

Business Alert !

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How far should the law go to protect privacy?

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A Consultation Paper released today by the NSW Law Reform Commission poses the question: should people be able to take legal action if their privacy is invaded?

Imagine your personal letters being published for strangers to read... or your neighbour focusing a fixed video camera on your backyard. At the moment, the law does little to stop these things happening - and offers no redress once they occur.

Personal privacy is recognised as a human right and is protected by a number of international treaties. However, most Australians are surprised to learn that we enjoy very limited legal protection against invasions of personal privacy. This puts Australia out of step with the United Kingdom, Canada, New Zealand and most European nations, which have legally enforceable privacy protections.

The Commission understands the concerns that may arise about the effect of the proposed cause of action on freedom of speech but notes that these concerns are misplaced. A cause of action for privacy invasion would not mean that privacy automatically took precedence over other important public interests, such as national security or freedom of speech. In the Commission's view, an action for invasion of privacy should only be available in cases where the interest in privacy was not outweighed by the other public interests.

The Commission invites submissions to its Consultation Paper by 15 September 2007.

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