



Gordon Ramsay MLA

Member for Ginninderra

Attorney-General

Minister for Regulatory Services

Minister for the Arts and Community Events

Minister for Veterans and Seniors

Mrs Giulia Jones MLA

Chair

Standing Committee on Justice and Community Safety

ACT Legislative Assembly

London Circuit

CANBERRA ACT 2601

Dear Mrs Jones

Thank you for Scrutiny of Bills Report No. 5 of 27 April 2017. I offer the following response in relation to the Committee's comments on the Liquor Amendment Bill 2017.

Right to privacy – security cameras

The existing power to place conditions on liquor licences is broad and already includes the power to require CCTV cameras. The amendments in this bill do not change the scope of that power, but instead make clear that it is one of a non-exhaustive list of powers. This change makes the Commissioner's powers clearer and more explicit.

The explanatory statement's purpose is to explain the privacy implications of the exercise of the power to require CCTV cameras for clarity's sake. The explanatory statement sets out the reasons why the installation of CCTV cameras cannot be considered unlawful or unreasonable as part of the liquor licensing scheme using the framework set out in s 28 of the *Human Rights Act 2004* (HRA).

As the explanatory statement notes, the *Crimes Act 1900* provides additional privacy protection. Section 61B of the *Crimes Act 1900* will apply to all licensees who install security cameras at their licensed venues, regardless of the type of venue and whether the licensee has installed the cameras because they have been required to do so by a licence condition imposed by the Commissioner or have chosen to do so on a voluntary basis. This section ensures that cameras cannot be installed in those areas of a licensed venue where a reasonable person would consider the recording of visual data to be an invasion of privacy, or indecent – for example, in customer toilet cubicles or staff changing rooms.

While the primary purpose of any security cameras installed under a licence condition imposed by the Commissioner is safety, it is nonetheless likely that footage of employees of licensed venues will

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601, Australia GPO Box 1020, Canberra ACT 2601, Australia

Phone +61 2 6205 2615 Email ramsay@act.gov.au



@Gordon_R_Ramsay



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be captured. The *Workplace Privacy Act 2011* provides additional privacy protection for employees. Under that Act, licensees who install security cameras in their licensed venues need to provide written notice to all employees about the cameras and have a clear policy about the use of surveillance in the workplace. These requirements will apply to all businesses with security cameras, regardless of whether the cameras have been installed on a mandatory or voluntary basis.

While I note Committee's suggestion that the Bill could include additional protection by requiring all affected licensees (including those considered 'small businesses' under the *Privacy Act 1998*) to comply with the APPs, I am concerned that this may result in an inappropriate and unjustified extension of the APPs not contemplated by that Act.

The Commonwealth privacy legislation creates a deliberate exemption for small businesses, which reflects a decision made by the Commonwealth Government to acknowledge the limited resource capacity and lower risk profile of small businesses. Any change to this policy would be a matter for the Commonwealth Government and could have significant impacts on local small businesses.

Right to the presumption of innocence (s 22 HRA) – strict liability offences

The Committee's comments in relation to the need for a more comprehensive justification for strict liability offences created by the Bill are acknowledged. The Explanatory Statement has been revised so as to justify these offences using the framework set out in s 28 of the HRA. I will present the revised Explanatory Statement to the Legislative Assembly and attach a copy for the Committee's information.

Comments on other aspects of the Bill

The Committee's comments on other aspects of the Bill are acknowledged and appreciated. I note the Committee does not require a response on these issues.

I thank the Committee for its consideration of this Bill.

Yours sincerely

Gordon Ramsay MLA
Attorney-General