Illegal and Harmful Content on the Internet: Some Issues and Options

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Since the Internet became a part of our vernacular in the early to mid 1990's we have seen some spectacular headlines about what it means for life as we knew it. Many have received the message that to use the Internet means that you will be unavoidably exposed to child pornography, that terrorist are using the Internet to plan the destruction of our world and that, even without their help, children and teenagers are blowing themselves up with bomb recipes they find on the Internet. And only last week, in the

inimitable style of tabloid journalism, I read a report of a woman who has claimed to have become pregnant from the Internet, leading a politician to call for a 'chastity chip' for on-line and Internet services. I will not comment further about that, other than to say that yes, it did come from the USA.

But even here in Australia the public debate on the Internet is characterised by a sense of panic about the final arrival of 'Big Brother', where

everything that you view, post or purchase is monitored/and or recorded by others for questionable purposes. In the same vein are deeply held fears that the inevitable consequence of governments playing any role at all on the Internet will be the crushing of free speech around the globe.

At the other end of the debate, are those who hold the view, usually with a sense of some glee, that there is nothing that can be done by

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governments or law enforcement bodies in relation to the Internet, and accordingly they should all just give up now and leave the Internet to its anarchic state, which to many, is part of its whole appeal.

What ever the merits of these arguments, it is clear that any discussion about online content regulation unleashes intense emotions and gives rise to strong views. What is also clear is that we are in the early days of a completely new communications environment.

But what is the ABA's role in all of this? After all, as we all know, on-line and Internet services are not the same as broadcasting services.

By way of background, the ABA has had a role in media regulation since 1992 when it superseded the Australian Broadcasting Tribunal. The ABA is the regulator of broadcasting
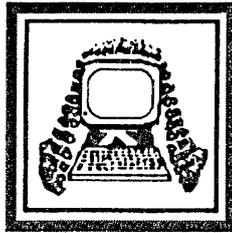
services, ie free to air television, pay TV, and radio services, as well as narrowcasting services, as set up under the Broadcasting Services Act 1992 (BSA). The Act is designed to regulate broadcasting services within a self-regulatory framework and the cornerstone of this framework are codes of practice, which broadcasters develop following consultation with the ABA. The ABA also registers the codes. Complaints about broadcasting services are dealt with by the broadcasters in accordance with the provisions of the code, and it is only unresolved complaints which come to the ABA.

Separate to the ABA is the Office of Film and Literature classification, a body which classified film, video, publications and computer games under a cooperative regime set up by the states and federal governments under the Classification Act 1995.

Whatever you may think about the merits of these regulatory arrangements, the increasing use of the Internet as an mainstream form of communication and entertainment has begun to change the way we are all thinking and dealing with content, including the way it is or should be regulated.

The ABA's Involvement in Online Services

The ABA first became involved in online and Internet services in late 1995 when it received a Direction from the Minister for Communications and the Arts, to investigate the content of on-line services, including services on the Internet. The ABA was also required to consider, amongst other things, the development of a regulatory regime for on-line services which, as far as possible, addressed community standards and consider

appropriate strategies to protect children from access to Internet content which may be unsuitable for them.

The ABA completed its Report to the Minister in June 1996 and made a number of recommendations, including that a substantially self-regulatory regime based in part on codes of practice should be developed by service providers in Australia.

In July 1997, as part of the legislative process, the Departments of Communications and the Arts (DOCA) and the Federal Attorney General jointly released for public comment the principles upon which the comprehensive regulatory regime will be based. The Department has received a number of submissions from the on-line and broader community regarding the legislative principles and have held a number of meetings with industry and free speech groups.

When these principles have been settled they will provide the basis for draft legislation which will amend the Broadcasting Services Act to accommodate the new regime.

In the meantime the ABA received a second direction from the Minister for Communications, Information Economy and the Arts, which requires the ABA to investigate and advise on:

(a) matters which might be included in industry codes of practice that will apply to on-line service providers, and the operation of effective complaints procedures;

(b) national and international developments in the use of on-line content labelling services to protect children from content which may be unsuitable for them;

(c) national educational strategies to promote effective and productive use of on-line services; and

(d) international developments in relation to the regulation of the content of on-line services.

We are currently addressing these matters and will be reporting to the

Minister on 30 June 1998. So that is a little background on what we have been doing and how we got there.

