

Amanda Nowland

From: Cate Cloudsdale
Sent: Friday, 26 July 2019 3:18 PM
To: wendell_o@tutanota.com
Cc: Caren Whip
Subject: AR19/00029 - Reasons for finding in PRIV COMP 19/00001 [SEC=UNCLASSIFIED]

Security Classification:

UNCLASSIFIED

Dear O Wendell

Thank you for your patience in awaiting my response to your query. I have treated this is a request for administrative access to information held by the OAIC.

You have asked for me to provide reasoning to support my statement in my letter of 18 April 2019 that I considered there to be no breach of s 95B in the OAIC agreeing to the terms of service with Hotjar.

My reasoning is:

- 1) the terms of the agreement with Hotjar did not authorise Hotjar to engage in an act or practice that would breach the Australian Privacy Principles, if it were the OAIC that had engaged in the act/practice.
- 2) the terms of the agreement contained a provision which ensured that a subcontractor of Hotjar would not be authorised by a subcontract (with Hotjar) to engage in an act or practice that would breach the Australian Privacy Principles, if it were the OAIC that had engaged in the act/practice. The terms included confidentiality provisions and stated that information the OAIC provided to Hotjar would only be disclosed in accordance with its Privacy Policy. The Privacy Policy includes a provision stating that Hotjar's contractors are contractually bound to process personal data only in accordance with Hotjar's instructions.

Regards



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From: wendell_o@tutanota.com <wendell_o@tutanota.com>
Sent: Thursday, 18 April 2019 7:31 PM
To: Cate Cloudsdale <cate.cloudsdale@oaic.gov.au>
Subject: Re: RE: Privacy complaint - OAIC and Hotjar [SEC=UNCLASSIFIED]

Thanks for this - are you able to provide reasoning for your statement that "I do not consider that the OAIC has breached s 95B in this instance"? The terms of s.95B seem pretty clear, as are the terms of the OAIC's agreement with Hotjar?

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Apr 18, 2019, 5:49 PM by cate.cloudsdale@oaic.gov.au:

Dear O Wendell

Please see attached correspondence in response to your privacy complaint.

Regards



Cate Cloudsdale | A/g Principal Lawyer

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From: wendell_o@tutanota.com <wendell_o@tutanota.com>

Sent: Wednesday, 20 March 2019 8:01 PM

To: Enquiries <enquiries@oaic.gov.au>

Subject: Privacy complaint - OAIC and Hotjar

Hi OAIC

On March 19 2019 I lodged a privacy complaint under the privacy Act about the OAIC and Hotjar - see here:
https://www.righttoknow.org.au/request/oaic_and_hotjar

Today, Megan McKenna responded that I can't make a privacy complaint through the righttoknow website and I need to do it via email. So that's what I'm doing. My complaint and all the relevant info is at the link above but let me know if you need anything further.

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