



**Australian  
Privacy  
Foundation**

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13 June 2008

Senator the Hon Stephen Conroy  
Minister for Broadband, Communication and the Digital Economy

cc: Keith Besgrove, First Assistant Secretary, DBCDE  
Richard Desmond, Acting Assistant Secretary, DBCDE  
Karen Curtis, Privacy Commissioner

Dear Senator Conroy

**OECD Ministerial on the Future of the Internet Economy**

I understand that you are attending and speaking at the OECD Ministerial next week. Mr Besgrove from your Department is also attending and is speaking at the preceding Civil Society/Organised Labor Forum on Monday. I am also on the programme for that Forum as part of the international Civil Society delegation, speaking on privacy and security issues, and will be staying on for the Ministerial.

I would like to draw to your attention the main concerns of Civil Society. These are set out in a Background Paper prepared by the Public Voice Coalition, which is available online at <http://thepublicvoice.org/events/seoul08/cs-paper.pdf>

A shorter Declaration will be tabled at the Forum, but will include the following key points which the Australian Privacy Foundation would like to emphasise:

- Trust and confidence are critical to the success of the online economy. The OECD should promote consumer protection laws that are properly enforced and which cover digital products to the same extent as other consumer goods and services. OECD member countries should defend and maintain consumer rights and fair commercial practices in the digital environment.
- The right to privacy in the online environment is an essential contributor to trust and confidence. The OECD Privacy Guidelines of 1980 are still the benchmark for privacy laws, including the regulation of the transborder flow of personal data. In particular, OECD Member States should respect the Guidelines, and ensure fairness, transparency, and accountability, with respect to all personal data including that used for border security, identification, and decision making concerning individuals. The APEC Privacy Framework can contribute to this objective but its principles are not an adequate substitute for the OECD privacy principles.

- I understand your Department's well-attended 'Over the Horizon' e-security workshop today identified something along the lines of 'starting from the user's perspective' as a key issue in the technical area, and problems in the continuum of identity theft, personal information security and privacy as the most obvious way to engage users in caring about e-security. Accordingly, respect for privacy and personal information security in this area serves not only the intrinsic purpose of protecting the rights of individuals, but also the wider public interest in supporting their engagement with e-security risks on a wider horizon, helping reduce risks for all Internet users.
- The framework for intellectual property protection should be based upon mechanisms that are least intrusive to personal privacy, and least restrictive for the development of new technologies. Internet property rules should respect strike a balance that recognizes the interests of both creators and consumers. This balance does not appear to be struck in the proposed Anti-Counterfeiting Trade Agreement (ACTA), which contains draconian powers and which would discourage innovation and the sharing of information. There is major concern about the way in which the ACTA has been developed without input from all stakeholders.

We hope that the Australian government will take a position that is supportive of the full range of Civil Society concerns, including those highlighted above. I look forward to hearing your contribution to the Ministerial.

I take the opportunity to point out, in the context of your current initiative on consumer representation, that the OECD has embraced the need for Civil Society input as part of a multi-stakeholder approach to policy development. With support from the Korean government, the OECD is ensuring that Civil Society will at least be heard in Seoul, although we continue to press for a Public Interest Advisory Committee to put Civil Society on the same footing as business and labor interests, which have formal input to the OECD through BIAC and TUAC respectively.

Yours sincerely

Nigel Waters

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