dear Dr Clarke

Australian Privacy Foundation Submission on the Biometrics Institute Privacy Code

Thank you for the Australian Privacy Foundation's (APF) submission on the Biometrics Institute Privacy Code (the Code) provided to my Office on 4 December 2009.

We have carefully reviewed and considered the issues raised by the APF in this submission and note the following:

Biometrics Institute Privacy Code

The Code in 2006 was approved as I was satisfied the Code met the requirements of Part IIIAA of the *Privacy Act 1988 (Cth)* (the Privacy Act). The Code includes privacy standards that are at least equivalent to the National Privacy Principles (NPPs) and also incorporates additional privacy protections in relation to certain issues such as the handling of employee records, data security, accountability obligations and notice requirements.

Part IIIAA of the Privacy Act does not give the Privacy Commissioner responsibility for promoting approved privacy codes. However, my Office does support industry groups and code administrators promoting their own privacy codes as a way of raising awareness of good privacy practices.

The Code is voluntary in nature as required by section 18BB(2)(c) of the Privacy Act. The Office sees the Biometrics Institute's promotion of their privacy code as a means of encouraging organisations to consider the benefits of opting into the code and of adopting higher standards of privacy protection. Whilst I am disappointed that the

take up rate for the Code is relatively low I note that it is a matter for each organisation to decide whether or not to opt into a privacy code or, if they would ordinarily fall within the Privacy Act's jurisdiction, remain subject to the NPPs.

Review of the Biometrics Institute Privacy Code

We have considered your comments about the review of the Code and your concerns about the independence of the Independent Code Review Panel (the Panel). Noting the requirement for the Panel to be comprised of an equal number of biometrics consumers and industry representatives, it is likely to be inevitable that organisations that are members of the Biometrics Institute will be represented on the Panel. However, I have written separately to the Biometrics Institute regarding how this process may be improved in the next review of the code.

Australian Privacy Awards

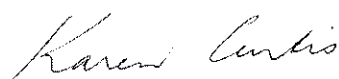
We note your concern that the Biometrics Institute Privacy Code was nominated in the 2009 Australian Privacy Awards. The Australian Privacy Awards aim to encourage, recognise and reward businesses, government agencies and not-for-profit organisations that engage in good privacy practices.

My Office encourages all businesses, government agencies and not-for-profit organisations to nominate in relation to any privacy related projects, initiatives, campaigns or systems in which they are involved. The Biometrics Institute's nomination for the 2009 Privacy Awards is indicative of its commitment to achieving good privacy practice.

If you wish to discuss any aspect of this matter further please contact Mr Andrew Solomon, Director, Policy on 02 9284 9708 or at andrew.solomon@privacy.gov.au.

I trust my comments are of assistance.

Yours sincerely



Karen Curtis
Australian Privacy Commissioner

29 March 2010

cc: Ms Isabelle Moeller, General Manager, Biometrics Institute Limited