

The following by is an analysis of legal issues which apply to street photography in NSW Australia.

Created in response to objections to my [Sydney Unposed project](#), it is written from a photographer's perspective, with a focus on what rights shooters have (and don't have) when it comes to candid photographs of people. Please note: it is not an encyclopaedia on every aspect of photographic law, nor does it attempt to address broader issues like [anti-terrorist legislation](#), [council photography permits](#) or [National Park commercial photo restrictions](#). The sole purpose of the following is to discuss legal issues which apply to *people photography only*, nothing more.

In case you are wondering, I am a photographer and qualified solicitor ([UNSW 1991](#)) who worked for a short while at a large Sydney law firm in 1992. So the following is based on an (ex) practitioner's understanding of Intellectual Property and Privacy Law, and not just the usual Internet Hearsay :?)

BTW the article was last updated on **Saturday Oct 25th, 2008**.

Your right to take photographs

In Australia the taking and publication of a person's photograph, without their consent or knowledge, but within the limitations outlined below, is *not* an invasion of privacy, nor is it in contravention of case or statute law. Privacy advocates may disapprove, but in this country it has always been, and for the moment remains, a perfectly legal thing to do.

No Federal Bill of Rights

A legacy of our convict past is that Australia has never had a [Bill of Rights](#). Constitutionally speaking, there has never been a national concept of a "Right To Privacy" here. Because of this, our common-law has *always* rejected attempts to prohibit photography by merely claiming privacy rights — see this [PLPR 1999 overview](#) by Sharon Theedar, as well as this [Net Law article](#) by Jeremy Malcolm.

Interestingly, Australia is a signatory to the [International Covenant on Civil and Political Rights](#) (ICCRR), which means the Federal Government could in theory establish a statutory Bill of Rights by implementing the treaty via the [External Affairs Power in the Constitution](#). That it has not done so is mainly due to politics, history and indifferent public opinion.

Victoria Charter of Human Rights and Responsibilities

[This act was passed in 2006](#) and became fully operational in January 2008. For the first time in an Australian State, it implements most of the elements found in a Bill of Rights, including "*Freedom of movement, expression, assembly and association*", "*Right to liberty and security*" and — most importantly for photographers — "*Protection of privacy and reputation*". It is still too early to see what impact it will have on candid photography, but it is not unreasonable to expect someone will eventually use it to wage anti-photo "[lawfare](#)".

A couple of important caveats: (1) the VCoHRaR is jurisdictionally limited to Victoria and does not apply to the Commonwealth or any other state; (2) the Australian Capital Territory has had its own [Human Rights Act since 2004](#) — in all this time it has still not been used to ban photography.

High Courts "approve"

"Unauthorised" photography in Australia has in fact been authorised since the 1937 High Court decision in [Victoria Park Racing v. Taylor \(1937\) 58 CLR 479](#) (at p.496). This was reaffirmed recently in [ABC v Lenah \(2001\) HCA 63](#), where the Court ruled that despite the passage of decades since **Victoria Park**, any concept of a "Tort of invasion of privacy" *still* does not exist in Australia.

As Justice Dowd put it with blunt clarity in [R v Sotheren \(2001\) NSWSC 204](#):

A person, in our society, does not have a right not to be photographed.

Photography is not (yet) a Crime

Many photographers are fed up with being treated like perverts. In the last few years things have deteriorated to such an extent that [JPG Magazine devoted an entire issue to it](#) in February 2006:

[...] amateur photographers are the documentarians of real life. People with cameras bear witness to the everyday dramas of ordinary people. We capture our world to help us understand it. We are not terrorists. We are not dangerous. And we are certainly not a threat.

Likewise the lengthy article by [John Reid](#) and subsequent blog discussion, "*Talking Pictures: Photography Is Not A Crime*", on the [Sydney Morning Herald website](#) (Feb 2007).

Similar sentiments have led to the making of a documentary movie called "*Off Limits (La rue zone interdite)*" (2005). Featuring interviews with Marc Riboud, William Klein, Willy Ronis, Janine Niepce and Elliott Erwitt, it was directed by [Gilbert Duclos](#) — the Quebecian street photographer who lost a 1998 Supreme Court case concerning his photo of an art student sitting on a bank's steps (see the [Canadian discussion](#) below).

Limitations on photo rights

Just because "unauthorised" photography has not been prohibited, it does not mean it is Open Slather. Far from it! NSW [Defamation](#), [Offensive-behaviour](#) and [Obscenity](#) laws still apply, as do common-law doctrines of Nuisance, Trespass, or statutory prohibitions arising out of the *Commonwealth Trade Practices Act*. For a broad summary, see this [2005 Press Council speech](#) by Ken McKinnon, along with this [Australian Arts Law Centre "Unauthorised use of your image"](#) article.

The remainder of this article features an analysis of these various photo restrictions and limitations.

Private Land

Every time you enter private land, you do so with the understanding you consent to any requirements the property's owner may impose upon you. So if a property's owner (or their agent) tells you to cease taking photographs, for whatever reason and even if the area is freely accessible to the public, there is nothing you can do about it. The owner has full power of veto — put the camera away.

As noted by [Professor George Williams](#) in "[Picture this: city puts photo ban in the frame](#)":

The law would say that once you own land you get to control what goes on there.

The basic problem is that so much of our space these days is out of public hands and in control of private enterprise. [...]

[T]he law recognises few public rights on private property. It is a very large debate around the world. It has become a big issue in the US where shopping centres can ban people wearing T-shirts with political slogans, and the courts have sought to define quasi-public spaces.

Hence the difficulty taking photographs inside department stores; bars; night-clubs; sports arena; shopping centres; "Kmart" or supermarkets. They may be areas freely open to the public, and may even be regarded as the "village square or commons" of our time, but they are all private land, and so come under the control and regulation of their owners. Which means they can prohibit almost anything they like (including photography) *on their land* and there is nothing you can do about it. Their turf, their rules. No Bill of Rights in Australia = no Freedom of Expression.

Supermarkets have always balked at unauthorised photos. Even back in the 1980s I was once escorted from a South Hurstville store for taking shots of an empty aisle...

Once you leave the property however, there is no restriction on taking photographs from *outside*. This was the finding in the [1937 Victoria Park](#) case, and it is still law. Thus for example the [July 2006 photography ban](#) at [Melbourne's Southgate Precinct](#) was carefully limited to pictures taken *inside* the centre. Even management admitted they were powerless to stop people from photographing *outside*.

What if you take photos of a private space, publish them, and are then contacted (threatened?) by the property owner, claiming you have no right to display or sell images of their land? Frankly, ignore them. They may be able to restrict you while taking the picture, but they cannot do anything once the images have been captured (unless of course the photos are defamatory or infringe trademarks, trade secrets etc). As noted earlier there is no general "right to privacy" here, especially for publicly accessible areas. Furthermore in Australia there is no concept of ownership over the appearance of architectural spaces (see the [copyright discussion](#) below).

By the way, publicly owned spaces such as nursing homes, schools, child care facilities or hospitals are deemed by the [NSW Inclosed Lands Protection Act 1901](#) to have the same control rights as private land. So don't imagine you can question someone's authority to prevent you from taking photos on (say) hospital-grounds. It might be publicly owned land, but the ILPA means authorised persons *can* regulate your behaviour while on government property.

Weekend Markets — caution

Occasionally photographers contact me because they have been prevented from taking photos at either Melbourne's [Queen Victoria Market](#) or Sydney's [Paddys Markets](#). Are market proprietors allowed do this?

In a nutshell — yes. Although stall-holders do not have property rights over the space they occupy, the people who run and operate the markets — do. These markets (and [others like them](#)) are on *private land*, and consequently their owners can prohibit almost anything they like. Furthermore, it is common knowledge that many stall-holders deal in [stolen](#) or [counterfeit goods](#), so reluctance to allow lens-hounds to document this is perhaps understandable :P

The Sydney Paddys Market is a notoriously photo-unfriendly place. After I took this picture I was greeted with furious hand-waving and shouts of "No Photo! No Photo!"...

But malls, markets etc. are public space!

No they are not. Just because an area is publicly accessible, it does not also mean it is "public land". What confuses some Australians are United States cases where people have won the right to hand out leaflets in malls:

<freedomforum.org/packages/first/freeexpression/index.htm>

Outside of Victoria we lack any Bill of Rights protection in Australia, so these precedents don't apply. Furthermore leaflets are one thing, photography something else. Despite constitutionally protected Freedom of Expression rights in the USA, their shopping centres are still photo-averse places — see for example this [Feb 2004 online discussion](#). Even a street redevelopment by The Petersen Companies in [Silver Spring](#) has tried to ban photography, much to the [disgust of US photographers](#).

As [noted earlier](#) Australia is a signatory to the [ICCRR](#), Article 19 of which protects everyone's right to freedom of expression. Unfortunately the treaty has not been incorporated into Australian law, so it is of academic interest only.

What about railway stations?

This is a different story for they are public space (even if they are not, technically speaking, "public land"). So provided you don't make a nuisance of yourself, you should be fine. In 2004 the NSW Minister for Transport Services spelled it out (at [NSW Legislative Council Hansard, 24 Feb 2004, p.6394, art.53](#)):

It is not an offence to take a photograph on a train or at a station.

Transit officers are required to detect graffiti and other offences as they occur, as well as protecting State Rail property from vandalism. I am advised taking photographs of graffiti may indicate a connection between the person and the graffiti they are photographing, as graffiti offenders often photograph their work.

See also the earlier Q&A in [NSW Legislative Council Hansard, 12 Nov 2003, p.4731, art.22](#).

