

Response to Consultation Paper on proposed Digital Identity legislation

Australia Post

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Q16. Question 1A Are the matters (legal authority, privacy protections, governance, amendments) relevant matters which should be included in the Legislation? Take me to the relevant part of the Consultation Paper | Section 3.1 Purpose of the Legislation

Yes

Q17. If yes, please give more information about why the matters above should be included in the Legislation?

Australia Post believes matters proposed in the Consultation Paper are relevant to the Legislation. We would also recommend draft Legislation clarifies applicability criteria for both TDIF-registered and unregistered Participants.

Q19. Question 1B Are there additional matters which should be considered? Take me to the relevant part of the Consultation Paper | Section 3.1

Yes

Purpose of the Legislation

Q20. If yes, please give more information about what additional matters should be considered?

The Legislation should clearly articulate roles and responsibilities of all entities, including government and commercial entities – and which instrument (e.g. policy versus legislation) applies to which Participant(s) and under which circumstances.

Q24. Please describe why you think the selected above, including other, is important

Regarding 2A / 2B / 2C: Australia Post recognises the need to legislate the TDIF and notes that any elements included from the TDIF need to be easily understood and operationalised by participants. To facilitate this, reference examples and case studies for further stages of consultation are recommended.

Q30. Please describe why you think the selected above, including other, is important

Australia Post recommends that items likely to change more frequently and of operational nature should remain in the policy (e.g. identity document types that can be used) to enable flexibility where necessary.

Q31. Question 3 Is a publicly available 'Digital Identity Participant Register' an appropriate mechanism to communicate who will be covered by the Legislation? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation

Yes

Q32. If yes, please give more detail about why a publicly available 'Digital Identity Participant Register' is an appropriate mechanism to communicate who will be covered by the Legislation?

We agree a register would be useful to communicate who will be covered by the Legislation including Relying parties, IDPs and other Identity Exchanges. A 'trust mark' could be provided to achieve the intention of communicating the coverage.

<p>Q34. Question 4 Are the proposed obligations on relying parties described [see link] reasonable? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation</p>	<p>Yes</p>
<p>Q35. If yes, please give more detail about why the proposed obligations are reasonable?</p>	<p>Australia Post believes the proposed operational obligations on relying parties are reasonable to enhance the system’s safety and effectiveness.</p>
<p>Q40. Question 5 Are the concepts outlined [see link] appropriate to include in a definition of ‘Digital Identity’ for the Legislation? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation.</p>	<p>Yes</p>
<p>Q41. If yes, please give more detail about why the concepts outlined above are appropriate to include in a definition of ‘Digital Identity’?</p>	<p>We believe, ‘electronic transmission’ infers online services only, which in our view is not the only way a Digital identity can be used.</p>
<p>Q43. Question 5[second part] Are there any additional concepts that should be included? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation</p>	<p>Yes</p>
<p>Q44. If yes, please describe what additional concepts should be included</p>	<p>‘Across different identity providers’ should be added to cover the scenario of multiple identities being held with the same identity provider. We also suggest allowing for an ‘electronically verified’ mechanism (e.g. an in-person QR code).</p>
<p>Q46. Question 6 Does the legislation need to include a definition of Digital Identity information, or is it preferable to rely on the definitions of personal, sensitive, or protected information in other Commonwealth Acts? Take me to the relevant part of the Consultation Paper – Section 3.3 Scope of the Legislation</p>	<p>No, the definitions in other Commonwealth Acts should be relied upon</p>
<p>Q48. No, the definitions in other Commonwealth Acts should be relied upon - please describe why</p>	<p>Australia Post does not recommend a new definition, given existing definitions are well understood, widely established in organisational policies and operationalised. We do, however, note that e-mail and phones are not necessarily available to all citizens, or mandatory to achieve IP levels currently outlined in the TDIF. We would advise that some revision of these aspects may be needed.</p>
<p>Q49. Question 7 What factors should be considered in the development of a charging framework for the system? Take me to the relevant part of the Consultation Paper – Section 3.4 Financial sustainability of the System</p>	<p>As User choice is a key principle underpinning Digital Identity, any proposed charging framework must consider this and ensure Identity and Credential providers reasonably compensated are incentivised to participate in the system. The following factors should be considered in development of the framework:</p> <ul style="list-style-type: none"> • Overall objective. Will the system be run to return a profit to the Government, break-even or be subsidised?; • Participant operational costs including support and maintenance, accreditation, reporting, compliance (including differences in costs to access the Document Verification Service); • Transaction volumes by level of assurance, volume growth projections, to enable provider revenue projections; • Number of Identity and Credential Providers accredited over time (to help providers assess economic viability); • Pricing models (government versus commercial or standard approach?); and • Charging model for multi-party transactions (e.g. exchange to exchange, multiple Identity Providers). Australia Post, as a currently TDIF accredited Participant, welcomes the opportunity to engage further around development of a charging framework for the system.
<p>Q50. Question 8 A What factors should be considered in the development of the liability framework? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability</p>	<p>Australia Post supports the liability framework as proposed by the DTA and agrees it is sensible to focus on damages directly caused by a Participant’s failure to comply with the system’s rules and requirements; acknowledging the potential for Users to suffer loss or damage, even when other Participants are acting in compliance with the rules and requirements.</p>

