

Commercial and Administrative Law Branch
Attorney-General's Department
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**Submission to the
Attorney-General's Department
in response to the
Exposure Draft of the Privacy Amendment (Notification of Serious Data
Breaches) Bill 2015**

Macquarie Telecom welcomes the opportunity to provide a submission in response to the Exposure Draft of the Privacy Amendment (Notification of Serious Data Breaches) Bill 2015.

Who is Macquarie Telecom?

Founded in 1992, Macquarie Telecom (ASX:MAQ) is Australia's number one Managed Hosting and business-only telecommunications company.

Working with and supporting some of Australia's best-known organisations, Macquarie Telecom is a full service hosting provider offering managed dedicated servers, managed colocation, and managed private and public clouds for mid-size businesses and corporate IT departments.

Combining business-grade full line (Voice, Data and Mobile) telecommunications with hosting services to offer truly integrated end-to-end communications solutions, Macquarie Telecom is best placed to help transition businesses to the new NBN.

Macquarie Telecom's offerings are underpinned by world-class customer care which is delivered by the MacquarieHUB. Our fully owned Australian based Intellicentre 2 is the most certified data centre in the country, offering our customers ISO27001 and PCI compliance.

Our Submission

Macquarie Telecom believes the creation of a compulsory data breach notification process is warranted and timely. Community confidence in the systems to protect their data or, in the event of a breach of that security, to assist them in limiting or recovering from the harm caused by such a breach is fundamental to the development of a vibrant digital economy.

This is a logical flow on from the mandatory data retention requirements to ensure that the huge amount of data collected under that regime is adequately protected and, if it is breached, people are made aware of the breach and can take steps to minimise any harm.

The reporting of breaches is also an important element in a robust national cyber security stance. At a time when more than ever before ICT infrastructure is network-enabled, the national ICT infrastructure is in some very important ways only as strong as its weakest links. This is true both in terms of the robustness of the infrastructure itself and of the trust and confidence that underpins its use.

Lifting the average level of security across all users and devices is critically important as a means of “hardening” the national defence against cyber crime.

It is crucial that owners and operators of networks, both providers of services themselves such as telcos and data centres, and businesses with networked devices and offices are made aware of security vulnerabilities as quickly as possible so they can address them.

Similarly, individuals need to be aware of breaches that exploit vulnerabilities for which there might be a readily available patch to be downloaded.

Public reporting of breaches, while potentially embarrassing for service providers or cloud vendors, can play an important role in communicating to other potential victims the need for timely action.

It has not always been the case that information about breaches has been released quickly and Macquarie Telecom supports the concept that such notification should become mandatory.

Macquarie Telecom also believes access to an independent agency for redress or advice is important to build confidence in cloud-based services.

Macquarie Telecom therefore supports the legislation, while noting that some of the changes proposed by Comms Alliance could improve the clarity of the proposed legislation.

In particular, Macquarie Telecom notes:

- The potential for confusion if several entities are required to notify the same breach.
- Terminology around the use of terms “serious breach” and “notifiable breach” carrying a risk of “serious harm”.
- The inclusion of “emotional” and “psychological” harm in the definition of harm. This is unnecessarily broad and leads to great uncertainty as the impact will vary among diverse affected individuals.

Macquarie Telecom believes that these 3 points can be addressed in appropriate amendments to the Exposure Draft of the Bill and looks forward to the next iteration.