In 2006 there was a lengthy discussion about this issue at [Railpage Australia](#). As many advised, apply a little common sense. If you are going to linger and take formal photographs (eg. using a tripod or for publication), then contact the Station Master first. For casual hand-held photography however — don't ask, shoot.

Victoria?

South of the border, down Melbourne way, [Connex](#) take a much dimmer view. In fact photography is expressly prohibited at metropolitan railway stations they administer. The stations, platforms and rails might still belong to the Crown, but unlike NSW they are controlled and are under the authority of a [private company](#). You can apply for photography permits however if you are a "rail enthusiast" or an "amateur photographer" — see their [website](#) for more detail.

Sydney Harbour and foreshore

In anticipation of the Sydney 2000 Olympics, the **Sydney Harbour Foreshore Authority Act 1998** was created to enable the [Sydney Harbour Foreshore Authority](#) to regulate various matters concerning Sydney Harbour, its foreshore, Darling Harbour, the Rocks, Cockle Bay etc.

The Olympics came and went, but the legislation was retained and regulations upgraded to create the current [Sydney Harbour Foreshore Authority Regulations 2006](#). Of particular interest to photographers is Part 2 — Reg 4, which provides a long list of prohibited "Commercial and other activities", including:

[r4\(b\)](#): use [of] any audio, loudspeaker or broadcasting equipment or camera (whether photographic, cinematic or video), for a commercial purpose,

Thus despite being "public land", any saleable photo taken in or around Sydney Harbour (or the Rocks, Darling Harbour etc.) is forbidden without SHFA authorisation... right?

Maybe not. The exact meaning of "commercial purpose" is not defined in either Act or Regs, while the language used in Form 33 and 42 (see below) is clearly aimed at Film/ TV

productions and (maybe) wedding photographers or coffee-table book Pros — not casual photographers.

As an indication of how seldom this restriction is invoked, the [Permits page of the Sydney Harbour Foreshore Authority](#) does *not* include any photography permit forms. You have to go to the <business.gov.au> website and search for "[Film and television producers](#)" forms. Then download the "**Application to conduct film or photo shoot...**" PDF for the Sydney Harbour Foreshore Authority (Form 33 + Form 42).

The Cockle Bay promenade at Darling Harbour. Security guards can be zealous, but they also tend to ignore casual hand-held photographers. Things get less friendly if you try to set up a tripod...

So relax. You only need to worry about SHFA permits if your photography requires a film crew, portable generators and a couple of semitrailers. Otherwise the law is, as far as the general public is concerned, "[more honour'd in the breach than the observance](#)".

Sydney Luna Park

Has its own special legislation, the [Luna Park Site Act 1990](#). Although public land, Luna Park is actually leased to and under the control of a [private company](#). Which means that like other "private land" sites, they can arbitrarily prevent you from taking photographs or even ask you to leave (see [discussion](#) above). Rather than common law, the power to do this has been enshrined in [Section 6G of the Act](#).

Notice however the "boardwalk/foreshore" exception in s6G(3), whereby the Luna Park lessees can only control what happens *within* the boundaries of their site. Meaning you are free to photograph from outside the exterior/ face/ buildings as much as you like, or more accurately, as much as permitted by the Sydney Harbour Foreshore Authority Regulations!

Assaulting Photographers

Although property owners may use "reasonable force" to evict people, they can never threaten violence ("assault"), detain you at length ("[false imprisonment](#)"), push you around and seize your camera or film ("battery"), or even force you to delete digital files ("[coercion](#)"). Rent-a-cops, supermarket clerks, shopping centre managers and even [customers at a Haldon Street Cafe in Lakemba](#) should take careful note.

In 2005/6 there were a spate of attacks on photographers, and in every case the assailants were charged with criminal offences:

- Feb 2006: [Former politician Mark Latham was charged](#) with assault, malicious damage and stealing after a press photographer snapped him and his children leaving a fast food restaurant.
- Dec 2005: [A twenty-year-old was arrested and charged](#) with malicious damage for assaulting *St George and Sutherland Shire Leader* photographer on Cronulla beach (in the lead-up to the pre-Christmas "race riots").
- Nov 2005: [Five men were charged](#) with affray and assault after attacking a Channel Seven TV crew, who filmed them leaving a Melbourne terrorist suspects hearing.

What is the law here? Threatening to damage your camera or equipment: [s.199](#) of the [NSW Crimes Act 1900](#) — maximum penalty 5 years imprisonment. Threatening violence against you: [s.93C](#) of the same Act — 10 years. Even if someone tries to prevent you from contacting the police: [s.315A](#) or [s.319](#) — 7 or 14 years.

The moral should be fairly clear: an unwilling photo subject may only *ask* you to stop taking photographs, that is all. No touching, pushing, shoving or grabbing. Even [Police officers must institute legal proceedings](#) (ie. detain or arrest you) if they wish to seize your camera, film or digital files.

Common sense dictates however that if a 150kg Goon starts Being Ominous, then it is wise to go with the flow, even if it isn't legally justified. After all no photograph is worth GBH!

Monash University Photographer Harassment Study

Photographer harassment has become such a hot topic that even academics have started to take notice. In 2008 Monash University and the ANU initiated a joint study about it. If you would like to contribute your experiences, contact them via the following website:

<melbournephoto.org.au/content/view/125/33/>

Note: Forcing deletion of digital files

Obviously if you take photos of security installations, military manoeuvres or of special security lock-down zones, then duly authorised personnel can and most likely will ask you to [delete photos](#).

My earlier remarks about image deletion only apply to general photography taken under everyday conditions (eg. at shopping centres, public parks, office parties, people walking along the street etc.) Furthermore, it is unlikely that anyone can ever compel you to erase images of *people* on the basis of security concerns.

Assault by Police

In my experience NSW Police Officers do not mind having their photo taken. A lot obviously depends on what they were doing at the time (eg. surveillance or criminal activity), but generally speaking, when out and about on the street or working at public events, Police officers will be friendly and will not complain.

I could have spent all day photographing police at the 2005 Swans Victory Parade if I had wanted to. In fact I had to work hard to avoid officers hamming it up in front of the lens...

So much for the good news. The bad news is that like the general public, there are occasions when Police officers can misbehave, and even threaten or physically manhandle a photographer for pointing a camera at them.

Which of course is unacceptable. If you have such an experience and wish to take the issue further, then I suggest you contact one of the entities listed on the [NSW Police Integrity Commission complaints page](#). A word of warning though, make sure you have *plenty* of evidence to support your claims.

Why the anti-photo angst?

Most likely a mixture of [commercial use](#) and [copyright](#) ignorance, along with Baby Boom 2.0 [Bambino On The Brain](#). The recent proliferation of [voyeur websites](#) has not helped either. Finally, photographers must also shoulder some of the blame. For years we have used our cameras like "weapons", so it shouldn't surprise that people eventually balked at being treated like "targets".

Whatever the reason, the level of hostility has certainly increased in the last few years. See the following examples:

- ["London Park Warden stops parents from photographing their own children"](#), Dec 2007
- ["Denver photographer forced off bus for snapping a passenger"](#), Sep 2007
- ["Harassed by Police for photography on playground"](#), Mar 2007
- Magnum photographer [Martin Parr harassed in Rio](#), Feb 2007
- Bogus [petition to ban UK photo ID laws](#) causes a [moral panic](#), Feb 2007
- ["Talking Pictures: Photography Is Not A Crime"](#), Feb 2007
- Confrontation Anecdote: ["Middle-aged female jogger"](#), Jan 2007
- ["Dupain beach snaps draw Police attention"](#), Dec 2006
- ["Who's Your Daddy: Stranger danger"](#), Oct 2006
- ["Was this a cheap shot?"](#), Sept 2006
- PopPhoto article: ["The War on Photographers"](#), July 2006
- ["Careful, you could be sued!"](#), June 2006
- ["I didn't realise people were so uptight"](#), June 2005

Countering misconceptions about illegality and immorality won't be easy. FWIW the following tips may help: Adopt a professional attitude; Don't sneak or creep about; Prepare a simple and rational answer to the question *"Why did you take that photograph!?"*; Be clear and confident when confronted but not cocky or argumentative; Always remember you have

rights, but don't forget your subject has them too, especially on private land; Finally, it is always easier to put your camera away than engage in shouting matches.

If this sounds too touchy-feely and [metrosexual](#), then thirty push-ups before breakfast and a pair of steel-capped safety boots may also help. Finally, download a copy of my "[PDF Rights info-sheet](#)".

Common Law

Injunctions may be sought to halt the publication of photographs if the images are indecent, offensive or otherwise demean the subjects (**Lincoln Hunt Australia v. Willesee** (1986) 4 NSWLR 456 at p.464). The depiction has to be clearly degrading though, saying you are "embarrassed" or "uncomfortable" will be laughed out of court — [Donnelly v Amalgamated TV Services \(1998\) NSWSC 509](#).

For **Nuisance or Trespass**, merely taking a photo of someone is always permitted. It only becomes an actionable Tort if you photograph the same person again and again over an extended period of time (**Bathurst City Council v Saban** (1985) 2 NSWLR 704 at pp.706-8). The occasional shot is okay, as is pointing a camera over a fence, or even following people down the street, but do it to the same person day after day and you're asking for trouble (not to mention [stalking charges](#) or even a punch in the face).

BTW, the "no Tort of Invasion of Privacy" doctrine is not fixed in stone. Already in [ABC v Lenah](#) there were minority judgement hints that the High Court [may allow privacy-infringement claims in future](#) (see also these 2003 articles by [David Lindsay](#) and [Paul Telford](#)).

