

Internet Jurisdictions and Privacy

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Presentation for
CoolCampus Monash
Mobility Workshop



Outline

1. Privacy/Information security

- Key aspects of privacy
- Different aspects of privacy
- Policy issues
- Legal regimes

2. Intellectual property

- Copyright
- Patents

3. Jurisdiction

Key aspects of privacy

- Autonomy/dignity
- Ability to exercise control
- Absence of surveillance
- Privacy is not synonymous with security
 - security is just one dimension,
 - privacy is much broader and involves ability to control use/disclosure

Different aspects

- Information privacy (collection, use and disclosure of identifiable personal information)
- Communications privacy (electronic communications)
- Privacy in public spaces (gathering of information for profiling etc)

Policy issues

- Incidental gathering of information
 - contents
 - footprints
- Home/work distinction
- Implications of security breaches



Legal regimes

- Cth Privacy Act 1988
- Victorian Information Privacy Act 2000
- Victorian Health Records Act 2001
- Common law
 - privacy
 - negligence
- Trade Practices Act
 - Deceptive and misleading conduct

Copyright - key aspects

- Use of materials which have been created by others
- Wide range of materials
 - books,
 - music,
 - films,
 - computer programs,
 - broadcasts etc

Copyright regime

- Copyright Act 1968 (Cth)
- Use (including online communication) of others' materials amounts to infringement unless –
- Fair dealing exceptions apply;
- Permission has been obtained; or
- It is covered by a licensing agreement.

Licences

- Monash has a number of licensing agreements which vary according to nature of the material eg print, audio-visual
- Generally access must be confined solely to enrolled Monash students
- These limit no of times extracts from 1 work can be reproduced electronically

Patent regime

- Patents Act 1990(Cth)
- Patents are a form of legal protection for new inventions
- Issues arise where material relates to invention for which patent may be sought
- Need to be wary of anticipation

Jurisdictional issues

- Legal regimes may vary from state to state/country to countries
- Liability may attach elsewhere for actions that take place here see, eg, *Gutnick* and *Kazaa* cases
- In the case of Copyright – note WIPO agreement
- Privacy – note diversity of laws including EU and APEC

Conclusion

- Exercise caution in relation to:
 - Identifiable personal information (incl information gathered indirectly)
 - Material created by others
 - Material relating to any invention for which patent protection is yet to be claimed

Web Addresses

- Copyright information
- <http://www.copyright.monash.edu.au/>
- Vic Info Privacy Act
- <http://www.privacy.vic.gov.au/dir100/priweb.nsf>
- Cth Privacy Act
- <http://www.privacy.gov.au>
- Vic Health Records Act
- <http://www.health.vic.gov.au/hsc/>

Questions

