

Keep your panties on

The latest in online privacy

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If there's one thing we can learn from the recent string of celebrity nude photo scandals, it's that many Australians struggle with privacy online. Rather than just telling Nick Reiwoldt to keep his panties on, the Senate's Environment and Communications References Committee has been investigating and come up with some recommendations.

The Committee calls for some far-reaching reforms; all businesses that touch the online space could be affected. Here are the big headlines and our view on their significance.

1. Small business + large volume data = Privacy Act compliance (BAD NEWS)

Most businesses with less than \$3M turnover are excluded from the Privacy Act requirements. Currently, this exempts over 90% of Australian businesses from complying with the Act. The Committee recommends narrowing this exclusion, making small businesses holding substantial quantities of data subject to the Act. This will create a lot of pain.

2. Establishing behavioural advertising opt outs (UNINTERESTING)

Targeted and behavioural advertising is super trendy and generates lucrative click-through rates. Some people think this is an invasion of privacy. The Committee recommended the development of a "do not track" model that allows people to refuse to be anonymously monitored for the purpose of behavioural advertising. Of course, they could just disable cookies in their web browser.

3. Extending application of the Privacy Act to offshore companies (NON-EVENT)

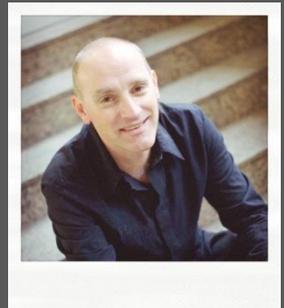
The Committee recommends extending operation of the Privacy Act to companies that collect data *from* Australia, even if they have no other connection to Australia. Most social networking platforms are not caught currently by the Act. This recommendation tries to fix that. Frankly, we think it's got Buckley's of getting off the ground.

4. New cause of action for serious invasion of privacy (EXCITING!)

The High Court hinted at this back in 2001. The Australian Law Reform Commission called for it in 2008. Now the Committee is also saying we should create a legal cause for action for invasion of privacy. We agree, and not just because the litigation would be fun.

A similar law already exists in the UK thanks to Naomi Campbell's drug habit. It applies when you would have a reasonable expectation of privacy. Any law here would likely take a similar form. Quick guide: you could sue if a paparazzo took photos of you through a gap in the bedroom curtains. You could not sue if you sold your wedding photos to NW and they made you look fat.

If you work in the online space any of these changes could affect you, if implemented. For the time being though, enjoy your advertising propensity modelling (responsibly) and keep *those* photos locked in your safe.



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