Nevertheless an Australian Privacy Tort is still a long way off. Although allowed in **Grosse v Purvis** [2003] QDC 151 and **Jane Doe v ABC and ors** [2007] VCC 281, both have proven to be weak precedents. They dealt with stalking, sexual harassment and rape ("hard cases make bad law"), and both are lower-court decisions limited to Queensland and Victoria. More significantly, higher courts still refuse to challenge the majority in *Lenah*: [Milne v Haynes \[2005\] NSWSC 1107](#), [Giller v Procopets \[2004\] VSC 113](#), [Moore-Mcquillan v Workcover Corporation SA \[2007\] SASC 55](#) and [Kalaba v Commonwealth of Australia \[2004\] FCA 763](#).

The "Kidman Defence"

Australian celebrities face a problem in that they [cannot claim general privacy rights](#), yet they often wish to restrict photographs of themselves when away from the public spotlight — eg. see [Stan Grant and Traci Holmes](#) in Aug 2000.

So what can they do? In January 2005 Nicole Kidman managed to obtain an interim **Apprehended Violence Order** ("AVO") against Paparazzi photographer Jamie Fawcett, via Part 15A of the [NSW Crimes Act 1900](#), by claiming she feared for the safety of herself and family (see "[Paparazzi ordered away from Kidman](#)"). Although [initially considered a legal masterstroke](#), the AVO turned out to be flawed in that it only prevented photographers from *approaching* within 20 metres, not from taking photographs. Unsurprisingly the AVO was quietly dropped a while later.

Then in January 2007 a "distraught" Kidman again called the Police against Fawcett, this time [claiming "harassment" during her holidays at Bateman's Bay](#). In this case the Police sent

an unmarked highway patrol vehicle, "to ensure everyone's safety on Rosedale's narrow roads", but otherwise refused to restrict or lay charges against Fawcett.

So what does this all mean? [Not much](#). You can rush to court or call the Police, but any legal relief will be at best superficial, and will not directly address the issue of being photographed without consent.

Consent for photographs always required?

As you can gather from the Kidman example above — not in Australia.

Aside from [commercial use](#) or [Summary Offences](#) issues, consent for photography is *not* required in this country. It is purely a question of etiquette and taste. As pointed out in the August 2005 Federal Attorney General's Discussion Paper "[Unauthorised Photographs on the Internet And Ancillary Privacy Issues](#)", (as quoted on the [anlysphere.com](#) website):

[...] for any society to function in a relatively free and open manner, there could not realistically be a requirement for all photographs to be taken with consent. If there were such restrictions, candid shots could never be taken, and the media would be severely constrained in the images they show us. Freedom of expression and artistic expression would undoubtedly be adversely affected ... while there may be legitimate circumstances when recording images should be restricted, it would not be practical or desirable to obtain consent from every person all of the time, for example, for use in television news file footage.

In Nov 2005 this view was supported by the [NSW Commissioner for Children](#):

Even the NSW Commissioner for Children, Gill Calvert, agrees that a ban on photography without permission would be overkill. The commission has written to the Government, saying that for any society to function in a "free and open manner", there cannot be a legal requirement for consent to being snapped.

(For more on the AG's discussion paper, [see further below](#). For the aesthetics of photographing without permission, see the remarks on my [Sydney Unposed critics article](#).)

Video sidebar

Everything on this page applies to video photography. After all, movies are just a stream of individual still photographs.

The only difference with video is the possibility of a sound component. Here there is special law in NSW (and the ACT) which specifically prohibits the recording of private conversations without consent. The emphasis is on *private* conversations though — if someone is performing or yelling or whistling, then presumably this falls outside the [NSW Listening Devices Act 1984](#). (See also the extensive review of the LDA by the NSW Law Reform Commission in their "[Issues Paper 12 \(1997\) — Surveillance](#)".)

So although consent is not required for the general recording of video *images*, it is required when recording sound to accompany them. That is why you will often see "hidden camera" investigative TV reporting with the sound deliberately turned off.

BTW also keep in mind the consent provisions of the [NSW Workplace Surveillance Act 2005](#), even if it is specialist legislation concerned solely with the filming of employees at work by their employers.

Photographs of children — special case?

Generally speaking, no.

Many people assume parental consent must always be obtained when photographing children. But aside from specific provisions in the [Children and Young Persons \(Care and Protection\) Act 1998](#) (especially **child protection orders** arising from abuse, AVO's or custody proceedings), children are *not* afforded unique legislative protection when it comes to photographs, consent, privacy or defamation. As with adults you need a signed release for [commercial use](#), but for non-commercial images — nothing.

Perhaps the misconception arises from the child identity protection requirements of s.11 of the [NSW Children \(Criminal Proceedings\) Act 1987](#) (which only apply to children charged with criminal offences). Maybe it's because of the under-18 consent provisions found in most Model Releases (a requirement for commercial usage only). Maybe it's just a deep cultural loathing of child pornography?

Whatever the case, photographers are — within the limitations outlined in this article, in particular [commercial use](#) and [Summary Offences](#) issues — perfectly at liberty photograph children as freely as any other subject.

Photographing children without consent is certainly a provocative topic! Part of the reason school groups (see below) or [Local Councils](#) try to ban photography at dances, plays or sporting carnivals is to "protect" children from "internet pedophiles". Likewise many of the submissions to the [2005 AG discussion paper](#) referred to the need to "protect" children from unauthorised use of their image on websites, blogs etc.

Yet until the law changes, consent for general child photography remains purely an ethical and moral issue, not a legal one.

Is it only a matter of time before photos of anyone under eighteen will be regarded as culturally verboten?...

Consent does not trump "Obscene"

For wannabe [Sally Mann's](#), [Jock Sturges'](#) or [Jill Greenberg's](#), please note that consensual photographs, even if they are of your own children, will fall foul of [state censorship laws](#) if the underage subjects are photographed in a sufficiently provocative or sexual manner. Furthermore, the recently added [Section 578C](#) of the [NSW Crimes Act 1900](#) may also be

used to prohibit the publication of "indecent" articles. There is however a defence in s.578C(6) if the images have "... *any merit in the field of literature, art, medicine or science*" — so presumably only blatantly pornographic images are covered. (N.B., [it was announced in October 2008](#) that the Crimes Act will be ammended and the "artist" defence will be removed by the end of 2008.)

To date only two Australian photographers have been collared for "indecent" kiddie-pix, and in both cases either the prosecution failed or else the police backed away. The first example was with [Connie Petrillo](#) in 1995, where as a West Australian art-student she sent naked photographs of her three sons for processing at a Perth photo lab. After a lab worker complained, police raided her home and charged her with "indecently recording a child under the age of thirteen years". The matter eventually made it to trial, but after two years it was dropped without a conclusive result.

The second example concerned east-coast photographer [Bill Henson and his gallery representative Roslyn Oxley](#) in May 2008. Again there were police raids and the seizure of works, but this time no charges were laid. There was however tremendous controversy, with proscriptive Shock-Jocks berating laissez-faire Bohemians, and vice versa. Ditto the attention-seeking use of Polixeni Papapetrou's [image of her daughter](#) on the cover of [Art Monthly Australia](#) a couple of months later — [Controversy II](#).

Putting aside questions of censorship, freedom, child exploitation and pedophilia, the lesson from these incidents should be fairly clear. Because our constitution lacks general Freedom Of Expression guarantees, if you cross the line with kiddie-pix, then get ready to be jumped on by The Men In Blue.

Child Protection and childcare worker's duty of care

The [NSW Children and Young Persons \(Care and Protection\) Act 1998](#) and [Part 3A of the Ombudsman Act 1974](#) require people who work with children (teachers, child-care, DOCs officers etc.) exercise a duty of care to protect minors from "risk of harm". The harm may be physical or psychological, and its risk need not even be imminent. Merely a *reasonable suspicion* of risk is enough. Which means that those who work with children must exercise a much greater level of care than the general public when photographing minors, or else supervising children who are being photographed.

(NB: on Feb 27th 2007 the [Sydney Telegraph Newspaper reported](#) that the "risk of harm" test may be tightened to reduce "excessive over reporting" of child protection incidents. The new test is reported to be "*reasonable evidence a child or young person is exposed to risk or harm*", which may reduce the paranoia surrounding photography. Time will tell if the change will ever be implemented, until then the old test remains.)

So if you take candid photos of people at a large public event and school children are involved, then their teacher will only be doing their job if they ask about your shots. By law they have to, for if they don't then they may have to answer allegations of Child Protection misconduct, even if the images turn out to be benign.

Likewise teachers should tread cautiously when photographing school performances or games, especially [swimming carnivals](#). Yes the children and their parents may have consented to being photographed, and there may also be "no reasonable expectation of privacy" (see the "[Offensive Behaviour](#)" topic below), but it only takes one disaffected

student or suspicious adult to launch an Ombudsman-supervised [investigation](#). Otherwise teachers do generally have rights to photograph their own students while on school property. Permission for this is usually included in the terms and conditions parents sign to when enrolling their child in the school. If parents object to photographs, then they must sign a declaration to that effect (most don't bother).

Can a teacher or authorised carer stop you — a member of the public — from taking photographs "due to child protection issues"? Not unless you are employed in one of the occupations listed in the Act. Because child protection obligations are specifically limited to employees working in certain child-related areas, non-employees (and therefore the general public) are exempt.

Bans at swimming carnivals, school plays or eisteddfods

Many school and children groups prohibit all photography, even by parents (eg. the [2006 Coffs Harbour Eisteddfod photo ban](#)). Do organisations have any right to do this?