	Furthermore, if there is an intent to accredit other digital identity exchanges then there must be some definition of how liability will pass between exchanges. The liability framework needs to be able to recover losses as needed but should not be so punitive to discourage any Participant from participation in the scheme or leaving the scheme after a single liability event.
Q51. Question 8B In what circumstances should Participants be held liable under the liability framework? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability	Australia Post believes Participants should be held liable in the instances where they have contravened the system rules or not followed the required steps set out under the framework.
Q52. Question 8C What remedies and/or redress should be available to aggrieved Participants and Users for loss or damage suffered as a result of their use of the system? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability	Australia Post believes any redress scheme should be developed with clear liability limits and processes to easily obtain an outcome without imposing significant legal cost or effort on participants.
Q53. Question 8D What other best practice mechanisms and processes should be considered to support Users when things go wrong? Take me to the relevant part of the Consultation Paper – Section 3.5 Liability	When things go wrong, it is important to have clearly defined processes for resolution and escalation including published service standards. The processes must be designed from a User-centric perspective and avoid unnecessary handoffs to multiple Participants. We welcome the opportunity for further discussion in relation to the development of these support processes.
Q54. Question 9A Should the proposed privacy and consumer protections listed [see link] be enshrined in primary legislation? Take me to the relevant part of the Consultation Paper – Section 4.2 Privacy	Yes
Q60. Question 10A Should the Legislation include rules around the extent of choice available to Users to verify their identity? Take me to the relevant part of the Consultation Paper – Section 4.3 Choice	Yes
Q61. If yes, please explain why the Legislation should include rules around the extent of choice available to Users to verify their identity	Australia Post believes rules around choice should be included covering participation choice, interaction method (e.g. digital, face to face) and Identity Provider.
Q63. Question 10B Should any types, or all types of relying parties be obliged to provide an alternative identity verification mechanism, and what exceptions should be available? Take me to the relevant part of the Consultation Paper – Section 4.3 Choice	Yes
Q64. What exceptions should be available to provide an alternative identity verification mechanism?	Australia Post agrees with the proposed approach to make exceptions where it is not practical to provide an alternate identity verification mechanism.
Q66. Question 11A What types of profiling of behavioural information should be prohibited and allowed? Take me to the relevant part of the Consultation Paper – Section 4.4 Restrictions on data profiling	Australia Post believes that any behavioural data should be strongly restricted in use and not commercialised.
Q67. Question 11B Should a public register of Attributes be maintained? Take me to the relevant part of the Consultation Paper – Section 4.4 Restrictions on data profiling	Yes
Q68. If yes, please explain why a public register of Attributes should be maintained?	Australia Post supports a public register of Attributes.
Q70. Question 11C Should there be additional restrictions on access to Restricted Attributes? Take me to the relevant part of the Consultation Paper – Section 4.4 Restrictions on data profiling	Yes
Q71. If yes, please explain why there should be additional restrictions on access to Restricted Attributes?	Australia Post supports additional restrictions, with special consideration given to behavioural data and document identifiers.
Q73. Question 12A Are there any other safeguards on Biometric information that should be included in the Legislation? Take me to the relevant part	No

