



Banking & Financial Services Law Association

**The 26th Annual Banking and Financial Services
Law and Practice Conference**

Sheraton Mirage Resort, Gold Coast

31 July -1 August 2009

**Privacy Law in Evolution:
Across the Pacific**

**Karen Curtis
Australian Privacy Commissioner
Canberra**



Australian Government

Office of the Privacy Commissioner

Privacy Law in Evolution: Across the Pacific

Crumble in the Jungle conference

Karen Curtis

Australian Privacy Commissioner

Gold Coast

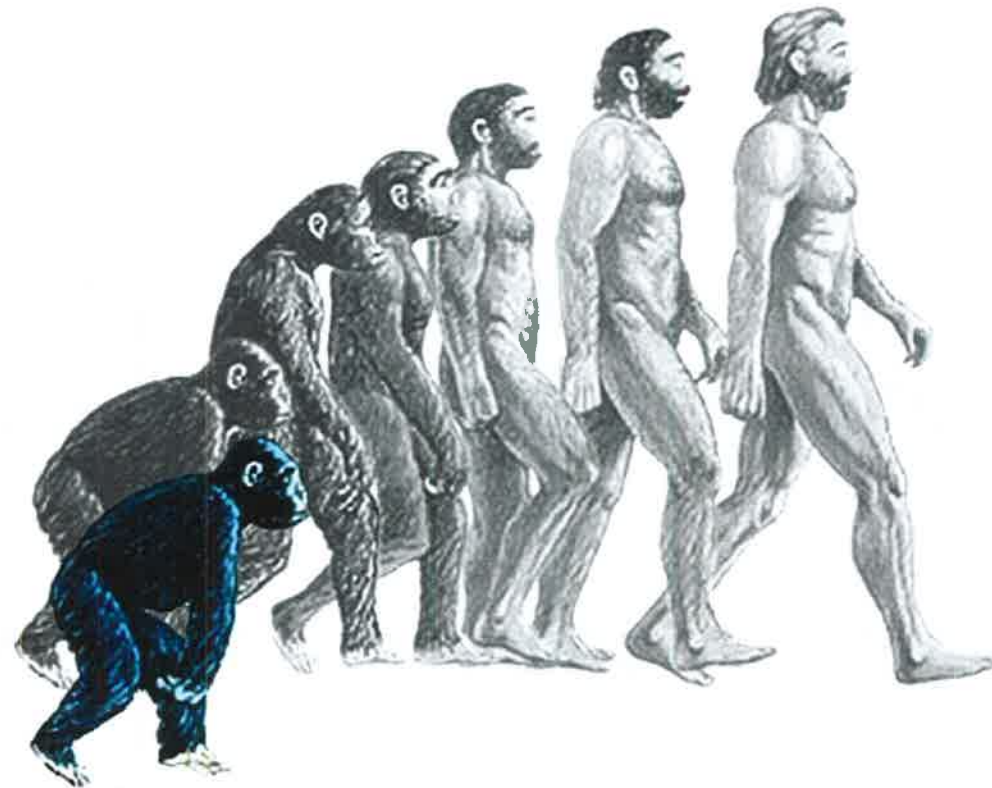
31 July 2009



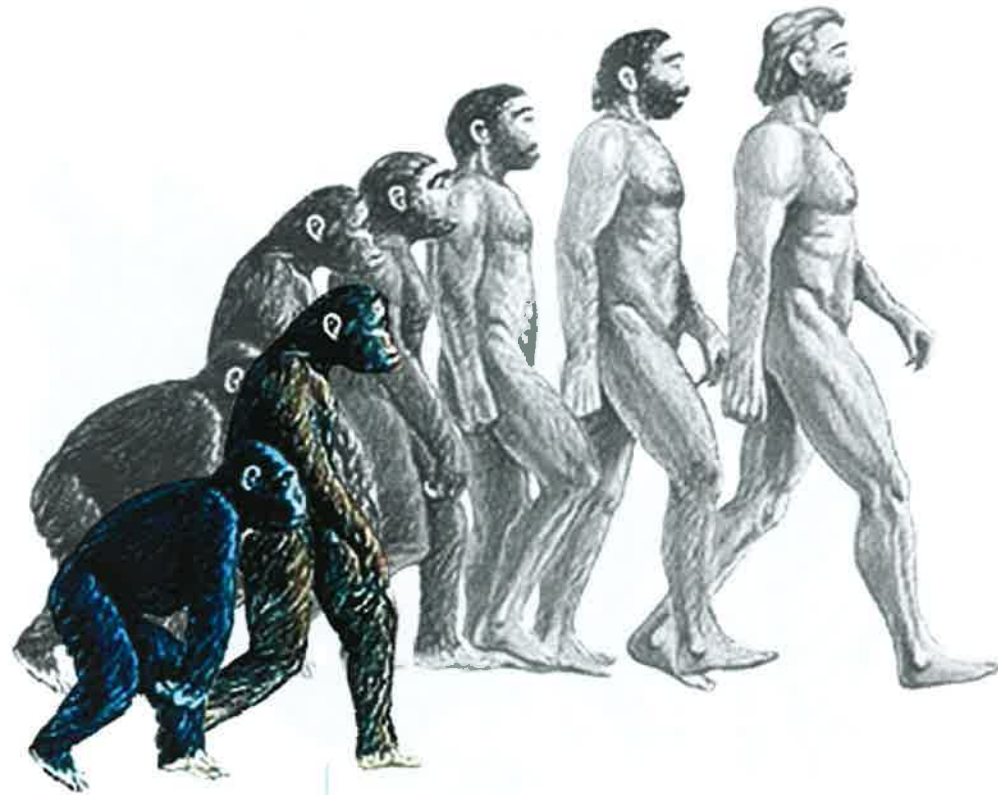
Today's presentation

- Overview of Australian privacy law
- Likely changes post Australian Law Reform Commission's report on privacy