If the performance is on private land, then yes they do — see the [discussion above](#) about property owner rights. This also applies to schools and council-owned facilities, as strictly speaking they are not "public land" even if they are publicly owned (ie. not freely accessible to everyone like a street or park or beach). See the [NSW Inclosed Lands Protection Act 1901](#) and also the discussion at "[Sports Photography Legal Issues](#)".

Organisations may claim they wish to "protect" children, but the issue here is that people can prohibit almost anything they like on land they control. If however the event is held on property not owned or controlled by the organisers, then you are free to photograph as much as you like — subject of course to other issues discussed on this page. To put it bluntly, there is no person in Australia who can *legally* prevent you from taking non-indecent photographs of your own children on public land!

Some organisers try to restrict performance photography due to "copyright reasons". This is a misunderstanding of IP law, for you cannot infringe the copyright of a "dramatic work" by merely taking still photographs (see [discussion](#) below). You have to take extensive video footage of a *substantial part* of the performance for infringement to occur (see the "Choreography G072" information sheet on the [ACC website](#).) This is incredibly unlikely if daddy only wants a couple of shots of Tiffany's solo!

Let's be honest though, many of these bans are rent-seeking in disguise. Organisers try to prevent people from taking photographs by claiming "Child Protection Issues". Yet a visual record of the event is still required, so they hire their own photographers. Now guess who pockets the sales of these official videos and prints?...

Then there is the vexed issue of sporting clubs trying to prevent parents from photographing their own children during Saturday morning games. For example in 2007 the **Australian Sports Commission** released an "[Acquiring and Displaying Images of Children](#)" information sheet regarding photographs of children at sporting carnivals. Although an interesting read, their recommendations were not legally enforceable. What made the ASC Guidelines noteworthy however was that [Soccer NSW](#) adopted them as policy for a few weeks in 2007...

2007 Soccer NSW photo ban

In May-June 2007 I received a few e-mails from concerned parents and soccer officials about attempts to prevent parents from photographing their own children at weekend soccer matches.

It transpired that [Football NSW](#) had aggressively adopted the suggestions in the ASC Child Guidelines (see above). Behaving as though the guidelines were law, FNSW issued a directive to all NSW clubs that henceforth *all* "unauthorised" child sports photography was forbidden.

Thankfully due to behind-the-scene efforts by **Christian Wright** and **Bob Kershaw**, this Policy was quickly rescinded in late May 2007 and the status-quo reinstated: ie. *photography is no longer banned at NSW Soccer matches*. If an official still tries to prevent you from taking (legitimate) photographs, then direct them to contact [Michelle Hanley at Football NSW](#). Of course security personnel at sporting arenas may still prevent you from taking pictures, but that is a "private property" issue (see [discussion](#) above).

Offensive Behaviour

If photos are taken, without consent, "to provide sexual arousal or gratification", the photographer may face criminal charges under [Section 21G](#) of the **NSW Summary Offences Act 1988**.

Thankfully 21G does not really apply to candid photography, as its language is clearly aimed at perverts and creeps. Its scope is specifically limited to (a) photographs of a "sexual nature"; (b) taken without consent and (c) taken in places where subjects have a "reasonable expectation of privacy" (such as toilets, showers, changing rooms, enclosed backyards etc.).

So a photo of a semi-naked person on a public beach, even if it was a "perve" shot, would still be beyond the scope of the Act because it would [fail the "privacy" part of the 21G test](#). (See also ["beach photography bans"](#) discussed below...)

OTOH if the photographs are indecent enough, then even if they were taken with consent you may still run afoul of the [National Classification Scheme](#), should you publish them online or in a magazine.

"Upskirting" or "Downblousing"

Ostensibly both infringe 21G because they are done without consent and are obviously sexual in nature. But... if they were taken where subjects could not have a reasonable expectation of privacy (crowds, public thoroughfares etc.), then technically they do *not* violate the Summary Offences Act.

Presumably this is why Police in other states also charge [downblousers](#) with "Improper use of surveillance equipment" — see the voyeurs caught [upskirting](#) at the 2007 Australian Open Tennis Championships on [19th Jan](#) and [25th Jan](#). In Victoria the applicable law is the [Surveillance Devices Act 1999](#), but in NSW we only have the [NSW Workplace Surveillance Act 2005](#), which is carefully limited to employer/ employee relationships only, and not the activities of the public at large.

Thus in NSW we have a Big Loophole, which has given rise to [pointed questions in Parliament](#) and remarks by the LRC in their ["Report 98 \(2001\) — Surveillance: an interim](#)

[report](#)". Clearly it is time [Attorneys-General stopped talking about this](#) and pulled their fingers out!

Meanwhile current NSW law is not completely toothless. In May 2007 Sydney high-school teacher [Robert Ian Drummond was caught with 3000 upskirt videos](#). He was subsequently charged with a raft of sex and obscenity related criminal offences, mostly with respect to minors (he seemed to have a predilection for filming northern beaches schoolgirls). Thus there is plenty of NSW legislation to charge voyeur photographers with, just nothing upskirt or downblouse specific.

National anti-voyeurism legislation?

Owing to the child-photo antics of [Paul Michael Bartram](#) in Queensland, amendments to the [QLD Criminal Code 1899](#) were introduced in November 2005, via the [Justice and Other Legislation Amendment Act 2005 No.70](#).

[Part 10, s.55](#) of the amending Act established new offences to broaden the existing "*Indecent Acts*" law: **s.227A** "*Observations or recordings in breach of privacy*" and **s.227B** "*Distributing prohibited visual recordings*", with s.227A(2) specifically targeting voyeurism and "upskirting".

To allay fears of inadvertently criminalising candid photography, 227A(2) is specifically limited to "... *the observation or visual recording made for the purpose of observing or visually recording the other person's genital or anal region*" (emphasis added). This would exempt everyday shots of people in crowds or bars or at the beach.

The rest of Australia should keep an eye on this, for the [July 2006 SCAG meeting](#) noted their intention to adopt the "Queensland model" for nation-wide anti-voyeurism laws.

Commonwealth Trade Practices Act

There are two ways for a person to prevent the "commercial use" of their likeness without their consent: either by the **Common Law Tort of "Passing Off"**, or else via the Unfair Practices portion of the [Commonwealth Trade Practices Act 1974](#), (Part V — Division 1 — [Section 52](#) and [Section 53](#)).

Passing Off

This is where you sue someone for appropriating your name or likeness to sell their product. There are a number of famous cases — eg. **Henderson v Radio Corp** [1960] S.R. (NSW) 576 or **Hogan v Koala Dundee Pty Ltd** (1988) ATPR 40-902 — but the basic point is that you initiate court action(s) to prove you have suffered monetary loss by someone else's misappropriation of your reputation. Needless to say it only makes sense to do it if you are famous, for not only is litigation ruinously expensive, but you also have to prove you have a substantial enough reputation to damage. The good news is that if you win, you can receive serious compensation for losses you have sustained.

TPA Unfair Practices

Unlike Passing Off you don't launch an action against the offender, but rather complain to the [ACCC](#), who investigate the infringement for you. If they decide to launch legal action, then

they have all the resources of a major Commonwealth Department to chase the miscreants down. [And they don't take prisoners.](#)

At the end of the trial(s) the offender may have to pay court costs, fines (up to \$1M for corporations or \$200K for individuals), destroy the offending material and/or pay for advertising space to publish corrections or apologies. Keep in mind that you won't see a cent of this, as all compensation is paid directly to the ACCC. If you want damages then you have to launch the s52/53 action yourself.

Are unauthorised photos actionable?

They are, but it took the courts a while to agree. Initially the "**Honey Case**" ([Gary Honey v Australian Airlines \(1989\) 14 IPR 264](#)) found — by some rather oblique and pedantic logic — that the mere unauthorised use of a person's photo was *not* enough to construe "endorsement". Ditto the first "**Perkins Swimming Cap Case**" ([Talmax v Telstra Corp Ltd \[1996\] QSC 34](#)).

Luckily these narrowly legalistic interpretations were reversed on appeal in "**Perkins II**" ([Talmax Pty Limited v Telstra Corporation Limited \[1996\] 2 Qd R 444](#)). Henceforth commercial use of a person's photo without their consent *can* be an infringement of the TPA.

Do you have to be famous?

On the face of it s53(c) does not care. If someone "*represent[s] that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits they do not have*", then they have infringed the Act. Yet a review of case-law, mainly featuring musical and sporting personalities, tends to suggest otherwise. See remarks by Clayton Utz solicitor [Nicholas Tyacke](#), along with remarks by [ArtsLaw](#):

The mere use of a person's image is unlikely to be found to mislead or deceive under this area of law unless that person is a celebrity or well known endorser of products. If a person is well known by the public as an endorser of products then the unauthorised use of their image in connection with a product may constitute misleading and deceptive conduct. This is because the public would be lead to believe that the celebrity is endorsing the product.

I would argue differently. If you follow the above logic then there is nothing to stop a company from exploiting any non-famous person's image for unlimited financial gain. Someone could take a photo of your mother and — without her permission — put it onto millions of cake-mix boxes. Likewise a candid snap of a girl on a beach could be freely used for a national billboard campaign for tampons. Forever.

There are good reasons why this has not happened. Marketers are fully aware that the ACCC has a hair-trigger about this sort of thing. Legalism aside, the practical application of Australian TPA law is no different to that in any other civilised country: you cannot make commercial use of any person's likeness without their consent. [Ecce Nestlé](#).

What is "commercial use"?

In a photographic context, "commercial use" does *not* mean the sale a picture, but rather the use of a person's likeness to endorse some product or service, or to entice others to buy it.

