

Information Paper 3 of 5

Adding a new rule 3A to the Credit Reporting Privacy Code 2020

We are proposing to add a new rule 3A to the Credit Reporting Privacy Code, as set out in the draft code accompanying this information paper.

- [Amendment No 1 to the Credit Reporting Privacy Code 2020](#) (opens to PDF).
- [Credit Reporting Privacy Code 2020 with changes marked up](#) (opens to PDF).

Other information papers available:

- [General Information Paper](#) (opens to PDF).
- [BPPC Information Paper](#) (opens to PDF).
- [HIPC Information Paper](#) (opens to PDF).
- [TIPC Information Paper](#) (opens to PDF).

The CRPC applies specific rules for credit reporters

- 1.1. The CRPC replaces the information privacy principles and applies specific rules to credit reporters such as Centrix, Equifax and illion. It also details what is defined as credit information. This definition is wide and includes personal information. Most of this personal information is collected indirectly from sources other than the individual concerned, including publicly available sources.



- 1.2. We have heard through informal engagement that there is concern around the notification requirement which could apply to reporters if IPP3A is incorporated into the CRPC given the sheer volume of indirect collection that takes place. We believe if a credit reporter is already meeting its obligations under rule 3 of the CRPC then incorporating IPP3A should not cause an undue burden on credit reporters. We acknowledge there needs to be an appropriate balance between transparency and workability of IPP3A in the CRPC. We [also believe our final guidance on IPP3A](#) will help to address concerns about who would be required to inform the individual about the indirect collection of personal information.¹
- 1.3. [Table 1 in the general information paper](#) (opens to PDF) outlines the exceptions we are proposing to bring over from IPP3A.
- 1.4. We are also proposing technical changes to update language and align to changes in legislation where relevant.
- 1.5. The table below outlines issues specific to the CRPC where we want to hear views from stakeholders in the credit reporting space.

¹ Particularly as it relates to IPP3A(3) and the agency dealing with the person directly must notify the individual of the IPP3 matters.



Proposed approach to issues under the CRPC

Issue	Proposed approach
No notification required where an individual has already been made aware of the indirect collection – IPP3A(3)	We are proposing rule 3A would bring in the general exception under IPP3A(3) which applies where an individual has already been made aware of the specific indirect collection. We think this is consistent, clear, and balanced; and is likely to be a commonly relied upon exception.
No prejudice to the individual – IPP3A(4)(a)	We propose to include this exception in the CRPC as it is included in current rule 3 and IPP3A. We would like to hear from submitters whether they think this exception is likely to be relevant in the credit information context.
Information is publicly available – IPP3A(4)(b)	We propose to include this exception in the CRPC as during our informal engagement with stakeholder we heard that publicly available information is an important source of information for credit reporters and removing this exception would be unworkable in the context.
Non-compliance is necessary – IPP3A(4)(c)	We propose to include this exception in the CRPC as it is included in current rule 3 and IPP3A.
Compliance would prejudice the purposes of collection – IPP3A(4)(d)	We propose to include this exception in the CRPC as it is included in current rule 3 and IPP3A.
Compliance is not reasonably practicable in the circumstances – IPP3A(4)(e)	We propose to include this exception in the CRPC as it is included in the current rule 3 and IPP3A.
Serious threat to health or safety – IPP3A(4)(f)	We propose to include this exception in the CRPC although we expect it is unlikely to be relevant very often given the narrow definition of credit information



Issue	Proposed approach
De-identified or statistical and research purposes – IPP3A(4)(g)	We propose to include this exception in the CRPC as it is included in the current rule 3 and IPP3A.
Public interest archiving – IPP3A(5)	We do not propose to include this in the CRPC as public interest archiving is not an activity undertaken by this sector.
Security and defence – IPP3A(6)	We propose to include this exception in the CRPC and are interested in submissions on that approach.
Disclosure of trade secret or prejudice commercial position – IPP3A(7)	We propose to include this exception in the CRPC and are interested in submissions on that approach.



Schedule 3 – Subscriber agreements

Schedule 3 of the CRPC requires a credit reporter enter into a subscriber agreement with its customer (the “subscriber”).² This must include provisions requiring the subscriber to notify an individual when the subscriber is collecting information to disclose to the credit reporter (i.e. an indirect collection by the credit reporter).

As the CRPC does not apply to the subscribers themselves, how these contractual obligations in Schedule 3 are undertaken is between each subscriber and the credit reporter. We cannot receive complaints about a subscriber failing to comply with any terms in a subscriber agreement.

We heard some views during informal engagement, including that the IPP3A(1) matters should be added into the Schedule 3 and to not incorporate IPP3A into the CRPC itself. This would effectively shift the obligation solely to the direct collecting subscribers. We do not believe this meets the policy intent behind IPP3A which is to require notification of indirect collection of personal information other than from the individual concerned.

We also think the general IPP3A(3) exception will apply where credit reporters are already ensuring their subscribers are complying with this requirement in their subscriber agreements well and subscribers are notifying individuals of direct and indirect collection of credit information.



Issue	Proposed approach
Conspicuous display of purposes – rule 3(2)	<p>Rule 3(2) of the CRPC requires a credit reporter to conspicuously display on their website a statement setting out the purposes for which it collects credit information and the purposes for which the information will be used and disclosed.</p> <p>Although rule 3(2) could be read as covering the intent of IPP3A, we believe for sector clarity that a similar requirement is added to rule 3A to explicitly state that the conspicuous display should also state how indirect credit information will be collected.</p>

² A **subscriber** is defined as an agency that has entered into a subscriber agreement with a credit reporter. A **subscriber agreement** is a written agreement providing a subscriber with access to credit information held by the credit report that complies with Schedule 3.



Questions on proposed rule 3A for the CRPC

C1. Do you agree with our proposed approach to exceptions as set out above?

We are keen to hear from stakeholders to understand if what we have proposed meets the intent of IPP3A and is workable and is consistent with existing exceptions under the CRPC. You can comment on one, a few, or all points we have identified, as well as points you think we may have missed. If you disagree with a proposed approach, it would be useful if you can provide detail or evidence, such as describing a specific situation, about why you disagree. This will help us to consider whether we need to make changes to what we are proposing to incorporate into the CRPC.

C2. Do you agree with the proposed approach to drafting including technical and language changes?