of the Consultation Paper – Section 4.5 Biometrics	
Q75. If no, please explain why other safeguards on Biometric information should NOT be included in the Legislation?	Australia Post is supportive of the proposed safeguards outlined in the Consultation Paper.
Q79. Question 13A Do you agree with the proposed approach on Biometric Information? Take me to the relevant part of the Consultation Paper – Section 4.5 Biometrics	Yes
Q80. If yes, please provide comment on why you agree with the proposed position on Biometric Information	Australia Post broadly agrees with the proposed approach to Biometric Information, however we note that the provision in 4.5.2 seems misaligned with the safeguards outlined in 4.5.1 and introduces additional risk into the system.
Q85. Question 14A Should the Legislation specifically provide a mechanism requiring an individual's consent before the User transacts with a relying party? Take me to the relevant part of the Consultation Paper – Section 4.6 Consent	Yes
Q86. If yes, please explain how the Legislation should specifically provide a mechanism requiring an individual's consent before the User transacts with a relying party?	Australia Post believes the Legislation should specifically provide a mechanism requiring consent before transacting with a relying party. We would welcome the opportunity to participate in further consultation activities to define and optimise User consent journeys across the Participants.
Q88. Question 14B Should the Legislation specifically provide an opt-out mechanism enabling individuals to opt-out of the system after they have created a Digital Identity? Take me to the relevant part of the Consultation Paper – Section 4.6 Consent	Yes
Q89. If yes, please explain why the Legislation should specifically provide an opt-out mechanism enabling individuals to opt-out of the system after they have created a Digital Identity?	In order to offer true citizen choice, Australia Post believes there must be an ability to opt out from transacting with Digital Identity services. We believe User consent should be provided on a per transaction basis and consequently consent should not be able to be retrospectively withdrawn once a transaction has been processed.
Q91. Question 15 Should there be a minimum age set for a young person to be permitted to create their own Digital Identity? Take me to the relevant part of the Consultation Paper – Section 4.7 Age	No
Q94. If no, please explain why there should NOT be a minimum age set for a young person to be permitted to create their own Digital Identity?	Australia Post's preferred position is for the Legislation to be silent on the age of a person applying for a Digital Identity in their own right. Age limits should be governed by relying party needs and existing laws.
Q95. Question 16 How should the Legislation cover situations where a person lacks capacity, is not capable, is too young or lacks interest or motivation to engage personally with the system? Take me to the relevant part of the Consultation Paper – Section 4.8 Acting on behalf of another	We believe the Legislation must be sufficiently flexible to handle the scenarios listed. For example, Legislation should consider digital means by which an individual can delegate their authority to another individual Digital Identity holder who is willing and capable of engaging with the system.
Q98. Question 18 In addition to the right to privacy and anti-discrimination in relation to accessibility and disability, how should the Legislation safeguard and ensure the enjoyment of Australians' human rights? Take me to the relevant part of the Consultation Paper – Section 4.10 Human Rights	The Legislation must ensure that all Australians have a right to participate in the system. As such, they must be able to establish a Digital Identity to ensure participation, so consideration must be given as to how to handle cases where individuals do not have access to a mobile phone or other electronic device. Consideration must also be given to supporting individuals with no or limited identity documentation.
Q99. Question 19 Is the proposed approach to accessibility and usability practical and appropriate? Take me to the relevant part of the Consultation Paper – Section 4.11 Accessibility and anti-discrimination	Yes
Q102. Question 19 [second part] Should any other considerations be taken into account? Please list them here:	Australia Post supports the proposal outlined. We do however believe the focus must be on ensuring Participants demonstrate usability-related outcomes rather than merely ensuring completion of test cases.

Take me to the relevant part of the Consultation Paper – Section 4.11 Accessibility and anti-discrimination