A few examples to make this clear:

- A photographer displays photos on their website and offers prints for sale. **Non-Commercial** — **they are merely selling individual photographs, not using the people in them to endorse any product or service.**
- A wedding photographer shows samples of their work on their website. **Commercial** — **they are using images of people to endorse or sell their wedding photography services.**
- Fizzy drink manufacturer runs a magazine-ad featuring a candid photo of someone drinking a can of their product. **Commercial Use** — **they are trying to sell a beverage. Requires a signed Model Release.**
- Telephone company "re-purposes" editorial photographs of an Olympic swimmer or people being rescued from floods, for use in ad-campaigns. **Ditto** — **they are trying to sell phone services.**
- [National Tourist body holds a competition](#) to solicit photographs of people enjoying Australian scenery, for use in an ad-campaign. Despite carefully worded indemnities in the competition rules, this is still **Commercial Use** — **they are trying to sell tourism services.**
- Art exhibition sells prints or posters or postcards. **Non-Commercial** — **they are not selling anything other than the photo itself.** (However it will become a "commercial use" if the posters are used to entice people to visit the show.)
- Photographs are sold for publication inside a book or magazine, but not as part of an ad. — eg. monographs, editorial illustration, celebrity gossip, tutorials, how-to articles etc. **Non-Commercial.**
- A photograph is published on a book or magazine cover. **Commercial** as the image is used to entice people to buy something, in this case the book or mag. (BTW this is why you almost never see candid-people photos used as magazine cover illustrations.)

Remember, the mere sale of a picture itself does not make its use "commercial". *A person's likeness has to be used in such a way that it appears they endorse some product or are trying to entice others to buy something.* Which ultimately makes sense, as photographers sell thousands of people-images to newspapers and magazines every day. Ditto the publications themselves, who legitimately sell thousands of people-images directly to the public (eg. [Fairfax](#) or [News Limited](#)).

For more discussion about "commercial use" in a photographic context see: the [ASMP Model Release Tutorial](#); the UK and Ireland Editorial Photographer's article on [Creative Commons](#); Carolyn E Wright's [PhotoAttorney Blog](#); Dan Heller's (long) [Model Release Primer](#); and Sarah Skinner's article on the [Salome Belly Dancing website](#) (!)

Posting photos of old school friends on your website is okay, but you are asking for trouble if you try to use the images commercially...

Commercial Use case study: Virgin Mobile "areyouwithusorwhat?"

In June 2007 Virgin Mobile Australia launched an "[exciting and impactful](#)" multi \$100K billboard and internet campaign to tout their SMS-TEXT services in Australia. What made it [noteworthy](#) was that they illustrated their ads with "creative commons" pictures appropriated from **Flickr**, *without* the photographers' knowledge or permission. A lot of the images also featured close-up and clearly identifiable depictions of people (eg. [Molly E. Holzschlag](#) or [Alison Chang](#)), again without their knowledge or consent.

Despite assertions the photos were used legitimately via Flickr's "creative commons" license, the fact is Virgin never obtained consent from any of the people shown in the ads: the license [only applied to the photographer's copyright](#), not the subject's consent to use their likeness. Thus: (1) the images were used to sell products and services and (2) photo-subject consent was never obtained. Consequently the ads appeared to be in direct contravention of the TPA, and considering the magnitude of the campaign, prompt action could then be expected by the ACCC to injunct and fine the things out of existence.

Or so it would seem, except for one serious problem — either by accident or design *the people-photos were not taken in Australia and neither the photographers nor subjects were Australian citizens*. Which put them beyond the scope of the TPA or any other Australian legislation! If the photographs were taken here, then the subjects would have a case. If they were taken overseas of Australian citizens, again people might have a legitimate complaint. But foreign persons + foreign photographers + foreign locations?... Nyet.

(Mind you [it has not stopped Ambulance Chasers from trying](#).)

Luckily the campaign [created such an international fracas](#) that Virgin Mobile had to act. Despite the letter-of-the-law compliance, on July 25th the ad-copy was reworked and [all identifiable images of people were removed](#). Furthermore, a few weeks later Virgin Mobile then [abruptly terminated the campaign](#) and ghost-towned the [website](#).

So in case you missed it, the moral of this story is: *Always Get A Signed Release From Any Person Whose Image You Wish To Use In Advertising!*.

Sample Model Release forms

See the following URLs for examples of Australian release forms. Use them as a guide when creating your own:

- Book Design Australia [Model Release](#)
- Queensland UTS [Release Form](#)
- Australian Portraits [Talent Release form](#)
- Arts Law Centre of Australia [Photographer's Release](#)

What about Property Releases?...

Broadly speaking, Property Releases are *not* required to photograph buildings or private land in Australia. See the Arts Law Centre "[Do I need a Film Location Release?](#)" web page and also [further below](#) for architectural photography copyright exceptions.

NSW and Commonwealth Privacy Acts

Owing to federal/state jurisdiction and constitutional issues, both federal and state Privacy Acts are limited to the regulation of Government Departments and corporations (and even then, only those with an annual turnover of more than \$3 million).

Therefore current privacy legislation does not apply to the taking and display of photographs by individuals.

As [the NSW Privacy Commissioner noted](#) in 2004:

Privacy laws, which deal with the handling of personal information, don't generally regulate the behaviour of individuals.

Even if legislation was extended beyond corporations and departments, "candid photography" would still fall outside its scope, for current law is aimed at the collection, storage and transmission of public records (such as address, health, credit reports or financial details etc.), and not the blanket concealment of people's intimate lives — see this [Commonwealth Privacy overview](#), as well as the [index of Federal Privacy Commissioner cases](#).

Occasionally Privacy Commissioners attempt to insert general photography into the Act's scope — so far without success. For example on the [Federal Privacy Commissioner's website](#), you will find a bland statement that photography *is* covered by the Cth Act. Unfortunately they fail to specify just what kind of photography (editorial, candid, personnel records?). Similarly in 2000 there was an attempt in Hong Kong to [broaden Privacy Legislation to include photographs](#) — it failed.

In 2005 the *Commonwealth Senate Legal and Constitutional References Committee* conducted a thorough review of the *Commonwealth Privacy Act* 1988. [In June 2005 they published their report](#). Despite rumours of restricting certain kinds of photography due to [fears raised by camera-enabled mobile phones](#), the 186 page report barely mentioned photography at all, and even then only in a medical record or biometric security context.

Meanwhile state attorneys-general and privacy commissioners regularly circulate papers calling for restrictions on all "unauthorised" photography (eg. [2005](#), [2006](#)). Luckily things have not gone that far — yet. For as many commentators have remarked for many years, the Privacy Act is thankfully *not* a defacto Secrecy Act.

What about **Press or Privacy Council guidelines**? Frankly they don't apply to non-members or (again) individuals. At best they are recommendations only, not enforceable obligations arising out of Law.

2006-8 LRC Privacy reviews

In 2006-8 both the [NSW Law Reform Commission](#) and the (federal) [Australian Law Reform Commission](#) reviewed the current state of Privacy law. Both produced lengthy papers which, among many other things, proposed the creation of a **Statutory Cause of Action for Breach of Privacy** to protect individual privacy rights (eg. [NSWLRC Proposal #7](#) and [ALRC 108, Recommendation 74](#)).

To balance "freedom of expression" concerns raised by artists and the media, both LRC's also recommended the creation of a "Public Interest" defence to use as an exception to new privacy right. Thus if you film a person or publish photos of them on the internet, without

their consent, then it is proposed they would now have statutory rights to take you to court for "Breach of Privacy". In order to avoid damages or injunctions, you would have to argue that your actions were "in the public interest". A sad development this: it took decades to get rid of the hopelessly subjective "public interest" test in NSW [Defamation](#) actions, now lawyer-academics want to bring it back for Privacy...

Thankfully Law Reform Commission proposals are only speculative recommendations by academics, and are a long way from becoming law. It is also important to remember that Law School bookshelves groan with LRC reports which were never implemented. Nevertheless in April 2008 [The Australian newspaper reported](#) that the new Federal Labor Government *were* considering adopting the bulk of the LRC reform proposals. Wait and see...

(Presumably this is why Google Australia [rushed into photographing](#) their "[Google Maps Street View](#)" panoramas of Australian cities in November 2007. Even if the LRC Privacy recommendations are eventually adopted, it is unlikely they will apply retrospectively.)

Meanwhile [see below](#) for more detail on the Australian Law Reform Commission report released in August 2008.

Abuse of Privacy examples

For those who [worry about invasion of privacy](#), have a look at how professionals *really* do it:

(1) CCTV Public Surveillance

Let's get the obvious one out of the way quickly. Every time you [walk into a bank, railway station or supermarket](#), you are photographed by [CCTV Surveillance cameras](#). Every time you walk across the Harbour Bridge or go to the [cricket at the SCG](#), your snapshot ends up on a disc. Visiting the Sydney Casino? Look up and wave at the dozens of high-rez cameras watching you from the ceiling.

Like most global-economy cities, it is impossible to go five minutes in Sydney and not have your photo taken without consent. And do not imagine they are low-rez B&W shots typical of 1980's technology. Think instead of close-up zooms of your face (or bust or crotch), in colour, from any angle.

(2) Australian-Records website

[For only \\$AUD 46](#), *"you will have access to complete research tools for obtaining private information about practically anyone from the privacy of your own home or office"*. Thus you can do unlimited searches on anyone to see their Criminal and Court Records, Marriage and Birth certificates, or even reverse-search on phone numbers, car license-plates or e-mail addresses. How very handy. See a busty MILF drive past in a Subaru WRX? Note down her license-plate and look her up online, From The Privacy Of Your Own Home Or Office...

