

AMSRO

ASSOCIATION OF MARKET AND SOCIAL RESEARCH ORGANISATIONS

Mr Timothy Pilgrim
Australian Privacy Commissioner
Office of the Australian Information Commissioner

Thursday 11 September 2014

Via email to - Este.Darin-Cooper@oaic.gov.au

Dear Mr Pilgrim,

Re: Privacy (Market and Social Research) Code 2014 – application for registration

Please find attached **AMSRO's Privacy (Market and Social Research) Code 2014** for your consideration with a view to registering the APP Code under the Privacy Act 1988 (Privacy Act) on the Codes Register kept under s26U (1) of that Act.

In keeping with the OAIC guidelines for developing and registering a Code AMSRO has undertaken the following activities:

- Engaged Nigel Waters, Pacific Privacy P/L (former AMSRO Privacy Compliance Committee member 2007 - 2013) to develop the Code in conjunction with the AMSRO Board and Privacy Compliance Committee (PCC).
- Conducted a Code public consultation period from March 18 until April 30 2014 which included the following:
 - Draft Code and information published on the AMSRO website (link from home page to specific micro-site)
 - OAIC announcement with link to the AMSRO website
 - Media release issued to trade publications
 - AMSRO and AMSRS member announcement
 - Direct engagement with relevant government agencies, industry groups and consumer representatives (including a letter to those entities and individuals who responded to the AMSRO Privacy Code Review in 2012)
 - Published announcement in the industry publication Research News (April issue)
- The AMSRO PCC and Nigel Waters reviewed and responded to the two submissions received in relation to the Code:
 1. The Consumers Health Forum of Australia (CHF)
 2. The Australian Market and Social Research Society (AMSRS)

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- AMSRO produced a suite of privacy tools for members including a template privacy statement, a collection statement, a privacy compliance manual (including a checklist) and interviewer script, which reflect and comply with the APP's and terms of the new draft Code.
- AMSRO also engaged members in training and education with three webinars (one of which included members and their clients) held in December 2013 followed by webinars in March and June 2014. These hour-long interactive webinar sessions were facilitated by Andrew Maher, AMSRO legal counsel, HR Legal and Jayne Van Souwe, Managing Director, Wallis Group Consulting. (Jayne is a PCC committee member and Wallis Group a long-standing AMSRO member organisation.)

Furthermore, the year long development of AMSRO's new privacy code has benefited from the collaborative efforts of the OAIC, with thanks due to Andrew Solomon and Este Darin-Cooper from the Regulation and Strategy Branch for their on-going support, advice and appreciation of our Code up until the final copy.

In terms of publishing the final Code for members and stakeholders, while we understand there are legal requirements relating to its registration as an federal instrument, ideally, the Code will retain its current format, with the explanatory note on page 3 outlining the parts that are 'registered' as a Code under Part IIIB of the Privacy Act 1988. Feedback from members to date has been overwhelmingly supportive of this current format with the inclusion of operational provisions and explanatory notes making it a user friendly and valuable resource for researchers and their organisations. We therefore strongly support that it be published in its entirety.

We look forward to discussing next steps with you at your earliest convenience.

Yours sincerely,



Sarah Campbell
Executive Director
AMSRO
(02) 9552 4618

Appendix:

- A. PCC Terms of Reference
- B. Revision of the *Market and Social Research Privacy Principles (M&SRPP)* Terms of Reference
- C. Media Release
- D. Member correspondence/announcement
- E. Public Consultation Correspondence
- F. Research News article

Note: *The Privacy (Market and Social Research) Code 2014 is attached separately.*



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Appendix A: PCC Terms of Reference

**Privacy Compliance Committee
Terms of Reference
2014**

Background:

On 1 September 2003 the Association of Market Research Organisations (now the Association of Market and Social Research Organisations) commenced operation of the Market and Social Research Privacy Code. The Code is approved by the Federal Privacy Commissioner under sections 18BB (2), 18BB (3) and 18BB (4) of the Privacy Act 1988 (Cwth). It applies to Market and Social Research companies who are members of AMSRO.

In accordance with the provisions of Subclause G of the Code, AMSRO conducted a Review of the Code by an independent chairperson in 2006 and the Report was received in February 2007. The Report, together with a written statement by AMSRO responding to the Review, was provided to the Office of the Federal Privacy Commissioner in March. The Commissioner accepted the Report’s findings and recommendations in June 2007 and the Code was lodged on the Federal Register of Instruments on 28 June 2007.

