

Interactive Television

John Mackay considers the privacy implications of this emerging new technology

Interactive television is likely to revolutionise marketers' approach to television by becoming an intricate part of the way people transact their business and has the potential to increase the overall viewership of television by allowing viewers to participate in television programs. However, it also presents the question of how the privacy of the subscribers to various interactive services will be protected. The technology in this field presents not only the possibility of amassing information on the day-to-day activities of individual subscribers but also the ability for actual in-home audio and visual surveillance.

Interactive television is scheduled to be test marketed in Adelaide from May 1993 and is likely to make its appearance in Sydney and Melbourne in September 1993.

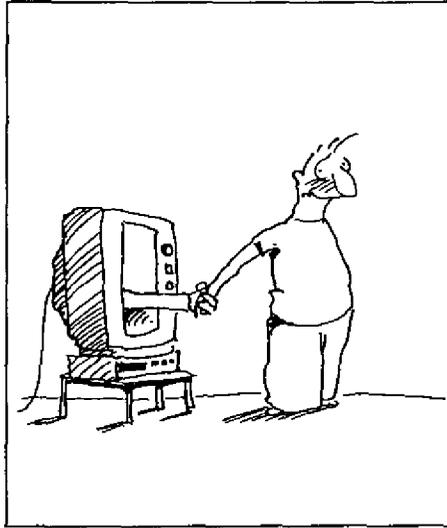
What is Interactive Television?

Interactive television encompasses a wide variety of in-home services, but at a basic level enables viewers to participate in television programs through the use of a remote control and allows viewers to instantly purchase goods which are displayed on interactive television commercials. Bank accounts and credit cards are automatically debited with purchases made through a host computer.

In the United States, interactive television has been on the market for about the last ten years. By contrast to the current proposals in Australia, interactive television in the US has been associated, with one exception, with cable TV. One proposal in the US called "TV Answer" uses radio waves and satellites to enable viewers to place orders for goods and services advertised on regular television programs. The US Federal Communications Commission is expected to assign a frequency on the radio frequency spectrum for the proposal this year.

Interactive Television in Australia

Unlike the interactive television operators in the United States, the Australian interactive television proposal does not require cabling of viewers to the interactive television computer system nor the use of the radio frequency spectrum. A proposal being canvassed in Australia operates by the minute raising and



lowering of the luminance levels on the television screen to create signals which are decoded by a unit which sits on top of the television set. The cost of this unit and an infra-red remote control is estimated at around \$300.

Currently the following functions are being considered for interactive television in Australia:

1. Viewers can participate in television game shows and win sponsored prizes.
2. Viewers can bet on the results of televised races and other sports events.
3. Viewers will be able to vote instantly in news polls and surveys.
4. Viewers will be able to shop and bank from home and purchase transport, theatre, movie and sports tickets.
5. Interactive television can be used for educational purposes in schools and homes (eg cooking schools where recipes can be printed out with the push of a button) and can be used to grade students instantly by computer. This use may be particularly attractive to students who are living in remote locations.

Privacy implications

However, interactive television has been criticised on the ground it involves an invasion of viewers' (and other peoples') privacy. Particularly in the United States, vast amounts of personal and financial information flow from the subscriber's television to the cable company. Subscriber records can reveal details about bank transactions, shopping habits, political contributions, viewing habits and

other personal decisions. An interactive cable company is able to develop and maintain an accurate picture of the political, economic and social activities of the subscriber. There is a concern that a cable company could release this information to the government as well as selling it commercially without the subscriber's knowledge or consent.

Of particular concern to some groups are the security systems which are offered by interactive cable companies in the US which can track movements into and out of the house. Present interactive cable security systems have sensors wired to doors and windows which connect to a central box in the house or business. A central monitoring station sends out a signal every few seconds to see if anything has been tampered with. The technology already exists for more complete security protection through audio and visual monitoring. Home security information can reveal if you are at home or not, what time you go to bed and what room you sleep in.

There is also a danger, similar to wire tapping, of interception by third parties of information being sent out of homes or businesses. Even if the transmission reaches its intended destination without interception, it may still be vulnerable to retrieval from the host computers by those gaining unauthorised access.

Privacy Act

In Australia, there are a number of Federal and State statutes which regulate the activities of credit reporting agencies and credit providers in relation to personal credit information. Part IIIA of the *Privacy Act 1988* (Cth) entrusts the Privacy Commissioner with responsibility for the supervision of the consumer credit industry and provides for the development of a Code of Conduct for the collection and development of personal credit information by the Privacy Commissioner in consultation with the credit industry, government, consumer and privacy groups and other relevant bodies.

