



Privacy Act 1988 Part VI - Public Interest Determination No. 11B

Amendments to Public Interest Determinations No.s 11 and 11A - Collection and use of contact details of genetic relatives to enable use or disclosure of genetic information

Under s72(2) of the *Privacy Act 1988* (Cth) (the Privacy Act), I determine that:

- (1) *Public Interest Determination No. 11 - Collection and use of contact details of genetic relatives to enable use or disclosure of genetic information* should be amended as provided by Schedule A of this determination, and
- (2) *Public Interest Determination No. 11A - Collection and use of contact details of genetic relatives to enable use or disclosure of genetic information* should be amended as provided by Schedule B of this determination.

Schedules

(A) Amendments to Public Interest Determination No. 11

On page 3, in the attachment titled '*Statement of Reasons for Public Interest Determination No. 11*', under the heading '*The application*', in the first sentence: omit the word '*Catherine*', insert instead '*Elizabeth*'.

On page 6, in the attachment titled '*Statement of Reasons for Public Interest Determination No. 11*', under the heading '*Process of Consultation*', in the second sentence: omit the word '*eight*', insert instead '*nine*'.

On page 9, in the attachment titled '*Statement of Reasons for Public Interest Determination No. 11*', under the heading '*Breach of National Privacy Principle 2.1*', in the second sentence: omit the word '*consumer*', insert instead '*relative*'.

(B) Amendments to Public Interest Determination No. 11A

On page 2, in the attachment titled '*Statement of Reasons for Public Interest Determination No. 11A*', under the heading '*The application*', in the first sentence: omit the word '*Catherine*', insert instead '*Elizabeth*'.

On page 5, in the attachment titled '*Statement of Reasons for Public Interest Determination No. 11A*', under the heading '*Process of Consultation*', in the second sentence: omit the word '*eight*', insert instead '*nine*'.

On page 8, in the attachment titled '*Statement of Reasons for Public Interest Determination No. 11*', under the heading '*Breach of National Privacy Principle 2.1*', in the second sentence: omit the word '*consumer*', insert instead '*relative*'.

My reasons for making this determination are attached.

Timothy Pilgrim
Australian Privacy Commissioner
17 December 2010

Attachment: Statement of Reasons for Public Interest Determination No. 11B

Attachment

Statement of Reasons for Public Interest Determination No. 11B

Section 79(3), *Privacy Act 1988* (Cth)

Determination

This statement sets out the context for, and my reasons for making, Public Interest Determination 11B.

Background

On 16 November 2009, I made the following public interest determinations:

- (3) *Public Interest Determination No. 11 - Collection and use of contact details of genetic relatives to enable use or disclosure of genetic information* (PID 11),
- (4) *Public Interest Determination No. 11 A - Collection and use of contact details of genetic relatives to enable use or disclosure of genetic information* (PID 11A).

The background to those determinations, and my reasons for making them, are set out in the Statement of Reasons included in each determination.

Reasons for the decision

Correction of errors

It has come to my attention that the Statements of Reasons for PID 11 and PID 11A include three typographical errors, as set out below:

- (5) The applicant is erroneously referred to as 'Catherine' McCusker. The applicant's name is, as stated in the body of PID 11, 'Elizabeth' McCusker.
- (6) The Statements of Reasons for PID 11 and PID 11A provide that, during the consultation process for PID 11 and PID 11A, eight submissions were received. However, I received and considered submissions from nine stakeholders. Appendix A to each PID notes the nine stakeholders that made submissions regarding the proposed making of the PIDs.
- (7) In one instance, the Statements of Reasons erroneously refer to a 'consumer' instead of a 'relative'.

Accordingly, to avoid confusion, I have made this determination to correct these three typographical errors in the Statement of Reasons for PID 11 and 11A.

Authority to make the decision

Under s72 of the Privacy Act, I am empowered to make a public interest determination in certain circumstances.

A public interest determination made under s72 of the Privacy Act is a 'legislative instrument': see s5 of the *Legislative Instruments Act 2003* (Cth).

Section 33(3) of the *Acts Interpretation Act 1901* (Cth) relevantly provides that where an Act confers a power to make any instrument, unless the contrary attention appears, that power is to be construed as including a power to '*amend or vary any such instrument*'. The power to amend or vary an instrument is to be exercised in a similar manner and subject to similar conditions as the power to make the instrument.