Chapter X

Protecting Personal Privacy in Cyberspace: The Limitations of Third Generation Data Protection Laws Such as the New Zealand Privacy Act 1993

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The Orwellian conception of the ultimate surveillance society has, fortunately, failed to materialise although it may be that its arrival has merely been postponed until the application of the appropriate technology. In several metropolitan areas in New Zealand there is an extensive network of video surveillance cameras used by the police to deter crime. On a different technological playing field Government Agencies in New Zealand now regularly engage in data matching programmes with the view to detecting and deterring a variety of frauds and benefit abuse. A new driver’s licence has just been introduced featuring a digitised photograph, the uses for which have not been clearly articulated. Software already exists whereby photographs can be matched with those on police databases of known criminals. Private firms, ranging from supermarkets and pizza delivery companies to credit agencies, maintain electronic databases on clients and other individuals. In short, more information about citizens can be compiled and used (or misused) than ever before. This has made all the more dangerous with the arrival of the “Information Superhighway” or what has more accurately been described as the

“combined power of the computer linked with telecommunications” (Slane, 1995, appendix 3).

It is widely anticipated that in the next century, an increasing volume of business and personal transactions will be conducted through this medium - the term “internet” is used here in its wide sense to encompass all on-line services. As ever increasing numbers of people are connected to on-line services, the amount of information about them is likely to proliferate. Branscomb (1995) has commented that we now live in the “information age” where information is arguably the most important form of property, although the law has been slow to recognise it. Information about individuals, known as personal information, has the potential to cause the greatest harm if misused. It is now trite to describe privacy as the first road-kill on the information superhighway.

This enormous “privacy deficit” has to some extent been re-dressed, in New Zealand, by legislation to protect personal privacy in both the private and public sectors. The Privacy Act 1993 (hereafter referred to as “the Act”) covers all the examples above, from the police video to the pizza delivery company. The Act sets up a regime for the protection of individual’s privacy and anyone in New Zealand can complain about interference with his or her privacy. The New Zealand legislation is a so called “third generation” data protection statute because, as will be explained it is technologically neutral. The Act was not designed specifically with cyberspace in mind. Nevertheless, it is a forward looking piece of legislation which has the flexibility to survive into the next century.

This chapter canvasses the impact of the Privacy Act 1993 on those who transact their business in cyberspace who fall within the Act’s definition of “agency”3. The writer argues that, for the most part, the Act can be effective in protecting individuals’ privacy in cyberspace. Privacy protection does not place restrictions on freedom of expression and communication on the internet. The internet has proved to be extremely difficult to regulate, perhaps not surprisingly given its origins and function. It has exhibited a high degree of resistance to regulation of any kind, thus confirming a type of “frontier” image.

Privacy legislation, such as the New Zealand Act, is however, conceptually different to other types of legislation which impacts on the internet — for example legislation to restrict pornographic or
Users’ Perception of Security for Mobile Communication Technology
www.igi-global.com/article/users-perception-of-security-for-mobile-communication-technology/136363?camid=4v1a

Online Signature Recognition
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