



Prof. Edward Santow

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PO Box 123, Broadway, NSW 2007, Australia

The Office of the Privacy
Commissioner (New Zealand)
PO Box 10 094
Wellington 6143
New Zealand
Via email: biometrics@privacy.org.nz

Monday, 28 August 2023

Dear Office of the Privacy Commissioner,

I am writing on behalf of the Human Technology Institute (HTI), based at the University of Technology Sydney (UTS) in Australia, regarding the current consultation on biometrics and privacy and the proposal to introduce new rules to regulate biometric information and technologies.

HTI has close partnerships with industry, civil society and state and government, and applies socio-technical expertise to ensure new and emerging technologies are inclusive and fair. In particular, HTI has policy expertise across facial recognition technology, regulation and artificial intelligence (AI), the use of biometrics in digital identity, and corporate governance in respect of the development and use of AI. Further information about our expertise can be found on [HTI's website](#).

Around the world, there is rapid growth in the use of facial recognition technologies (FRT) by private companies, governments, as well as individuals. By its very nature, FRT requires the remote collection of sensitive personal information. In many cases, FRT applications are being deployed on individuals without their knowledge or consent. This can lead to infringements of a number of human rights, including the right to privacy, freedom of movement and freedom from discrimination. For this reason, HTI supports the New Zealand Office of the Privacy Commissioner's proposal to tighten rules around the use of FRT and related biometric technologies. These stronger rules should be enshrined in law.

An example of how this could be achieved is laid out in HTI's report [Facial recognition technology: towards a model law](#) (attached). Published in September 2022, this report adopts a risk-based approach, by reference to privacy, data security and other human rights recognised in international human rights law. This approach is largely applicable to other forms of biometric technologies as well.

HTI's proposed model law has garnered considerable support across both civil society and industry in Australia. The model law would foster innovation and enable people to enjoy the benefits of these technologies, while simultaneously protecting people from harm. The model law has also been positively received by Australian leaders at both state and federal

government levels. It was proposed as a possible approach to reform in the Australian Government Attorney-General's Department's [Privacy Act Review Report](#) released in February 2023.

In addition, as Australia's former Human Rights Commissioner, I led a three-year national consultation project on human rights and technology, culminating in the [Human Rights and Technology Final Report](#) (attached), which was tabled in the Australian Parliament in May 2021. Chapter 9, focusing on biometric surveillance, facial recognition, and privacy has particular relevance to your consultation.

If it would be helpful, I would be pleased to discuss our work on biometrics in further detail. Please do not hesitate to be in touch if HTI can provide its expertise to your consultation process.

Yours sincerely,

Prof. Edward Santow

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