legal recognition of the interests of data subjects in data privacy.

An important issue is obviously that of cost. Under the Official Information Act, natural persons exercising their legal right of access to personal information pay no fee. That right of access is, however, limited to personal information which is held about them and which is 'held in such a way it can readily be retrieved'. Should a similar arrangement apply if a legal right of access to personal information held by private sectors is created? Not surprisingly, I favour a similar arrangement for the private sector. However, I appreciate in these days of "user pays", such a view is thoroughly unfashionable. Certainly, if any fee is to be imposed on a person exercising the right of access, it should be of a very modest nature. It is clear from overseas experience, for example, the costs associated with exercising the new subject access provisions under the U K Data Protection Act which came into force last November, can act as a major deterrent.

Conclusion

In my address, I have attempted to emphasise what should be key aspects of long overdue reform in the area of data privacy. First we must have a set of enforceable data privacy principles applicable to both the public and private sectors. Secondly, a statutory guardian for privacy interests should be established to complement and in some areas replace existing privacy guardians. Thirdly, there should be a legal right of access to personal information held by private sector data users.

As I indicated at the outset, your interest in privacy is now recognized as one of your fundamental human rights. Yet our law has been reluctant to give individual privacy appropriate legal recognition. Technical developments have called this reluctance into . question. In the absence of an effective legal framework for the protection of individual privacy, there is the danger that developments in technology may undermine what law there is to the extent of making it ineffective or irrelevant. The attendant dangers to your fundamental human rights require no elaboration.

* *Senior Lecturer in Law, Auckland University. A full copy of Mr. McBrides paper can be obtained from the Editors.*

Copyright Law Review Committee

A recent Press release by The Acting Attorney–General, Senator Michael Tate, announced an enquiry by the Copyright Law Review Committee ("CLRC") into copyright protection of software. This includes computer programs, works made by or with the assistance of computer programs, and works stored in computer memory. The following news release was issued.

"In 1984 the Government acted quickly to protect the important Australian software industry, and to ensure software could not be copied without the permission of the developer.

Since then a number of countries, including our major trading partners, have extended copyright, or passed copyright–style law to protect computer programs.

However, some technical issues and difficulties with the 1984 amendments have arisen. As well, some countries have modified copyright to better suit the law to computer programs.

It is clear that software creators need a strong anti–copying law to protect their

investment. However, some aspects of copyright, which apply to traditional works of literature might not be appropriate for software. An example is the period of protection – life of author plus fifty years.

Software is essential to modern commerce and industry. It is important that the form of intellectual property protection Australia has, for the long term, ensures ready availability of software products as well as a just reward for producers.

Members of the CLRC are appointed on a personal basis for their knowledge and experience of copyright. The CLRC has current knowledge and experience of copyright. The CLRC has current knowledge of the software industry as a result of its recently completed inquiry into the importation provisions of the Copyright Act 1968. This experience will be complemented by further appointments of people with particular expertise in computer software."

We will monitor the progress of the Committee and bring you updates following any interim reports.

The Editors

Sales Tax Treatment of Computer Software – A Final Resolution

In our September Newsletter we promised to bring you more details on the computer software sales tax legislation introduced into parliament on 3 November (to take effect on 4 November).

Briefly, it was intended that software developed for a single user (ie. customized software) would not be liable for sales tax although software sales tax would still apply to software developed for multiple users (provided the non–custom portion of the program exceeded 20%). The second area of intended change was the electronic transfer of computer software which was to be subject to sales tax.

However on 22 December last year, the Treasurer announced that the Bills before the Senate would not adequately address the problem associated with applying sales tax to computer software and accordingly the government proposed to remove sales tax liability for all computer software. The Treasurer's statement reads "the Government proposes to remove sales tax liability for all computer software. Computer hardware, including storage media, will remain taxable. As a result of the exemption of software from sales tax, those goods such as computer hardware, discs, tapes and other taxable materials that are now exempt from sales tax when used by software creators will not longer qualify for exemption."

The Government intends to introduce amending legislation in early 1989. Consequently the existing law prior to the introduction of the Bill applies until 22 December 1988. The Taxation Office will not seek to collect tax on the sale or licencing of computer software from that date. It is therefore not necessary for manufacturers and wholesalers of computer software to charge tax on software sold or licenced on or after 23 December 1988. Where sales tax has been paid on software, including electronic transfer, under the 3 November 1988 proposed amendments, refunds will be given by the Taxation Office.

The carrying medium on which the software is embodied remains taxable as do other materials used in the development and production of computer software.

Elizabeth Broderick