

The Internet and ecommerce raise privacy issues on both sides of the fence for SMEs. There are a number of ways in which your business has an obligation to protect personal information you collect. SMEs should also make sure that their own privacy rights are not infringed.

#### OBLIGATION TO PROTECT PERSONAL INFORMATION

The Privacy Act imposes privacy obligations on SMEs if their annual turnover in the previous financial year was \$3million or more, or in a number of other limited circumstances, for example where the SME:

- is health service provider
- trades in personal information
- is related to a larger business with an annual turnover of \$3 million or more; or
- is a contractor to Commonwealth agencies).

SMEs who are not bound, can apply to opt in to the Privacy Act by contacting the Privacy Commission with a letter to that effect. There may be sound commercial reasons why they might want to do this. Alternatively, they may choose to be part of an industry code of practice, such as the IIA's Privacy Code. This can provide them with additional credibility and a level of trust with their customers. In an online environment, this can make a big difference.

The Privacy Act requires applicable SMEs to take "reasonable steps" to inform people that personal information is being collected about them, why it is being collected and who you may give it to. "Reasonable steps" will usually mean that you should have some privacy policy statement on the homepage of your Web site. NOIE suggests that a typical privacy policy statement should include:

- A statement that the Web site will not disclose any personal information without first obtaining approval, unless required to do so by law
- An outline of the circumstances under which personal data might be shared with others;
- Information on what log file information (such as the unique IP

- addresses of visitors to the site) is stored by the site; and
- Provisions regarding how email addresses submitted to the site will be used.

Generally, people have a right to see the personal information that is held about them and to have it corrected if they think that it is wrong. There are also restrictions on what can be done with personal information and who you can pass such information on to.

You are required to make “reasonable efforts” to keep secure any personal information which is gathered. If business is run through your Web site, there will be an onus on you to have appropriately secure technology to be able to reassure your clients the information they provide is safe.

These privacy requirements are set out in ten National Privacy Principles. An industry privacy code can replace these principles if it is approved by the Federal Privacy Commissioner. There is also a Privacy Code currently being drafted by the Internet Industry Association which is open to all members of the IIA to sign up to. This will entitle businesses to display a seal which indicates to customers that they are following best practice standards. All businesses with an Internet presence are encouraged to participate in this scheme which is designed to reward compliance with best practice standards.

#### POWERS OF THE PRIVACY COMMISSIONER

The Federal Privacy Commissioner has the power to investigate any possible breaches of privacy requirements. This can be done whether or not a complaint has been submitted. The Commissioner can seek a court order to prevent any conduct that is a breach of privacy

#### PROTECTING YOUR PRIVACY

The privacy of SMEs may be compromised in a number of ways when the Internet is used for their business. There are various ways in which the sites that you visit can be tracked.

Further, the browser (eg Internet Explorer or Netscape) which you are using may be used by hackers to access your information while you are “surfing”..

The ease of buying goods over the Internet using credit cards means that it is going to be increasingly common and, by and large, it is secure. However, you should be aware of the danger of someone accessing this information and keep an especially close eye on the purchases listed on your credit card.

Finally, it is almost unavoidable at this stage that you will receive unsolicited advertising emails (spam). Use a filter to lessen the number and just delete those you do get. Do not write back asking to be removed from lists etc as this will just show that your email address is a "live" one and will encourage even more spam.

#### USEFUL LINKS

##### **"What is Privacy"**

<http://www.privacy.gov.au/news/speeches/sp51note.html>

This document provides an introduction to the concept of privacy.

##### **"Privacy and the Electronic Environment"**

<http://law.gov.au/www/agdHome.nsf>

This guide by the Commonwealth Attorney General provides an overview of the issues involved online.

##### **Small Business and Privacy**

<http://law.gov.au/www/agdHome.nsf>

This guide by the Commonwealth Attorney General gives some useful information for SMEs in relation to their privacy policies.

##### **Office of the Federal Privacy Commissioner**

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

The Privacy Commissioner is an independent officer responsible for the administration of the Privacy Act.

##### **IIA Draft Privacy Code**

<http://www.iaa.net.au/privacycode.html>

This document by the IIA provides a model Privacy Code for SMEs implementing privacy policies in line with requirement under the Privacy Act.

## Application of the Privacy Act to Small Business

<http://www.inbusiness.com.au/articles.php3?rc=70>

This article explains which small and medium sized businesses are bound by the Privacy Act and how they can comply.

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