



A policy document

# ACCC/AER Privacy Policy

March 2014



The ACCC and AER are subject to the *Privacy Act 1988* and the Australian Privacy Principles (APPs) contained in that Act. The APPs set out the manner in which agencies and organisations may collect, store, use and disclose personal information and how a person can access and/or correct records containing their personal information.

This Privacy Policy sets out how the ACCC and the AER will handle personal information, including providing information on the types of personal information generally collected, and how personal information is collected, used, disclosed and stored.

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## About the ACCC and the AER

The ACCC is an independent Commonwealth statutory authority whose role is to enforce the *Competition and Consumer Act 2010* and a range of additional legislation, promoting competition, fair trading, and regulating national infrastructure for the benefit of all Australians.

The AER is Australia's national energy market regulator and has an independent board. The ACCC and the AER share staff, resources and facilities.

While specific functions vary according to the legislated responsibilities that underpin the ACCC and AER, the two bodies share many common objectives, both working to protect, strengthen and supplement competitive market processes.

[Click here for more information about the ACCC and the AER.](#)

## What personal information is collected

The ACCC and AER may collect personal information about you when you interact with us.

Personal information is defined in the Privacy Act as any 'information or an opinion about an identified individual, or an individual who is reasonably identifiable':

- whether the information or opinion is true or not, and
- whether the information or opinion is recorded in a material form or not (s 6(1)).

Generally, the types of personal information collected by the ACCC and AER include:

- your name
- your contact details, including email address, postal address and telephone number
- clickstream data (this expression is explained below) when you use our website

Information you provide to us, for example when making a complaint, submission, general enquiry or assisting us with our inquiries or investigations, may also be your personal information.

In some circumstances, you may provide the ACCC and AER with personal information which is 'sensitive information'. This is a subset of personal information and includes, for example, information or opinion about an individual's racial or ethnic origin, political opinions, religious beliefs or affiliations, philosophical beliefs and sexual orientation or practices. This may require us to handle that information differently. The ACCC and AER will handle personal information that is sensitive information in the appropriate manner.

If you do not wish to provide the ACCC and AER with your personal information, you may contact us anonymously, or by using a pseudonym. By remaining anonymous, or by using a pseudonym, we may be limited in our ability to respond to or make further enquiries regarding your complaint, submission or enquiry with us.

If you provide your personal information to us, and later request us to remove your personal information from our systems, we may be limited in our ability to do so due to our legal obligations to maintain Commonwealth records.

# How is personal information collected

Personal information may be collected through various means, either directly from you or from third parties.

## Directly from you

We may collect personal information when you:

- visit our websites
- subscribe to our email alerts
- complete an online form
- send us an email
- call our Infocentre
- send correspondence to any of the ACCC or AER offices.

## Information collected when you visit our website

Our objective in maintaining an active and expanding site is to improve communication with the community at large, specifically to:

- make it possible to quickly provide information about our activities
- encourage feedback from you.

We operate our websites using both Australian Government and commercial web hosting facilities. When visiting our sites, a record of your visit is logged. The following clickstream data is recorded and is used by us for statistical purposes:

- your IP address
- your top level domain name (for example .com, .gov, .au, .uk etc)
- the type of browser you are using
- your operating system (for example Windows, Mac etc)
- the date and time of the visit to the site
- the pages accessed and the documents downloaded
- the internet address of the site from which you linked directly to our site.

No attempt will be made to identify users or their browsing activities except in the unlikely event of an investigation when a law enforcement agency or other government agency may exercise its legal authority to inspect our internet web server logs.

## Cookies

Our sites use cookies to better serve you when you return to the website. A cookie is a piece of data that a site can send to your browser, which may then be stored on your computer as an anonymous tag that identifies your computer but not you.

You can set your browser to notify you before you receive a cookie, giving you the chance to decide whether to accept it. You can also set your browser to turn off cookies. If you do so, some pages in the site may not work properly.

Cookies are either persistent or session based. Persistent cookies are stored on your computer, contain an expiry date, and may be used to track your browsing behaviour upon return to the issuing site. Session cookies are short-lived, are used only during a browsing session, and expire when you quit your browser.

Our sites use both kinds of cookies to provide a rich and session based experience. The cookies are used to enable us to track users browsing patterns in order to provide statistical information to improve the usability of the site.

## When you subscribe to email alerts

When you subscribe to email alerts you must provide an email address to which the system can send your alerts. We will not use your email address to send you unsolicited information, unless you otherwise indicate that you would like to receive this information from us.

## When you contact us to make a general enquiry, complaint or submission in relation to an ACCC or AER investigation, or make a submission on regulatory changes

We may only solicit and collect personal information:

- for a lawful purpose that is reasonably necessary for, or directly related to, one or more of our functions or activities
- by lawful and fair means.

We provide a number of online forms for enquiries, complaints, reports, submissions and web feedback. Not all of our online forms provide facilities for the secure transmission of information across the internet. You should be aware that there are inherent risks transmitting information across the internet using non-secure forms. Our secure forms can be identified by the padlock symbol and an address starting with http://.

With the exception of clickstream data recorded when you visit our website, the personal information you provide the ACCC and AER is voluntary.

## From a third party

The ACCC and AER may receive personal information about you from a third party. For example, during the course of an investigation you may be identified as a person we may wish to contact. Generally the personal information provided in these circumstances is a person's name and contact details.

If the ACCC or AER receives personal information about you from a third party we will take reasonable steps in the circumstances to notify you of certain matters concerning that collection. In some circumstances, it may be reasonable for us not to notify you.

