

15 September 2025

Danielle Wood  
Chair  
Productivity Commission

Dear Chair

## **Harnessing data and digital technology – Interim report**

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The Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission in relation to the Productivity Commission's *Harnessing data and digital technology – Interim report* (**interim report**).

Inviting public comment on the interim report supports participatory democracy, demonstrates a commitment to open governance and enables an important conversation about privacy, digital technology and productivity.

OIC's comments are confined to the draft recommendations relating to the gap analysis review, new data access pathway, alternative compliance pathway for privacy and the right to erasure.

### **About OIC**

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and has statutory functions and powers under the *Right to Information Act 2009* (**RTI Act**) and *Information Privacy Act 2009* (**IP Act**).

The RTI Act promotes openness, accountability and transparency by facilitating greater access to government-held information. It supports the administrative release of government-held information as a matter of course. Formal applications for government-held information under the RTI Act should be made as a last resort.

The IP Act provides safeguards for the handling of personal information in the public sector environment. It set outs the Queensland Privacy Principles (**QPPs**) which govern the collection, management, use and disclosure of personal information by Queensland public sector agencies, and also provides for the Mandatory Notification of Data Breach scheme. The IP Act operates subject to the provisions of other Acts. This means an agency will not breach privacy principles relating to disclosure of personal information where disclosure is required or permitted under another Act.

Queensland's IP Act shares similar features to the Commonwealth's *Privacy Act 1988* (**Privacy Act**) particularly in relation to privacy principles and data breach schemes.

## **Key observations**

The interim report describes certain requirements within the Privacy Act as ‘constraining innovation without providing meaningful protection to individuals.’<sup>1</sup> Specifically, it provides that the ‘consent, notification and disclosure requirements in the Privacy Act can be overly burdensome and difficult to comply with for some regulated entities, raising compliance costs without providing the protections individuals expect.’<sup>2</sup>

OIC submits that the Productivity Commission’s proposed package of reforms does not sufficiently prioritise the importance of strong privacy protections. It is well established that privacy safeguards are critically important in the context of digital technology. They ensure the protection of individuals’ personal information (noting the right to privacy is a fundamental human right), build trust in digital systems, ensure good data governance and reduce the risk of harm. Insufficient privacy safeguards can lead to increased risk, such as data breaches, which erode public trust, can be costly to rectify and cause reputational damage.

## **Draft recommendations**

### ***AI technology - gap analyses***

OIC is supportive of the draft recommendation that the Australian government undertake a comprehensive gap analysis to understand the risks stemming from AI and whether these risks can be dealt with under existing regulatory and governance frameworks. OIC considers it is important that laws are regularly reviewed to assess fitness for purpose, especially in light of emerging technologies. OIC agrees that consideration of new AI-specific regulations and implementation of the mandatory guardrails for high-risk AI should be paused until a gap analysis are complete.<sup>3</sup>

### ***New data access pathway***

OIC is broadly supportive of the draft recommendation that the Australian government establish lower-cost and more flexible regulatory pathways to expand data access for individuals and businesses.<sup>4</sup> This approach promotes individual control over personal information and will need to be supported by proper safeguards and processes. The findings from the [statutory review of the](#) <sup>[OBJ]</sup> of relevance to this proposal.<sup>[OBJ]</sup> The adoption of a “push” model to accessing government data, as applies in Queensland<sup>[OBJ]</sup> may also provide solutions to improving access to information required by individual businesses and reducing costs for them and for government agencies.

### ***Alternative compliance pathway for privacy***

OIC holds concerns in relation to the draft recommendation to introduce an alternative compliance pathway to the Privacy Act that will allow regulated entities the option to fulfil their privacy obligations by meeting outcomes, rather than controls-based rules.<sup>5</sup> This outcomes-based

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<sup>1</sup> Interim report, p1

<sup>2</sup> Interim report, p51

<sup>3</sup> Ibid, p17-18; draft recommendation 1.1

<sup>4</sup> Ibid, p39; draft recommendation 2.1

<sup>5</sup> Ibid, p63; draft recommendation 3.1

model is presented as providing greater flexibility, reduced prescription and enabling faster innovation.

OIC considers a more comprehensive analysis of the implications associated with the alternative pathway should have been included, addressing compliance-related issues, privacy risks and impacts on regulators and entities.

### ***Right to erasure***

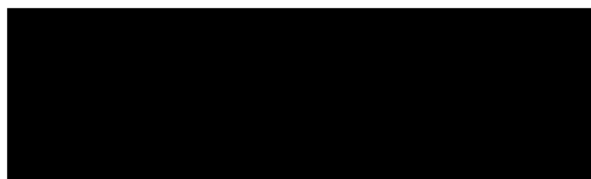
OIC broadly supports the right to erasure of personal information and does not support the draft recommendation that the Privacy Act is not amended to include this right.

The interim report states a right to erasure would impose a high compliance burden on regulated entities with uncertain privacy benefits for individuals.<sup>6</sup> OIC considers the right of individuals to request deletion of their personal information would be an extension of Australian Privacy Principle 11.2 which requires an entity to destroy personal information when it is no longer required. Complying with the right to erasure will require entities to have sufficient information management maturity to be able to locate and delete personal information upon request including in backed up and archived locations.

It is noted that the Privacy Act Review recommended a right to erasure (proposal 18.3),<sup>7</sup> which was agreed in-principle by the Australian government.<sup>8</sup> Implementing the right to erasure would provide consistency with other international privacy laws, including the General Data Protection Regulation (**GDPR**).

Thank you for the opportunity to make a submission on the interim report. We trust our comments will assist the Productivity Commission in its work. Should you require further information regarding the above matters, please contact us at [policy@oic.qld.gov.au](mailto:policy@oic.qld.gov.au) or on 07 3234 7373.

Yours sincerely



Joanne Kummrow  
**Information Commissioner**

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<sup>6</sup> Ibid p67, draft recommendation 3.2

<sup>7</sup> [Privacy Act Review Report 2022](#), p11 and 174-176

<sup>8</sup> [Government Response - Privacy Act Review](#), p 18 and 31