

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/nmcme_default_ec_le.html

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

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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Example 1: A practitioner locates a copy of an unpublished judgment on the Internet.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

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judgment as the traditional paper copy.

The debate concerning the merits of incorporating paragraph numbers within court decisions and the application of a medium neutral citation system has been ongoing both here and in the United States and Canada for some time now. In the United States the American Bar Association Special Committee on Citation Issues recommended in 1996 that all US jurisdictions adopt a medium neutral citation system for both paper and electronic court decisions. Additionally, the Committee recommended that each court number the paragraphs in their decisions.

In August 1996, the American Bar Association (ABA) approved a resolution made by the Committee calling for all state and federal courts to develop a standard citation system and recommending a format that could be used by state and federal courts. That resolution called for courts to identify the citation on each decision at the time the decision is made available to the public. The report and resolution were approved

by the ABA in August 1996.

The basic components of a medium neutral citation system are:

- 1? the parties,
- 2? the year the judgment is handed down by the court,
- 3? a unique court identifier (abbreviation),
- 4? the judgment number (issued by the court), and
- 5? a pinpoint reference (where required).

The High Court of Australia has recently approved the use of a medium neutral citation system. The system is based on the following format:

(the parties) [the year of the decision] (the Court abbreviation) (the sequential number of the judgment)

For example the 99th decision if 1998 might appear as:

Smith v Jones [1998] HCA 99

Where necessary, specific locations within the decision can be identified with the additional reference to the

applicable paragraph number. For example:

Smith v Jones [1998] HCA 99 at para 17

The new citation system is designed to operate in conjunction with, not in lieu of, traditional citation methods. Courts will continue to rely on commercial legal publishers to identify important cases and traditional printed reports and citation methods will continue to operate alongside the medium neutral system. For the first time however court decisions can be placed immediately in the public domain and cited.

Electronic publishing and the use of electronic research techniques are here to stay. The current problems limiting the functionality of the electronic version of judgments must be addressed. The incorporation of paragraph numbers within the body of judgments, coupled with the development of a truly medium neutral citation system, has the potential to significantly enhance the functionality of electronic court decisions.

Report on Framework Legislation for Electronic Commerce Released by Attorney-General

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The Federal Attorney-General, Hon Daryl Williams, has released for public comment the report of his Expert Group on Electronic Commerce entitled "**Electronic Commerce: Building the Legal Framework**". The Expert Group was chaired by an officer of the Attorney-General's Department and comprised experts from industry, business and the legal profession including the author of this note.

The Expert Group's Report recommends federal legislation to remove existing legal obstacles to electronic commerce and to reduce

the legal uncertainty surrounding the use of electronic messages and electronic signatures for commerce. The Report states that the legislation should be broad in its operation, covering all data messages in trade and commerce or with government, subject to some categories of exceptions being developed (possible examples include wills, negotiable instruments, some consumer transactions).

Two broad aims underlie the Report:

Functional Equivalence— as far as possible, paper-based

commerce and electronic commerce should be treated equally by the law; and

Technology Neutrality - the law should not discriminate between forms of technology.

Following these aims, the Report does not try to pick technological winners or prescribe detailed rules for particular technologies, such as digital signatures relying on asymmetric public key encryption and certification authorities. In other jurisdictions which have legislated to give digital signatures some legal preference over other authentication