One of the major Recommendations of the Review was the establishment of a Privacy Committee:

6.1d AMSRO to establish a Privacy Compliance Committee, including at least one consumer representative. The Committee would meet twice annually (or more frequently if required) to examine complaints and other privacy matters.

In post-Review consultations with the Federal Privacy Commissioner, it was clarified that the Office of the Privacy Commissioner would continue to perform the role of Code Adjudicator and would continue to deal with any complaints in relation to the Code. The role of the Privacy Committee in relation to complaints would be to determine whether complaints pointed to systemic failure in the information handling practices within market and social research companies that are signatories to the Code and recommend measures to deal with them.

Committee:

| | |
|--------------------|---|
| Hon Terry Aulich | Chair |
| Jayne Van Souwe | Industry representative (Wallis Consulting) |
| Martin O’Shannessy | Industry representative (Newspoll) |
| David Vaile | Consumer representative (UNSW) |
| Sarah Campbell | Secretary (AMSRO) |

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Terms of Reference:

It is contemplated that the Committee may consider and make recommendations on matters including, but not limited to:

- 1) The Code Reviewer's recommendations concerning streamlining industry Guidelines to clarify how they work in conjunction with the Code;
- 2) The Code Reviewer's recommendations concerning implementing an explicit privacy component into industry quality audits;
- 3) The implementation of Calling Standards for Market Research as part of the Do Not Call scheme;
- 4) Appropriate standards and safeguards for the use of information derived from public number databases;
- 5) Industry awareness/education regarding privacy issues, including information sheets, FAQs and best practice;
- 6) Industry information handling practices;
- 7) Systemic issues arising from privacy complaints;
- 8) Privacy implications of emerging research channels such as online access panels;
- 9) AMSRO submissions to the ALRC Review of Privacy Laws and other similar enquiries, and any proposed legislative changes.
- 10) Privacy impact assessments of research methodologies

Membership and meetings:

Membership is for a two-year term (minimum). The Committee will meet twice a year or more frequently if required. The AMSRO Secretariat will provide administrative support. It should also be possible to do business from time to time without meeting face to face, i.e. via teleconference and email.

Decisions:

It is intended that all recommendations of the Committee be arrived at by consensus.

Reporting:

The Committee will report through its chair to the AMSRO Committee annually. An annual report of the activities of the Committee should be published to the publicly accessible section of the AMSRO web site.

Confidentiality:

All matters before the Committee are to be considered confidential. No member of the Committee shall make public statements in his or her capacity as a Committee member without the express written consent of the President of AMSRO.

The consumer representative will operate in accordance with the CFA consumer rep policy:

<http://www.consumersfederation.com/documents/ConsumerRepsPolicyApril04.pdf>



ASSOCIATION OF MARKET AND SOCIAL RESEARCH ORGANISATIONS

B. Revision of the *Market and Social Research Privacy Principles* (M&SRPP) Terms of Reference

Revision of the Market and Social Research Privacy Principles

Terms of Reference

On 1 September 2003 the Association of Market Research Organisations (now the Association of Market and Social Research Organisations) commenced operation of the Market and Social Research Privacy Code (the Code).

The Code is administered by the AMSRO Secretariat (Code administrator) and approved by the Federal Privacy Commissioner under sections 18BB (2), 18BB (3) and 18BB (4) of the Privacy Act 1988 (Cwth) with the Commissioner acting as Code Adjudicator. It applies to Market and Social Research companies who are members of AMSRO.

The Privacy Act 1988 was amended in November 2012. The changes, which come into effect on 12 March 2014, are major, and include:

- New Australian Privacy Principles (APPs) replacing the separate National Privacy Principles (NPPs) for the private sector and Information Privacy Principles (IPPs) for Commonwealth agencies
- Significant new enforcement powers for the Commissioner, sanctions and penalties

AMSRO has commissioned a revision of the existing Code in preparation for submission for registration. The deadline for submission of the new M&SRPC to the OAIC is October 31 2013.

The redevelopment of the Code is funded by AMSRO in such manner as the AMSRO Board considers appropriate, having regard to the resource requirements necessary for the effective execution of its tasks.

A Code Revision Panel has been established to deliver a new Market and Social Research Privacy Code to the Office of the Australian Privacy Commissioner under the new Part IIIB (which replaces the current Part IIIA) provision for Codes.

