



Codes defeat crimes in Internet regulation

Recent editions of **CU** have contained analyses of competing Australian inquiries into the regulation of content on the Internet being conducted by the Australian Broadcasting Authority and the State and Commonwealth Attorneys General. These inquiries are now complete. In the following article, **Chris Connolly** examines the outcomes of each and the road ahead. This article was prepared with the assistance of the Australian Computer Society, which has been discussing these issues 'on line'.

Over the past twelve months Australia has had not one, but two, inquiries into the regulation of content on the Internet. The Communications Law Centre (CLC) and the Australian Computer Society (ACS) have been following both inquiries closely, and have each made a number of submissions arguing against the development of a strict censorship regime. The results are now out, and both the CLC and the ACS are expressing cautious approval of the outcome - a proposed self regulatory scheme based on codes of conduct for Internet service providers.

ABA report

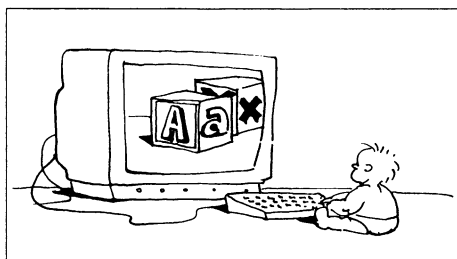
On 5 July the Australian Broadcasting Authority (ABA) released its Investigation into the Content of On-line Services. The 212 page report examined the availability of 'offensive' material on the Internet, and the various options for regulating such content. The ACS has described the report as an impressive document which bears all the hallmarks of a conscientious and successful attempt to understand the nature of on-line services and the Internet.

The report recommends a self regulatory framework for service providers, in conjunction with a content labelling scheme based on PICS (Platform for Internet Content Selection)

standards. The ABA pointedly avoided endorsing the criminal law approach that the State and Commonwealth Attorneys General had been considering in the course of this inquiry.

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The ABA recommended the development of industry codes of conduct, but stopped short of providing a template or 'skeleton' code. The result is that there is now an enormous amount of work to be done by Internet service providers and other industry bodies in developing codes of conduct.



The report sets out a number of provisions which should be included in codes. One provision which has caused some controversy, is the requirement that service providers should limit accounts to subscribers who are 18 years of age or older:

'If open on-line access is limited to password accounts for adults, responsibility for children's use of on-line services will devolve to parents and other adult supervisors. The ABA recognises that such an approach by service providers will not meet all concerns about children's access to unsuitable material, but it is a practical step which will contribute to the achievement of this goal'(p. 103).

In response to criticism of this requirement, ABA Chairman Peter Webb has argued that he will not be seeking to impose an obligation to guarantee that account holders were over eighteen, but as a minimum the ABA should put in place reasonable steps to verify the age of account holders. It is a response which does not satisfy everyone, but it is only a minor hiccup in what has otherwise been a very well received report.

Attorneys General inquiry

In a complete contrast to the ABA inquiry and report, federal and State censorship officials and ministers have been working on a regulatory package of their own since early 1995, based on criminal sanctions and prohibitions.

The culmination of this widely criticised inquiry was to have been the meeting of the Standing Committee of Attorneys General (SCAG) in Sydney on July 11 and 12. On the



Singapore censors the Internet

Singapore is amongst the first nations to apply a strict censorship regime to the Internet. Late last month the Government passed laws requiring Singapore Internet service providers to block access to material deemed offensive by the Singapore Broadcasting Authority. Service providers who breach these provisions will lose their licences. A further provision requires many individuals and organisations to be licensed, including political parties and religious organisations.

A measure of just how repressive this regime may eventually become is the extension of the term 'offensive material' beyond coverage of pornographic or obscene material. Singapore has included material which brings the Government into

hatred or contempt, or which excites dissatisfaction against the Government.

In keeping with other Government measures to control criticism of the legal system, the Singapore Broadcasting Authority can also determine that material which undermines the public confidence in the administration of justice is 'offensive'. Less than a week after these provision came into force, the Singapore Broadcasting Authority removed a news group's posting which criticised some lawyers.

Other matters which the Singapore Broadcasting Authority has recently announced as 'prohibited' include:

- Satanism
- promiscuity
- homosexuality
- lesbianism

- horse racing
- astrology
- geomancy
- palmistry
- fortune telling
- prostitution

Although some of these categories have surprised the Singapore community, the real concern for Singapore's citizens remains the restrictions on political discussion.

Singapore is, of course, at the forefront of new Internet technology, and the Government's stated aim is to connect every home in the island state to the Internet by the year 2000. It argues a need to 'clean up' cyberspace along the way. A more cynical person might observe that the year 2000 is not as tangible a target in Government eyes as the national elections to be held later this year. □

agenda for this meeting was consideration of proposed national uniform legislation which would put in place criminal offence provisions for the storage and transmission of offensive material on the Internet.

However, the ABA report was released seven days before the SCAG meeting, and on 12 July it was announced that consideration of the proposed legislation had been postponed indefinitely. NSW Attorney General Jeff Shaw had been responsible for drafting the proposed legislation, and his office issued a short statement after the meeting:

It was agreed that the way forward was to pursue talks with the industry to create a code of conduct, and the ABA would pursue that. The legislation will be postponed. We need to concentrate on the code of conduct and the ABA will be handling that.

An official copy of the proposed legislation has never been released, al-

though a leaked copy of an early (and inaccurate) draft has been available on the Internet for several months. Despite this, there is a general feeling of relief among service providers that a strict censorship regime has been avoided.

The road ahead

This feeling of relief may not last long when attention is drawn to the vast amount of work which now has to be undertaken by the industry in order to establish a self regulatory regime. The ABA report recommended a three pronged approach:

- service providers (or their industry associations) must develop codes of conduct and register them with the ABA;
- the industry must develop a complaints handling regime, with an appeals function for the ABA; and
- the industry and ABA will jointly convene an On-line Labelling Task

Force to develop a labelling system for Internet content, utilising PICS standards.

A further requirement is for a large scale community education campaign to be undertaken about the Internet, PICS, filtering software, codes of conduct and complaints. The ABA report is supportive of an education campaign, but is vague about its actual implementation. This looks like more work for the industry.

Although the Minister has not yet announced his formal endorsement of these recommendations, he has spoken favourably about them to the press, and there is little doubt that the first three steps will form the basis of the self regulatory regime. Whether any financial assistance is provided for a community education campaign or for the development of codes of conduct is a matter still to be considered by the Minister and Treasury. □