For this paper I would like to concentrate on just two categories of Internet content which we have had to deal with in the course of our work in the area and look at some options in dealing with the very different problems which these categories raise.

As you may recall, the first direction required the ABA to consider the nature of online content. Accordingly, we sought early on to try and get a handle on what was available online and, as best we could, to ascertain the extent of the 'problems' which Internet content raised or was perceived to raise.

We found that, as a source of content, on-line services offer users a fantastic opportunity to communicate, inform and entertain, allowing access to a vast amount of rich and diverse content from all over the world and enabling communication in a variety of ways ranging from personal to mass communications, and combinations of both in between.

However, we did become aware that not all content on the Internet could be described in such positive terms. In regard to this content we tried at the outset to draw a clear distinction between two main categories of material.

The first category is often called 'illegal material', and usually refers to material which would be refused classification under our current National Classification Code. This includes child pornography, excessively violent material, material containing extreme sexual violence and material that promotes, incites or instructs in matters of crime or violence, and is the subject of various state and territory laws[1].

The questions which arise in relation to this material are: "How widespread is it?", and, "What, if anything can be done about it?"

The second area which I will briefly talk about concerns the material which may be unsuitable or harmful for children, and needs to be dealt with quite separately from 'illegal

material'. "Unsuitable material' is generally material which, if found in other media, would be given a restricted classification under our National Classification Code so that only adults can view the material. Material in this category often includes sexually explicit or violent material. Examples of a restricted classification are the R and X classification which prohibit sale or distribution to those under the age of 18, but are perfectly legal for adults to consume.

The question which this type of content raises is: "What are the options in regard to this type of material in the decentralised, international online environment?"

After making these distinctions the ABA requested the Office of Film and Literature Classification (OFLC) to try and make some observations about the availability of Illegal and Unsuitable Material on-line.

The OFLC carried out an informal targeted search which did indeed find that illegal material, including child pornography, is available on the Internet. This is clearly a matter of serious concern. However, it also found that the chance of being involuntarily exposed to such material is low.

In relation to material which may be unsuitable for children, the OFLC found that this kind of content can be much more easily located, particularly by the motivated searcher. On the World Wide Web this type of content is often accompanied by warnings and/or requires the provision of credit card details, but such features are not common characteristics of newsgroups, although their title will often give a fair indication of what may be found on the group (i.e.alt.binaries.sex.XXXgirls). As with the first category of material we found that there is a low risk of being unwittingly exposed to this material and generally users must seek out this type of content. This was consistent with the experience of some Internet users who told the ABA that in several years of Internet use they had never been exposed to sexually explicit

material for the reason that they had never gone looking for it.

This is also in line with the findings of the United States District Court of Pennsylvania in the 1996 appeal against two provisions of the Communications Decency Act. In that case the court found that there was agreement between all parties to the case that a range of sexually explicit material exists on the Internet, 'from the modestly titillating to the hardest core'[2]. However the Court went on to state that there, 'is no evidence that sexually oriented material is the primary type of content on this new medium'.

In relation to the possibility of users being involuntarily exposed to sexually explicit material the Court stated that:

> "84. Sexually explicit material is created, named, and posted in the same manner as material that is not sexually explicit. It is possible that a search engine can accidentally retrieve material of a sexual nature through an imprecise search, as demonstrated at the hearing. Imprecise searches may also retrieve irrelevant material which is not of a sexual nature. The accidental retrieval of sexually explicit material is one manifestation of the larger phenomenon of irrelevant search results...
>
> 88. Communications over the Internet do not 'invade' an individual's home or appear on one's computer screen unbidden. Users seldom encounter content 'by accident'. A document's title or a description of the document will usually appear before the document itself takes the steps needed to view it, and in many cases the user will receive detailed information about a site's content before he or she need take the step to access the document. Even the Government's witness, Agent Howard Schmidt, Director of Airforce Office of Special Investigation, testified that the 'odds are slim' that a user would come across a sexually

explicit site by accident."

Whilst we would agree that it is impossible to try and assess with a high degree of accuracy the precise amount of illegal or unsuitable material on the Internet at any given time, in our view, these observations about voluntary and involuntary exposure are important in trying to find a balanced and appropriate way of dealing with these issues in the online environment. Having said that however, it is important to note that the Internet is a rapidly changing environment and so there needs to be a constant review of its nature in order to ensure that these and other observations about its nature remain valid. [3]

'Illegal Content'

I will now turn to the issue of 'illegal content' and ask the question: "What, if anything, can be done about this content?"

