



**Australian
Privacy
Foundation**

<http://www.privacy.org.au>

Secretary@privacy.org.au

<http://www.privacy.org.au/About/Contacts.html>

31 March 2016

Department for Foreign Affairs and Trade Ambassador for Cyber Affairs

Dear Ambassador,

Re: INTERNATIONAL CYBER ENGAGEMENT STRATEGY

The Australian Privacy Foundation (APF) is the country's leading privacy advocacy organisation. A brief backgrounder is attached.

This submission by the Australian Privacy Foundation responds to the call for submissions for the Department of Foreign Affairs and Trade's inaugural International Cyber Engagement Strategy.

The Australian Privacy Foundation (APF) in principle welcomes a coherent cross-government strategy for Australia's international cyber issues. We are also pleased to see that privacy is explicitly mentioned as one of the aspects of international law and human rights obligations at the core of Australia's strategic foreign policy development.

However, our main concerns are that this high-level commitment to human rights including privacy is not currently being implemented in practice in either Australia's domestic cyber policies, or its international cyber policies. We have been very concerned about the widespread privacy infringements comprised by Australia's participation in the international 'Five Eyes' surveillance and data-sharing partnership with the US, UK, Canada and New Zealand, and the lack of transparency about the very existence of this partnership until Edward Snowden's whistleblowing in 2013. Unlike in other Five Eyes nations, there has been no restriction on Australia's surveillance capacities and practices since these revelations, a situation we regard as an ongoing mass-scale privacy infringement. We have also been concerned about Australia's international surveillance activities which have had spillover effects domestically. In particular, the surveillance of Timor-Leste (East Timor) during bilateral resource negotiations also involved an ASIO raid on the office of Canberra lawyer Bernard Collaery. Another area of concern is the provision of personal information about Australian persons by the Australian security services to overseas security agencies without internal privacy rules and procedures being followed, including various incidents over the last few years concerning ASIS.¹ We view these internal rules, and the IGIS oversight function, to be inadequate to protect privacy rights, but the lack of adherence to these rules by the agencies concerned is also of great concern to us.

Thus, we would like to see Australia 'walk the walk' as well as 'talk the talk' on human rights in international cyber strategy. Australia should ensure strong protections domestically in the form of enforceable human rights including a right to privacy, and this protection should be extended to non-citizens, and apply to Australia's international activities including the transfer of personal information to overseas agencies.

¹ See: Inspector-General of Intelligence and Security Annual Report 2014-2015, at pp. 33-34; Inspector-General of Intelligence and Security Annual report 2015-2016, at pp. 25-26.

Thank you for your consideration.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kat Lane', with a stylized, cursive script.

Kat Lane, Chair
0447 620 694
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Australian Privacy Foundation

Background Information

The Australian Privacy Foundation (APF) is the primary national association dedicated to protecting the privacy rights of Australians. The Foundation aims to focus public attention on emerging issues that pose a threat to the freedom and privacy of Australians. The Foundation has led the fight to defend the right of individuals to control their personal information and to be free of excessive intrusions.

The APF's primary activity is analysis of the privacy impact of systems and proposals for new systems. It makes frequent submissions to parliamentary committees and government agencies. It publishes information on privacy laws and privacy issues. It provides continual background briefings to the media on privacy-related matters.

Where possible, the APF cooperates with and supports privacy oversight agencies, but it is entirely independent of the agencies that administer privacy legislation, and regrettably often finds it necessary to be critical of their performance.

When necessary, the APF conducts campaigns for or against specific proposals. It works with civil liberties councils, consumer organisations, professional associations and other community groups as appropriate to the circumstances. The Privacy Foundation is also an active participant in Privacy International, the world-wide privacy protection network.

The APF is open to membership by individuals and organisations who support the APF's Objects. Funding that is provided by members and donors is used to run the Foundation and to support its activities including research, campaigns and awards events.

The APF does not claim any right to formally represent the public as a whole, nor to formally represent any particular population segment, and it accordingly makes no public declarations about its membership-base. The APF's contributions to policy are based on the expertise of the members of its Board, SubCommittees and Reference Groups, and its impact reflects the quality of the evidence, analysis and arguments that its contributions contain.

The APF's Board, SubCommittees and Reference Groups comprise professionals who bring to their work deep experience in privacy, information technology and the law.

The Board is supported by Patrons The Hon Michael Kirby and Elizabeth Evatt, and an Advisory Panel of eminent citizens, including former judges, former Ministers of the Crown, and a former Prime Minister.

The following pages provide access to information about the APF:

- Policies <http://www.privacy.org.au/Papers/>
- Resources <http://www.privacy.org.au/Resources/>
- Media <http://www.privacy.org.au/Media/>
- Current Board Members <http://www.privacy.org.au/About/Contacts.html>
- Patron and Advisory Panel <http://www.privacy.org.au/About/AdvisoryPanel.html>

The following pages provide outlines of several campaigns the APF has conducted:

- The Australia Card (1985-87) <http://www.privacy.org.au/About/Formation.html>
- Credit Reporting (1988-90) <http://www.privacy.org.au/Campaigns/CreditRpting/>
- The Access Card (2006-07) http://www.privacy.org.au/Campaigns/ID_cards/HSAC.html
- The Media (2007-) <http://www.privacy.org.au/Campaigns/Media/>