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Our Ref: RC:TB:M221506



2 July 2022

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

COMPLAINT REGARDING DISCLOSURE OF PERSONAL INFORMATION

1. As you are aware, we act on behalf of Sea World Helicopters Pty Ltd ACN 055 890 054 (**SWH**) and Wired Marketing Group Pty Ltd ACN 605 335 886 (**WMG**).
2. We refer to our previous correspondences of 30 June 2022 and 1 July 2022 regarding your complaint in respect of the inadvertent leakage of certain personal information pertaining to you, that was originally provided to SWH. Such information comprises:
 - (a) your full name "[REDACTED]";
 - (b) your email address (comprising wholly of your name) [REDACTED]; and
 - (c) your mobile contact number "+61 [REDACTED]".
3. The information described in paragraph 3 above is collectively referred to as the "**Disclosed Information**".
4. As you are aware, we have been instructed by our clients to undertake a review of the circumstances in which the relevant data leakage occurred in respect of the Disclosed Information (**Disclosure Event**).
5. We have now had the opportunity to complete our review of the Disclosed Information, Disclosure event and the correspondence that you have provided to both our firm and our client between 28 June 2022 and 1 July 2022.

Circumstances of Disclosure Event

6. As part of the services that it delivers, SWH collects certain personal data relating to its customers. The nature of the information collected by SWH is detailed in the SWH Privacy Policy available at <<https://seaworldhelicopters.com.au/privacy-policy/>>.
7. The SWH Privacy Policy provides at paragraph three (3) that SWH collects the contact information of customers. Contact information includes, for example, the name, email address and contact number of customers that are purchasing or seeking to acquire the services of SWH.

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8. As part of its business and to facilitate SWH delivering services to customers, SWH engages certain third-party contractors. WMG is one such third-party engaged by SWH as a full-service digital marketing agency to assist SWH with marketing, market research and reporting. The disclosure of personal information by SWH to third party contractors is addressed in the SWH Privacy Policy under the heading "*Disclosure of Personal Information*".
9. We are instructed that due to a configuration error, when certain data was uploaded to <apicaller.com.au> (being a code repository created by WMG), the Disclosed Information became publicly available resulting in the Disclosure Event. Typically, all information loaded into <apicaller.com.au> is protected and only accessible by specified persons that have been granted permission via a secure login and password.
10. We are instructed with regard to the Disclosure Event that:
 - (a) within approximately 2 minutes of receiving your initial complaint, the <apicaller.com.au> domain name was suspended;
 - (b) within 2 hours of receiving your initial complaint all Google caching had been removed (and the majority of such removal occurred within minutes of receiving your complaint); and
 - (c) once the removal of the Google caching had been effected, the Disclosed Information was no longer available in any capacity to any third party.

Nature of Disclosed Information

11. We have undertaken a review of the nature of the Disclosed Information in the context of the *Privacy Amendment (Notifiable Data Breaches) Act 2017* (Cth) (**NDBS**), including in particular whether the Disclosed Information is capable of being considered information at risk of causing "serious harm".
12. In general terms, the NDBS requires notification to be provided to the Office of the Australian Information Commissioner (**OAIC**) and an effected individual where a disclosure event has occurred, that disclosure event is likely to result in serious harm to an effected individual, and the risk of serious harm is unable to be negated through remedial actions.
13. With respect to the Disclosed Information we consider:
 - (a) a person's Christian name and surname are both items of personal information that are commonly publicly available and are openly and freely disclosed;
 - (b) your email address consists wholly of your Christian name and surname;
 - (c) an email address is created specifically for the purposes of being provided to third parties to enable communication. Again, this is an item of personal information that in most instances is commonly freely and publicly disclosed; and
 - (d) a mobile telephone number is, by its nature, again an item of personal information that is typically freely disclosed for the purposes of enabling communication via a mobile telephone device.
14. On our assessment, none of the Disclosed Information is information the disclosure of which is capable of resulting in a risk of serious physical, psychological, emotional, financial or reputational harm.

15. We further note with respect to the Disclosed Information that:
- (a) information of the same or a similar nature is already accessible in the public domain via ASIC searches of your company ██████████ Pty Ltd ACN ██████████;
 - (b) based on our investigations, it appears you are publicly contactable (as you would be via an email address or mobile number) through at least the following mediums:
 - (i) the Instagram webpage - < <https://www.instagram.com/██████████> >;
 - (ii) the Facebook webpage - < <https://www.facebook.com/██████████> >;
 - (iii) the Twitter account - < <https://twitter.com/██████████> >;
 - (iv) the Twitch profile - < <https://www.twitch.tv/██████████> >; and
 - (v) your business website < <https://www.██████████.com/> >.
16. Again, in such circumstances we do not consider the leak of the Disclosed Information as a consequence of the Disclosure Event is capable of resulting in any risk of serious harm. This is further exacerbated by:
- (a) the prompt and appropriate remedial action taken by our clients with respect to removing the Disclosed Information from the public domain; and
 - (b) the fact that the Disclosed Information was not leaked or disclosed into a publicly frequented forum or webpage, and was only accessible if specifically searched.

Summary of Review

17. Our clients regret any angst or inconvenience that you have experienced as a consequence of the Disclosure Event.
18. However, for the avoidance of doubt we advise:
- (a) we do not consider the Disclosed Information is information the disclosure of which is capable of resulting in a risk of serious harm;
 - (b) our clients, and in particular SWH, have taken all appropriate steps in the circumstances to address, assess and rectify the circumstances that led to the Disclosure Event (including by taking steps to engage an independent data security provider) to ensure no future event of the same or similar nature is capable of occurring; and
 - (c) our clients have been fully compliant with all obligations and responsibilities upon them as imposed by the *Privacy Act 1988* (Cth) and *Privacy Amendment (Notifiable Data Breaches) Act 2017* (Cth).
19. We note in your correspondences of 28th June 2022 – 1 July 2022 you have raised concern with regard to personal information of other customers of SWH. Our clients are taking similar steps with regard to the consideration and assessment of the disclosure of the personal information of each of those individual customers and will take all appropriate steps in this regard. It would not be appropriate to comment further on the specifics of such actions by our clients.

20. We also note from your correspondence of 1 July 2022 your instructions that you have retained a copy of all data that you received as a consequence of the Disclosure Event. We again direct that all such information, to the extent that it does not relate to your person specifically, should be deleted.
21. In the absence of any new and further information to be considered, our clients now consider this matter to be at a close. Both SWH and WMG again wish to express their regret at any angst or inconvenience that you have suffered.

Yours faithfully

Redchip



Thomas Bevitt
Associate