Under the *Privacy Act*, the contents of credit information files are limited, and duties are imposed on credit reporting agencies to ensure that their records are accurate, up-to-date and protected from unauthorised use. A "credit reporting agency" is defined as a corporation that

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carries on a "credit reporting business" which is defined as:

"... a business or undertaking ... that involves the preparation or maintenance of records containing personal information relating to individuals ... for the purpose, or for purposes that include the purpose, of providing to other persons (whether for profit or reward or otherwise) information on an individual's:

- (a) eligibility to be provided with credit; or
- (b) history in relation to credit; or
- (c) capacity to repay credit, whether or not the information is provided or intended to be provided for the purposes of assessing applications for credit."

It would seem that certain of the potential activities of interactive television operators in Australia would bring them within the definition of "credit reporting agency" for the purposes of the *Privacy Act*. If so, interactive television operators would be prohibited from holding personal information on an individual's credit information file unless the information is restricted to "credit type" information, for example:

- (a) information which is reasonably necessary in order to identify the individual;
- (b) a record of a credit provider who has sought a credit report in relation to the individual who has made an

- application for consumer credit to that credit provider and the amount of credit sought in that application;
- (c) a record of credit provided by a credit provider to an individual, being credit in respect of which the individual is at least 60 days overdue in making a payment and the credit provider has taken steps to recover any part of the debt;
- (d) a record of court judgments against the individual;
- (e) a record of the opinion of a credit provider that the individual has committed a serious credit infringement.

In addition, an interactive television operator would be prohibited from including in an individual's credit information file certain information including personal information recording the individual's political, social or religious beliefs or lifestyle, character or reputation.

Various provisions of the *Privacy Act* regulate the accuracy and security of credit information files and credit reports, the disclosure of personal information by credit reporting agencies and credit providers and the use of personal information contained in credit reports by credit providers. With few exceptions, only businesses which are credit providers are permitted access to the credit reporting system. Fines of up to \$75,000 may be imposed on credit reporting agencies and

credit providers for offences committed under the *Privacy Act*.

Accordingly, many of the potential activities of interactive television operators will be subject to the detailed and complex provisions of the *Privacy Act*. In addition to the *Privacy Act*, there is specific State legislation dealing with the regulation of credit reporting agencies and invasion of privacy in general which will be relevant to the operations of interactive television in Australia.

Conclusion

Within the next decade or so, it is probable that interactive television will be an integral mode of multi-faceted communication.

Whilst the convenience, efficiency and reduced costs of doing business which result from using some of the aspects of interactive television are evident, interactive television may also lead to an increase in the extent to which information about individuals, businesses and organisations will become susceptible to interception and misuse. It is this risk of interception and misuse against which the benefits of interactive television will need to be weighed.

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Radio New Zealand

The New Zealand Government has agreed to inject capital into Radio New Zealand Ltd, a State Owned Enterprise, to avert a loss of confidence by its bankers. The amount which will be required to be paid has not yet been determined but it was reported that Radio New Zealand had sought \$3m last year and current speculation that \$10m may be needed has not been denied.

Radio New Zealand has been caught up in litigation brought by the New Zealand Maori Council against both Television New Zealand Ltd and Radio New Zealand Ltd which has prevented the sale of assets. Matters required to be determined by the Court of Appeal largely concern Television New Zealand Ltd. However, until the Court of Appeal's decision is available the assets of Radio New Zealand Ltd cannot be dealt with freely by its Board. This constraint has existed since the creation of the two media companies from the old Broadcasting Corporation of New Zealand.

Radio New Zealand's problems have been exacerbated by the purchase of a major Auckland radio station which went into loss just after the purchase and has not yet recovered market share sufficiently to contribute positively to Radio New Zealand's income. Radio New Zealand also reported a loss of \$2m endeavouring to develop in-store radio.

Radio New Zealand Ltd will produce a plan for restructuring

which may include the sale of stations. But it is intended first to set up a business plan for defined business units such as news and engineering services.

Independent broadcasters protested vigorously at Government "subsidies" but the Government said it had made it clear there would be no subsidisation and the funds would be repatriated to the Government.

Ongoing tensions continue among communications companies and N.Z. Government

The shareholders of Telecom New Zealand, Bell Atlantic and Ameritech, have expressed the view that the restrictions imposed by the "Kiwi share" on the sale of the Government's shareholding are impeding the earning of reasonable profits. In particular it appears that low inflation has limited the increases possible for residential telephone subscribers which must not exceed the rate of inflation. Toll charges have been said to subsidise residential rentals. At the same time Clear Communications has built up a larger proportion of the tolls business than expected.

Bell South, which won the Tacs A band tender with a NZ\$25m bid about 18 months ago, intends to follow the Groupe Speciale Mobile digital standard as adopted in Europe and plans to invest \$150m in this New Zealand operation over five years. Bell South is asking for some regulation but Clear and the Telecommunication