



The ABA has recommended that industry codes of practice be developed by on-line service providers and a purpose-built labelling scheme for on-line content be developed. The recommendations are contained in the final report of the ABA's investigation into the content of on-line services.

ABA recommends codes of practice & labelling scheme for on-line services

Direction

ABA (Investigation)

Direction no. 1 of 1995

I, Michael John Lee, Minister for Communications and the Arts, direct the ABA under section 171 of the *Broadcasting Services Act 1992* (the Act) to investigate:

(a) the content of on-line information and entertainment broadcasting services, including any broadcasting services provided on the Internet, with a view to examining the appropriateness of the development of codes of practice for those services that, as far as possible, are in accordance with community standards;

(b) technological advances and service trends in the provision of on-line information and entertainment services by the broadcasting industry; and

(c) the extent to which on-line information and entertainment broadcasting services are accommodated by the operation of the Act.

I am satisfied that the investigation of these matters is in the interests of the due administration of the Act.

In undertaking the investigation I request ABA to consider the following issues:

(a) the nature of material which may be provided generally via on-line information and entertainment services including the Internet and bulletin board services, particularly as it relates to community standards and the protection of children from material which may be harmful to them; and

(b) the appropriateness of any measures which might be introduced to encourage or require on-line service providers and users to meet community needs, through various means such as the development and adherence to self-regulatory codes of practice, educational programs, complaints handling procedures, devices for blocking or filtering certain material and offence provisions.

The ABA must prepare a report of the investigation and provide a copy of the report to me by 30 June 1996.

I also direct the ABA under subsection 179(2) of the Act to publish the report.

Dated 24 July 1995

Minister for Communications and the Arts

The Internet and other on-line services provide the infrastructure for communications and information services used by millions of individuals and organisations around the world. The connection of networks of computers makes possible the exchange of ideas and information in a manner not possible via traditional electronic and print media, resulting in an astounding diversity of content. This diversity is increasing as developments in computing and telecommunications enable previously autonomous services such as video, radio and television to be accessed on the Internet. On-line services also provide enormous commercial opportunities.

They challenge the traditional models for regulation of the media. There is no central control or ownership of them and the functions performed by the participants in the on-line environment are not as fixed as in existing publications and broadcasting models. Significantly, any person can create material and make it available on-line.

With the growth in the use of on-line services as a new communications medium, community concerns were raised about the content of some of these services. Of particular concern was the perceived ease of ac-

cess to material which is either pornographic or unsuitable for children and young people.

Responding to this concern, the then Federal Minister for Communications and the Arts, the Hon. Michael Lee directed the ABA to conduct an investigation into the content of on-line information and entertainment services, including services on the Internet, and to consider the appropriateness of developing codes of practice for on-line services which, as far as possible, are in accordance with community standards.

The ABA was also directed to consider technological advances and service trends in the provision of on-line information and entertainment services by the broadcasting industry, and the extent to which these services are accommodated by the *Broadcasting Services Act 1992*.

Investigation

In conducting the investigation the ABA placed a high priority on understanding the technology and services underpinning the Internet, and the manner in which on-line services are being introduced into homes and schools. The ABA sought to ensure that any proposals for the development of a regulatory framework for



on-line services are practical and appropriate to the on-line environment and addressed identifiable community needs. To achieve this the ABA consulted widely with representatives of the on-line community, including on-line service providers, content providers and users, businesses, government departments, academics, educational and community organisations and individuals.

Findings

The ABA has identified the range and nature of on-line services, available now, and anticipated in the foreseeable future. As a source of content, on-line services offer users an unprecedented level of variety, as well as quantity, of information from all over the world. As technology converges, and services are accessible on a number of hardware platforms, the demarcation between services which are currently delivered

on personal computers as opposed to television sets will fade. Where on-line services deliver content which is in the form of television and radio programs delivered in 'real time' these may fall within the regime applicable to broadcasting services. However, the majority of on-line services are not accommodated by the Broadcasting Services Act.

Services available on-line include services intended for both public and private communications. The ABA is of the view that essentially private communications, such as e-mail, should be exempt from any new regulatory regime.