(3) MySpace and Facebook

Social networking sites offer a free and easy way to set up web pages and keep in touch with friends. But first you have to register, whereupon you need to supply details of your name, age, education, address and — most importantly — favourite film, TV, music, book and food preferences etc.

Therein lies a marketers' El Dorado. Countless millions of twentysomethings conscientiously scribbling about their favourite brands, just begging to be sorted and analysed by people in black skivvies.

Some kids are savvy about this and intentionally give false biographical detail (eg. "widow, 72, pensioner"), while others [block access to their pages](#) to "non friends". Unfortunately most aren't so cautious, so they chat and post in the open, much to the brand consultants' delight. Facebook also has a habit of [de-registering false profiles](#), along with [aggressively selling their data behind the scenes](#), so you are [forced into playing their game](#) even if you don't want to.

(4) IP address tracking

Every computer on the internet [must have a unique IP address](#) (eg. yours is "122.108.190.103"). This is required by networked machines so they can identify themselves when passing messages — ie. "packets" — between each other. They are built into the [TCP-IP header](#) of every packet, and cannot be suppressed or (easily) faked. Which means your computer's IP is exposed every time you access a website, do a web-search, buy something online or post a comment to a blog. Although by itself an IP is just an anonymous number, interact with a website often enough and the webmaster can assemble a detailed profile of your computer's visits (how do you think Amazon or Google target their advertising?).

The good news about IP tracking is that it [lets the police nail evil-doers](#). It also lets server-guys study and [optimise website traffic](#). But tracking also has privacy implications in that it is done without your knowledge, and that your *every* move on a website is exposed and can be recorded, whether you like it or not. The sheer intrusiveness of this can be staggering. Do a [Google search](#); post a SMH comment; browse for books at Amazon; or even visit a girlfriend's MySpace page... and your IP address, the time of your visit, anything you write and all the pages viewed will be [stored for later analysis](#).

(5) Global Shunning

He-said-she-said and a teenage girl [commits suicide](#). A neighbourhood family is implicated but no charges are laid. Outraged friends/ citizens/ weekend-vigilantes start a campaign to ostracise the people they think responsible. So far so ordinary, except this time it has a global reach. Every detail of the accused family (photos, address, business clients) is published online for the entire world to gawk at and abuse, *ad infinitum*.

Having your photo taken on a public beach is one thing, but having your [name, age, home address and exact GPS co-ordinates published on "rottenneighbour.com"](#), to act as an lightning-rod for *millions* of angry people, is something else.

(6) The valuation page at "My House Value"

Under the guise of providing free home valuations, the online estimator at [My House Value](#) insists you give your full name, address and contact details. Now read their (well concealed) [terms and conditions](#):

[...] We advise that myhousevalue.com.au Pty Ltd may, from time to time, receive a fee for providing your personal information to real estate professionals in your area [...]

... and then admire their "[privacy policy](#)":

[...] You invite Us and Our sponsors and agents to use Your personal information for marketing purposes. This includes contacting You by telephone, mail or e-mail to discuss products and services [...]

If this isn't personal-data harvesting to generate leads for Real Estate Agents, and thus outrageously against the spirit and intent of Privacy guidelines and legislation, then I'll eat my/ your/ everyone's hat.

Defamation

Until the introduction of nationally uniform defamation laws on January 1st 2006, even lawyers considered Defo a [hopeless quagmire](#). Thankfully the new [NSW Defamation Act 2005](#) (and its state equivalents) has — finally — swept away the judicial waffle and archaic dross.

Relatively speaking it is still early days, so the law has yet to be rigourously tested (eg. see [Channel Seven Adelaide Pty Ltd v Manock \[2007\] HCA 60](#) and [Bingle v Emap Australia \[2006\] FCA 1704](#)). There is also little commentary online; for the moment see this [ABC Mediawatch 10th April 2006 transcript](#), or this March 2006 [overview by AAR](#). Meanwhile "[Perfecting Polly Peck: Defences of Truth and Opinion...](#)" by Andrew T Kenyon is also worth a look for its detailed analysis of "Truth" as a defence.

Meanwhile, how does the new legislation impact on photographers?...

The truth will (finally) set you free

For decades in NSW you also had to show Public Interest if you wished to claim Truth as a defence. Not any more. Thanks to the new [s.25](#) and [s.26](#), "truth" alone is now sufficient. Which means provided you stay clear of re-enactments, digital mayhem, unflattering captions or Lara-Bingle-speech-bubbles, it will be extremely difficult to construe "straight" photography as defamatory anymore. Hence the notorious penis photographs in *Ettinghausen v Australian Consolidated Press* would *not* be actionable today.

Claimant must have a "reputation" to defame

Defamation is ultimately a form of censorship to protect the interests of the Ruling Elite, not those of the general public. This principle has been enshrined in the new [Section 33](#) defence of "Triviality". So if a mere commoner objects to your photo, then it is unlikely they will take it further because they lack a substantial enough reputation to damage. Poke fun at the nobility however, and you can expect a lot of trouble in a very short space of time. (Oh how I wish I was kidding here...)

Universal Jurisdiction

Keep in mind that thanks to the controversial 7-0 decision in [Dow Jones & Company Inc. v Gutnick \[2002\] HCA 56](#), you may be still be liable for defamation in Australia even if you publish your content overseas, or on the remote planet where High Court Justices live.

Do Unto Others...

Legislation and case-law aside, use a little common sense. Whenever you take a photo of someone, ask yourself is it the kind of thing you wouldn't mind others taking of *you*. The

bloke picking his nose; the other scratching his crotch; the [Bogan](#) shrieking at her kids... Ask yourself: do you really need to humiliate people to make a point?

When does irony and social criticism cross over into something less benign?...

Copyright?

Alongside ignorance about the Privacy Act(s), one of the [commonest misconceptions about photography](#) is that it can be prevented "due to copyright". This is incorrect — no part of the Copyright Act prohibits any kind photography! Copyright [only applies to the published duplication of original works](#), such as books, paintings, dramatic works, prints, drawings, motion pictures, DVDs, audio recordings etc.

In Australia still-photographs of 3D objects such as performances, buildings, statues or interior spaces (and the people in them), generally *cannot* infringe copyright, as one-off images cannot reproduce a substantial enough portion of the original work. The only way to infringe copyright in these cases is to create a sufficiently similar 3D copy, or with respect to dramatic works, lengthy video recording (eg. see the "Choreography G072" information sheet on the [ACC website](#).) The same kind of thing applies to the ["performers' rights"](#) of actors or musicians during a performance — it is almost impossible to infringe these by merely taking an occasional still photograph. (FWIW many thespians and producers disagree with me on this point — see the Aug 2007 discussion at [Theatre Australia](#). All I can say is: download and read the relevant [ACC information sheets](#)!)

All these principles have been adopted by the [Commonwealth Copyright Act 1968](#). See for example Part III — Division 7 "*Acts not constituting infringements of copyright in artistic works*", especially [Section 66](#):

The copyright in a building or a model of a building is not infringed by the making of a painting, drawing, engraving or photograph of the building or model or by the inclusion of the building or model in a cinematograph film or in a television broadcast.

Thus due to our s.66 exemption, the internationally notorious [SABAM Atomium building copyright heist](#) would be very difficult to mount here.

Furthermore according to [s65 of the Act](#), a similar kind of exemption applies to photography in publicly accessible places where sculptures or other copyrightable "works" are displayed.

So when a Sydney Opera House guide or a Paddys Markets Wigs-stall owner waves their arms and rushes towards you yelling: "You cannot take photographs because of Copyright!" — smile and shake your head, because they have *no* idea what they're talking about :?)

Outwitting security guards to take photographs of the Sydney Opera House can be a serious test of resourcefulness (360° image, requires QuickTime)...

For further discussion about Copyright in an Australian context, see the [Information Sheets index on the Australian Copyright Council \(ACC\) website](#). In particular see the "Duration G23" and "Photographers G11" publications, under the "D" and "P" index headings.

Finally, unlike [The United States or England](#), there is [no need to register Copyright in Australia](#) for an author's copyright to vest.

Ownership sidebar

Since 30 July 1998 the *photographer* owns full copyright in their images, even if they were commissioned by a third party (see [ACC information sheets](#) "G058" and "G035"). There are a couple of caveats though. By [Section 35\(4\)](#) of the Act, copyright is owned by your employer if the image was taken as part of your job. Alternatively by [Section 35\(5\)](#), if the photograph was commissioned (by agreement and for money) for a "private or domestic purpose" — such as a family portrait or wedding or birthday party — then the *client* owns copyright, unless there is agreement to the contrary.

This exception is not as arcane as it seems. Say you were invited to take photographs at a childrens' birthday party. The "[Alpha Mom](#)" pays you \$50 to cover expenses. You take the shots and one of them turns out to be a once-in-a-lifetime masterpiece. Guess who owns copyright to the image according to s35(5)?...

Not you.

Duration sidebar

Australian copyright law changed radically after signing the [Australia-USA Free Trade Agreement](#) in May 2004. Of particular interest is the situation which now applies to photographs taken prior to 1955. Due to the AUSFTA, [all such images are now deemed to have their Copyright expired](#) . (See also p.4 of the "Duration G23" ACC publication above.) Which means for example, that [Frank Hurley's](#) or [Max Dupain's](#) best work, and all of [Harold Cazneaux's](#), are now in the public domain and can be freely reproduced and sold without license (!)

Trademark protection?

