



Australian Government

Office of the Australian Information Commissioner

Our reference: D2019/008219

**Ms Susie Black**

A/g Director  
Adjudication Branch  
Australian Competition and Consumer Commission

Via email: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)

## Submission to the Australian Competition and Consumer Commission regarding Clubs Australia's application

Dear Ms Black,

Thank you for consulting the Office of the Australian Information Commissioner (OAIC) on Clubs Australia's application for authorisation to collectively bargain with suppliers of goods and services, including on data-related terms.

Particularly, the ACCC has invited the OAIC to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

We note that Clubs' Australia's intention is to collectively bargain to secure improved terms in relation to price and terms of supply and data-related terms (amongst others).

The proposed authorisation broadens the scope of conduct in Clubs Australia's previous authorisation to include terms governing club suppliers' access to, and use of, personal information. The expansion to data-related terms reflects Clubs Australia's intention to seek improved terms to protect club patrons from the risk of breaches or misuse of their personal information, as well as detrimental or inappropriate secondary use of personal information.

The OAIC is supportive of measures to improve compliance with obligations to protect personal information and has not identified any public detriment from the proposed arrangement.

Given that the application seeks to improve the current information handling practices of the clubs sector, we suggest that Clubs Australia conduct a Privacy Impact Assessment (PIA) to assess the existing privacy risks and inform mitigation strategies.

A PIA is a systematic assessment of a project, which can assist in identifying potential privacy impacts that a project might have on individuals, and sets out recommendations for managing, minimising or eliminating those impacts.

We consider that a PIA may also be useful in informing the proposed changes to contract terms, particularly in relation to data-related terms, and provides an opportunity to assess risk across the sector holistically. A PIA is an iterative process and will assist in identifying and managing new privacy risks as they arise over time.

The OAIC has published a [Guide to undertaking privacy impact assessments](#), which may be helpful in this regard, as well as a privacy impact assessment [e-learning tool](#).

We would also be happy to engage with Clubs Australia to provide some guidance in relation to privacy obligations and privacy best practice.

Please feel free to contact Kellie Fonseca, Director, Regulation and Strategy  
or if you have any questions.

Yours sincerely,

**Angelene Falk**  
Australian Information Commissioner  
Privacy Commissioner

18 July 2019