



ASIC Consultation Remediation Update to RG 256

Matt Strassberg, General Manager, External Relations AU/NZ

Summary

First established in 1967 as the Credit Reference Association of Australia, Equifax is Australia's leading holder of *credit information*, a term that also includes a range of *identification information*.

In the context of remediation – monies owed to consumers – it is jarring that credit reporting bodies (CRBs) can disclose a person's address to enable the pursuit of money they owe - but if money is owed to them, then we cannot disclose their address.

We are pleased to offer this submission and the possibility of helping connect tens of thousands of Australians who, for lack of a current address, are missing out on money owed to them.

Remediation using identification information held on a credit report will massively improve successful outcomes and enable many more Australians to receive some welcome correspondence from the finance, insurance and superannuation sector.

Credit reporting bodies have identification information on around 17 million individuals, and this includes contact details for people who are not on the electoral roll or do not have a driver's licence or passport.

Importantly, the information we hold includes historic information on previous addresses and last known employer, enabling matching beyond name/date of birth/current address. Our ability to match a person with current address is further enhanced by mandatory updates supplied by the Big 4 banks.

Beyond assessing credit worthiness, other uses of CRB identification information permitted by the Privacy Act include identity verification, the removal of people with adverse credit reporting information from marketing lists and debt collection. With the update to RG 256, Equifax is calling for a further use, the ability to disclose address details when an Australian business is conducting a remediation program under the Guide.

Identification via credit reporting information

One of Australia's largest databases of identification information is that held by Australian credit reporting bodies (CRBs).

Heavily regulated under a separate section of the Privacy Act, this identification information can potentially hold¹ the following about an individual aged 18+:

- a) Full name
- b) Date of birth
- c) Gender
- d) Current or last known address
- e) Two previous addresses
- f) Current or last known employer
- g) Driver's licence

It is a unique data asset, providing very broad coverage.

Unlike the electoral roll or passports, the collection is not constrained by citizenship.

Nor is visa status an obstacle, unlike a Medicare card.

While collection is triggered by a specific purpose – an application for credit – this extends to everyday items such as mobile phones, a much more widespread activity than having a driver's licence.

In addition to very broad coverage, the dataset, lacking a unique number, has important additional information to enable matching beyond name/date of birth/address. This not only includes information on employer, but also captures the historic elements of a person's two previous addresses.

The breadth and depth of identification number held by credit reporting bodies is further enhanced by the recent passage of the *National Consumer Credit Protection Amendment (Mandatory Credit Reporting and Other Measures) Act 2021*.

This Act applies to Australia's Big 4 banks and essentially obliges them to supply information ("*mandatory credit information*") to credit reporting bodies. This supply of information includes the provision of identification data elements listed above².

¹ Part II Interpretation, Division 1 General definitions, Section 6, Privacy Act 1988

² 133CP (1) (a) Meaning of mandatory credit information

The cumulative impact is a powerful collection of identity data with reach, depth and currency, all tightly regulated by Part IIIA of the Privacy Act.

Use of credit information

Right now, credit information can be used to assess a person's credit risk; to enable collection of monies owed by that person; to verify their identity for the purposes of complying with anti-money laundering laws and to remove their name from credit marketing lists.

What it cannot do is support the return of monies owed to an individual.

All information on a credit report, including identification information, is deemed to be credit information and as such is heavily regulated, with extensive prohibitions, including restrictions on collection, use, disclosure and retention.

However, while the key purpose of credit information relates to an individual's credit worthiness³, the Act also includes other uses, such as collection of debts⁴.

In addition, the Act itself, while prohibiting disclosure for marketing, also makes provision for pre-screening⁵, a practice where consumers with a default on their credit file are removed from marketing lists.

Essentially, the Act, while highly restrictive, is not absolute in its provisions. Critically, the Act provides for further uses where authorised by law, or by a court/tribunal order, or as prescribed within the Act's regulations.

This has allowed further uses of credit information for the purpose of identifying an individual as required by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

This was enabled by the *Combating the Financing of People Smuggling and Other Measures Act 2011*, where Schedule 3—Verification of identity authorised the use of credit reporting information⁶ sets out the permitted process for use of select identification information

³ 6P (1) Meaning of credit reporting business Privacy Act 1988

⁴ 21M (1) (a) Privacy Act 1988

⁵ 20G (2) Privacy Act 1988

⁶ Division 5A—Use and disclosure of personal information for the purposes of verifying an individual's identity

(name, address, date of birth). This process reflects recommendations in a 2009 Privacy Impact Assessment conducted for the Attorney General's Department⁷

In the instance of remediation, the use of all identification information collected by credit reporting bodies is highly desirable, increasing the rate of positive matches enabling more people to receive monies owed to them.

In addition, Australian consumers will benefit by ensuring any new ability to use identification information is available beyond credit providers to include any sector having to conduct remediation per Regulatory Guide 256, including, but not limited to, the superannuation and insurance sectors.

⁷ Information Integrity Solutions – click [here](#)