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Barristers hot under collar over name game

THE impending launch of Melbourne TEC Chambers tonight has riled competing and well-established Melbourne Chambers, which claims its opening could "provoke litigation" from them.

The New Lawyer has received a copy of an email sent by a member of Melbourne Chambers to Michael Whitten, the founder of 31-barrister Melbourne TEC Chambers and a member of the Victorian Bar who currently sits in the Chancery Chambers.

The email claims that the launch of Melbourne TEC Chambers is misleading, and "deceptively similar" to the name of Melbourne Chambers, a 71-strong barristers' chambers in the heart of Melbourne's legal precinct on Queen Street.

The email, sent 14 October, reads: "If it is correct as [*The New Lawyer*] article says, that you propose to launch 'Melbourne TEC Chambers' publicly as barristers chambers tomorrow, then it is likely to provoke litigation from Melbourne Chambers alleging misleading or deceptive conduct and/or passing off. An injunction and consequential relief will be sought."

The author of the email asks for an undertaking that Melbourne TEC Chambers would not use any

name in connection with barristers chambers that is "deceptively similar" to Melbourne Chambers.

The email asks for an address for service if the directors of Melbourne TEC Chambers are unwilling to reconsider its name.

The email is answered in a letter from Whitten as secretary of Melbourne TEC Chambers, also signed by chairman Donald Charrett and treasurer Toby Schnookal, also obtained by *The New Lawyer*.

"We strongly refute any suggestion that Melbourne TEC Chambers has engaged in any passing off or misleading or deceptive conduct," the letter says.

Whitten, Charrett and Schnookal say they were "highly surprised" to receive the email. "Throughout the gestation period of this initiative, which has been extensive, there has never been any suggestion that there could be any confusion with Melbourne Chambers which is, of course, very well known to legal practitioners in Melbourne as a physical set of chambers."

Whitten, Charrett and Schnookal write that Melbourne TEC Chambers Inc has been set up to provide marketing to a group of Melbourne barristers specialising in TEC law who want to market their expert services

in dispute resolution to solicitors internationally. They claim "both the market and the services provided are entirely different".

They add the chambers were only incorporated after a review by the Ethics Committee of the Victorian Bar and its rules.

Justice Vickery, the judge in charge of the TEC list of the Victorian Supreme Court at Melbourne, was consulted on the use of the term "TEC" in the name.

As it will be a collective of barristers, it was considered "Chambers" was the only term recognised internationally. And, the founders of the new chambers write in their letter, membership of the chambers is confined by its rules to barristers who practice in Melbourne.

A spokesperson at Melbourne TEC Chambers said this morning that things have been "resolved amicably". He said: "As far as I am aware there will be no proceedings and things have been resolved."

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Privacy laws have fallen behind: Government

THE Australian Government has conceded that Australian privacy laws have not kept in pace with changes in technology and how society deals with personal information.

In a first stage response to a 28-month review of the effectiveness of the Privacy Act and related laws, conducted by the Australian Law Reform Commission, the Cabinet Secretary and Special Minister of State, Senator Joe Ludwig, yesterday said the government would take steps to reform Australian privacy laws.

Deacons Sydney chairman and partner Nick Abrahams and his colleague, partner Alison Deitz, have issued warnings to clients, including specifically from the financial services and the health sectors, about the changes.

While the proposed reforms are the first step towards full national consistency in privacy legislation, they warned "they may in time require organisations to update and enhance their privacy processes and procedures to ensure compliance with the law and potentially expose them to civil



The federal Government has conceded that privacy laws are outdated.

penalties for serious or repeated breaches of privacy law".

The legal experts said part of the Government's response to the ALRC recommendations include introducing comprehensive credit reporting in Australia.

It accepts the ALRC's recommendations that the use and disclosure of credit reporting information for electronic identity verification under anti-money laundering legislation should be authorised. "The proviso to this is that adequate privacy protections are put in place, and the Attorney-General's Department has undertaken consultations as to how to

implement the recommendation whilst enhancing privacy."

Another element of the Government's response revolves around the ALRC's recommendations addressing a range of health privacy issues, thereby affecting health clients. This includes access to and transfer of health records, the lawyers said.

The Government will now prepare exposure draft legislation to implement the proposed changes to the Privacy Act and related laws, which will be released in early 2010 for further consultation.

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Aus lawyers stole clients, fees

THREE Australian expatriate lawyers working at a law firm in Kazakhstan conspired to steal clients and millions of dollars in fees from another ex-pat led firm.

The Sydney Morning Herald broke the story last week, revealing that John Forster Emmott, a one time partner at UK firm Richards Butler, another Australian Robert Nicholls, a former Freehills partner, and David Slater, a Westpac in-house lawyer on leave from his job, reportedly lured oil and gas clients away from their former firm to new breakaway firm Temujin.

The three lawyers were found to have improperly earned millions in fees and share-based payments.

Justice Clifford Einstein of the New South Wales Supreme Court found that Emmott, who joined Michael Wilson & Partners in 2001 as a director and senior lawyer, had breached his fiduciary duty by sending clients to work to a competing firm, launched by Nicholls and Slater. Emmott himself joined that firm in 2006.

Justice Einstein has ordered the firm Temujin to hand over its profits for 2006 and part of 2007.

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Health professions to be covered by the scheme from its operational commencement on 1 July 2010 are chiropractors, dental care practitioners, medical practitioners, nurses and midwives, optometrists, osteopaths, pharmacists, physiotherapists, podiatrists and psychologists. The new scheme will enable health professionals to register once to work throughout Australia, reduce red tape, improve safeguards for the public and promote a flexible, responsive and sustainable health workforce. The position will be based in the National Office in Melbourne.

As the Senior Legal Officer of AHPRA, you will play a key role in the interpretation and application of the new legislation incorporating health profession regulation into a national scheme. You will also provide expert advice on a range of corporate and governance matters to the National Boards and the Agency Management Committee.

To find out more please obtain the role description from the website www.carlyleyoung.com.au

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selection criteria by 23 October to: cyg6@carlyleyoung.com.au

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