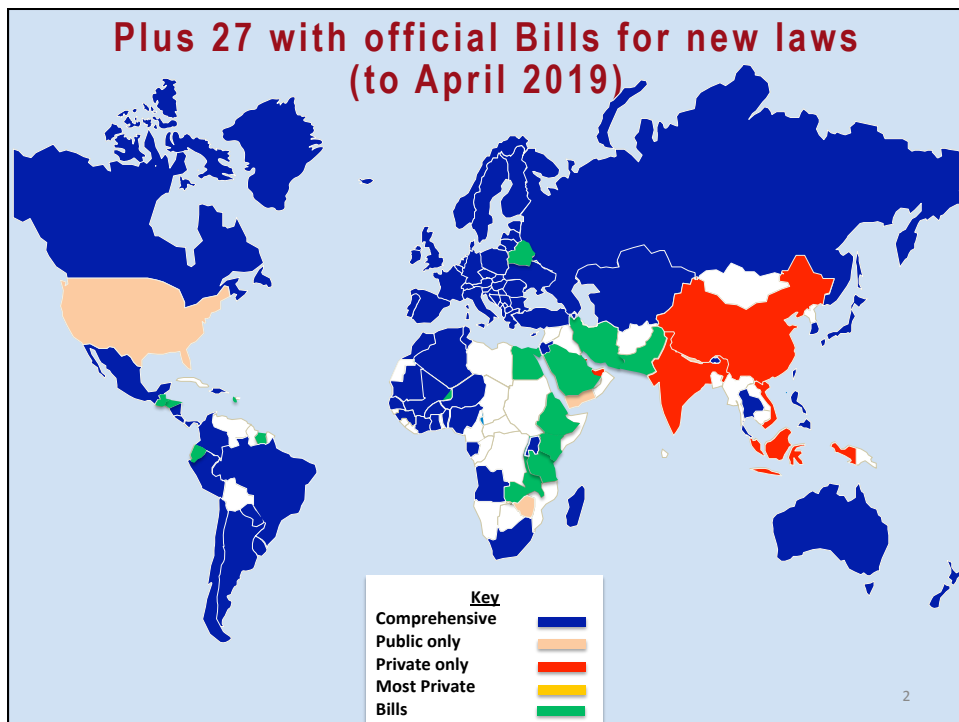


Privacy – Australian law in international context

Graham Greenleaf

Extra Slides



Remedies in 972 conciliated complaints (OAIC Annual Report 2017-8)

Table C.2 – The main remedies agreed in conciliated privacy complaints in 2017-18

Remedy*	Jurisdiction				Total
	Privacy Principles**	Credit reporting	Spent Convictions	My Health Records	
Record amended	164	101	0	0	265
Compensation	174	22	0	0	196
Access provided	181	8	0	0	189
Other or confidential	150	19	2	3	174
Apology	152	5	0	0	157

*Each complaint resolved may involve more than one remedy type.

**Includes Australian Privacy Principles, National Privacy Principles, Information Privacy Principles and ACT Territory Privacy Principle complaints.

Compensation settlements total \$664,000+ (OAIC Annual Report 2017-8)

Based on median amount of each category below
Average settlement about \$3,400 over 196 settlements

Table C.3 – Compensation amounts in closed privacy complaints

Compensation Amounts	Jurisdiction				Total
	Privacy Principles**	Credit reporting	Spent Convictions	TFN	
Up to \$1,000	56	2	0	0	58
\$1,001 to \$5,000	77	13	0	0	90
\$5,001 to \$10,000	21	7	0	0	28
Over \$10,001	20	0	0	0	20

**Includes Australian Privacy Principles, National Privacy Principles and Information Privacy Principles complaints.

STOP PRESS!!: *Privacy Act* 'GDPR reforms' announced 24/03/2019

Press Release gives only details; at least a year away

- Social media/platforms 'to cease use or disclosure of personal information on request'
 - Version of GDPR 'deletion'/'right to be forgotten'
- Code of Conduct for social media/platforms
 - More transparent data-sharing arrangements;
 - More specific consent to collection/use of data;
 - This will be an enforceable Code under the Act
- Extra protections for children / vulnerable groups

STOP PRESS!!: *Privacy Act* 'GDPR reforms' announced 24/03/2019

4. Max. penalties for serious/repeated breaches increased to highest of (i) \$10M; (ii) 3 x benefit obtained; or (iii) 10% annual domestic turnover. [Existing \$1.7M penalties never used.]
5. New OAIC powers to issue 'infringement notices' for *non-cooperation* concerning 'minor breaches'
 - up to \$63K for companies, \$12.6K for individuals.
 - But this is not an administrative fine for breaches as such
6. Additional remedies incl. 'prominent publication'
7. Additional \$25M to OAIC over 3 years to increase capacity
8. Revision after ACCC 'platforms inquiry' report (June) which is likely to recommend:
 - direct right to enforce Privacy Act before Courts;
 - 'serious invasions of privacy' separate action before Courts.

Q: Will the OAIC *use* these new powers? (or existing ones?)