The Code revision panel comprises:

- Independent consultant Nigel Waters, Pacific Privacy Consulting (Australian Privacy Foundation board member and former AMSRO privacy compliance committee member) to rewrite the existing code
- AMSRO's Privacy Compliance Committee, chaired by Terry Aulich and comprised of two industry and one consumer representative

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- The AMSRO Board
- Such other persons the AMSRO Board may from time to time nominate

In conducting the revision of the Code the review panel will:

- advise AMSRO Secretariat of any recommendations and/or requirements pertaining to the Code in order to instruct members
- seek the views of the Australian Privacy Commissioner, government agencies, industry representatives, consumer representatives, the general public and other persons or bodies as appropriate in Australia and internationally, regarding the operation of the new Code and in relation to suitable revisions and amendments.

For further information please contact:

Sarah Campbell
Executive Director
E: sarah@amsro.com.au
T: (02) 9552 4618



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Appendix C. Media Release

Media Release

AMSRO FIRST INDUSTRY BODY TO DEVELOP 2014 INDUSTRY PRIVACY CODE

8th April 2014

Australia’s peak body for the market and social research industry, the Association of Market & Social Research Organisations (AMSRO) has developed its own privacy code for members following the release of the new Privacy Amendment Act on March 12 2014.

Australian Privacy Commissioner Timothy Pilgrim said: “The Office of the Australian Information Commissioner doesn’t want to see organisations quickly making the absolute minimum changes, and then sitting back in the knowledge that they have just met compliance requirements. Organisations should be striving for continual improvement in the privacy space.”

AMSRO is currently the only industry body seeking to register a non-mandatory Australian Privacy Principles (APP) Code. AMSRO’s Market and Social Research Privacy Code 2014 has now moved to public consultation as a draft code.

Developed in close consultation with the Office of the Australian Information Commissioner (OAIC) over the past six months, once registered the code will operate in addition to the new Privacy Amendment Act.

The Market and Social Research Privacy Code 2014 is a customised version of the Australian Privacy Principles (APPs) in the Privacy Act (1988). It sets out how the APPs are to be applied and complied with by AMSRO members in relation to the collection, retention, use and disclosure of personal information about the subjects of and participants in market and social research.

AMSRO President Nicola Hepenstall said; “With the recent launch of our Australian-first Trustmark that ensures privacy, ethical and quality standards, it was important that we redeveloped our own industry code to reflect the new Privacy Act. AMSRO pioneered its own privacy code for members in 2003, which won an Australian Privacy Award in 2009.

“Our industry is unique because AMSRO members are co-regulated under the privacy code with AMSRO as the administrator and the Privacy Commissioner as the adjudicator of the Code. The fact that we have a 10-year record without a privacy breach demonstrates the success of AMSRO in protecting the industry and people who engage in market and social research.

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“We have worked collaboratively with OAIC at every step during the development of the draft Code. The public consultation is the final step in having our code approved and ready to go.”

The main section of the Code sets out how the Australian Privacy Principles (APPs) in the Privacy Act are to be applied and complied with by AMSRO members in relation to the collection, retention, use and disclosure of personal information about the subjects of and participants in market and social research.

The Code imposes some additional requirements including:

- participation by research subjects in market and social research as carried out by AMSRO members is always voluntary
- market and social researchers use and disclose the information collected only for research purposes.

AMSRO has also established a Privacy Compliance Committee (PCC), chaired by Terry Aulich, the former Tasmanian Senator who first recommended the creation of a Privacy Act for Australia. The PCC examines complaints and other privacy matters and was instrumental in developing the new 2014 code.

A copy of the consultation draft is available at www.amsro.com.au. Interested parties can make submissions on the draft Code by Wednesday 30 April 2014. Submissions should be addressed to amsro@amsro.com.au

ends.

About AMSRO

The Association of Market & Social Research Organisations (AMSRO) is the peak body for the market and social research industry. AMSRO works in partnership with its market research company members, plus privacy authorities, business, government and the community to protect and promote the industry and uphold the highest ethical and privacy market and social research standards. Since its establishment in 1989, AMSRO has grown to more than 100 members, representing 75% of the industry's total employment with an annual turnover of \$786 million in 2012. In 2003, AMSRO was the first industry body to launch its own industry-specific privacy code, the AMSRO Market and Social Research Privacy Principles.