## How is personal information used and disclosed

Generally, when we receive personal information it is in relation to, or provided together with, other information that is in connection with the ACCC and AER's functions and activities. Therefore, at the broadest level, the ACCC collects personal information for the primary purpose of fulfilling its functions and activities. It may be that the primary purpose of collection is more limited, for example that it is collected for the purpose of recording a consumer complaint against a particular trader.

The ACCC or AER can only use or disclose personal information for the particular purpose for which it was collected or for a secondary purpose if an exception applies under the APPs. Exceptions include where:

- the individual has consented to a secondary use or disclosure
- the individual would reasonably expect the ACCC and AER to use or disclose their personal information for a secondary purpose, and that purpose is related to the primary purpose of collecting (or, for sensitive information, directly related to the primary purpose) the personal information
- the secondary use or disclosure is required or authorised by or under an Australian law or a court/tribunal order
- the ACCC or AER reasonably believes that the secondary use or disclosure is reasonably necessary for one or more enforcement related activities conduct by, or on behalf of, an enforcement body (including the ACCC or AER).

In many cases, personal information is provided together with other confidential information that is in connection with the ACCC and AER's functions and activities. We are required to handle such confidential information in accordance with our obligations under the Competition and Consumer Act (e.g., s. 155AAA) and other similar legislation which limits the use and disclosure of confidential information.

Much of the information we handle is confidential information, or 'protected information', and we have systems and procedures in place to protect confidentiality, and only use 'protected information' in accordance with our statutory obligations.

### Use of personal information

In the context of our statutory functions and activities, if the ACCC or AER receives information in relation to a particular matter, for example, an investigation into a particular trader, or an inquiry into an industry, and that information is relevant to another matter, we will, in general, use that information in the context of that other matter subject to any legal requirement to the contrary. Likewise, we will use personal information received in relation to one matter for another matter, if relevant, subject to any legal requirements to the contrary.

[Click here for more information on the ACCC and AER's Information Sharing Policy.](#)

The ACCC and AER may also use personal information for the purpose of preparing statistics to enable it to better understand any trends, for example identifying demographics that may be vulnerable to certain types of scams, and allow us to better target educational and awareness campaigns.

### Disclosure of personal information

There may be circumstances where the ACCC or AER are legally required to disclose information (and this may involve personal information). In most cases, we will endeavour to notify and consult the person who provided the information about the proposed release of the information. Examples of when we may be legally required to disclose information includes in response to requests under the Freedom of Information Act or in response to court/tribunal orders.

Where information is disclosed to a third party such as another regulator, an advisor or contractor, we ensure that the third party is subject to the requirements of the Privacy Act or otherwise take steps to ensure that the third party meets our obligations under the Privacy Act, such as including obligations in our contracts.

The ACCC or AER may seek to disclose information, which may include personal information, to an overseas regulator. Where appropriate, we will endeavour to notify and consult with the provider of the information

about the proposed release. Such release is generally undertaken in accordance with Australian law, international treaties, memoranda of understanding or confidentiality agreements between the ACCC or AER and the receiving overseas regulator. We will take reasonable steps (if any) in the circumstances to ensure the overseas recipient protects the personal information we provide to it.

## Limiting the ACCC and AER's use of your personal information

If you do not wish to provide the ACCC and AER with your personal information, you may contact us anonymously, or by using a pseudonym. By remaining anonymous, or by using a pseudonym, we may be limited in our ability to respond to or make further enquiries regarding your complaint, submission or enquiry with us.

If you do provide us with your personal information and you wish to limit the use and disclosure of personal information, we recommend you expressly state those limitations when contacting us.

If you provide personal information in the course of a public review process, for example you make a submission which may be placed on the ACCC or AER website and you do not wish for your personal information to be disclosed, you should expressly state this and we can take steps to redact your personal information before placing your submission on the website.

## How is personal information stored

The ACCC and AER will take reasonable steps to protect personal information it holds from misuse, interference and loss, as well as unauthorised access, modification or disclosure.

Personal information will generally be contained in a Commonwealth record. The ACCC and AER have a number of systems for storing and managing their Commonwealth records.

## How can I access or correct my personal information

### Accessing your personal information

To request access to your personal information, please email [privacy@acc.gov.au](mailto:privacy@acc.gov.au). When making your request, please provide sufficient information to enable us to identify records held by us that contain your personal information and to verify that the information contained in the records is your personal information.

We will provide you access to your personal information except where we are not required to do so.

Where access is refused, the ACCC and AER will act in accordance with the Privacy Act and the APPs.

### Correcting your personal information

You can request to correct your personal information by:

- contacting the staff member or area of the ACCC and AER that you had contact with, or
- emailing [privacy@acc.gov.au](mailto:privacy@acc.gov.au) providing sufficient information to enable us to identify records held by us that contain your personal information and the correction you wish to make.

If we are unable to correct your personal information in the manner you request, we will act in accordance with the procedures outlined in the Privacy Act and the APPs.

## How can I complain if I believe the ACCC or AER has breached the APPs

If you believe the ACCC or AER has breached the APPs you can lodge a complaint with the ACCC and AER by email [privacy@acc.gov.au](mailto:privacy@acc.gov.au). We will respond to your complaint as soon as possible.

You may also wish to read our [Service Charter](#).

Users enquiring about their rights and remedies for breaches of privacy can access detailed information at the Office of the Australian Information Commissioner.

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[www.accc.gov.au](http://www.accc.gov.au)

### Important notice

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.