



Privacy Issues Loom in Telecommunications

The beginning of 1993 sees Australia well and truly launched into an era of multiple-choice telecommunications, with two carriers, three mobile operators and a proliferating range of value-added services.

At the same time, the imminent introduction of technological developments like Calling Number Display (CND) has brought the issue of privacy in telecommunications into sharp focus, and the importance of this issue has been highlighted by a special inquiry into privacy in telecommunications services undertaken by the industry regulator, AUSTEL. The large number of submissions and the often heated discussions in the inquiry's meetings in capital cities showed the strong public concern about privacy matters.

One of the important outcomes of that strong public input was the proposal to introduce CND on an opt-in basis. Using this approach, callers could specifically opt to have their telephone number displayed on the handset of the called party (or recorded by equipment of the called party). If they did not opt in then their number would remain private. Consumer representatives and public interest groups were therefore pleased when AUSTEL's draft report, released for comment, favoured the introduction of CND on this basis.

The regulator's recently released final report, has, however, backed away from this recommendation. It talks about the principle of consumers making an 'informed choice' on whether they want their telephone number forwarded, and about the necessity for full information to be widely disseminated.

But the bottom line is what happens for those consumers who do **not** make a choice. Instead of sticking to its earlier recommendation - no choice means the number is **not** forwarded - the final report leaves the issue up to a proposed Telecommunications Pri-

vacancy Committee, market research and the results of a CND trial.

AUSTEL is to be applauded for initiating the inquiry before the worst abuses of privacy in telecommunications had a chance to take hold in Australia. But it is difficult to see why all the time and money was spent when, in the final report, AUSTEL retreats from the results of its own inquiry.

Privacy Committee Proposed

Another crucial issue is the allocation of responsibility for handling telecommunications privacy complaints and ensuring that basic privacy principles are followed by the industry. For this purpose, AUSTEL has proposed a Telecommunications Privacy Committee.

The Committee would be 'with but not of' AUSTEL, comprising balanced membership and an independent chairperson. AUSTEL would fund the committee from a special government appropriation and the effectiveness of the committee would be reviewed within three years of its establishment.

The committee's prime task would be to establish a 'voluntary, co-regulatory' framework by providing general industry guidelines for privacy protection. Industry participants are expected to develop codes of practice within those guidelines on specific privacy issues such as telemarketing. The committee then approves or rejects the codes and monitors their implementation.

Since the proposed committee will be located neither within AUSTEL nor in the Privacy Commissioner's office, it will have to rely on the telecommunications industry to abide by its recommendations and advice - even though financial imperatives may often pull in another direction. It is pos-

sible that this approach could work, given a genuinely balanced committee membership and the threat of review of the system's effectiveness; but international experience suggests that the industry itself may not be the most effective watchdog on privacy matters.

AUSTEL's report in fact concedes in the US, the industry's failure to protect privacy adequately in many cases has resulted in a public backlash and the imposition of enforceable privacy controls in many States.

In Europe, the European Community's growing concern for the protection of data has resulted in a draft Data Protection Directive which would require EC member states not to exchange personal information with countries which do not ensure an adequate level of protection for that information in their national laws. It is questionable whether AUSTEL's proposed Telecommunications Privacy Committee would meet those EC requirements.

AUSTEL's treatment of complaints handling presents another problem. While industry codes may provide complaints handling procedures on privacy issues, the issue is where a complainant can go if unsatisfied with the industry's response. The proposed committee will not handle complaints, the Privacy Commissioner has no jurisdiction to handle complaints and the yet-to-be established Telecommunications Industry Ombudsman may not have the jurisdiction to handle complaints either. Because complaints will be an important indicator of the success (or otherwise) of this scheme, the location of responsibility for reviewing complaints should be clarified.

There is no question that the proposed committee should be established, but it must be strengthened and given specific reporting functions, preferably to Government. □

Holly Raiche