Privacy – Australian law in international context

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Extra Slides

Plus 27 with official Bills for new laws (to April 2019)

Key
Comprehensive
Public only
Private only
Most Private
Bills
Remedies in 972 conciliated complaints
(OAIC Annual Report 2017-8)

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

<table>
<thead>
<tr>
<th>Remedy*</th>
<th>Privacy Principles**</th>
<th>Credit reporting</th>
<th>Spent Convictions</th>
<th>My Health Records</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Record amended</td>
<td>164</td>
<td>101</td>
<td>0</td>
<td>0</td>
<td>265</td>
</tr>
<tr>
<td>Compensation</td>
<td>174</td>
<td>22</td>
<td>0</td>
<td>0</td>
<td>196</td>
</tr>
<tr>
<td>Access provided</td>
<td>181</td>
<td>8</td>
<td>0</td>
<td>0</td>
<td>189</td>
</tr>
<tr>
<td>Other or confidential</td>
<td>150</td>
<td>19</td>
<td>2</td>
<td>3</td>
<td>174</td>
</tr>
<tr>
<td>Apology</td>
<td>152</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>157</td>
</tr>
</tbody>
</table>

* Each complaint resolved may involve more than one remedy type.
** Includes Australian Privacy Principles, National Privacy Principles, Information Privacy Principles and ACT Territory Privacy Principles 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

<table>
<thead>
<tr>
<th>Compensation Amounts</th>
<th>Privacy Principles**</th>
<th>Credit reporting</th>
<th>Spent Convictions</th>
<th>TFN</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $1,000</td>
<td>56</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>58</td>
</tr>
<tr>
<td>$1,001 to $5,000</td>
<td>77</td>
<td>13</td>
<td>0</td>
<td>0</td>
<td>90</td>
</tr>
<tr>
<td>$5,001 to $10,000</td>
<td>21</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>28</td>
</tr>
<tr>
<td>Over $10,001</td>
<td>20</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>20</td>
</tr>
</tbody>
</table>

** 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

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?)