For more information please contact:

Rochelle Burbury
Third Avenue Consulting
0408 774 577
rochelle@thirdavenue.com.au

Angela Cross
Third Avenue Consulting
0412 92 93 97
angela@thirdavenue.com.au

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Appendix D: Member correspondence/announcement

Privacy (Market and Social Research) Code 2014 Consultation Draft

18 March 2014

Dear AMSRO member,

On 12 March 2014, amendments to the Privacy Act 1988 enacted in November 2012 came into effect. The changes include a new set of Australian Privacy Principles (APPs) and revised provisions on Privacy Codes.

AMSRO intends to apply for registration of a replacement for the current Market and Social Research Privacy Code.

The new Code has been designed to meet the requirements of the 2012 amendments and follows Guidelines on Code Development issued by the Office of the Australian Information Commissioner (OAIC). AMSRO has consulted with the OAIC in the development of the Code. The Code sets out how the Australian Privacy Principles (APPs) in the Privacy Act are to be applied and complied with by AMSRO members in relation to the collection, retention, use and disclosure of personal information about research subjects.

Attached is a copy of a consultation draft of the revised Code, which is also available at www.amsro.com.au (as at 19th March 2014).

This version includes annotations, which are in italics, prefaced with 'Explanatory Note:' – these explanations do not form part of the Code, and will remain only in an annotated version.

Interested parties are invited to make submissions on the draft Code, by Wednesday 30 April 2014. Submissions should be addressed to amsro@amsro.com.au

After consideration of submissions received, and any further revision considered appropriate, the Code will be submitted to the Information Commissioner with a request that it be registered.

Should you require further information please don't hesitate to contact me on (02) 9552 4618 or sarah@amsro.com.au

Kind regards,



Sarah Campbell
Executive Director

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Appendix E: Public Consultation Correspondence

Sample stakeholder letter

Ms Carol Bennett
Chief Executive Officer
Consumers Health Forum of Australia

Sent via email - info@chf.org.au

3 April 2014

Dear Ms Bennett,

Re: Privacy (Market and Social Research) Code 2014 – Consultation Draft

As you are undoubtedly aware on 12 March 2014, amendments to the Privacy Act 1988 enacted in November 2012 came into effect. The changes include a new set of Australian Privacy Principles (APPs) and revised provisions on Privacy Codes.

AMSRO intends to apply for registration of a replacement for its former Market and Social Research Privacy Code. Given the *Consumers Health Forum's* interest in our Privacy Code Review in 2012 we thought you might appreciate a direct invitation to provide comment on our new industry (draft) Privacy Code.

The new Code has been designed to meet the requirements of the 2012 amendments and follows Guidelines on Code Development issued by the Office of the Australian Information Commissioner (OAIC). AMSRO has consulted with the OAIC in the development of the Code. The Code sets out how the Australian Privacy Principles (APPs) in the Privacy Act are to be applied and complied with by AMSRO members in relation to the collection, retention, use and disclosure of personal information about research subjects.

Attached is a copy of a consultation draft of the revised Code, which is also available at www.amsro.com.au.

This version includes annotations, which are in italics, prefaced with 'Explanatory Note:' – these explanations do not form part of the Code, and will remain only in an annotated version.

Interested parties are invited to make submissions on the draft Code, by Wednesday 30 April 2014. Submissions should be addressed to amsro@amsro.com.au

After consideration of submissions received, and any further revision considered appropriate, the Code will be submitted to the Information Commissioner with a request that it be registered.

Should you require further information please don't hesitate to me.

Kind regards,



Sarah Campbell
Executive Director
AMSRO

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Appendix E: Public Consultation correspondence (continued)

Consumers Health Forum of Australia submission



Ms Sarah Campbell
Executive Director
Association of Market and Social Research Organisations
1/3 Queen Street GLEBE NSW 2037

Dear Ms Campbell

Submission to the Privacy (Market and Social Research) Code 2014 – Consultation Draft

Thank you for your direct invitation to the Consumers Health Forum of Australia (CHF) to provide comment on the Association of Market and Social Research Organisations' (AMSRO) draft *Privacy (Market and Social Research) Code 2014* (Privacy Code).

CHF is the national peak body representing the interests of Australian health care consumers. CHF works to achieve safe, quality, timely health care for all Australians, supported by accessible health information and systems. As evidence-based research forms the foundation for good policy making, CHF has a vested interest in ensuring the robustness of data collection for research purposes.

