

Communications *Update*

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On-line porn inquiry warned

Representatives of the Australian on-line networking community - believed to number around 500,000 people - have warned the Federal Government that ill-considered legislation to curb on-line sex and violence will lead to serious electoral ramifications.

The warning follows the joint release of a community consultation paper on content regulation of on-line computer information services, including bulletin boards and the Internet, by the Attorney-General and the Minister for Communications and the Arts earlier this month.

The three-pronged strategy being proposed by the Government includes a requirement on service providers to adhere to a self-regulatory framework incorporating a code of practice and a complaints-handling procedure. It also includes an education component to help parents and teachers to protect children from unsuitable material, as well as the introduction of offence provisions to provide sanctions against people deliberately breaching community standards.

Under the offence provision proposal, on-line service providers would have to show that they took 'reasonable steps to avoid contravention' of the provisions. Criminal sanctions would be imposed on those operators and users who fail or refuse to exercise control over material that is publicly available through their services.

'Objectionable material' is defined very broadly as: 'material that depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that the material should be refused classification. It goes even further to include material which depicts a minor in an offensive way; promotes, incites or instructs in matters

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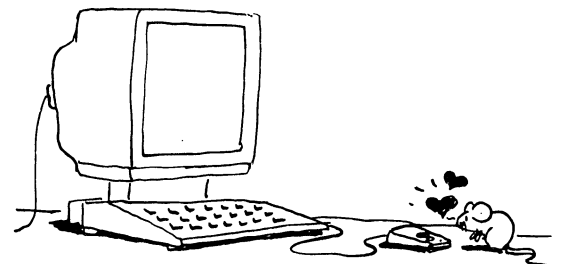
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of crime and violence; or computer games which are 'unsuitable' for a minor to play.

According to a joint statement from the Australian Computer Society, which has 15,000 members, and the Electronic Frontier Association, which is linked to the high profile US organisation - Electronic Frontier Foundation - the consultation paper carries the same flaws as last year's Bulletin Board Services Task Force report.

'One problem with the BBS Task Force report has been carried over to the new report: confusion between BBSs and the Internet,' the statement says. 'Conclusions drawn from considering BBSs may not be applicable to the Internet.'

'Australian governments should avoid the temptation to react to pressure for quick solutions. The on-line networking community now represents a significant proportion of Australian citizens. Those citizens are likely to react to ill-considered legislation via the political process.'

On the positive side, the groups praised the Government's decision to canvas community opinion with its consultation paper.

Technology law expert Peter Leonard said rather than introducing liability for operators of on-line services, the proposed offence provisions create an offence of using an on-line service to transmit or advertise objectionable material.

He said this would mean providers would need to develop access and retrieval restrictions on restricted material and to exclude objectionable material from their services.

In summary, service providers dealing with objectionable material had two choices - take reasonable steps to avoid a contravention of the provisions or follow a code of practice developed for management of this material. □

Medicare smart card ruled out

The Government has announced that it has no plans to add smart card capabilities to the Medicare Card. This follows a month of debate sparked by an article in the last issue of *CU* which compared the proposal to the ill-fated Australia Card proposal.

The Privacy Committee of NSW first learned that a proposal existed to replace the Medicare card with a smart card when *The Australian* reported in March that: 'the Minister for Health and Human Services, Dr Lawrence, is examining a proposal to insert a smart chip on the Medicare card to save more than \$1.5 billion in the next five years.' The article went on to describe a detailed proposal involving changes to the Medicare card and the Government's Pharmaceutical Benefits Scheme.

The Privacy Committee and other privacy and consumer organisations contacted the industry group involved, and the proposal was discussed openly as the 'Medicare smart card proposal' over the next four months.

But shortly after *CU* revealed the privacy issues likely to arise from such a scheme, the Government issued a blunt denial of the proposal's existence. At the same time, the ABC aired an interview recorded with Senator Peter Cook, Minister for Industry, Science and Technology, in which he discussed a proposal to introduce a smart card which could record a twelve-month prescription history. He added that in the future, the card might record full medical details, and details relating to education, training employment and social security.

After *CU* and the ABC both made strong comparisons between this proposal and the Australia Card proposal, Senator Cook and Dr Lawrence issued a joint press release saying that there were no government plans to introduce a Medicare smart card.

“There is no Federal Government proposal to develop a smart card which records Australians medical history or their Medicare or social security benefits”

The press release stated that: 'the only proposal before government is one from the Pharmacy Guild and the Warren Centre at Sydney University. This proposal is for possible federal funding for a trial which would involve pharmacists and doctors in the Orange area and would offer patients a smart card that could store their prescriptions and medication details such as dosage. This proposal has no federal government endorsement and will not be in any way linked to the pharmaceutical benefits or other Medicare benefits that a patient receives.'

Privacy and consumer organisations will continue to take an active interest in this proposal. Senator Cook's earlier comments highlight the potential for any smart card in the health area to act as a platform for further government applications down the track. □

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