

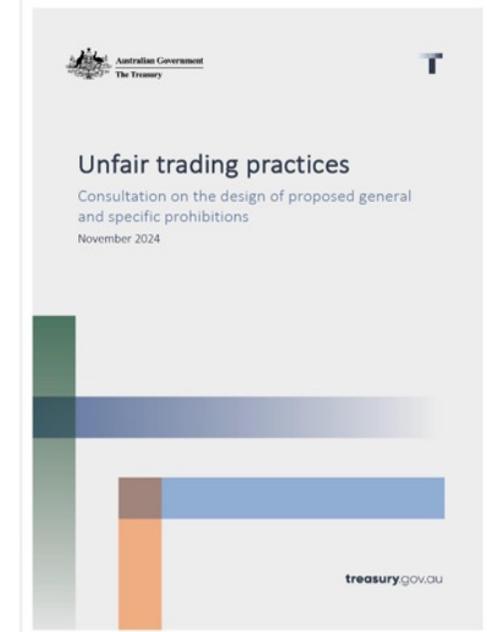
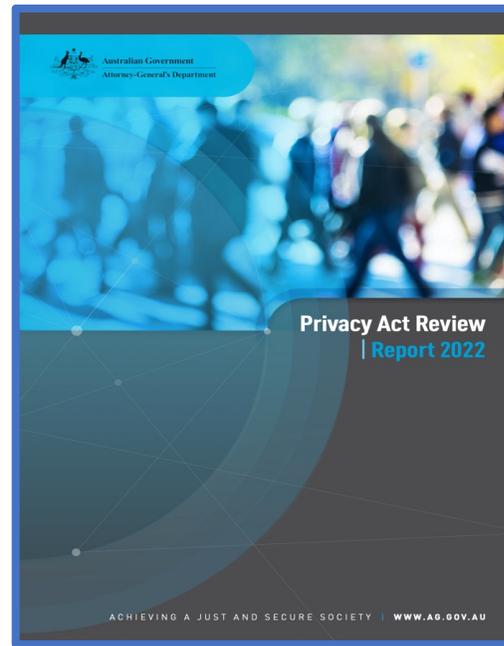
navigating pixel and tracking code reforms and enforcement:

the past is not a guide to the future

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Navigating pixel and tracking code reforms and enforcement: the past is not a guide to the future

August 2025

Peter Leonard

Principal, Data Synergies and Adjunct Professor, UNSW Law and Justice



Projects > Harnessing data and digital technology

Support safe data access and handling through an outcomes-based approach to privacy

Multiple regulatory regimes in Australia govern how data may be collected, stored, accessed, shared and used. One of these regimes is privacy law which regulates how some organisations and businesses handle personal data and gives consumers certain rights in relation to personal information about them.

Ensuring that privacy laws serve their purpose at least cost could make business more efficient and productive and encourage innovation - while providing protections for consumers.

In Australia the main legislation for protecting privacy is the Privacy Act 1988 (Cth). The Privacy Act places obligations on government agencies and some businesses when handling personal information. Since it was introduced, the Act has been reviewed and reformed several times, with the most recent and extensive Privacy Act Review concluding in 2023.

Our approach

The reform will look at whether Australia's privacy regime, including the proposed reforms to the Privacy Act from the recent Privacy Act Review, strikes the right balance between consumer protection, enabling business innovation, and productivity growth through digital and data technology. In particular, does Australia's privacy regime achieve its objectives in the most efficient and effective manner?

We will consider whether outcomes-focused compliance pathways could be used to effectively protect personal information while creating clear obligations for data holders and reducing administrative ¹ [Copilot](#) pathways could be additional to or alternatives for existing legal approaches.