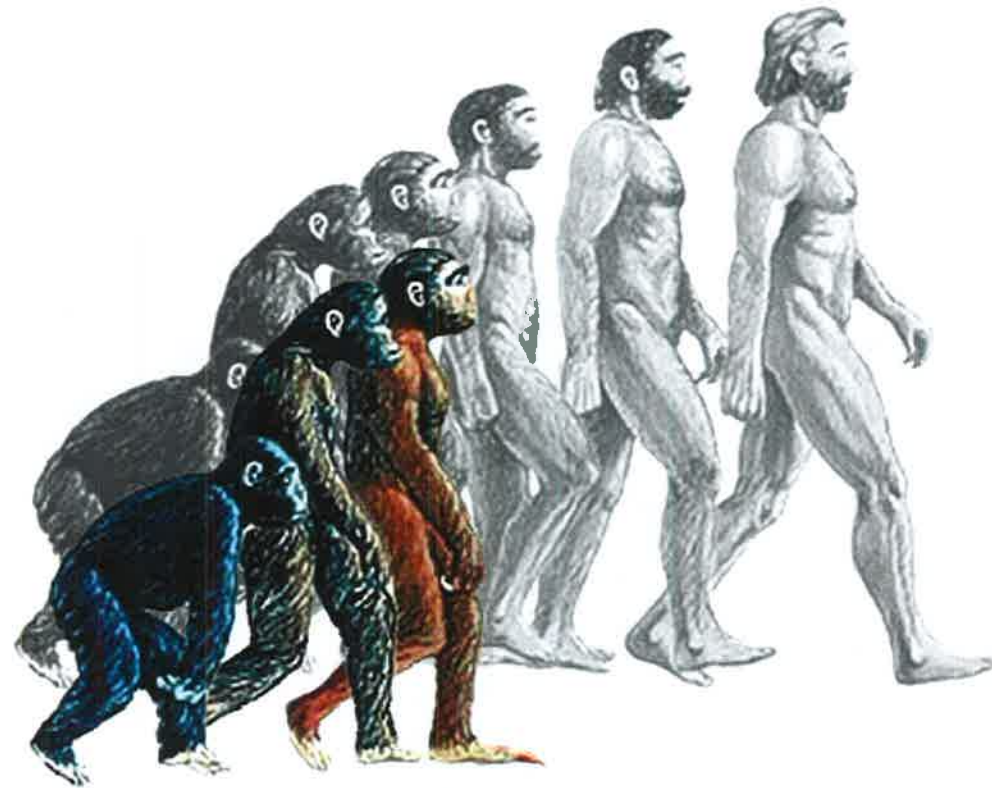




1984 – OECD Guidelines



1986 – Failed Privacy and Australia Card Bills



1988 – Privacy Act



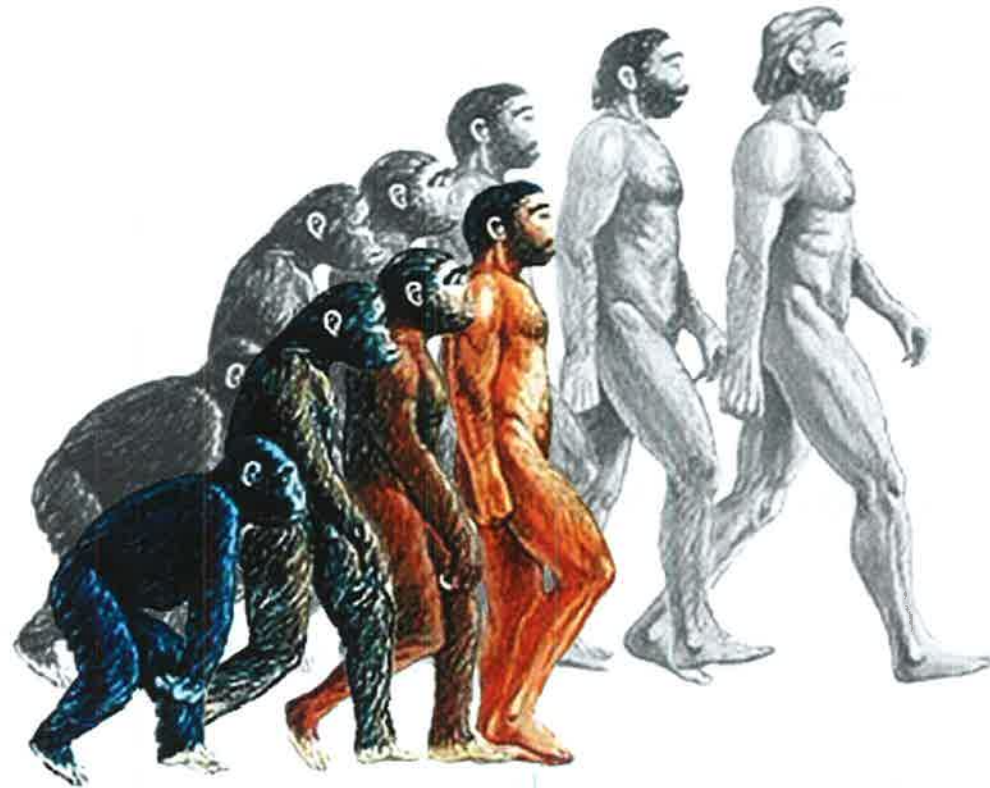
Overview of the Privacy Act