What if you take a photo of a person wearing a T-Shirt or standing in front of a poster which has (say) the Nike or Coca-Cola logo? Can the corporation take action to prevent you from infringing their [trademark](#)?

Generally speaking in Australia, they cannot. Everything hinges on the *context* of how your photograph is used. If it is shown on a website photo gallery or printed in a magazine as part of a monograph, then there should not be an issue as the mark is not used for goods or services in respect of which the trademark is registered. If however the image is used commercially on (say) a T-Shirt, and the corporate logo is prominent enough, then there may be cause for the trademark owner to claim dilution of their brand, since — for example — Nike or Coke sell T-Shirts too. See this [Bond Law Review article](#) by Lynne Weathered, and also the remarks by Lien Verbauwheide on the [WIOP website](#) and the [Trademark Basics article](#) by Lloyd J. Jassin.

Alternatively, can someone prevent you from taking photographs because they have registered a trademark in a cityscape or building? Looking at [famous USA examples](#), this appears very unlikely. See for example the failed attempts to trademark the [The Rock Hall of Fame](#), or the [Lone Cypress](#) at [Pebble Beach golf course](#).

It is partly because of the above failed cases that the "[H.R.683: The Trademark Dilution Revision Act of 2006](#)" was [passed by the US Congress](#) in April 2005.

In January 2008 Ford USA became the first corporation to flex their new trademark muscles. When they learned the [Black Mustang Club](#) wanted to publish a wall-calendar featuring photos of Ford motor vehicles, they sent in the lawyers. There was no argument over the copyright of the images (they were legitimately taken by the club), Ford merely argued they own intellectual property over the look and appearance of their cars — see [this overview](#) on the BMC discussion forum. Thankfully a week later Ford realised the international damage they inflicted their brand. Panic + Meetings + Mea Culpa + Press-releases = [BMC were free to publish their calendar again](#).

It is difficult to take a casual photo in an urban environment and not include someone's brand. Thankfully Australian Trademark law has not developed as aggressively as in the United States...

Beach candid "banned"?

This was a Hot Topic in 2005. It arose from the [arrest, guilty plea and \\$AUD 500 fine](#) imposed on Peter James MacKenzie in November 2004, for secretly photographing topless women with his mobile-phone camera on Coogee beach.

In the following months there was a lot of concern and commentary about this (I was even interviewed off-air by a producer of the 702 ABC Sydney morning radio program). Although most critics considered PJ's actions offensive, even legal academics agreed that [people could not expect any sort of privacy on a public beach](#). Furthermore, many worried about the incident's broader implications in [perhaps banning all candid photography on Sydney's Beaches](#).

Luckily things never went that far. Wiser and cooler heads prevailed. When in February 2005 a couple of university students — Gaur and Singh — were similarly charged for (again) taking mobile phone photographs of topless girls at Coogee beach, Police prosecutors this time withdrew all charges, and on April 5th [Magistrate Lee Gilmour formally dismissed the case](#).

That's the good news, the bad is that on certain high-profile beaches, Police officers, council rangers and surf lifesavers still remain photographer adverse, if not downright hostile. This was illustrated by the [extensive questioning of Rex Dupain by four Police officers in December 2006](#), for attempting to photograph sleeping backpackers on Bondi beach. Luckily after 25 minutes Mr Dupain was released and had his confiscated camera returned.

At least the controversy has put photographers on notice to Behave Themselves. In Australia there may be tremendous freedom to photograph whatever you like, but if you "do a PJ" and creep the length of a beach, [taking close-ups of people's crotches or breasts](#), then also be prepared for an "[Alright Officer, I'll come quietly](#)".

Surf Life Savers ban photography?

In November 2005 there was a flurry of indignation when the [Sydney Morning Herald reported](#) the SLSA wished to "ban" beach photography, especially at surf carnivals where young swimmers ("nippers") were involved.

A few weeks later Shellharbour photographer **Barry Daniel** contacted **Sean O'Connell**, [Surf Life Saving Australia's](#) Communications Manager, for their view on the media coverage. The following was Mr O'Connell's (edited) response:

[... November 29th, 2005 ...]

The story in the Herald did not quite state our position correctly.

We have [made a submission to the Standing Committee of Attorneys General](#) who are currently reviewing the issue of unauthorised imagery on the internet. Our position is that while we support the rights of legitimate photographers and have no wish to hinder them, we also have a responsibility to our youngest members. Our submission contained a draft photography policy which would inform our members of their rights and responsibilities in this area. Generally our advice is that if our members are concerned that inappropriate photographs are being taken, they should report the person to the appropriate authority.

In any event, we are now waiting for the outcome of the inquiry to finalise our policy and I will certainly [communicate the decision] when the outcome is known.

So the SLSA's "ban" on beach photography was merely a submission to a Cth government discussion paper — nothing more.

SLSA Photography Policy (draft)

In March 2008 the SLSA finally circulated a draft copy of their much anticipated Photography Policy. To the surprise of many the language in the draft was quite moderate and reasonable. Indeed the initial paragraphs read like a summary of the arguments presented in this photo-rights article!

A discussion topic on the policy has been created at DPReview.com. See there for commentary and also to download a copy of the draft in PDF format.

Surf Life Saving Queensland Photography Policy

While (still) waiting for SLSA to finalise their photo policy, have a look at the policy concocted by SLSQ in March 2006. See their [downloadable PDF file](#), listed on their [Policies](#) page.

Hmmm... take a pinch of misunderstood Child Protection issues and add liberal amounts of Paranoia, Rights Grab and Fascism... Time for a reality-check guys. We know some Clubbies like to believe they own the beach and everything that happens on it, but I hope SLSQ are aware their Photography "Policy" is little more than an ambit claim. It is totally unenforceable on non SLSQ members with respect to activities which take place on public land.

Council Bans on photography

Waverley Council

Thanks to PJ's infamy, in late 2004 Waverley local council tried to ban all "unauthorised" photography at all of its beaches (Bondi, Coogee etc.). To the council's dismay, this caused tremendous uproar, with many reminding the Council that, er, they didn't quite have the right to prohibit any photography in public areas! Only the NSW State Government can do this (and politically it is unlikely they ever will).

A couple of weeks later the Council reluctantly agreed. On January 16th 2005, Deputy Mayor [George Newhouse](#) admitted during a 6pm [Channel 7 Sydney TV news](#) report that, yes, it *was* impossible to ban photography on public beaches. Nevertheless, [the council were going to try to restrict photography anyway](#) by giving Surf Lifesavers the right to ask certain "unauthorised" photographers to leave the beach.

No problems with that, but it turned out to be a moot point anyway, as the council failed to pass the anti-photography motion in early February 2005.

However as recently as December 2006, Waverley Council still seem to be pushing an anti-photography agenda. Following the [Police seizure of Rex Dupain's camera on Bondi Beach](#), it transpired Waverley now insists on photography permits for \$160 — an hour. Sigh. It appears they need to be reminded about the illegality of such "permits" for *public* (ie. NSW State owned and controlled) land...

Bondi Beach has practically become a photographer's no-go area. Things were already tense in 2003 when I took this shot of young girls mucking around in the sand. Nowadays I would not even dream walking along the beach with a camera...

NSW P&C Association

On February 21st 2005, Ms Sharryn Brownlee, then president of the [Federation of Parents and Citizens' Associations of New South Wales](#), recommended [parents should be required to obtain permission](#) whenever they wish to photograph *their own children* at school swimming carnivals, plays, concerts or sport days.

Shades of [Maude Flanders](#) and another public backlash. By lunchtime Ms Brownlee backed down, claimed she was "misquoted", and then pulled her head in and went away.

Randwick Council

A day after Sharryn's Retreat, Randwick council stepped into the fray. Taking their cue from Waverley Council, Randwick passed a motion [banning parents from taking photographs of their own children](#) at *council owned* swimming pools. If parents wanted pictures, they would have to buy them, at \$5 a print, from council or school accredited photographers.

Public Uproar III. This time Mayor Murray Matson stood his ground. His colleagues — didn't. Support for the measure wavered and then evaporated. A few days later a new meeting was held, a rescission motion was passed, and the [policy was officially suspended](#) pending a report by Council Officers. No prizes for guessing its re-adoption was *not* recommended.

You have to hand it to Randwick though. Unlike Waverley they were smart enough to limit the prohibition to *council property* only, and not general public land. This would have made court challenges very difficult, for property owners have broad rights to restrict whatever happens on their land (see [discussion above](#)). That's very clever. Not coincidentally, it was also a handy way to turn a quick buck (\$5 X thousands of children = a nice little earner).

Council digital camera use

Many councils attempt to prohibit "unauthorised" photography on the basis of "privacy" or "protecting children", but interestingly they have no qualms when taking candid photos themselves.

In March and June 2006 a number of reports appeared (eg. [ABC Sydney](#), [Sydney Morning Herald](#)) noting that many councils equip their officers with digital cameras to record parking hazards and infringements; traffic violations; illegal rubbish dumping etc. It was claimed such photography was done for evidentiary purposes, to make proving cases easier should council fines be challenged in court.

Okay — but people who appear in such images have obviously not had their permission obtained. Indeed most pictures were taken surreptitiously to prevent alleged malefactors from being alerted. In which case, isn't this identical to the kind of "unauthorised/ invasion of privacy" activity councils wish to ban in the first place? Or is their idea of "authorised" carefully limited to only mean "authorised by *them*"?

Or to put it more cynically, maybe it is just another bureaucratic example of: "*When revenue is at stake — do as we say, not as we do*".

