

Surveillance in public places: Consultation Paper

Chapter Six –

- *Question One*

The draft principles apply a flexible and multifaceted approach, balance must be considered when accepting that a majority of the community in public places will be undertaking a lawful activity. Safety should be shown to enhance peoples enjoyment of public place not compromise it..

- *Question Two*

Once-off or intermittent surveillance should only be regulated where there is a high chance of criminal activity or risk of danger to persons occurring.

- *Question Three*

An independent regulator allows for transparent processes to occur. The regulator should have no relationship with the industry being regulated however have an in-depth understanding of its operation. The regulator should be able to advise government on matters that require attention or direction and the Government should have powers to engage an independent audit of the regulator. Should conflict occur in making decisions under this role a final step could proceed to a independent tribunal.

- *Question Four*

The regulator should play a role only in gathering data, investigating and reporting to Government on matters that require further action. These reports to Government should table directions that should be taken based on the evidence or research obtained.

Perhaps after a period of time Government could then review these processes to determine if further powers should be given to the regulator in respects of this.

- *Question Five*

The regulator should be given the powers to seek information and investigate matters in relation to the provisions it is authorised to operate under. The regulator should be given access to any and all information that would aid in it making its further recommendations to Government.

- *Question Six*

A registration scheme would only work if all parties participated, it would be a matter to determine at the time of registration as to what information should be required from the various organisations. There may be categories where particular registrants have sensitive materials. It would be appropriate that pre determined items not be offered as part of the registration process.

- *Question Seven*

The regulator should be given powers to access all information required to complete an investigation. The regulator should also be given the power to refer a matter to an independent panel should a conflict of interest or similar occur between its recommendations on a matter and its report to the State Government for action.

- *Question Eight*

The regulator should only have an own motive investigatory power after first seeking consent from the Government. This would be reported as a matter requiring further approval from Government.

- *Question Nine*

The regulator should have the capacity to develop advisory guidelines when educating the industry and community on matters in relation to its powers and function. There should however be careful consideration that no duplication exists once any new guidelines are established. Any advisory guidelines being developed should also have to go through a consultation process approved by the Government.

- *Question Ten*

Voluntary best-practice standards may be useful if they are written to inform particular organisations. There may be the need for several standards that can be applied by the various departments that may deal with CCTV matters, such as; DPCD, DHS, OH&S etc. Consideration would have to be given to the array of industry that use cameras for very different purposes.

- *Question Eleven*

It always assists any voluntary document when linked with other requirements such as government procurement criteria. However other strategies may exist within state planning scheme requirements or local Council policies. Consideration could also be given to other Acts that regulate or control CCTV requirements such as *Liquor Control Reform Act*.

- *Question Twelve*

Mandatory Codes are better adopted between all interested parties, this ensures a better understanding of their purpose and function. Mandatory codes should not just state what already occurs however set benchmarks so improvements and refinements can be made.

- *Question Thirteen*

The Industry and regulator again should work together in establishing any codes, they should be endorsed by all parties on agreement.

- *Question Fourteen*

The regulator should be able to discuss with the industry breaches of this code and perhaps be able to refer it to a panel of industry peers. The codes success relies on the support of the industry therefore it makes sense breaches are scrutinised by that industry with the support of the regulator. The regulator in this role could play the independent adjudicator.

- *Question Fifteen*

Sanctions for failure to comply with this code could come from Industry themselves with a set of requirements in the event this occurs. Consideration could be given after an investigation into mediation, coaching or mentoring. Serious matters could still be reflected back through a reporting strategy in local media or quarterly government print of some type. Similar to the Victorian Commission for Gambling Regulation which print (quarterly) in their publications industry members who have breached various practices.

- *Question Sixteen*

Where surveillance is provided in particularly sensitive situations/areas (criteria should be developed to ascertain this) then a license should be required. This would ensure a licensee would meet minimum standards should a matter proceed to a legal forum of sorts.

- *Question Seventeen*

Surveillance regulations restricting the community from filming or photography in certain public places (e.g. Southbank Boulevard). There will be public places where the community should always be allowed to film or photograph. Important consideration needs to be given not just to observation of a person but when that person undertakes in a passive nature the activity of surveillance. (e.g. taking pictures).

When considering the use of public space there is a clear difference between CCTV providing a safe environment and providing a false sense of security. Perhaps clearer information needs to be given to the community on areas that are under surveillance and monitored or those just recorded for potential further viewing.

- *Question Eighteen*

No professional opinion.

- *Question Nineteen*

Yes, tracking devices of any type if capable of providing the same information should be considered in the same definition.

- *Question Twenty*

Guidelines may be better used when acknowledging the array of surveillance categories. This allows for faster updates and amendments.

- *Question Twenty-One*

This exemption should not be removed as it would be a key requirement when undertaking particular types of law enforcement investigations in the State.

- *Question Twenty-Two*

Further research should be undertaken into Civil penalties before proceeding in any legislative changes. There is the risk that doing this may remove the burden of supporting evidence currently required leading to larger errors with fewer informed decisions being made.

- *Question Twenty-Three*

Clarification should always be given when the notion of implied consent could be confusing. Guidelines could offer several ways in which to inform persons about implied consent, these may be on a 'site specific' basis.