There is no doubt that the issues which so called 'illegal content' raises for law enforcement are extremely complex and problematic. Most countries in the world place some restrictions on the type of material which may be possessed and/or disseminated within their borders. However, the extent and degree to which material in any given country is subject to restrictions reflects its particular political, cultural, religious and legal traditions and these traditions vary immensely around the world.

For example, in many countries it is an offence to disseminate certain types of explicitly sexual or extremely violent material. Some countries also make it an offence to publish and/or transmit material which vilifies on the basis of gender, race or sexual orientation. In other countries it is an offence to publish material which criticises the government or may threaten national or racial harmony. In most countries certain dealings concerning child pornography are prohibited.

But whilst these laws exist and many apply online, the inconsistency between the laws of different

countries means that material which may be illegal in one country may be stored and subsequently accessed from countries where the material is legal. It may also be transmitted through a number of other countries, each of which has its own laws regarding the material. Even where there is some consistency across jurisdictions relating to certain material, such as child pornography, the specific provisions of the various laws relating to the topic can differ significantly, particularly with respect to definitions and age, making prosecution and international cooperation difficult.

Even determining what is illegal in any particular country can be difficult due to the generality of the various national laws. For example, laws often set out broad categories of restricted material, such as 'obscene' material, and rely on the discretion of courts to give content to the prohibition. This makes it particularly difficult to identify what is prohibited in any given country at any given time.[4]

For these reasons, many people have argued that nothing can be done to stop illegal content on the Internet and much energy and zillions of megabytes have been dedicated to discussing ways in which determined netizens could thwart attempts by police and others to prevent the circulation of material which has been the subject of law enforcement action. Some recent examples of the success of some of these efforts include the publication on the Internet of a book containing the medical history of the late President Francois Mitterand. The book was banned in France but appeared on thousands, if not millions of mirrored web sites within a week.

Another example is the electronic version of the magazine neo-Nazi magazine 'Radikal', which was banned in Germany but was stored on a server in the Netherlands where such content was legal. The German government sought to have this material removed from the server, but the result of these requests was that, within a very short space of time mirrored sites sprang up all over the

world in an attempt by Internet users to illustrate the futility of the German authorities efforts.

But notwithstanding these difficulties, there has been an interesting development with regard to a particular type of material which attracts virtually universal condemnation, child pornography. This is the emergence of what are often called Email Hotline services.

Although they all operate slightly differently, these Hotline services have generally been set up by either industry associations or children's interests groups, to receive and investigate sites alleged to contain child pornography and to take some practical steps to have it removed from servers as soon as possible.

To illustrate, the e-mail hotline system in the United Kingdom was set up the Internet Watch Foundation (IWF) following an agreement reached between service providers, the Department of Trade and Industry and the Metropolitan police. The aims of the IWF are to "enhance the enormous potential of the Internet to inform, educate, entertain and conduct business by ... hindering the use of the Internet to transmit material which is illegal in the UK". The IWF has stated that its first priority of the scheme is child pornography and is so is focussing on this material for the foreseeable future[5].

Reports of Internet content what is believed to be child pornography can be made to IWF by telephone, facsimile or e-mail and should contain a brief description of the material in question and the location of the site (ie the world wide web address or the Usenet newsgroup details)[6].

Upon receiving a report the IWF examines the material and if, with reference to clear criteria, considers it to be child pornography, will then seek to trace its origins. Where the material has been identified as being sourced within the United Kingdom then Internet Watch will contact and request that the relevant service provider remove the content in accordance with the "notice and take

down" procedure. Under this procedure the service provider will attempt to contact the person who has placed the material on-line and request their cooperation in its removal, but if that is not forthcoming then the service providers will themselves remove the content from their server. Relevant details are also forwarded to the Police as part of the IWF process, who may decide to commence their own investigation into the matter. Under the arrangement between the police and IWF the police are to provide feedback to Internet Watch on the outcome of any follow up investigation. [7] The important point is that whilst a police investigation may take some time to complete, the IWF ensures that the child pornography is immediately removed from the relevant server and so is no longer being transmitted by service providers or available for others to access.

Where the material is sourced from outside of the United Kingdom then Internet Watch will forward the information to the relevant police body, along with the overseas Hotline agency.

