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Professor Allan Fels, AO  
Chair, Consumer and Privacy Taskforce  
PO Box 3959  
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Dear Professor Fels,

Thank you for the opportunity to make a submission to the Access Card Consumer and Privacy Taskforce.

The Australian Federation of AIDS Organisations (AFAO) represents Australian HIV/AIDS community-based organisations at a national level. Our membership includes State and Territory AIDS Councils, the Australian Injecting and Illicit Drug Users League (AIVL), the National Association of People Living with HIV/AIDS (NAPWA) and Scarlet Alliance, the Australian Sex Workers Association. Our clients are frequently vulnerable members of the community and often have particular concerns around privacy issues. It is with these issues in mind that our response to the proposed Access Card is formed.

AFAO and its member organisations recognise the potential benefits of the proposed Access Card. However, we also have significant concerns regarding the proposal as it currently stands, particularly in relation to potential privacy impacts and function creep. Some of these issues are raised in the *Discussion Paper Number 1* and our specific concerns are detailed in the attached submission.

AFAO met with Chris Puplick and Ben Battison regarding the introduction of the Access Card on 3 July. At that meeting, Mr Puplick indicated that the Taskforce would be undertaking further consultations in the future. AFAO and its member organisations look forward to participating in these consultations.

Please find attached our submission to the Taskforce. If you have any further queries regarding this submission, please do not hesitate to contact me on (02) 8568 1100.

Yours sincerely

Don Baxter  
Executive Director

# **AFAO Submission**

## **Consumer and Privacy Taskforce**

### **The Right of Choice**

#### *Access to Services*

It is not clear what arrangements will be made for people to access services without an Access card. Some medical services, such as sexual health services, do not currently require a Medicare card. This arrangement is crucial in order to protect people's privacy. It also play an important role in promoting public health by encouraging people to use sexual health services. AFAO is concerned that these arrangements continue with the implementation of the Access Card. While there is no specific proposal to discontinue services that currently do not require a Medicare card, AFAO and its member organisations urge the Taskforce to consider this issue in its deliberations.

#### *Children and Young People*

Similarly, AFAO is concerned about processes for young people to access services. In its proposed form, the Access Card will be issued to people once they turn 18. Until they reach 18, information regarding young people will be held on their parent or guardian's card. The proposal does recommend that young people under the age of 18 who are independent will receive an Access Card.

However, it is important to interpret the meaning of 'independent' in a broad sense that includes not only living independently but also the capacity to make decisions regarding one's health. For example, young people living at home may be sexually active before the age of 18, and have a corresponding need to access health services.

At present young people are able to get a Medicare card from the age of 15, and AFAO recommends that similar arrangements be implemented for obtaining an Access Card. Further, there should be multiple 'triggers' to gain access to the card, such as request for Centrelink benefits or request for health services (e.g. consulting a doctor). AFAO is concerned to make the Card – and therefore to services – as accessible as possible for young people.

#### *Access to Information*

While existing Freedom of Information laws require the government to provide consumers with access to information held about them, the mechanisms for providing consumers with this information have not yet been detailed. Providing consumers with access to information held about them is also an important way to ensure the accuracy of this information.

For these reasons, it would seem advisable to make consumer access to information as simple and widely accessible as possible. It has been suggested that consumers may be able to access information online, using a card reader. This is impractical for many low-

income consumers who do not have internet access. Additional mechanisms for ensuring practicable, timely access to information are therefore essential.

### **The Right to and Protection of Privacy**

AFAO shares the concerns expressed by other consumer groups regarding potential threats to privacy represented by the card. People with HIV, illicit drug users, and sex workers are particularly sensitive to privacy concerns, and with good reason. Protection of privacy is a protection against the stigma and marginalisation attached to HIV, injecting drug use and sex work.

AFAO is deeply concerned about possible unanticipated uses of the card, not just by consumers but also by government agencies such as the police. While the Government and the Taskforce has been quite explicit in insisting that the Access Card is not intended to function as an identification card and that police will not be able to demand the card, the practice in everyday life may be different. If everyone – or virtually everyone has an Access Card, and this card replaces a range of existing cards such as Medicare cards, it is likely that the card will become a de facto form of identification. Failure to carry or produce the Access card may then be viewed with suspicion.

Groups such as sex workers and injecting drug users are particularly vulnerable in such situations, as they are often heavy users of health services and therefore likely to need – and carry their Access Card with them. Similarly, homeless people are likely to have no choice but to carry their access card on their person. At the same time, these groups are particularly vulnerable to possible harassment by police or other negative or punitive uses of the card.

AFAO is concerned that the card could ultimately act as a barrier to accessing services for these groups, as negative experiences or perceptions about the card cause them to ‘opt out’ of the Access Card system. In turn, this would lead to negative health and social outcomes both for these individuals and for the community as a whole.

For these reasons, specific legislation to regulate lawful and unlawful uses of the card may be preferable to protect the rights of consumers. Effective strategies for implementation which address the privacy concerns of *all* consumers, including marginalised and disadvantaged groups, are also essential.

### **Customer benefit and customer control**

The promised benefits of the Access Card for consumers will accrue largely in terms of increased efficiency, as people will no longer have to carry multiple cards, or go through the process of proving their identity to multiple agencies. It is not clear to us, however, that these benefits will outweigh problems presented by the card.