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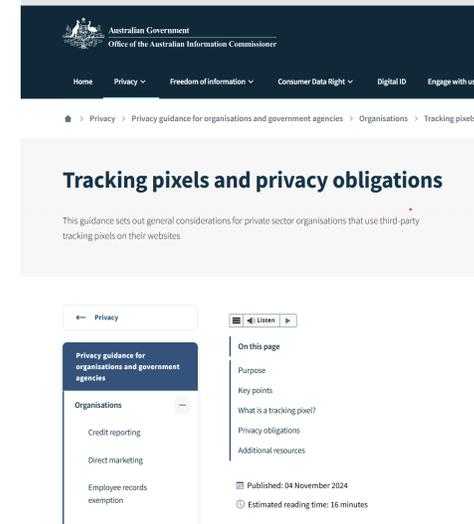
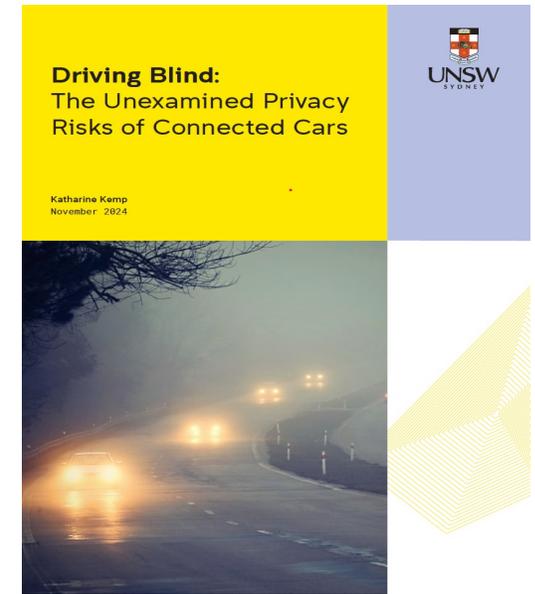
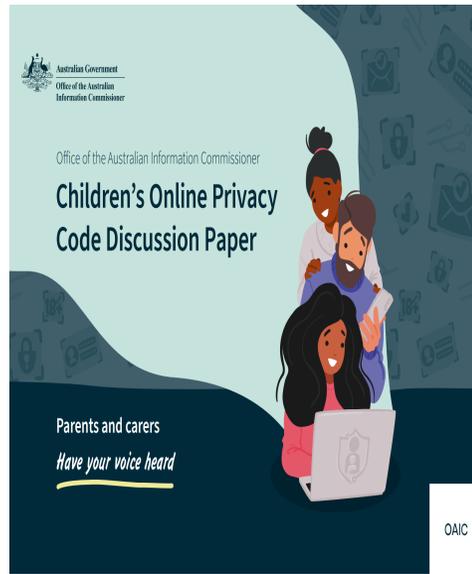
Jump to
- Our approach
- Other policy reform areas

Digital Platform Regulators Forum

Literature summary: Harms and risks of algorithms

Working paper

June 2023



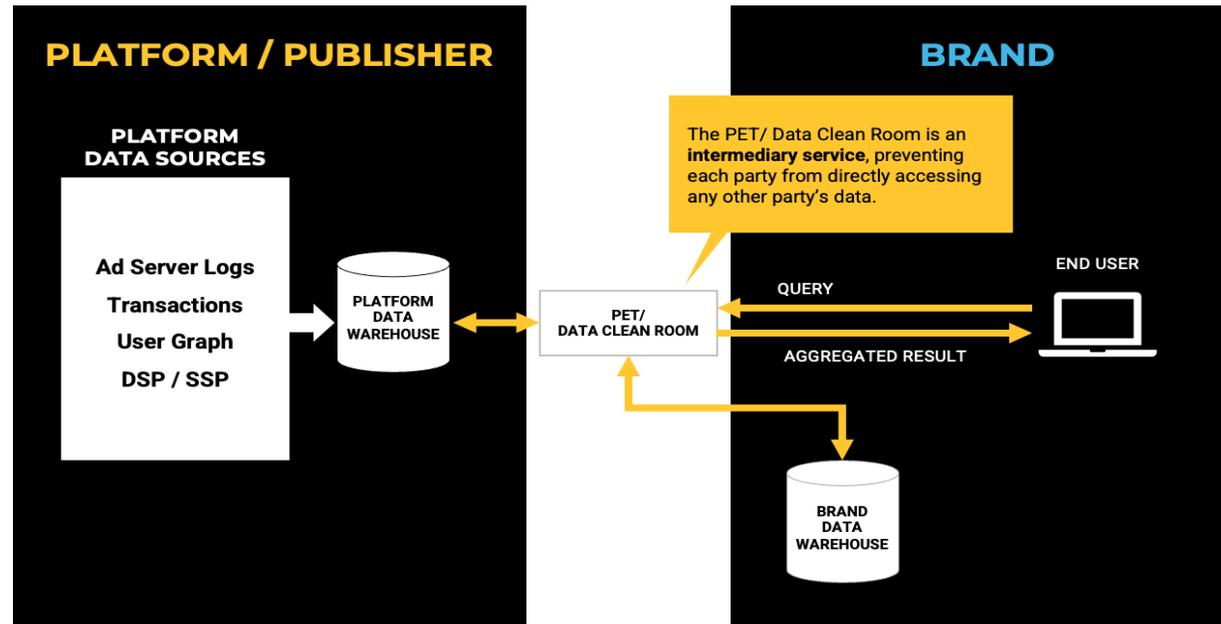
we are (already) nearly there...