To date e-mail hotline services have been established in Austria, Belgium, the Netherlands, Norway, Singapore and the United Kingdom and are widely considered a success. Although each operates to achieve the same general policy objectives in relation to child pornography, each has been set up in a manner which is appropriate to the different industry and community needs in their country. Flexibility is therefore a feature of these services. Several more hotline services are being proposed throughout Europe over the next 12 months.

At the Internet On-Line Summit: Focus on Children[8] held in the Washington in early December US Vice President Al Gore announced that the National Centre for Missing and Exploited Children was to set up a hotline services in the USA with government and industry support. The service, called 'Cybertipline', would receive reports of incidences

involving child exploitation, including online enticement of children for sexual acts, information on the possession, manufacture or distribution of child pornography, child prostitution and child-sex tourism. The service will assess the information it receives and provides law enforcement agencies with 'useable, relevant information'.[9] A large number of service providers in the United States have also gave their support for a 'zero tolerance' of child pornography on their services and are developing strategies to implement this.

At the same conference Mr Raymond Kendall, the Secretary General of Interpol, stressed the importance of these types of partnership arrangements involving industry, community groups and the police in providing practical and effective responses to child pornography and related crimes on the Internet. Whilst Mr Kendal said that there is also a strong need for better cooperation between various national international policing agencies, and that strategies were in place to address this, the role of industry and community support in the online environment cannot be underestimated.

Recognising the need to coordinate hotline services to maximise their effectiveness, the organisation Childnet International has recently been successful in its bid for EC funding to develop a formal network of email hotlines. As part of its work in this area Childnet intends to formulate a set of procedures which hotline services can follow when receiving reports of child pornography, and also for exchanging information between hotline services operating in different countries.

One of the important aspects of these developments is that cooperation between both the hotline services and the various police bodies can go a long way to overcoming the view that there is nothing that can be done to deal with child pornography which is sourced from another country. For example, if the hotline service in the

UK finds that child pornography is emanating from a site in Belgium then it would be possible for the UK service to pass on that report to the Belgium hotline service, where action can be taken in accordance with the Belgian hotline procedures.

So what has been Australia's response to all of this?

Back in June 1996 the ABA called on the Australian on-line industry to work with relevant bodies, including the police, to set up a hotline service in this country to respond to complaints about child pornography which operated along the lines of what has been set up elsewhere. The focus on child pornography is important for many reasons, including that it is a class of illegal material which has greater legal consistency across our domestic state and territory borders. It also has greater potential for international cooperation.

However, the industry response to this call has been, at least to date, somewhat cool.

One issue has been the costs of setting up such a service. We recognise that our industry is in its early days and that it is not flush with funds. But from our understanding of the UK model a hotline service need not be a hugely resource intensive outfit to run. The second main objection of the industry is that it does not want to make a call about whether something is or is not child pornography, and would prefer to leave it to others such as the police or the OFLC. But this is often a long and drawn out process which can take months, and in the case of a police prosecution, possibly years.

In other countries the hotline services have trained one or two people so that they can make a prima facie call in most cases, and if the material appears to be child pornography then follow clearly spelt out procedures which can lead to the immediate removal of the content if it can be traced to a local server. In the Australian context there may be a need for advice to be obtained from the OFLC or another body in more difficult cases and if it turns out that there has been a wrong call then

the material could be reposted. They will also need to be run in accordance with clearly defined guidelines to ensure that the rights of the individual are not unlawfully impinged upon nor important police evidence contaminated.

But I reiterate that what most of these hotlines are focussing on is child pornography and not the wider and more difficult area of material which would be refused classification under our National Classification Code (which would still be the subject of police action in the normal course of events).

So although we appreciate the concerns of Australian on-line service providers in relation to these matters, we still believe that an email hotline service which focuses on child pornography and is supported by Australian service providers, can provide a practical and efficient means of dealing with this type of material, not to mention that it would bring us in line with international trends. We will be continuing to talk with the Internet Industry Association about these matters as part of our discussions on the third draft of the Internet Industry Association's code of practice.

It is important to note that we are under no illusions about what hotlines can do. They will not solve all problems or prevent any child pornography from being trafficked by those who are committed to doing so. But it is a practical response which seems to be working in these early days of a new communications environment. I would also like to mention that Mr David Kerr, the Executive Director of the Internet Watch Foundation will be coming to Australia in late April and that I would be pleased to put him in contact with anyone who may be interested in hearing more about the hotline service operating in the United Kingdom.

