

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
OFFICE OF THE PRIVACY COMMISSIONER

Question No. 201

Senator Stott-Despoja asked the following question at the hearing on 24 May 2007:

To what extent does the Privacy Commissioner see her role as to sound warnings about, and to help prevent, the development of a 'surveillance society'? Does she share the views of her UK counterpart, Information Commissioner Richard Thomas, whose warnings in September 2006 (see http://www.ico.gov.uk/upload/documents/pressreleases/2006/waking_up_to_a_surveillance_society_version_2001.pdf) have now led to the House of Lords Constitution Committee launching an inquiry into the impact that UK government surveillance and data collection on privacy and the relations between citizens and the state?

The answer to the honourable senator's question is as follows:

The functions of the Privacy Commissioner as set out in Section 27(1) of the *Privacy Act 1988* (the Act) provide for the Commissioner to, amongst other things, examine proposed enactments and monitor developments in technology that may impact on the privacy of individuals. Further, the Commissioner's functions also include promoting an understanding and acceptance of the objects of both the Information Privacy Principles and the National Privacy Principles contained in the Act.

As one approach to fulfilling these functions, in the last twelve months my Office has lodged 31 formal submissions providing input on key developments impacting on the privacy of individuals ranging from development of the proposed Health and Welfare Access Card, Anti-Money Laundering and Counter Terrorism Funding legislation and the establishment of the Do Not Call Register to name just a few. One of the most significant of these submissions, some 470 pages in all, was in response to the Australian Law Reform Commission's (ALRC) current review of privacy in Australia in which a broad range of issues were canvassed including the impact of new technologies on privacy.

As part of my Office's ongoing monitoring of privacy issues, we have noted the work of the United Kingdom Information Commissioner in the area of surveillance. The Deputy Privacy Commissioner also attended the International Conference of Data Protection and Privacy Commissioners in London last year where the theme was 'A Surveillance Society?'

In that regard I note that there is currently considerable work being undertaken by various Australian jurisdictions in relation to reviewing privacy laws in general and issues around surveillance in public places specifically.

For example the Council of Australian Governments (COAG) issued a communiqué on 14 July 2006 in which they agreed to a CCTV Code of Practice for mass passenger transport systems. Information about that decision and the Code can be found on the COAG website at: <http://www.coag.gov.au/meetings/140706/index.htm#counter>

In addition to the COAG initiative, the *Anti-Terrorism Act (No. 2) 2005* introduced amendments to the *Aviation Transport Security Act 2004* concerning the use of "optical surveillance devices" (such as CCTV) in airports. Over the next twelve months the Australian Federal Police will be consulting with my Office on the development of guidelines on the collection, use, handling,

retention and disposal of personal information to be acquired under anti-terrorism legislation, including the use of optical surveillance in airports.

Further, and in conjunction with the aforementioned ALRC review the Victorian Law Reform Commission is currently conducting background research for their 'surveillance in public places' privacy inquiry.