Study highlights diverse approach to content regulation

A pilot study by the ABA for UNESCO has accented the differences in the way in which four countries, one of them Australia, regulates Internet content

In December 1996, UNESCO (the United Nations Educational, Scientific and Cultural Organisation) commissioned the ABA (Australian Broadcasting Authority) to do a pilot study on the online service environment, and the various regulatory schemes that were being considered in Australia and internationally. The purpose of this pilot scheme was to assess the feasibility of conducting a more comprehensive study for UNESCO.

The ABA has released a report of this study, entitled *"The Internet and some international regulatory issues relating to content"*. Although it includes a brief overview of the Internet, its participants and the opportunities presented by online services, its main focus is on the regulation of the Internet in four main jurisdictions: Australia, Malaysia, Singapore and the U.K.

The rationale behind choosing these particular jurisdictions appears to have been the ease of access information, and the fact that each of the countries has introduced some form of online regulation.

The report details four specific issues which it considers regulators are concerned with: illegal content, material which is unsuitable for minors, regulating to provide equitable access, and the cultural diversity of content.

There are features of the Internet which make the enforcement of national content laws difficult. The primary feature is its decentralised nature – material can be stored on a computer in a

country with a minimal censorship regime such as the U.S. or Australia, and accessed in a country with a more comprehensive regime such as Singapore. Communications are anonymous, and content can be "mirrored" on several sites worldwide. The report describes these features concisely; it is perhaps a shame (though understandable given the limitations of this pilot study) that one of the most important factors in content regulation – encryption technologies – is only mentioned once in the report.

The structure of Internet access varies from country to country. At one end of the scale is Australia which with a population of 18 million, has some of the highest Internet access rates in the world; certainly the highest out of the four countries considered in this study. In Australia, seven

per cent of households and 16 per cent of the population have access to the Internet and are served by an estimated 400 Internet Service Providers (ISPs) – by far the largest number of ISPs per Internet user.

In contrast, Malaysia with a population of 20 million has only one per cent of the population using the Internet and only two licensed ISPs. The smaller but richer Singapore with three million people has an access rate nearly six times that of Malaysia. Singapore has only three Internet Access Providers who resell access to roughly 44 ISPs.

The U.K. has three times the population level of Australia. Some 13 per cent of its population uses the Net through 247 ISPs.

All four countries (including the heavily regulated Singapore) claim

Four country comparison: general overview

	Australia	Malaysia	Singapore	UK
Estimated population	18.2 million	20.567 million	3.05 million	58.782 million
Internet use	Estimated 1.65 million people had access to the Internet in Aug/Sept 1996 (11 per cent of the population). Estimated 2.4 million users have used the Internet at some time (16 per cent of the population aged 14+)	Estimated 200,000 users in 1997 (one per cent of the population)	Estimated 200,000 users in 1997	Estimated 4.6 million users used the Internet at least occasionally (9.9 per cent of the population aged 15+)
Internet Service Providers	More than 400	2 wholesalers	3 Internet access service providers and 44 service resellers	More than 240

Source: *The Internet and some international regulatory issues relating to content, a pilot comparative study prepared for UNESCO,* ABA Sydney, 1997

to be encouraging industry self-regulation; and the mechanisms being adopted are similar. All of the countries rely in part on their existing content laws. Australia and the U.K. are planning to rely on industry codes of practice – with the U.K. codes regulated by the industry and the Australian codes regulated by the ABA. Malaysia, with only two ISPs, is relying on the Conditions of Service of the two organisations' licences but has indicated that it plans to leave the Internet in its proposed Multimedia Super-Corridor uncensored. Singapore is relying on a class licensing scheme under which even pure content providers have to be licensed, with the whole system regulated by the SBA (Singapore Broadcasting Authority).

Each country has a different system for determining the legality of material. In this respect the four countries divide into the U.K. and Australia on one side (with minimal censorship) and Malaysia and Singapore on the other (with extensive censorship).

In Malaysia, material may be prohibited if the relevant minister is satisfied that the material is likely to be prejudicial to public order, morality, security, likely to harm public opinion or to be prejudicial to public interest or the national interest. Material is also illegal if it is obscene. On top of these categories, material which has a seditious tendency is banned.

Content which should not be included on the Internet under the Singapore system is reproduced on this page.

In Australia, material is illegal if it would be refused classification under the National Classification Code and Guidelines. In essence, material will be refused classification if it instructs in or incites criminal acts or if it depicts child pornography or extreme violence (especially sexual violence). Content may also be regulated by the application of the various anti-discrimination Acts, in particular the Commonwealth Racial Discrimination Act.

In the U.K., material which is obscene under the Obscene Publications Acts of 1959 and 1964 cannot be published. Obscene material is material which would tend to deprave and corrupt persons likely to read, see or hear the material. The Protection of Children Act deals with offences relating to indecent photographs of children, and the Public Order Act 1986 deals with material intended to incite racial hatred.

Material which is not illegal, but which is not suitable for viewing by children is harder to regulate. In regard to this material, the regulators from the four countries are mostly in agreement. They all promote the use of filter software such as NetNanny, and are all looking into the proposed PICS (Platform for Internet Content Selection) standard. In addition, Australia is encouraging the use of warning pages on web sites which contain unsuitable material, and the 1996 ABA report made the controversial recommendation that children under 18 years of age should not be allowed to open Internet accounts.

In a similar manner, all four governments are either planning or looking into community education schemes aimed at assisting parents and guardians in properly monitoring their children's Internet use.

The UNESCO report maintains a dry, factual tone throughout. The separate regimes are presented individually, without comparison or comment. This makes the study uncontroversial, and a useful starting point for research in the area. Hopefully this pilot study will be followed up by the real thing, so that the clear limitations present in this report can be overcome. However, within its limitations it is a clear, factual and useful contribution to the literature in this area.

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Content not to be included on the Internet in Singapore

Public Security and National Defence

a. Contents which jeopardise public security or national defence.

b. Contents which undermine the public confidence in the administration of justice.

c. Contents which present information or events in such a way that alarms or misleads all or any part of the public.

d. Contents which tend to bring the government into hatred or contempt, or which excite disaffection against the government.

Racial and Religious Harmony

a. Contents which denigrate or satirise any racial or religious group.

b. Contents which bring any race or religion into hatred or resentment.

c. Contents which promote religious deviations or occult practices such as Satanism.

Public Morals

a. Contents which are pornographic or otherwise obscene.

b. Contents which propagate permissiveness or promiscuity.

c. Contents which depict gross exploitation of violence, nudity, sex or horror.

d. Contents which depict or propagate sexual perversions.