



Ref: WC02130/10

Director, Legislation
Policy and Criminal Law Review
NSW Department of Justice & Attorney General
GPO Box 6
SYDNEY NSW 2001

Attention: Ms Michelle Gardiner

Dear Ms Gardiner

I refer to the Attorney-General's correspondence to the Hon Michael Daley MP, Minister for Police and Minister for Finance, inviting submissions in relation to the statutory review of the *Workplace Surveillance Act 2005*.

We note the Act provides a legislative framework in relation to the surveillance of employees at work and applies to camera, computer and tracking surveillance.

The Act provides a sensible and practical system for regulating workplace surveillance by employers of employees. It protects employees by:

- prohibiting the surveillance by employers of their employees at work, except when employees have been given notice, or if covert surveillance, the surveillance is carried out with the authority of a Magistrate;
- restricting and regulating the blocking by employers of emails and Internet access of employees at work; and
- restricting the use and disclosure of covert surveillance records.

The Act, in its current form, specifies that requirements of the *Occupational Health and Safety Act 2000* do not limit the operation of this Act (Part 1, Section 8) - the purpose being to remind employers not to use workplace health and safety issues as an excuse for conducting covert surveillance.

Should an employer consider that they need to conduct covert surveillance for workplace health and safety reasons, they should use the existing consultation regime under Part 2, Division 2, of the *Occupational Health and Safety Act 2000* to obtain agreement for any surveillance.

WorkCover. Watching out for you.

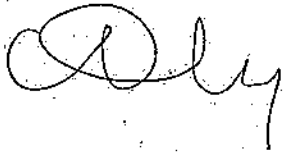
WorkCover NSW ABN 77 682 742 966 92-100 Donnison Street Gosford NSW 2250 Locked Bag 2906 Lisarow NSW 2252
Telephone 02 4321 5000 Facsimile 02 4325 4145 WorkCover Assistance Service 13 10 50
DX 731 Sydney Website www.workcover.nsw.gov.au

We consider that the policy objectives of the *Workplace Surveillance Act 2005* are valid and the terms of the legislation remain appropriate for securing those objectives.

The Act provides an appropriate balance between workers' expectations of privacy and the concerns of employers to protect workplaces from unlawful activity by regulating the use of covert surveillance of employees at work.

Thank you for the opportunity to provide comment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Donnelly', written in a cursive style.

CARMEL DONNELLY
GENERAL MANAGER - STRATEGY & PERFORMANCE
2 February 2011