- new focus: personalisation/individuation/AI agents/existential AI
- OAIC enforcement priorities now incl. “advertising technology (ad tech) such as pixel tracking”
- past and maybe future (i.e. Tranche 2) is not a reliable guide to the present
- OAIC: refreshed and additional enforcement powers and tools, incl., mid-range penalties + notices
- OAIC posture: new advocacy + engagement + guidance
- ACMA: active spam enforcement, and use of enforceable undertakings (EUs)

OAIC tracking pixels guidance

- clock ticking for pixel deployers/users after *Tik Tok* investigation
- when is audience segmentation data not information about a reasonably identifiable person?
- OAIC: “collecting personal information covertly without the knowledge of the individual is likely to be an unfair means of collection” (APP 3)
- OAIC: “organisations must comply with the direct marketing obligations under APP 7 when using tracking pixels to target individuals with online ads, which includes providing individuals with a simple means to opt-out”
- sensitive PI: consent (APP 3) + no disclosure to 3rd party platforms
- pixel audit: beginning of the beginning (and not more)

profiling, PETs, segmentation and targeting



walled gardens

data platforms that allow data-ins (aka bringing your own data for cross-validation), but no/limited data out

data clean room/PET software providers

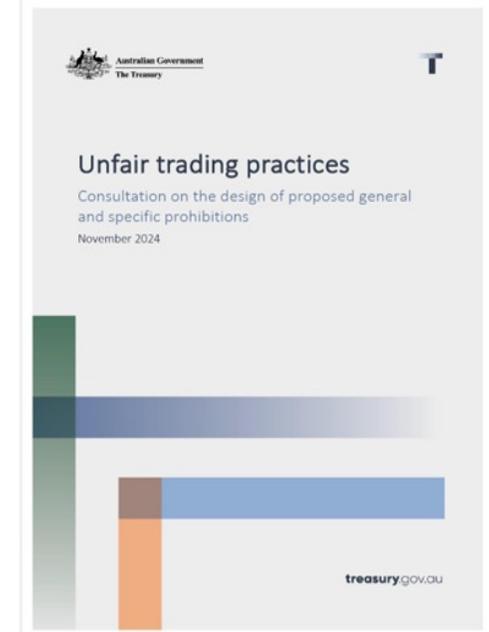
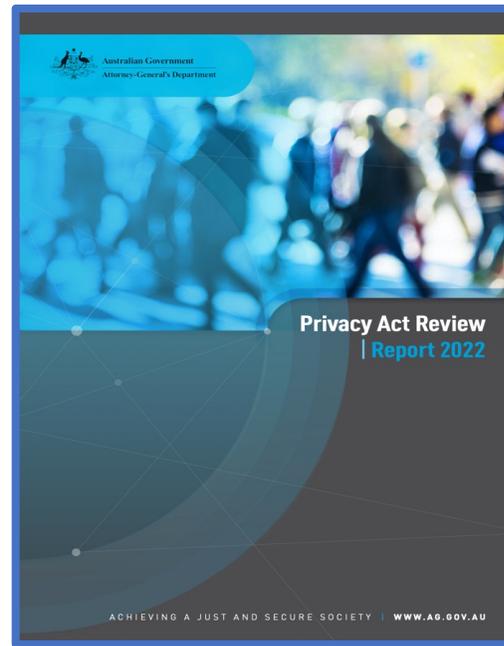
a means for bespoke 1:1 matches, i.e. for creation and use of inclusion/exclusion audience segments
or
a service of inclusion/exclusion audience segments through an ecosystem of first-party data collected from partners

brand-led PET/data clean room projects

built on adtech infrastructure

it is not just about your entity: who is doing what in 'your' data ecosystems?

- multiparty data ecosystems, deidentification guidance and 'data clean rooms'
- outsourcing, agency and section 99A of the Privacy Act 1988 (*Regional Bank, Medibank* etc.)
- pass the parcel contracts, and technical and operational realities
- what you don't know, and may need to know: practices, procedures and systems (*Bunnings*)
- but: section 99A and agency etc. have limits, and OAIC arguing statute not fit for purpose to fully address digital advertising practices...



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