Consistent with our submission of 28 August 2012, CHF is comfortable with the Privacy Code's standards for the collection and use of health information. These procedures are consistent with the National Privacy Principles.

While we are pleased that AMSRO has made it clear in APP 5.2 that Research Organisations should, at the point of collection, inform individuals of the organisation's privacy policy and the Privacy Code, we are still concerned that the Privacy Code does not go far enough to require that the Privacy Code be accessible to individuals, nor explain to them the basics of what these procedures contain.

The Explanatory Note, "Grounds for complaints," still does not require Research Organisations to do any more than make "publicly available," which is still not clearly defined, and the Privacy Code as drafted makes it the onus of the individual to request a copy of the organisation's privacy policy. Per the explanatory note:

A Research Organisation should take reasonable steps to make available copies both of its own policy and of this Code and any relevant explanatory material on request, free of charge and in an accessible way, including on its website if it has one.

CHF does not believe that this goes far enough to satisfy the need to make consumers informed of their rights to maintain the integrity of their personal information. We strongly urge the Privacy Code to be amended **to require** that individuals be provided the Research Organisations' individual privacy policies, the Privacy Code, and information about their right to complain at the time their data is collected. This could be done in hard copy or through a link to the information publicly available on their website.

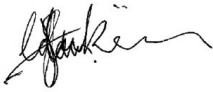
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Furthermore, CHF reiterates its concerns that the most serious penalty for improper conduct provided in the Privacy Code is limited to suspension or expulsion from AMSRO. While we recognise that the Privacy Code is independent of Federal laws and penalties for misuse of personal data, CHF believes the Privacy Code would be strengthened by referencing the other penalties under federal law which may also apply.

Once again, we thank you for providing us with an opportunity to comment on the draft Privacy Code. If you would like to discuss our comments in more detail, please contact Carter Moore, CHF Policy Officer, at 02 6273 5444, or c.moore@chf.org.au

Yours sincerely,



Adam Stankevicius Chief Executive Officer

30 April 2014

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Appendix E: Public Consultation correspondence (continued)

AMSRO response to Consumers Health Forum of Australia (CHF)

Mr Adam Stankevicius
Chief Executive Officer
Consumers Health Forum of Australia (CHF)

Cc: Carter Moore, Policy Officer CHF
Terry Aulich, Chair, AMSRO Privacy Compliance Committee

13th August 2014

Dear Mr Stankevicius,

Submission to the Privacy (Market and Social Research) Code 2014 – Consultation Draft

Thank you for your submission (received April 30 2014) in relation to AMSRO’s draft privacy code. AMSRO’s Privacy Compliance Committee (PCC) gratefully acknowledges your comments and was pleased to receive the CHF’s support regarding the collection and use of health information within the Code.

The PCC also considered the CHF’s comments in relation to; advising individuals of their rights through providing access to privacy information, and secondly; ensuring that organisations are aware of, and appropriately penalised, if found in breach of the Privacy Code and the APPs.

Please see following our resolutions regarding each of the comments:

1. CHF recommendation to inform individuals of their rights to maintain the integrity of their information

Whilst accepting the CHF’s concerns and acknowledging the importance of advising individuals of their rights for further details regarding the integrity of their information, the PCC believes the current Privacy Code sufficiently addresses this requirement in Part E of the Code in sections APP 1 and APP 5 (as follows):

PART E - APP 1 (Excerpt)

Transparency of management

Australian Privacy Principle 1: Open and transparent management of personal information (as customised for the purposes of this Code)

Explanatory Note

Grounds for complaints

A breach of the obligations on Research Organisations under parts E and H of this Code is an ‘interference with privacy’ which is grounds for complaint and/or investigation under the Act.

Research Organisations must ensure that they have in place, and publicly available, procedures for dealing with complaints about alleged breaches of this Code from inception to satisfaction or determination, which are available to any individual (irrespective of nationality or place of residence) about whom identifiable research information is held.

Additionally in Part E - APP 1.5...

Availability of privacy policy

1.5 A Research Organisation must take such steps as are reasonable in the circumstances to make its research information privacy policy available:

- (a) free of charge; and
- (b) in such form as is appropriate.

1.6 If a person or body requests a copy of the research information privacy policy of a Research Organisation in a particular form, the organisation must take such steps as are reasonable in the circumstances to give the person or body a copy in that form.