While the focus of the investigation was the protection of children from material which might be harmful or distressing to them, the ABA found overwhelming support for on-line services and for the opportunities they present for enhanced communication, information and entertainment.

Recommendations

The investigation identified a range of matters which should be addressed if on-line services are to be used in the most productive and effective manner. These went beyond concerns about Objectionable and Unsuitable material and included other content issues such as the potential for vilification, discrimination and harassment, and consumer issues such as standards of service, billing and credit management, and privacy.

Codes of practice

The ABA recognises that on-line services are a global phenomenon, however, there is much that codes of practice can achieve in the domestic arena. The ABA considers that codes of practice, developed within a self regulatory framework, would facilitate the productive use of on-line services by the Australian community.

The ABA recommends that industry codes of practice be developed by on-line service providers. This emerging industry group provides an important intermediary function in the on-line environment and can achieve much in terms of finding practical and workable solutions to address community concerns. As with any industry with the potential to influence community views, it is appropriate to establish a set of rules for the conduct of industry participants. The ABA is also of the view that it should have a monitoring role in relation to codes of practice for service providers.

The main elements of the proposed regulatory framework are:

- the identification of matters which should be included in

codes of practice for service providers, which provide appropriate community safeguards, including complaints handling procedures;

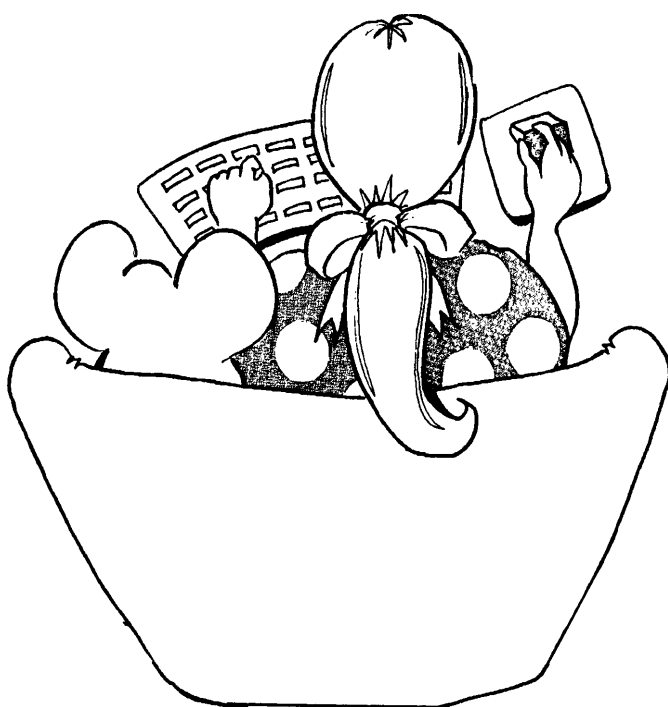
- the registration by the ABA of such codes of practice, developed by service providers after a process of public consultation; and

- the monitoring of the codes of practice, and their effectiveness, by the ABA.

The ABA recommends that a complaints handling regime should be developed specifically for on-line services. As part of its role in monitoring the effectiveness of codes of practice, the ABA should perform an independent appeals function for any unresolved complaints.

The ABA is aware of moves to introduce specific criminal offence provisions for on-line services. These relate to Objectionable material and the making available to minors of material which may be Unsuitable for them. The model criminal offence provisions which have recently been drafted for the State and Territory Censorship Ministers refer to a number of defences which would be available to a service provider in a prosecution. These include compliance with an applicable industry code of practice.

The ABA is of the view that any codes of practice referred to in the model offence provisions which would provide a defence to a service provider should be the same codes which are registered by the ABA. The ABA would not register a code unless that code clearly details the conduct required which could constitute a defence to offences of the kind proposed by the Censorship Ministers. The ABA is of the view that these aspects of the codes should be given





priority and should be developed by the time any model provisions come into effect.

In this way codes registered by the ABA could operate as part of a co-ordinated regulatory and enforcement strategy applicable to the on-line services industry.

While codes of practice would set out the steps which service providers might take if and when they are aware of the availability of Objectionable material, it must be recognised that in some circumstances the measures which service providers can take in relation to this material are limited.