Protects personal information handled by:

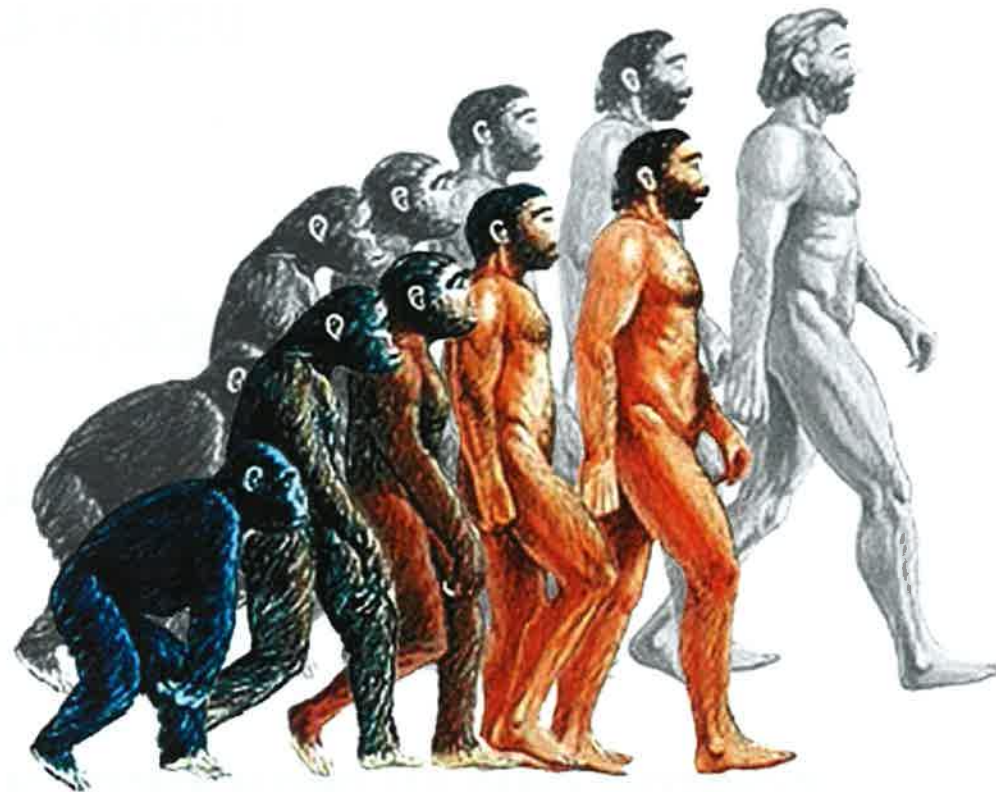
- Australian and ACT Government
- Businesses with an annual turnover >\$ 3M
- All health service providers