Explanatory Note

A Research Organisation must have its own research information privacy policy, and should reference this Code, and provide links to it. A Research Organisation should take reasonable steps to make available copies both of its own policy and of this Code and any relevant explanatory material on request, free of charge and in an accessible way, including on its website if it has one.

Furthermore, and as acknowledged in your submission, Part E APP 5, the Privacy Code also requires researchers to notify individuals (at the point of collection) about accessing personal information.

Australian Privacy Principle 5—notification of the collection of personal information (as customised for the purposes of this Code)

5.1 At or before the time or, if that is not practicable, as soon as practicable after, a Research Organisation collects identifiable research information about an individual, the organisation must take such steps (if any) as are reasonable in the circumstances:

- (a) to notify the individual of such matters referred to in subclause 5.2 as are reasonable in the circumstances; or
- (b) to otherwise ensure that the individual is aware of any such matters.

5.2 The matters for the purposes of subclause 5.1 are as follows:

- (g) that the research information privacy policy of the Research Organisation contains information about how the individual may access the identifiable research information about the individual that is held by the entity and seek the correction of such information;

- (h) that the research information privacy policy of the Research Organisation contains information about how the individual may complain about a breach of this Code, and how the entity will deal with such a complaint;

When considering these requirements the PCC concluded that the current Code provides sufficient opportunity for the individual to learn about their rights to access personal information along with details relating to the Research Organisation's privacy obligations. It may also be worth noting, that research is collected at a point in time and whilst the respondent's information is available to them at any time, their identifiable information is in most cases not kept any longer than necessary for the research project for which it was collected (*see APP 11 Security of personal information – Additional Requirement: retention and disposal*).

A research organisation must retain identifiable information only while the details of the identity of the individual whom the information is about continue to be necessary for research purposes.

Industry practice under this Code requires that research data is routinely de-identified (where applicable) with the majority of research findings using aggregated data not personal information.

2. Privacy Code is limited to suspension or expulsion from AMSRO

Regarding the CHF's second recommendation '*that the most serious penalty for improper conduct provided in the Privacy Code is limited to suspension or expulsion from AMSRO*', the PCC agreed to address this issue further in the Code and has revised the Preamble Part A section of the Code to include the following:

- j. Significant penalties apply for breaches of the APPs. In the case of organisations found to have committed serious or repeated breaches, penalties can be up to \$1.7 million (as at the date of commencement).

In closing, it is important to note that AMSRO members bound by this co-regulated Privacy Code operate under higher obligations than the Privacy Act and are required to comply with both.

Thank you again for taking the time to make a valuable contribution to the Privacy (Market and Social Research) Code 2014.

In order to have the industry Privacy Code officially registered on the Federal Register of Legislative Instruments, AMSRO intends to submit the document to the Office of the Australian Information Commissioner over the coming weeks. Should you wish to discuss our comments in more detail please don't hesitate to me on (02) 9552 4618 or sarah@amsro.com.au

Kind regards,



Sarah Campbell
Executive Director
AMSRO
(02) 9552 4618

Appendix E: Public Consultation correspondence (continued)

The AMSRS submission

Tue 29/04/2014 5:00 PM

Dear Nicola, Craig and Sarah,

Thank you for the opportunity to provide feedback on the Draft AMSRO Privacy (Market and Social Research) Code 2014.

The AMSRS Board met today and respectfully ask that you consider making the following minor amendments to your Code. All the changes relate to slight amendments to the explanatory notes only with the exception of a request for the addition of some words in the definition of “Research Purpose” (page 8) and the listing of AMSRS as an organisation you will consult in the future (page 32).

Please note that the requested changes have been listed below by page number and are not in any particular order of importance.