Before I move on I should also say that even without a hotline service set up by industry, Australia Internet users who identify material on the Internet which appears to be illegal can report this to any Police Intelligence Group

(Crime Stoppers Unit) operating in each state and territory. Reports can be made by e-mail, telephone or facsimile. The Crime Stoppers website is at http://www.crimestoppers.net.au.

Content Labelling

The second area of the ABA's work which I would like to discuss concerns the protection of minors in the on-line environment. This part of the ABA's investigation was directed at material which may be legal for adults to access but is unsuitable for children. This category presents quite different issues to 'illegal' content, such as child pornography to which I have discussed above and is subject to various criminal offence provisions, regardless of age.

It is widely accepted around the world that whilst certain categories of content may be appropriate for adults to access, they may be unsuitable for children. Material which is sexually explicit or violent is often included in the type of content which is considered unsuitable or harmful for minors.

In traditional media, such as printed publications, film, video and television many mechanisms have been adopted to limit children's access to unsuitable material. This is possible because content in traditional media is usually organised in a relatively centralised manner. The mechanisms commonly used range from age restrictions on material which can be purchased or viewed in cinemas to time zone classifications which restrict the type of programs which can be screened on television at times when children are likely to be watching. In many countries such as Australia classification systems have also been developed and content creators and consumers of these products and services are familiar with the various ratings categories which provide guidance as to the suitability of content for different age groups eg G, PG, M, MA, R and X classifications.

In contrast, the Internet allows material to be accessed at any time in an interactive manner and operates within a very international,

decentralised context. Most material is not restricted in any way, the main exception being material for which credit card details or some other form of payment is required. For these reasons, there are enormous difficulties in attempting to apply on-line the existing and centralised classification models for television, films, videos and other publications.

In the ABA's view the Internet requires a whole new approach to limiting children's access is required. This approach needs to take account of the fact that the most effective controls on the Internet can be applied by the end user and also recognise the rights of adults to provide and access material on the Internet which is legal for them to deal with in other media.

This is a significant shift from what we have had to date, where the Office of Film and Literature Classification, or broadcasting service providers under the self codes of practice developed under the BSA, make decisions about the suitability of content for certain viewers on behalf of the public.

The ABA is also aware that many parents wish to make decisions themselves about the material which they believe is suitable for their children. Indeed parental guidance and supervision may well be the best way for parents to ensure that their child gets the most out of the Internet.

However, it is also widely recognised that direct supervision of children is not always possible. Over the last decade a range of software products have been developed for use on computers in the home and in schools in response to the perceived need for parents, teachers and supervisors to filter out or block Internet content which they do not consider suitable for children in their care.

In early 1996 there were some further developments with content and selection software which provide additional options for parents. This technology is called the Platform for Internet Content Selection (PICS). PICS was developed by the World Wide Web Consortium (W3C). W3C

is an international non-governmental cross-industry group which has offices in USA, France and Japan.

For those of you who are not familiar with PICS, it is basically a technical standard which enables two things to happen. First, it enables Internet content, such as a web site, to exhibit labels and second, it enables PICS-compatible software to respond to the labels.

In many ways this is a technical, internationally accessible response to a technical, international environment.

The PICS standards are themselves value neutral and allow any organisation to develop a labelling system which can interact with them. PICS compatible software can be set to block all unrated content, block only content which has been rated in a certain manner, or give access to blocked content once a password is provided.

Labelling can be applied directly by content providers at the time or after a site is posted on the Internet or it can be applied by a third party.

A number of organisations have already begun to establish labelling schemes which can interact with the PICS standards, most of which have been developed in North America. One of the most widely accepted labelling systems is that developed by the Recreational Software Advisory Council for the Internet, called RSACi.

The RSACi labelling system addresses four matters. These are the level of violence, sex, nudity, and language, including hate language, which a site contains. Internet content can be given a rating between 0 and 4 on each of these topics. The label aims to provide a description of the content in an Internet site rather than make a judgement about its appropriateness for any given audience or purpose. So for example, a site may have a rating of 2 for sex, 3 for violence, 1 for language and 2 for nudity.

In this way the RSACi labels are flexible as they enable parents who are concerned about sexual content

to set their computers to block out material which has been given a high rating because of its sexual content, say anything with a rating or 2 or above. Other parents may be more concerned about language and/or violence and so they can set their software to block out highly rated material of this nature. If the material has been rated then parents can use the labels to exercise control over Internet content, regardless of where they or the content is located. But importantly, users have a choice as to whether or not to activate these tools at their own computers.