Principles based:

- 11 Information Privacy Principles for government
 - 10 National Privacy Principles for business
- 



2000 - National Privacy Principles



2008 – ALRC completes privacy review



Privacy Law Reform


Government response in two stages:

First stage

- Unified Privacy Principles
 - New technologies
 - Health
 - Credit regulation
- 



Unified Privacy Principles

- Simplicity
 - Consistency
 - Reduce regulatory complexity
 - Easier for people to understand privacy rights
 - OPC recommended one set of principles in 2005
- 



UPP 11 Cross-border data flows

- Changing information flows
 - Information being sent offshore
- Community attitudes
 - **90%** concerned about business sending information offshore
 - **63%** very concerned
- Ensures individuals have appropriate protections



MoU with New Zealand

- Share information about:
 - Surveys
 - Research projects
 - Promotional campaigns
 - Education and training
 - Investigations
- 



APEC Privacy Framework

- Privacy Framework endorsed in 2004
- Data Privacy Pathfinder endorsed in 2007
 - 9 projects
 - OPC chairs 3 projects
 - Projects deal with cross-border enforcement and cooperation issues





ALRC and Credit Reform

- Improve consistency
- Reduce complexity
- 31 recommendations
 - 5 on Comprehensive Credit Reporting (CCR)





COAG 2008

- COAG agreed on measures on regulation and consumer protection
 - Transfer of state legislation to Commonwealth
 - Commonwealth to regulate new areas
 - Pay-day lending
 - Credit cards
 - Personal loans
- 



National Consumer Credit reform

- Two phases to ensure smooth transition
- Phase one
 - Establish national licence regime
 - Licensees observe general conduct requirements
 - Expanded scope for National Credit code
 - Mandatory membership of external ADR body



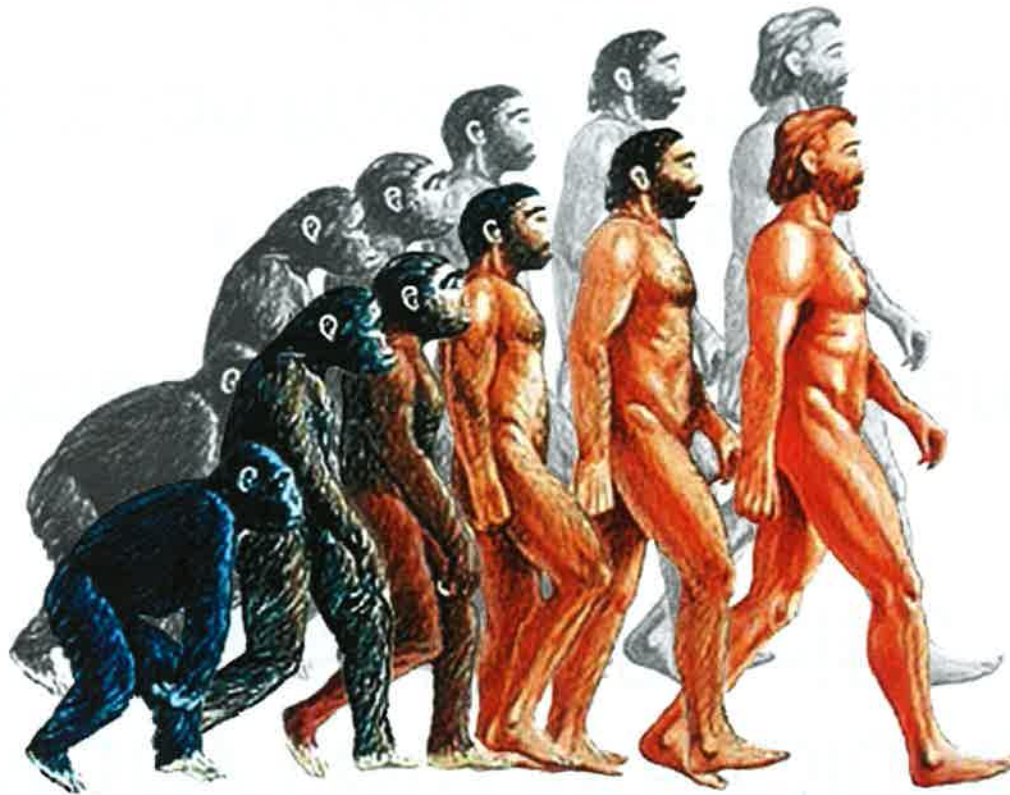


Comprehensive Credit Reporting

OPC View:

- Credit reporting provisions need reform
- Support simplified definition of credit reporting
- Must strike balance between efficiency in credit market and privacy protections





What next?



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