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The *Broadcasting Services Amendment (Online Services) Act 1999* has established a co-regulatory scheme to address risks associated with Internet content through a range of regulatory responses. The scheme applies to Internet service providers and Internet content hosts only. Summaries of their responsibilities follows.

Regulating the content of online services

A co-regulatory scheme

The ABA is implementing, in partnership with industry and the community, a co-regulatory scheme for Internet content regulation. The two main features of the scheme are the development of codes of practice by industry and the operation of a complaints hotline by the ABA.

The *Broadcasting Services Amendment (Online Services) Act 1999* has established a co-regulatory scheme to address risks associated with Internet content through a range of regulatory responses.

In performing its role, the ABA is guided by legislative principles which aim to minimise

the financial and administrative burdens on industry and encourage the supply of Internet carriage services at performance standards that meet community needs.

The legislation regulates the activities of Internet service providers and Internet content hosts only. The States and Territories will develop complementary legislation to regulate the activities of persons who create and/or upload offensive content onto the Internet, or who access and use such material.

Contravention of an online provider rule is a criminal offence and a continuing offence for each day the contravention continues. Following successful prosecution, the penalty

per day is 50 penalty points—currently \$5500 per day for an individual and up to \$27500 per day for a corporation.

From 1 January 2000, the ABA will be the first point of contact for complaints about Internet content. The ABA will only investigate content that is the subject of a complaint.

For the purposes of the scheme, Internet content is stored information that is accessed through an Internet carriage service. It includes material on the World Wide Web, articles on newsgroups, 'subscription' email services and other files that can be downloaded. It does not include live material such as chat services, voice over the Internet or ordinary email.

Information for Internet service providers

What is an Internet service provider?

For the purposes of the scheme, an Internet service provider (ISP) is a person who supplies or proposes to supply an Internet carriage service to the public.

Will ISPs need to classify or censor material?

Internet service providers are not required to actively review, monitor or classify the content hosted on their service.

From 1 January 2000, the ABA will be the first point of contact for complaints about Internet content. The ABA will only investigate content that is the subject of a complaint.

What is prohibited content?

Prohibited content hosted overseas is material that is classified RC and X by the National Classification Board.

Potential prohibited content is material that has a substantial likelihood of being classified as prohibited content.

The ABA will determine whether or not material that is the subject of a complaint is prohibited content or potential prohibited content.

What are ISPs required to do about prohibited content?

When notified by the ABA, Internet service providers have a responsibility to follow the procedures set out in an industry code of practice (or in the absence of a code, an industry standard) for blocking access to overseas-hosted content that is prohibited or potentially prohibited content.

A code or standard may make provision whereby an Internet service provider is not required to take action (for example, blocking) in relation to a particular end-user if access by that

end-user is subject to an alternative access-prevention arrangement. An example of such an arrangement is the system that some schools now have in place to restrict access to certain sites.

If there is no industry code or standard in place, an Internet service provider must take reasonable (that is, technically and commercially feasible) steps to block overseas-hosted material if issued an access-prevention notice by the ABA.

Are ISPs protected from legal action by content providers whose content has been blocked?

Internet service providers are protected from civil proceedings (for example, for breach of contract or defamation) in respect of anything they have done in compliance with an ABA notice or direction.

What if an ISP does not comply with an industry code of practice or an ABA direction or notice?

There is a graduated range of enforcement mechanisms and sanctions to allow flexibility in dealing with breaches depending on the seriousness of the circumstances.

Online provider rules require Internet service providers to comply with ABA

notices and directions, for example, an access-prevention notice or a direction to comply with a code or standard.

Can an ISP seek a review of an ABA decision?

An Internet service provider may apply to the Administrative Appeals Tribunal (AAT) for a review of any ABA decisions affecting it under the scheme.

The UNESCO world panel on communications and information met in Paris on 1 October. This is panel member Gareth Grainger's report on the meeting.

UNESCO world panel on communications and information

The aim of the meeting was to provide advice to UNESCO Director-General Federico Mayor on communication and information issues. The meeting considered the issue of what role UNESCO should have in the emerging information society. While there was a diversity of views from the panel there was a remarkable degree of consensus on a significant set of issues:

- UNESCO must not be over ambitious in the tasks it seeks to tackle in relation to issues such as regulatory framework for the Internet.
- UNESCO should concern itself with issues such as access, education and community awareness in relation to the new information technology.
- UNESCO should foster regional and clearly focused initiatives which promote and advance consideration of very specific issues within the overall framework of the information society.
- UNESCO should defer any thought of hosting a World Communications Forum or Summit for the time being at least.
- UNESCO should explain clearly what its role is in this field, what it has done and achieved in the field in recent years and what it hopes to do and achieve in the middle term.
- UNESCO should seek to identify potential partners and projects, including in the private sector, that it can associate itself with and support.

Gareth Grainger said that he believed that while UNESCO should avoid seeking to develop a so-called 'legal framework for cyberspace' he thought UNESCO might have a potential role as a central documentation recording point and information distribution point for what is being achieved in a range of policy forums around the world where consensus is being achieved on issues such as Internet content self-regulation.

Information for Internet content hosts

What is an Internet content host?

For the purposes of the scheme, an Internet content host (ICH) is a person who hosts, or who proposes to host, Internet content in Australia.

Will ICHs need to classify or censor material?

Internet content hosts are not required to actively review, monitor or classify the content hosted on their service.

What is prohibited content?

Prohibited content hosted in Australia is material classified RC and X, and material classified R that is not protected by a compliant restricted access system.

The ABA will determine whether or not material that is the subject of a complaint is prohibited content. For material hosted in Australia, the ABA's decision will be based on a National Classification Board classification.

What are ICHs required to do about prohibited content?

Internet content hosts have a responsibility to remove prohibited content from their service once notified by the ABA of the existence of the content.

What other responsibilities does an ICH have under the scheme?

Internet content hosts also are to comply with registered industry codes of practice or, in the absence of a code, industry standards developed by the ABA.

Are ICHs protected from legal action by content providers whose content has been taken down?

ICHs are protected from civil proceedings (for example, for breach of contract or defamation) in respect of anything they have done in compliance with an industry code of practice, industry standard, and notices and directions issued by the ABA.

What if an ICH does not comply with an industry code of practice or ABA take-down notice?

There is a graduated range of enforcement mechanisms and sanctions to allow flexibility in dealing with breaches depending on the seriousness of the circumstances.

Online provider rules require ICHs to comply with ABA notices and directions, for example, a take-down notice or a direction to comply with a code or standard.

Can an ICH seek a review of an ABA decision?

An Internet content host may apply to the Administrative Appeals Tribunal for a review of any ABA decision affecting it.

Need more information?

If you would like more information about the scheme please contact the ABA, or visit the ABA web site: <www.aba.gov.au>.