Other Restrictions

What about **NSW recording devices** or **work-place surveillance** legislation? Neither apply as the former is limited to sound recordings and telephone taps, whereas the latter is only concerned with the misuse of surveillance cameras in places of employment. What about "[performer's rights](#)"? In this case we have a [copyright issue](#), dealing with the recording performances by musicians and actors — hardly relevant when taking the occasional still photograph of everyday people.

Keep in mind **court orders prohibiting photography** and/or the publication of images can also be obtained in **child custody and protection matters or witness protection**. I personally encountered this while taking general photographs of a [spectator crowd at a football match in July 2003](#). After a few shots, a woman screamed at me and ran 50m down stairs demanding to know who I was, why I was taking pictures etc. It turned out a seven year-old in her custody was subject to a child protection order, and photographs of him were prohibited by court order. No problem, I made a note and used a different image. Couldn't help wondering though about the wisdom of taking such a child to a public event bristling with cameras and media coverage...

Here's a tip from an old photographer: do not attend large public gatherings if you don't like others taking your photograph...

The overseas experience

A worldwide review of photo-privacy law is well beyond the scope of this article. For a general introduction, see the excellent [overview of Privacy law in various international jurisdictions](#) by the *Hong Kong Law Reform Commission* (2004).

New Zealand

Arising out of the *New Zealand Bill of Rights Act* 1990, in 2004 there was a watershed case ([Hosking v Simon Runting](#) [2004] NZCA 34) which found that in some circumstances photography in New Zealand *could* be an invasion of privacy. It was a fascinating departure from existing NZ law, and has subsequently been reaffirmed and even extended by [R v Rowe](#) (CA 374/04, 18 April 2005). Thankfully neither case has any application in Australia as we do not have an equivalent to the *NZBoRA* (outside of Victoria). It is something to keep an eye on though, as photo-ban advocates keep referring to it in a hope it will influence the development of Aus. privacy law.

Canada

In Canada, photographers are still coming to grips with the [Aubry v. Éditions Vice-Versa \(1998\) 1 SCR 591](#) decision, where [Gilbert Duclos](#) had to pay damages to a subject in one of his candid pictures ("Pascale-Claude Aubry", then 17, sitting on the steps of Scotiabank) for "invading her privacy". The [image was used to illustrate an article](#) "Inside and Outside the Glass house" by Giose Rimaneli, in the [Issue #24 June 1988 edition of Vice-Versa magazine](#) (see also [this Aug 2005 article in the Montreal Mirror](#)). Many argue the precedent only applies in Quebec, but read the judgement, the Supreme Court's language is far broader than just another Anglo-hating Quebec thing (see "[Privacy : a New Trojan Horse?](#)" (1998) by Marie-Philippe Bouchard, Senior Legal Counsel for the CBC, along with Eric Swetsky's article in [Marketing Magazine, Aug 1998](#)).

For a brief summary of Canadian photographer's rights, see the [overview put together by Ambient Light](#).

USA

Attorney [Bert P. Krages II](#) is the man to consult here. Both his PDF summary "[The Photographer's Right](#)" (2003), along with his book "[The Legal Handbook for Photographers](#)" (2002), cover every possible aspect of photographer's rights in the USA. A slightly more recent (Dec 2005) "[Legal Rights of Photographers](#)" summary is also available by [USAToday.com](#) columnist [Andrew Kantor](#). Ditto the National Press Photographers Association "[Memo on Photographer's Rights in Public Places](#)" (summary and PDF download, Aug 2005).

For a more whimsical overview, see this "[Land of the Free](#)" column by Mike Johnston. If you are specifically interested in how to respond to Police questions when taking photos in public, see the "[Should Photography be Illegal](#)" article by Jim McGee. Want to know about state-by-state Privacy Invasion standards? — see the "[Photographer's Guide to Privacy](#)" by [The Reporters Committee for Freedom of the Press](#). Finally, for up-to-date news and discussion on USA photo rights, see [<photopermit.org>](#).

In July 2005 photo-consent became a hot issue in the USA, when [Philip-Lorca diCorcia was sued for \\$1.6 million by Erno Nussenzweig](#), for taking his portrait without permission in Times Square in 2001. As you can imagine this [caused a lot hand-wringing](#) by photographers worldwide. Luckily in February 2006 [Nussenzweig lost](#).

England

For a detailed two-page summary of the law as it applies to photographers in the UK, download a copy of the [UK Photographers Rights PDF](#) (2004) by Linda Macpherson. Although Brits have historically tended to be lax on photo-privacy, things tightened after [the murder of Lady Diana Spencer in Paris](#) in 1997. The *Data Protection Act 1998* and *Human Rights Act 1998* [both feature language broad enough](#) to include restrictions on all non-consensual photography — editorial or candid! See the discussion in the [Redeye National Symposium 2004 Report](#), as well as the impact of the **Douglas v. Hello!** (2003) and **Naomi Campbell** (2003) cases, analysed on the [Act Now UK](#) website. Presumably it was the trend in these cases which tipped the appeal judges in favour of [banning photos](#) of J.K. Rowling's two-year old son in May 2008.

France

With the passage of the *Presumption of Innocence and Rights of Victims* legislation in 2001, the publication of any photograph of a person without their express consent is [prohibited in France](#). This applies to *all* photography, and is irrespective of editorial or artistic or personal or advertising use. There is anecdotal evidence that things are even more restrictive in practice, with some members of the public and Police occasionally trying to prohibit people from merely *taking* photographs, which in fact the PIRV law does not ban — only their *publication*! For more information see: "[Droit en photographie](#)" (French), [Time Magazine Europe: June 26, 2000](#); "[France bans citizen journalists from reporting violence](#)" by Peter Sayer, and Tom Stoddart's "Out Of Love" in [Black & White Photography Magazine \(UK\)](#), Issue 3 Aug/Sep 2001 at pp.24-28.

Needless to say, were Kertész or [HCB](#) working in France today, then not only would they be harassed on a daily basis, but their photographs could be censored and even banned from publication in that country. Ah yes, but what about [Luc Delahaye's "L'autre"](#)?... Actually his Paris metro hidden-camera photos were taken in 1995-7 and published in 1999 — a couple of years *before* the 2001 "PoIaRoV" law.

Travel-photographers should remember that some foreign cultures can be amazingly hostile towards photography. For example these unlicensed street vendors in Moscow in 1991...

So much for introductions

What about other Australian States?

Does the information on this page apply to other states, say Queensland or Victoria?

In a nutshell, yes, most of it does. Federal law applies to all of Australia, so sections dealing with Privacy Law and Torts; Trade Practice issues; Copyright; Defamation; Private Land rights etc. apply as much in [Toorak](#), [Brisvegas](#) or [Geraldton](#), as it does in Sydney.

Only areas dealing with distinctly New South Wales issues, such as the NSW Crimes or Summary Offences Acts or attempts by NSW councils to ban photography, are (obviously) NSW specific.

If you only wish to know the law which applies in your state, please do not send me a note. See the [Commonwealth](#) or [State](#) links on the **Australian Privacy Foundation** website, or else study the relevant parts of the 60-page "2005 Cth A-G discussion paper" (see links [below](#)).

NSW Photo Rights Summary Sheet

In collaboration with fellow Australian Photographer [Kolya Miller](#), we have created a two-page summary of the main issues in this article — for you to download, print, and take with you when out on a shoot. It is written from a photo-subject's perspective, and may prove useful when dealing with rent-a-cops, supermarket managers or hostile bystanders.

[NSW Photo Rights Summary](#) (PDF 60k bytes)

N.B. This is a two-page document. If you have trouble viewing it, either right-click to "Save Link As...", or else download the following ZIP compressed version:

[NSW Photo Rights Summary](#) (ZIP 50k bytes)

2006-8 ALRC "Protecting privacy in a wired world" Inquiry

In January 2006 the Commonwealth Attorney-General announced a broad-ranging review of the *Privacy Act 1988*, to be conducted by the Australian Law Reform Commission:

[ALRC 108 — Privacy Inquiry main page](#)

In August 2008 they published their privacy *magnum opus*: "[ALRC Report 108 - For Your Information: Australian Privacy Law and Practice](#)". They have also produced a single-page [media summary](#). Now it is a matter of wading through the three volume, 2700 page document and seeing what parts of it, if any, the government will eventually adopt.

2005 Commonwealth Attorney-General discussion paper

In the meantime, if you wish to read more about Australian photography rights, then download a copy of the...

["Unauthorised Photographs on the Internet and Ancillary Privacy Issues Discussion Paper — Standing Committee of Attorneys-General, Aug 2005"](#)
(PDF 300k bytes)

- [Alternative link](#) at *jcs.act.gov.au*
- [Original link](#) at *ag.gov.au*

The 60-page paper features the most spectacularly detailed analysis of Australian case law and legislation with respect to photography, consent, privacy and the internet I have yet seen! Mind you, responses to the A-G's paper closed in October 2005, so it may eventually be taken offline.

The discussion paper has certainly led to a few interesting responses:

- [Commonwealth Privacy Commissioner](#)
- [Electronic Frontiers Australia](#)
- [NSW Commission for Children and Young People](#)
- [Australian Press Council](#)
- [Arts Law Centre of Australia](#)
- [The "RiotACT" blog](#)

... but it appears the only legislative outcome was to prompt the A-G into conducting yet another review of the Privacy Act in 2006 (see above).

2007 Rights of Photographer's Petition

In March 2007 a [petition was started](#) to advocate for and preserve the rights of Australian photographers to take photos in public places. As you can imagine, over time it has attracted a fair bit of flakiness and heat. See for example [this discussion thread](#) on the **Digital Photography Review Forum** (!)