



tion of records containing personal information, which would be protected by the IPPs, and issues arising from other acts and practices which lead to privacy intrusions, such as telemarketing and surveillance. In these cases, the Privacy Commissioner may choose to issue technology specific guidelines.

The scope of the proposed legislation is comprehensive, with one exception. The discussion paper recognises that privacy protection in relation to the activities of the media is a special case, and the media are therefore exempted from the proposed legislation. However, the discussion paper states that 'separate consideration will be given to privacy issues in relation to the media'.

Support and opposition

The proposed legislation appears to have all party support at the federal level. The previous government was itself working towards a similar goal, and the Democrats have been quietly developing their own privacy legislation (along similar lines).

The states, however, may raise a number of objections to the new legislation. State government departments have large databases of personal information that are managed according to state based information policies. They may resent having to comply with a new regime based on federal legislation. This is a matter which will require further consultation and negotiation - there is nothing to be gained by riding roughshod over the interests of the states. This is especially the case in NSW, where there is already a level of expertise in applying privacy principles. A cooperative approach is required.

Law enforcement agencies may also oppose improvements to privacy legislation, but their claims will require close examination. The privacy legislation will not in any way prevent law enforcement agencies

from carrying out their duties where they have a warrant. This is a good result on both privacy and civil liberties grounds.

Private investigators are also likely to raise objections - as are their supporters in the community (such as solicitors, debt collectors, and the families of missing persons). However, private investigators have, in the past, been responsible for the worst privacy intrusions, and their negotiating position is weakened by this long history. There is little to indicate that the profession has improved its conduct since the damning revelations of the Independent Commission Against Corruption in 1991.

Support from privacy and consumer groups will be strong, although there is a fear that the legislation may result in nothing more than another bureaucratic regulator administering the IPPs, without agitating for change or attempting to anticipate privacy issues likely to be raised by new technologies. The community will be looking for a strong and independent Commissioner to lead the way forward.

Finally, the media, although exempt at this stage, will have their own interests in mind when discussing the merits of the proposal. There is no simple solution to balancing privacy issues against freedom of the press, and at this stage a complete exemption, although crude, will at least allow privacy protection in the private sector, without complicating the debate.

In any event, the proposed legislation is a chance for the Office of the Privacy Commissioner to finally shake off the 'government' tag and take on an independent role, protecting privacy for all. □

Chris Connolly

Copies of the Discussion Paper may be obtained from the Attorney General's office (see Policy File for details). Submissions close on 29 November 1996.

Telstra aims for privacy best practice

INEARLY 1994, following revelations that Telstra employees had eavesdropped customers' telephone conversations, the corporation developed a Privacy Protection Policy designed to introduce and safeguard privacy protection principles. As part of this policy, Telstra also established a Privacy Audit panel, comprising the privacy auditor, Price Waterhouse, the Privacy Commissioner, Kevin O'Connor and the Chair of the Australian Privacy Charter Council, Janine Haines.

The Privacy Auditor investigates and reports on:

- the appropriateness and effectiveness of Telstra's privacy policy;
- the corporation's compliance with that policy;
- the extent to which the level of privacy protection meets international standards;
- the security of the networks; and
- the extent to which the policy meets Telstra's statutory obligations, its own policy commitments and its data protection requirements.

The audit covers all of Telstra's business units, is overseen by the Privacy audit panel and reports annually to Telstra.

To date, the auditor's recommendations have led to Telstra expanding its Privacy Protection Policy by, among other things, limiting the amount of data collected and kept on customers and placing significant restrictions on access to that data within Telstra as well as on disclosure of the information to outside sources. □ AG