

# Olga Ganopolsky

General Counsel (Data and Privacy),  
Macquarie Group

**Clare Giugni**, Lawyer at Holding Redlich, sits down with **Olga Ganopolsky**, General Counsel (Data and Privacy) at Macquarie Group. Together, they discuss Olga's career, recent events in the privacy space and her thoughts on the legal profession this International Women's Day.

Olga also serves as the Chair of the Law Council of Australia's Privacy Law Committee and the Co-Chair of the Law Society of NSW's Privacy and Data Law Committee.

**CLARE GIUGNI:** Olga, you've already had a highly successful career in data protection and privacy law compliance – previously in the privacy intensive space of credit reporting, and now as General Counsel (Data and Privacy) for Macquarie Group. Have you always wanted to work in this space? If so, how did you position yourself to do it? If not, how did your career path land you here?

**OLGA GANOPOLSKY:** As much as I love my current role, it wasn't an automatic or expected progression of my career.

I came to this role as a result of being interested in privacy and data as a body of law and having had the opportunity to work in sectors that are very data-rich and highly dependent on privacy law.

In my previous role, as a General Counsel at a very large credit reporting bureau and data analytics business, privacy and data protection laws were integral to the business model. This really cemented my expertise in privacy and data protection, not just as a specific body of law but across other disciplines as well. For example, you need to have a strong privacy background to fully understand the interplay between privacy law and corporations law, competition law and contractual issues.

Before that, I worked in private practice and was always interested in highly regulated areas (for example, health and finance), particularly where sources of law emanated from international law obligations. This privacy context and experience in a co-regulatory international environment laid the groundwork for my current role.

A lot of people think that privacy law is just a discrete practice where each matter is a distinct "privacy" matter. But it's a lot more complicated than that and involves an intersection of many different disciplines.

**CLARE:** As a privacy lawyer, you must be very excited about the long-awaited recent Privacy Act Review report. What are you most pleased about? And were there any disappointments?

**OLGA:** Yes, I am very excited about the Privacy Act reforms. Economically, Australia is a good early adopter of technology and a sophisticated western democracy. So, having a sophisticated, economy-wide privacy regime that complements adjacent areas (such as competition law) is something that, as lawyers, we can all get behind.

The Attorney General Department's Report is very thorough. Not everyone will agree with all 116 proposals, but the Report meticulously references the inputs from every stage of the review and lays the groundwork for a transparent discussion about which proposals emanated from what field. It essentially provides a "menu" of the various proposals that we can now work through.

From that perspective, the Attorney General's Department is to be commended for the thoroughness of its Report.

On balance, the proposals are well-considered. For example, the recommendation to further refine the definition of personal information – a linguistic change that may seem trivial to some – makes for a more streamlined body of law. Particularly



in co-regulatory bodies of law where the distinction between "relates to" and "about" has caused unnecessary friction.

I think the proposal on "fair and reasonable" collection, use and disclosure of personal information is far-reaching and, if implemented well, could deliver substantial benefits to consumers. It will require more clarity and guidance so that organisations can address their respective approaches and systems. I appreciate that will come as the community engages with what will be economy-wide reforms.

I personally would have liked to have seen the Report take the opportunity to remove or expressly qualify some of the more unusual exemptions that have no counterparts in other regimes, such as the GDPR (for example, the small business and employee records exemptions). While I appreciate that the Report is looking at these issues and inviting further feedback, I was hoping we would be closer to a more detailed proposal. Similarly, with the issue of adequacy of Australia's privacy regime. I appreciate that this is a much bigger issue of Government policy and administrative processes. I was hoping for a slightly more committed approach to recommending specific proposals to help get us there.

**CLARE:** Outside privacy law, what recent events in the Australian media law landscape most affect your role at Macquarie Group?

**OLGA:** The reforms to the security of critical infrastructure legislation and the Digital Platforms Inquiry are two significant recent issues for my role. While not specific to the media law landscape, these both affect media and communications companies as well.

**CLARE:** What's the best work-related advice you've ever received?

**OLGA:** Be your authentic self.

Often in our work we deal with technical and factual matters, which are cerebral and leave little room for debate. But other times our work involves matters of judgement where we have an opportunity for a healthy debate of approach and opinion.

In those cases, it's very easy to think "what would X do?". Instead, we should try to "be ourselves" and listen more to our own conscience and experience.

**CLARE:** What energises you about work?

**OLGA:** The variety – no two matters are the same. Even matters that focus on the same legal principle or provision are always different because there is a different context and factual scenario.

**CLARE:** This International Women's Day, what's one thing you're celebrating about the legal profession?

**OLGA:** I think recently the profession has really embraced diversity, equity and inclusion – at least as an aspiration, even if we're not always there yet.

I think the profession is generally (despite some debates about the constitutional consequences) in favour of the Indigenous Voice to Parliament and reconciliation. There is quite a strong social justice tone within the profession, irrespective of whether you're in corporate law or an area more adjacent to social justice.

There's also now a strong presence of professional women, specifically senior professional women, which is to be celebrated. It wasn't always the case!