- Page 8 – The Explanatory Note at the top of page 8 That comes immediately after the definition of “Market and Social Research”

The AMSRS would like to request that the last two paragraphs be removed from the explanatory note as we believe they may give rise to a misperception that certain legitimate research activities (e.g. customer satisfaction research which results in actions being taken to improve service delivery to a particular individual) that are currently allowed under our Code of Professional Behaviour are not proper market and social research activities. These two paragraphs are as follows:

***Market and Social Research** differs from other forms of information gathering in that the information is not used or disclosed either to support measures or decisions with respect to the particular individual, or in a manner that could result in any serious consequence (including substantial damage or distress) for the particular individual.*

*Any information gathering activity in which the names and contact details of the people contacted are to be used for sales, promotional or fundraising activities or other non-research purposes directed at the particular individual (e.g. debt collection, credit rating) can under no circumstances be regarded as **Market and Social Research**. In addition, any activity that attempts to impart information to individuals rather than collect information from individuals (e.g. push polling) can under no circumstances be regarded as **Market and Social Research**.*

- Page 8 - The definition of Research Purpose

The words that are **bolded** are the ones which the AMSRS would like to recommend that AMSRO considers including in the Research Purpose definition and its associated explanatory note on page 8:

Research Purpose means the handling of information in order to carry out any function considered essential to the conduct of a **market and social research project** or communication of the results of a market and social research project.

Explanatory Note:

*In practical terms, research purposes include handling information in order to conduct analysis, maintain its accuracy, draw a research sample, carry out quality control, note the willingness or unwillingness of an individual to be contacted in relation to future market and social research, assist in the resolution of a problem that has come to light during a market and social activity, **report research results, or conduct further market and social research.***

- [Page 18 – the Explanatory Note after 6.2 at the top of the page.](#)

The AMSRS would like the final sentence in the explanatory note to be removed “However, these exceptions would be contrary to the AMSRS Code of Professional Behaviour” as this sentence binds us before we have had the opportunity to finalise our own new Code of Professional Behaviour.

- [Page 20 – the Explanatory Note under 7.2-7.8](#)

The AMSRS would like the final two words in that explanatory note “non-research purposes” to be amended to “similar activities”. We believe this paragraph relates to direct marketing and the current draft may give rise to a misperception that all “non-research purposes” are covered. This would be inconsistent with the explanatory note in relation to APP6 on page 18.

- [Page 32 under the paragraph “Consultation” point g.](#)

The AMSRS would like to be formally included in the list of bodies that are consulted and not just referenced under “industry representatives” as is currently the case.

Your consideration of our feedback is much appreciated and Szymon and myself are available to discuss this feedback with you further. We look forward to working with you to promote and support this new industry Privacy Code.

Kind regards,

Elissa Molloy

On Behalf of the AMSRS Board.

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Appendix E: Public Consultation correspondence (continued)
AMSRO response to AMSRS submission

Attention: The Australian Market and Social Research Society (AMSRS) Board

Sent via email – elissa.molloy@amsrs.com.au

Cc: Terry Aulich, Chair, AMSRO Privacy Compliance Committee
Sarah Campbell, Executive Director, AMSRO

Dear Elissa, Szymon and Imogen,

Re: Draft AMSRO Privacy (Market and Social Research) Code 2014

Firstly, thank you for your submission (received April 29 2014) in relation to AMSRO's draft privacy code. AMSRO's Privacy Compliance Committee (PCC) has considered the recommended changes, a majority of which are now included in the final document, and gratefully acknowledge the involvement from the AMSRS Board and Professional Standards Committee.

Please see details regarding each recommendation following.

Page 8 – The Explanatory Note at the top of page 8 that comes immediately after the definition of “Market and Social Research”

The AMSRS requested that the last two paragraphs be removed from the explanatory note as they may give rise to a misperception that certain legitimate research activities (e.g. customer satisfaction research which results in actions being taken to improve service delivery to a particular individual) that are currently allowed under our Code of Professional Behaviour are not proper market and social research activities.

The PCC considered the removal of both paragraphs and agreed that there are some circumstances whereby information may be disclosed in relation to customer satisfaction surveys etc. It was decided however that this action only occurs upon consent of the individual. Committee members therefore resolved that the first paragraph should remain with the added reference '*without the express consent of that individual*'. (Please see final excerpt following).

Market and Social Research differs from other forms of information gathering in that the information is not used or disclosed either to support measures or decisions with respect to the particular individual, **without the express consent** of that individual, or in a manner that could result in any serious consequence (including substantial damage or distress) for the particular individual.

The PCC agreed that the second paragraph could be removed as per the AMSRS recommendation.

Page 8 - The definition of Research Purpose

The PCC accepted the AMSRS additional wording as per (underlined) in excerpt below.

Research Purpose means the handling of information in order to carry out any function considered essential to the conduct of **a Market and Social Research project** or communication of the results of a Market and Social Research project.