In the ABA's view, user choice, and user responsibility, will be a very important aspect of the new era of communications which we are entering into, and community education will play a critical role in ensuring that both these choices and responsibilities can be exercised in a meaningful way.

But to return to the tools themselves, whilst the value of PICS labels is well recognised, it has been argued that for labels to be a truly effective tool for parents and supervisors to exercise this responsibility a critical mass of content needs to be labelled to ensure that those using the labelling tools will have the potential to access a large range of sites.

The challenge is how to achieve this critical mass within a framework which is voluntary for both content providers and users. It has been argued that the best way to do this is to encourage those responsible for content provision, particularly the large and/or commercial players, to self-label their content, subject of course to appropriate verification procedures.

A widely understood and internationally accepted labelling scheme is also more likely to be incorporated into the major browsers. In this regard the ABA notes that Microsoft's Internet Explorer incorporates the RSACi and Safesurf labelling schemes and we understand that Netscape is also considering incorporating PICS standards into their latest version of Communicator.

Rather than develop an Australian

labelling scheme which can only be used in this country, it seems that the interests of Australian content providers and users would be better served by using a labelling scheme which was widely accepted and recognised by a multitude of users around the world. Such a scheme would enable Australian content providers to label content in a manner that can be recognised by Internet users around the globe. It would also enable Australian users to access content from anywhere in the world which has been labelled in accordance with an international labelling scheme.

The ABA is aware of the potential of PICS to provide users, especially parents, with the tools to control Internet content for themselves or their children, without affecting the rights of those who do not wish to use such tools. However, we also acknowledge the important and complex issues which it raises. Therefore the ABA has set up a Children and Content On-Line Task Force to discuss the options available to protect Australian children in the online environment, including content labelling. The Task Force comprises people from industry, children's interest groups, educational and library bodies, along with the Office of Film and Literature Classification.

But what is the rest of the world doing? Well, the ABA is not alone in recognising the potential for labelling to assist parents in managing their children's use of on-line services. The European Commission has also been examining the issue of content labelling in some detail and has recently recommended that content providers should be encouraged to rate or label their documents with PICS compatible labels [10].

On the other side of the Atlantic, since the final demise of the Communications Decency Act in the US Supreme Court, there have been some interesting statements coming out of the White House. On 16 July 1997 President Bill Clinton expressed his support for the use of content labelling schemes and said,

"we need to encourage every Internet site, whether or not it has material which is harmful for young people, to label its own content.... To help speed the labelling process along, several Internet search engines, — the Yellow Pages of cyberspace, ... — will begin to ask that all Web sites label content when applying for a spot in their directories".

Vice President Al Gore also made a number of statements at the Internet On-Line Summit: Focus on Children in the USA last December supportive of the role which labelling and filter products might play in providing parents with a "Digital Toolbox" of options to protect their children online.

So there are now some clear moves in the USA to encourage the industry to address the issue of protection of children through using labelling tools.

As part of its task in advising the Minister on "national and international developments in the use of on-line content labelling labelling", as required under the Direction, the ABA is engaged in on-going discussion at an international level about the possibilities of developing an internationally acceptable labelling scheme.

In particular the ABA is a member of the International Working Group on Content Rating along with the Internet Watch Foundation (UK), the Recreational Software Advisory Council (USA), the ECO Forum (Germany), Childnet International (an international charity promoting children's interests on the Internet, with offices in the UK and the USA) and the World Wide Web Consortium which has offices in the USA, France and Japan.

The group aims to consider and if possible develop an internationally acceptable labelling system which is appropriate for cross cultural use. So far the group has agreed on some fundamental principles, including that the labelling system be voluntary and based on self-labelling. It has also been agreed that an international

labelling scheme should describe rather than evaluates Internet content, and for this reason should use RSACi as a starting point for further discussions at the international level. By providing information to users about the content on a particular site, a descriptive scheme aims to enable users to apply their own standards and values to the labels based on that information.

However, it is important to note that the ABA does not support the compulsory labelling or filtering of content by service providers or content providers in Australia. It believes that the use of filtering software should be a matter of choice which users are free to use if they wish.

The Working Group will be putting in a bid for funding from the EC Action plan to consider these issues in more detail. In the meantime the ABA is confident that the work of the Children and Content On-Line Task Force will be extremely valuable to the ABA in ensuring that an Australian perspective is put forward in any international debate on these issues.

