

1. Do you have concerns about this legislation with regard to privacy protections, the Privacy Act 1988 or the role of the Australian Information Commissioner?

We acknowledge the Department of Health's obligations under the Privacy Act 1988. We agree with the concerns and recommendations put forward in the Privacy Impact Assessment. We expect that the recommendations will be implemented in full before/to coincide with the commencement of the legislation.

2. Are there adequate transparency and accountability mechanisms built in to the framework?

Privacy legislation requires the Department of Health to manage personal information in an open and transparent way. Avant agrees with the recommendations in the PIA that the Department of Health should amend its Privacy Policy to be more open about:

- the collection of new data fields and the extensive variety of data sources; and
- the use of routine data sharing for data-matching activities.

This should extend to any other government agencies and private partner agencies.

Avant would also support the creation and maintenance of a dedicated website or secure data transfer facility with a list of key documents, a register of data matching activities, contact details and other relevant information about its data sharing / data matching activities.

3. If you have further comments, please provide them below.

Avant is Australia's largest medical defence organisation, providing medical indemnity insurance to medical practitioners and medical practices. We assist and advise medical practitioners in responding to Medicare compliance audits, as well as providing general medico-legal advice to medical practitioners insured under our policies.

Avant is concerned generally with the 'compounding effect' of errors, particularly if errors exist in more than one set of data that is being matched. For example, we have seen on numerous occasions that the data entered by pharmacists in relation to the dispensing of medications can contain an incorrect attribution of the prescribing doctor. This may alert the Department of Health to an incongruity that needs to be investigated, but in fact, is simply an error. Avant notes and supports that the proposed legislation will not allow any automation of compliance activity without human oversight. We also note and support recommendations 8 and 11 in

the Privacy Impact Assessment and the Department's commitments to implement those recommendations.

Avant strongly supports the creation and execution of an educational campaign to inform doctors and other providers about these new laws and how the providers can ensure that they remain compliant. It may be appropriate for the Department to consult its Behavioural Economics and Research Team in this regard.

We recommend that a grace-period (of at least 6 months after the legislation comes into effect) is implemented; whereby providers are informed of their possible non-compliant activity and given the opportunity to correct any inadvertent billing through education. For example, we often hear from our members that they are confused about the "80/20 rule". We recommend that the Department use this as an opportunity to educate providers about this rule and how services billed to the DVA are counted toward this. It is also an opportunity to educate providers on which medical devices do not attract a Medicare rebate.

We would welcome the opportunity to collaborate with the Department on the further detail of the proposed legislation and subsequent education of doctors.