Explanatory Note:

*In practical terms, **Research Purposes** include handling information in order to conduct analysis, maintain its accuracy, draw a research sample, carry out quality control, note the willingness or unwillingness of an individual to be contacted in relation to future **Market and Social Research**, assist in the resolution of a problem that has come to light during a **Market and Social Research** activity, report research results or conduct further Market and Social Research.*

Page 18 – the Explanatory Note after 6.2 at the top of the page.

The AMSRS requested the final sentence in the explanatory note to be removed “However, these exceptions would be contrary to the AMSRS Code of Professional Behaviour” as this sentence binds us before we have had the opportunity to finalise our own new Code of Professional Behaviour.

The PCC accepted the change and the sentence has been removed from the Explanatory Note at 6.2.

Page 20 – the Explanatory Note under 7.2-7.8

The AMSRS suggested the final two words in the explanatory note “non-research purposes” to be amended to “similar activities” as it relates to direct marketing (and the current draft may give rise to a misperception that all “non-research purposes” are covered.)

The PCC accepted the change. Please see excerpt following.

Furthermore, a pre-requisite for eligibility for membership of AMSRO is the requirement that, unless in the furtherance and promotion of its own services (i.e. not in the actual conduct of Market and Social Research), a Research Organisation cannot engage in direct marketing or any other activity where the names and addresses of the people contacted (in the conduct of Research) are to be used for individual selling, promotional, fund-raising or similar activities.

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Page 32 under the paragraph “Consultation” point g.

The AMSRS requested the Association be formally included in the list of bodies that are consulted and not just referenced under “industry representatives” as is currently the case.

The PCC accepted the change. Please see excerpt following.

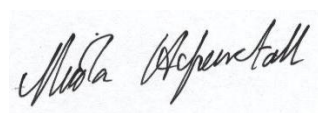
Consultation

- a. In conducting an independent review, the Code Administrator will notify the Information Commissioner of the review; and the Independent Code Reviewer will seek the views of the Information Commissioner, government agencies, industry representatives (including the Australian Market and Social Research Society (AMSRS)), consumer representatives, the general public and other persons or bodies as appropriate in Australia and internationally; regarding the operation of this Code and in relation to suitable revisions and amendments.

Thank you again for your valuable contribution to the Privacy (Market and Social Research) Code 2014.

In order to have the industry Privacy Code officially registered on the Federal Register of Legislative Instruments, AMSRO intends to submit the document to the Office of the Australian Information Commissioner over the coming weeks. We will be sure to keep you abreast of any further developments however should you require anything in the interim please don't hesitate to contact Sarah Campbell, AMSRO – sarah@amsro.com.au

Kind regards,



Nicola Hepenstall
President
AMSRO

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Appendix F. Research News article

INDUSTRY NEWS

AMSRO privacy code released for public consultation *Submissions close 30 April*

Described as a 'customised version' of the Australian Privacy Principles (APPs), the Market and Social Research Privacy (draft) Code 2014 is now open for AMSRO members to provide submissions on. The code sets out how the APPs are to be applied and complied with by AMSRO members in relation to the collection, retention, use and disclosure of personal information about the subjects and participants in market and social research.

It is the first voluntary code to commence development under the new privacy laws, and was praised by Australian privacy commissioner Timothy Pilgrim at the AMSRO Leaders Forum last month as 'a great example of an industry taking the necessary steps to rise above minimum compliance'.

AMSRO executive director Sarah Campbell said the code benefited the market and social

research industry as a whole by sending a positive message that the industry is conscious of the public's privacy concerns.

"Our industry is quite unique because AMSRO members are co-regulated under the privacy code with AMSRO as the administrator and the privacy commissioner as the adjudicator of the code.

"The provisions of the new code seek to give effect to the APPs in a manner that is tailored to the research context, while providing the public, government and business community with the assurances needed to encourage informed and willing participation in market and social research activities," she said.

"An overarching advantage of the code is the clear and unambiguous way in which it explains how the APPs relate to research industry practices, enabling research organisations to operate with certainty.

Application of the 'un-customised' APPs to research is not always obvious."

AMSRO launches Trustmark

The new AMSRO Trustmark has been launched to provide business and government decision-makers with the reassurance they are using a legitimate, professional research company that has been audited by AMSRO to ensure compliance not only with ethical standards, but also with the new privacy code.

The Trustmark was launched at last month's Leaders Forum, along with AMSRO's new logo and website.



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