For instance, while the introduction of a single card promises a reduction in administration, the storage of information on the Secure Customer Records Database will, presumably, make re-issue of lost or stolen cards quite straightforward. However, it is not clear what process will be in place for a consumer to prove their identity in order to obtain a replacement card. Perhaps more importantly, it is not clear how clients will be

able to access services while a replacement card is being issued. This is an important issue, as even small delays in obtaining access to benefits or services can have a major, negative impact on the lives of vulnerable people. Consequently, it is imperative that there is no denial of services to consumers in this situation. Nor should any charge be imposed for the acquisition or replacement of cards.

### *Concession entitlements*

Our members have also expressed concerns about current uses of Centrelink cards. Centrelink cards are currently used to prove concession status at a wide range of venues and events, from theatres and cinemas to football games and concerts. Access to these concessions is an important facilitator of social engagement for people receiving Centrelink benefits. However, it is not clear how the Access Card in its current design can provide this function.

The Taskforce has indicated its awareness of this issue but as yet no solutions have been proposed. Providing card readers to private operators would seem not only impractical but contrary to the aims of the card. Similarly, indicating concession status on the surface of the card would seem contrary to its purpose. However, AFAO is concerned that without a ready identifier of concession status, many private operators may respond by simply discontinuing concessions. Such an outcome would be intolerable for consumers. For these reasons, we urge the Taskforce to consider practical ways to ensure that this issue is addressed.

### *Lost and Stolen Cards*

AFAO also shares the concerns expressed by other organisations regarding access to entitlements in the event that cards are lost or stolen, or that information on them is disputed. AFAO and its member organisations are concerned that implementation of the card must not lead to a reduction or denial of service for people who are unable to produce the card. It is therefore essential that processes for replacement of cards and handling complaints and disputes be as simple and accessible as possible.

## **Making the right technology choices**

### *The Photograph*

The Discussion Paper does not raise the possibility of variation to the proposed design of the card. However, it is possible that many of the functions of the proposed card could be served without inclusion of a photo. This outcome would allay the concerns of many consumers who have justifiable concerns regarding the privacy impacts of the Access Card. For this reason, AFAO and its member organisations urge the Taskforce to further investigate this option, and to publicise its findings in relation to this and other issues.

### *Function Creep or Enhancement*

The Discussion Paper recognises the possibility of ‘function creep’. As just discussed, AFAO and its member organisations are concerned about this possibility, as well as the possibility of function ‘enhancement’ – that governments will seek to add other functions

such as tax or migration information, or relax arrangements governing data matching between agencies which store information on the card. As discussed previously, it is likely that the ubiquity of the Access Card will lead to its use as a de facto identification card. AFAO and its member organisations are deeply concerned by this prospect. The capacity provided by the technology to be used in the Card will also make the addition of further information/functions relatively simple.

Future social and political trends cannot be accurately foreseen, and there may be changes that AFAO and its member organisations support. However, it is important that the current government put in place a transparent and accountable process for implementation and regulation of Access Card policy. For this reason, AFAO urges the Taskforce to consider the appropriateness of specific legislation to regulate the operation of the Access Card.

#### *Health records – Health information to be held on card*

The Taskforce has specified that the card is not intended to function as an electronic health record, although the Minister has canvassed the possibility of electronic prescription information being held on the card. Provided that prescription information can be made sufficiently secure, from the perspective of our clients this could be one of the advantages of the Access Card. People with HIV and injecting drug users who are receiving methadone treatment are typically frequent users of prescription medication, and electronic access to prescription information provides enhanced convenience for these consumers. People who are on pharmacotherapies that require supervised dosing that is currently provided within limited scope could benefit if the Access Card had the capacity to store dosing information for the purpose of accessing services at geographically disparate locations.

The capacity to upload health information on a voluntary basis is also commendable and is a preferred option from the perspective of people with HIV. It is equally important that the architecture of the card ensure that voluntary health information be available only to appropriate agencies, such as health or emergency services.

As the Discussion Paper notes, there is as yet no mechanism for maintaining the customer's privacy while ensuring the usefulness of this information. If elective health information is to be useful, it should logically be held in the 'open zone' that is available to all viewers of the card. However, this is not practical for privacy reasons as other agencies would have access to potentially sensitive information. For this reason, development of another 'zone' for emergency services or specific arrangements for access for health and emergency services would be preferable, and we urge the Taskforce to recommend that such options be investigated before the proposal proceed.

### **Authorisation and accountability**

#### *Legislation*

The Discussion Paper states that the government has not yet reached a final decision on whether it will introduce specific legislation to regulate the Access Card. It is also possible that the current ALRC review of the Privacy Act may resolve some of the issues

raised by the introduction of the Access Card. However, in view of the size of the initiative and its potential effects on Australian life, AFAO is of the view that specific legislation to regulate the Access Card should be seriously considered. AFAO urges the Taskforce to make public its recommendations on this issue.

It is possible that only specific legislation will generate public confidence in the Access Card proposal. Specification of statutory responsibilities in relation to the Access Card, privacy and freedom of information, as well as mechanisms to regulate access to and use of information would be considered as part of the legislative process. Implementation of such legislation also provides an opportunity for public debate on the merits of the Access Card which has yet to occur.

### *Auditing*

The possibility of auditing access to cards, as use of Medicare cards is currently audited, provides potential protection against misuse of information. The implementation of the Secure Customer Registration Database will, presumably, provide the technological capacity to conduct such auditing. However, any system to audit access to information must also be suitably regulated and resourced.