<p>Q104. Question 21 Should the Legislation include provisions to enable the disclosure of information in specified circumstances? Take me to the relevant part of the Consultation Paper – Section 4.13 Disclosure of personal information</p>	<p>Yes</p>
<p>Q107. Question 22A Are there established independent bodies that could fulfil the role of an independent Oversight Authority for Digital Identity, or is a new independent body required? Take me to the relevant part of the Consultation Paper – Section 5.1 Independence</p>	<p>No - a new independent body is required</p>
<p>Q109. If no, a new independent body is required, please describe</p>	<p>Australia Post agrees that a new independent Oversight Authority should be created to oversee the system at the appropriate time. We believe a new body is best suited to navigate future challenges and opportunities.</p>
<p>Q110. Question 22B What is the optimal structure of a new body? Take me to the relevant part of the Consultation Paper – Section 5.1 Independence</p>	<p>We believe an Oversight Authority should be made up of a representative group of Participants, including non-government perspectives.</p>
<p>Q111. Question 23 What types (or types) of information should be required to be publicly reported by the Oversight Authority to increase transparency in the system? Take me to the relevant part of the Consultation Paper – Section 5.2 Transparency</p>	<p>Australia Post supports the publication of an annual transparency report covering:</p> <ul style="list-style-type: none"> • The names of government agencies and private sector entities using the system; • The number of data breaches or other security incidents; and • The number of Privacy Impact Assessments completed. <p>Further consideration should be given to the appropriateness of reporting accuracy rates of biometric algorithms and successful versus unsuccessful proofing requests given the scope for misinterpretation or manipulation if definitions are not completely aligned.</p>
<p>Q116. Question 25A Are the roles and functions outlined [see link] appropriate for the Oversight Authority? Take me to the relevant part of the Consultation Paper – Section 5.4 Functions and activities</p>	<p>Yes</p>
<p>Q117. If yes, please explain why the roles and functions outlined above are appropriate for the Oversight Authority</p>	<p>We believe the roles and functions outlined are appropriate for the Oversight Authority assuming a stronger focus on governance rather than day to day operations.</p>
<p>Q119. Question 25B Are there any other functions that should be undertaken by an Oversight Authority? Take me to the relevant part of the Consultation Paper – Section 5.4 Functions and activities</p>	<p>Yes</p>
<p>Q120. What other functions should be undertaken by an Oversight Authority?</p>	<p>Given the early stage of Digital Identity, there should be flexibility to enable other functions to be undertaken by the Oversight Authority as they are identified. We would welcome further clarification of the proposed roles of the Oversight Authority versus the DTA and other Participants from management and operations perspectives.</p>
<p>Q122. Question 26A What other committees or advisory structures do you think may be needed? Take me to the relevant part of the Consultation Paper – Section 5.5 Advisory committees</p>	<p>Given the early stage of Digital Identity in Australia, we believe there needs to be flexibility around the types and structures reporting to the Oversight Authority which may need to be developed as the system matures.</p>
<p>Q124. Question 27 Should the record keeping requirements be outlined in the Legislation? Take me to the relevant part of the Consultation Paper – Section 5.6 Record Keeping</p>	<p>Yes</p>
<p>Q125. If yes, what should the record keeping requirements be?</p>	<p>Australia Post believes record keeping requirements should be outlined in the Legislation. To minimise additional operational overheads, we recommend aligning record keeping requirements with those contained in other key legislation (e.g. seven years for financial records).</p>

<p>Q128. Question 29 Is the proposed approach appropriately balanced to achieve the objectives of the system? Take me to the relevant part of the Consultation Paper – Section 6.1 Consistency across Australia</p>	<p>Yes</p>
<p>Q129. If yes, please explain how the proposed approach is appropriately balanced to achieve the objectives of the system</p>	<p>Australia Post supports the proposed approach to maximise consistency with other legislation and policies across the Commonwealth, States and Territories. We believe a significant economic benefit could be achieved by considering standardisation of certain rules / legislation across States and Territories (e.g. proof of age for liquor and gaming, document signing and witnessing). Furthermore, as a whole-of-economy solution we would support the consistent application of the TDIF across all government services when proof of identity is required, rather than the multiple frameworks applied today (e.g. TDIF to formally supersede the National Identity Proofing Guidelines).</p>
<p>Q131. Question 30 Should the Legislation specify whether and how audit logs from the system can be used in court as evidence? Take me to the relevant part of the Consultation Paper – Section 6.2 Use of audit logs in judicial proceedings</p>	<p>Yes</p>
<p>Q132. If yes, what should the Legislation say?</p>	<p>Australia Post supports the use of audit logs under strict conditions. Consideration should be given to use by law enforcement agencies for criminal matters as well as whether there are any circumstances when audit logs may be used in civil disputes. We note the importance of covering this in the Legislation and the ongoing requirement for review to handle this with any advances in data and technology.</p>
<p>Q134. Question 31 Is the proposed approach appropriate to achieve a high degree of consistency of privacy protections? Take me to the relevant part of the Consultation Paper – Section 6.3 Consistency of privacy protections</p>	<p>Yes</p>
<p>Q136. If yes, please explain why the proposed approach is appropriate to achieve a high degree of consistency of privacy protections</p>	<p>Australia Post believes the proposed approach to privacy protections is both sensible and pragmatic.</p>
<p>Q140. If you have any further feedback on any other aspect of the matters being consulted upon, please provide it here.</p>	<p>Australia Post is pleased to contribute to this consultation process. As a TDIF-accredited provider we look forward to engaging further with the DTA to help define and shape the future of Digital Identity in Australia.</p>