Conclusion

In conclusion the Internet does indeed present some enormous challenges in relation to content. The issues of 'illegal' content and content which may be unsuitable for children raise very different issues and require very different responses. But it is my view that only by industry, law enforcement agencies, community groups and parents working together, can we ensure that the responses are practical, proportionate, and workable in the new communications environment.

Thank you.

1   I have not included in this material which may give rise to civil remedies, such as material which may be in breach of copyright, defamatory or may contravene trade practices and consumer protection laws.

2   *American Civil Liberties Union v Janet Reno, Attorney General of the United States, American Library Association v United States Department of Justice*, United States District Court of Pennsylvania, 11 June 1996 at http://www.epic.org/cda

3   For example, I note a recent comment on a

mailing list arguing that push technology on many search engines can lead to what was referred to as 'push porn', whereby a search for something like "same sex schools" or "sex discrimination" might lead to explicit images being pushed down the line to an unwitting recipient.

4   Commission of the European Communities, *Green Paper on the Protection of Minors and Human Dignity in Audiovisual and Information*

Services Brussels, 16.10.1996, COM(96) 483 final, p.7. The URL is: http://www2.echo.lu/legal/internet.html

5   http://www.internetwatch.org.uk/hotline

6   ibid

7   http://www.internetwatch.org.uk/hotline/next.html

8   http://kidsonline.org

9   http://www.missingkids.com/html/ncmec_default_ec_le.html

10 http://www2.echo.lu/legal/en/internet/actplan.html

This paper was presented at the New South Wales Society for Computers and the Law seminar on 11 March 1998.

The Introduction of Paragraph Numbers in Court Judgments and the use of a Medium Neutral Citation System

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The High Court of Australia will incorporate paragraph numbers into the body of judgments from the delivery of the first judgment in 1998. Coupled with this initiative the Court will allow the citation of decisions in a new 'medium neutral' way. To some, these initiatives may seem relatively inconsequential however together they have the potential to significantly improve the functionality of judgements stored electronically.

The Pagination Problem

The current problem stems from the way page numbers are handled in most electronic files. Pagination cannot generally be fixed and the resultant page numbers will vary according to the software used to view and print the document. Page numbers, whilst well suited to the traditional printed version of a document, cannot generally be applied successfully to the electronic medium. If the electronic document file is saved and stored in the original word processing format (most commonly Word or Wordperfect) the pagination of the document will vary according to software used to view the document and print it. Saving the document in a non-proprietary format such as Rich Text Format (RTF) or Text (TXT) does not resolve the problem. Some examples of the problems inherent with the extant

system are:

Example 1: A practitioner locates a copy of an unpublished judgment on the Internet. As the decision is in HTML (Hyper Text Markup Language) it appears on the screen as a single continuous page of text. The original page numbers have been lost forever. With no page numbers and no "approved" method of citing the document its potential use is limited.

Example 2: A law student wishes to obtain a copy of a recent court decision. The decision will not be officially published (if it is at all) for several months. The cost of obtaining the decision in paper form is prohibitive. Whilst the document exists in electronic form the court is reluctant to provide it 'across the counter' due to the inability to reproduce it with consistency.

Example 3: An appeal court attempts to introduce electronic appeal books in lieu of the tradition paper alternative. The initiative has the potential to significantly lower the cost of bringing matters before the court. The documents (in particular relevant judgments from other courts) that together form the electronic appeal book cannot be reproduced with consistency and the initiative fails.

The solution to these very real problems lies in the incorporation of

paragraph numbers in lieu of page numbers within court decisions. Unlike page numbers, paragraph numbers are embedded in the body of the document and remain visible regardless of the file format or software used to view the document.

There are many benefits in providing court decisions in electronic form. These include:

• Greatly reduced costs,

• reductions in the time taken to publish a judgment after it has been handed down,

• increased public access to decisions,

• the ability to electronically 'link' documents to other documents,

• the ability to search text and copy and paste between documents without retyping the text.

Medium Neutral Citations

To date there has not been a method of citing electronic unpublished judgments. To be of real value the electronic version of a decision must be able to be cited in a medium neutral and vendor neutral way. It should also be possible to provide a pinpoint citation to specific locations within the document. In short a citation system is needed that can be applied as easily to an electronic version of a