Unsuitable and objectionable material

In relation to Unsuitable material the ABA has recommended that service providers include in codes of practice reasonable age verification procedures which aim to limit the holding of an open on-line account to persons over the age of 18. This aims to prevent children's access to open on-line services without parental supervision. Compliance with this aspect of a code would contribute to defences available under any model criminal provisions for on-line services.

The ABA's investigation into the presence of Objectionable material on-line confirmed that it is available and that this is a matter of serious concern. However, the ABA also found that the chance of being involuntarily exposed to such material is low. Material Unsuitable for children can be more easily found, particularly by the motivated searcher, but is often accompanied by warnings and/or requires the provision of credit card or other details.

In considering strategies to

limit children's access to this kind of material the ABA recognises the difficulties in attempting to apply on-line the existing classification models for television, films, videos and other publications. A new approach to limiting children's access is required. In this regard the ABA acknowledges that the most effective controls can be applied by users.

Many submitters advised that available filter software products, combined with parental supervision could address concerns about the protection of children. The ABA is of the view that existing filter software can provide parents and other supervisors with a degree of control over children's use of on-line services. However, filter software can restrict access to an amount of valuable material and does not allow for the consistent application of Australian community standards and cultural values.

Labelling scheme

The ABA proposes that a purpose-built labelling scheme for on-line content be developed. The scheme should be based on the principles that underpin the existing classification regime for other media and be appropriate to the nature of the on-line environment. Recent developments with content and selection software provide a technical infrastructure for the labelling of on-line material. This technology is called the Platform for Internet Content Selection (PICS) and, although emerging late in the investigation, it has strong support from the industry and on-line community.

The ABA has recommended that it convene an On-line Labelling Task Force, with all relevant parties, including the Office of Film and Literature

Classification and the industry. The Task Force would develop the labelling system for Australian content providers and consumers, which will utilise the set of standards incorporated in PICS, or any other relevant standards that might be developed. The ABA also recommends that Australia participate in the PICS development process in the international arena, and collaborate with relevant expert bodies to maximise Australian labelling consistency with overseas ratings schemes.

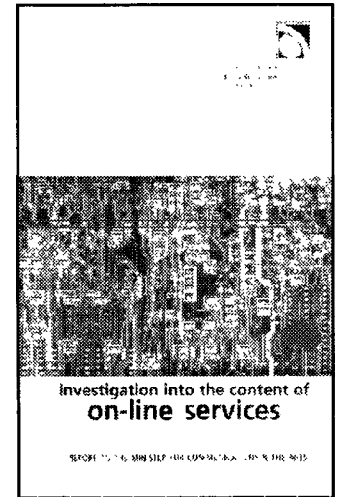
Community understanding of the development of the codes of practice, and the implementation of labelling schemes will be critical to their success. The ABA acknowledges that a co-operative approach by both government agencies, the on-line industry and the community is required.

Parents and carers roles

Parents and carers will play an important role in managing the use of on-line services by children, and the ABA is encouraged by research that confirms the positive supervisory role that parents play in relation to electronic media. In this regard the ABA notes the progress that has been made in the educational sector to ensure that children benefit from the introduction of on-line services, including the implementation of effective strategies for limiting access to controversial material. Parents also want their children to reap the benefits offered by on-line services, but may not be well informed about the technology. The ABA recommends a community education campaign to support those who are responsible for children's use of on-line services.

Conclusion

On-line services are a dynamic global medium, of which Australia is a part. The next few years will provide an opportunity for Australians to develop a presence



Investigation into the content of on-line services is available from the ABA, \$20. Phone (02) 334 7700.

The report is also available on-line at the ABA's Web site: <http://www.dca.gov.au/aba/hpcov>

on-line, and to meet the demand for content by the domestic and international community. The ABA has identified, for further examination, a number of means by which Australian content might be encouraged on-line, including the use of tax incentives, export credits and other forms of financial assistance. Given the cultural and potential commercial significance of on-line services, the ABA proposes to further explore, in conjunction with relevant agencies, the ways and means by which appropriate stimulus might be given to develop Australian content on-line.