**CLARE:** If you could have dinner with any woman – living or passed, real or fictional, who would it be and why?

**OLGA:** The first person who came to mind was Ruth Bader Ginsburg. Since her passing, she has been so immortalised in plays and books that there really are two RBGs: the real woman and the more fictional mythological character – she meets both criteria!

**CLARE:** The 2023 International Women's Day campaign theme is #EmbraceEquity. What does this mean to you and how would you suggest this is implemented in our readers' work and personal lives?

**OLGA:** It's time for us to be more inclusive. The legal profession has a real role to play in recognition and the Indigenous Voice to Parliament, as well as in all the policy and legal issues that are thrown our way. We should be grateful for this role, and we should lean into it by bringing our own authentic voice to each discussion.

It's not a matter of just "embracing" equity mechanically, we need to interact and engage with the issues beyond flag-bearing and truisms, even if this means offering constructive criticism or room for improvement. This is part of "being yourself" at work.

The personal and the professional are very connected. When you bring your heart to matters of equity and equality, you can also apply the very privileged training that we have as lawyers, which we often take for granted when we're busy in our day-to-day practices. The opportunity to combine the two is not at the expense of personal or professional satisfaction – you are personally enriched by the contribution you make and you are professionally enriched because you are learning and contributing. To be a professional is also to be part of civil society.

# Anna Johnston

## Founder and Principal of Salinger Privacy

**Anna Johnston** is the founder and principal of Salinger Privacy and is one of Australia's most respected experts in privacy law and practice. Anna was previously the Deputy Privacy Commissioner for NSW and brings both a regulator's perspective to privacy law, as well as that of a private practitioner who has of wealth of experience dealing with clients' privacy and data governance challenges. In 2022, Anna was honoured for her 'exceptional leadership, knowledge and creativity in privacy' with the IAPP Vanguard Award, one of five privacy professionals recognised globally whose pioneering work is helping to shape the future of privacy and data protection. Anna talks with **Katie Walker**, paralegal at Kennedys and legal intern at Network Ten, about her career, privacy law reform, and what she's thinking about this International Women's Day.

**KATIE WALKER:** What does a typical day look like for you?

**ANNA JOHNSTON:** We provide privacy advice to clients from ASX top 20 companies to start-ups, non-profits and public sector agencies. One of our particular strengths is being able to translate privacy law for new audiences and develop pragmatic solutions for our clients. On any given day I might be reviewing a new technology for its privacy impacts, helping design a framework for making decisions about ethical data use, customising some 'Privacy by Design' training for a product development team, or developing guidance and tools to help a start-up implement their privacy obligations in a meaningful way.

I adore working in the field of privacy because it is a human rights field, but also because the pace of technological change means that there is always something new to learn about. I love the challenge of turning my mind to what the implications might be of each new development.

A lot of our work now is focused on advising clients who are developing products or services which utilise data analytics, machine learning and automated decision-making techniques. There are so many privacy challenges with these technologies, from the manner in which a dataset is compiled in the first place to evaluating potential downstream privacy harms like discriminatory outcomes.

But no matter what kinds of projects we are looking at with a client, the

basic questions are the same: can and should we collect this data, can and should we use it for this purpose, to whom can we disclose it and how do we keep it safe?

**KATIE:** Did you always want this job? If so, what did you do to position yourself to get it? If not, how did your career path lead you here?

**ANNA:** Privacy law was not taught as a subject when I was in law school, so no, thirty years ago I could not have dreamed that this job even existed!

I was working as in-house counsel for a government department in the 1990s when a new privacy law for NSW was being drafted. I was involved in reviewing the Cabinet papers and draft legislation, and then once that Bill became law, I was responsible for assisting local councils across NSW prepare for its commencement. For a few years I sat on an advisory committee to assist the Privacy Commissioner's Office, and then later I made the leap to becoming a privacy regulator. I was appointed the Deputy Privacy Commissioner for NSW in 2001.

I was hooked on privacy as the lens through which to think about technology, ethics and the law from that day on. That was so long ago now, before September 11 and the explosion in government surveillance capabilities that that precipitated, and before social media, smartphones, AI, the Internet of Things, and all the privacy challenges that have come with those technological developments.



After I left that regulator role, I wanted to keep working in the field but there were no obvious roles to suit me, so I created my own job – I founded Salinger Privacy as a specialist consulting and training firm. Since then, privacy has evolved from a tiny niche area to become one of the key business and regulatory challenges of this era.

**KATIE:** Are there any law reforms in the privacy law sector that you think are desperately needed? If so, what are they?

**ANNA:** Yes! The focus of privacy law needs to shift away from expecting individual consumers or citizens to look after their own privacy, and towards greater obligations on organisations to proactively prevent privacy harms.

The Australian *Privacy Act* is currently being reviewed, with something like 116 proposals on the table. This is an historic opportunity for the Australian Parliament to make our privacy laws fit for purpose in the digital economy.

We know that, particularly online, individuals can be singled out for profiling and targeting, even if their identity is not known. And if an