

**Submission by**



to

**The Office of the Privacy Commissioner**

on

**Biometrics Privacy Code Exposure Draft**

15 May 2024

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## NZTECH SUBMISSION ON BIOMETRICS PRIVACY CODE EXPOSURE DRAFT

15 May 2024

### INTRODUCTION

1. NZTech welcomes the opportunity to comment on the Office of the Privacy Commissioner's Exposure Draft.
2. We have two key concerns with the proposal:
  - (i) That the compliance costs, particularly on small businesses, of certain aspects of the draft rules will be prohibitive. In this, we support the view of BusinessNZ.
  - (ii) That a code of practice for biometrics is not needed in the first place, nor beneficial in the way that clear expert-led guidance would provide. In this, we support the view of Digital Identity New Zealand (DINZ).

### ABOUT NZTECH

4. NZTech is the united voice for the tech sector in New Zealand and a leading voice for the New Zealand technology ecosystem. We represent 20 tech associations with over 2,000 members who collectively employ more than 100,000 New Zealanders.
5. Our mission is to support a values-led, nationally connected tech community that is collectively helping create a safer, more equitable, sustainable and prosperous Aotearoa New Zealand for all by creating jobs, export growth and impact through tech for good.

### COMMENT

#### 6. **Prohibitive compliance costs for small businesses**

Alongside BusinessNZ, we are concerned that the introduction of a code would increase the compliance costs on businesses needing to use biometric processing.

Most New Zealand businesses are small, including many NZTech members, and therefore the impact on them of following any code of practice governing biometric processing is likely to be relatively high.

Accordingly, we recommend that the OPC should be mindful of the need to avoid adding to the regulatory burden on businesses, as far as possible. We also recommend that if the OPC does introduce a code, it provides businesses with a "How To" guide, designed to make undertaking a proportionality test as straightforward as possible.

## 7. Industry-led guidance preferred to a code of practice

NZTech supports the view of Digital Identity New Zealand (DINZ) that the Privacy Act 2020 is already an effective framework for regulating biometric information. This is a view we have expressed previously to the OPC.

We would prefer that the OPC, rather than introduce a formal code of practice, instead develop guidance on the use of biometric information in identification and verification, co-created with industry experts to help ensure that the guidance is informed and useful.

The use of biometrics can greatly benefit organisations and individuals, providing greater convenience, efficiency and security. Biometrics has the potential to benefit and indeed improve privacy as well. While we agree with the need to protect people's biometric information and to ensure it is used in line with the Privacy Act, we do not believe further regulation is the answer. Instead, we favour non-legislative measures to encourage best practice by the industry, which stands ready to support the OPC in this regard.

## CONCLUSION

8. Thank you for the opportunity to provide feedback on the exposure draft. We are happy to engage further to discuss our submission and provide any further assistance that might be helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Graeme Muller".

**Graeme Muller**

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