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Multimedia Victoria  
Department of  
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# Electronic Transactions and Information Privacy Laws

Wednesday, 31 May 2000  
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## *Connecting Victoria*

- ◆ Victorian Government strategy for the ICT sector.
- ◆ Outlines 6 strategies, including “Boosting eCommerce”
- ◆ Develop a legislative environment that allows EC to flourish

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## *Electronic Transactions legislation in Australia*

- ◆ October 1998 - Commonwealth seeks State and Territory agreement to consultatively develop uniform national legislation through the Standing Committee of Attorneys General.
- ◆ Commonwealth ETA passed in December 1999.


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*National Scheme*

- ◆ Uniform State and Territory Bill endorsed by SCAG in March 2000.
- ◆ Victoria and NSW have passed laws that are identical (to the Uniform Bill)
- ◆ Other jurisdictions are expected to follow suit.


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*Aims of the Legislation*

- ◆ The law aims to remove legal obstacles to conducting e-commerce and electronic transactions in general.
- ◆ Law performs 3 functions:
  - ◆ 1. Basic validity rule for electronic media;
  - ◆ 2. Assimilation provisions to remove particular legal obstacles; and
  - ◆ 3. Default rules for time and place of sending and receipt.


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*More Detail*

- ◆ Which particular obstacles? Requirements/permissions in law to give, record or retain information, and to produce or sign a document.
- ◆ Enables these requirements to be satisfied by means of electronic communications, subject to some minimum conditions.


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*Conditions*

- ◆ In all cases, a reasonable expectation that the information would be readily accessible so as to be useable for subsequent reference.
- ◆ In some cases, there must be a reliable assurance as to the maintenance of integrity of the contents. (Integrity= accurate and complete).


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*Examples*

- ◆ Requirement to retain document for audit purposes for 7 years - Can do electronically, to ensure the document is accessible for that period, and maintains its integrity. This can be done through public key crypto or other means of tamper-resistance.
- ◆ Requirement to produce document - ensure that the other person also consents to the electronic form.


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*Differences: Cth and State laws*

- ◆ Victorian Act does not require anyone to do anything, whereas the Cth law requires Cth entities to accept e-communications, subject to any IT requirements.
- ◆ After commencement (1 September 2000), Victorian law will apply to all laws of the jurisdiction, apart from those specifically excluded.


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**Information Privacy Bill**

- ◆ Complements the Cth Privacy Act amendment Bill (introduced Autumn 2000).
- ◆ Cth legislation to apply to the private sector, and Victorian law to apply to personal information handled by VPS entities.
- ◆ Both Cth and State Bills adopt the National Privacy Principles (NPPs).
- ◆ The NPPs prescribe duties regarding the collection, use, disclosure, storage etc of


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**Aims of the Bill**

- ◆ Aims to establish a regime for the responsible collection and handling of personal information in the VPS, including a complaints forum
- ◆ Balances the public interest in the free flow of information with the public interest in protecting privacy of personal information in the public sector.


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**Scope of IPB**

- ◆ Covers Govt agencies, Ministers, councils, police etc
- ◆ Extends to outsourced bodies.
- ◆ Exemptions for courts and tribunals (partial), publicly-available information and law enforcement.
- ◆ Health information to be given specialised treatment in Health Records Bill.


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## *Co-Regulatory Regime*

- ◆ Encourages development of codes of practice - default legislative regime.
- ◆ Codes to be approved by a VPS Privacy Commissioner.
- ◆ The PC will maintain a register of approved codes, investigate and conciliate codes or refer to tribunal.
- ◆ The PC may serve a compliance notice.


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## *Examples*

- ◆ A public sector entity must collect personal information in accordance with the requirements of its code of practice, or with IPP1 (necessity, not in an unreasonably intrusive way, with appropriate disclosures).
- ◆ Disclosure to third parties should be made only where the individual either consents or would reasonably expect the disclosure.

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## *Interrelationship between ETA and IPB*

- ◆ ETA applies to all electronic information used for legal transactions. Where that involves the handling of personal information, the Privacy Act will be relevant. If it further involves a VPS entity or Govt contractor, the IPB will apply.
- ◆ Nexus is reliable information security assurance. Information should be properly protected where it is legally or commercially valuable.