Against the burning of virtual books

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In November 1994 *Time* magazine ran an article making broad claims about the presence and availability of pornographic material over the Internet. That article was soundly debunked, but fanned a moral outrage that had been quietly smouldering for some time. In the intervening time the United States of America *Communications Decency Act* was passed, and the various State governments around Australia beat their chests about reforms 'the people' required them to pass. Not surprisingly, the *Communications Decency Act* ended up struck down and the Australian draft model provisions were shelved, apparently permanently.

Considering that the latter of these two criminalised the unknowing receipt of information, it is difficult to have faith in the executive's understanding of the issues involved. That, coupled with the recent upswing in the vigour with which censorship laws have been enforced should be of concern to anyone who deals in information. Institutions such as libraries and service providers, who act as a repository for others' information should be especially concerned, as it is their computers that could be confiscated during a police search.

The current legislation deems materials which 'promote, incite or instruct in matters of crime or violence' at the most restricted rating and makes the publishing of that material an offence. Therefore an article instructing in shoplifting is in the same league as the worst child pornography (see the *Rabelias* case). Otherwise innocuous publications are, by this definition, child porn equivalents (for example, pamphlets instructing in safe drug use). In the extreme, this criterion could be used to suppress community discussion or criticism. It would be odds on that libraries and service providers are already technically in breach of this provision.

Since the shelving of the draft model law we have seen new proposals at a federal level which, while more rational, still reflect a 19th century understanding of how information propagates in the new world. For example, under current (mid-1997) proposals internet publishing in one state would have to comply with legislation in all states. Homosexuality was illegal in Tasmania until mid-1997 — would the Mardi Gras have been a 'Refused classification' film? This approach also creates a high barrier to entry for student, community-based and other organisations which are unable to obtain legal advice.

Censorship of the Internet is caught in a number of contradictions. As a general principle, people are permitted to see and read what they choose. Only in the case of the most abhorrent material is there an exception to this rule. This raises a difficult question of what it is that we are trying to stop. The traditional answer has been 'damage to minors'. As such, mere possession of material can not be a crime, and it is the means of access to harmful material that must be controlled. Unless Australia asserts jurisdiction over the rest of the world (about seventy per cent of content downloaded comes from outside Australia), the access to harmful material on the Internet is not going to stop.

Surely the ultimate aims of legislation can not be addressed by regulating access. However, in attempting to, the community will be forced to bear high and unnecessary compliance costs. We can speculate how long it will be before the underlying technologies force a re-evaluation of what censorship is intended to achieve and the best means of achieving it. It would be more sensible to do that now. ■

Moral guardians?

Librarians, content regulation and the Internet

Censorship of the Internet is an impossible task, a legal minefield and an issue for competing information media. The Australian government is in the process of developing a policy on Internet content regulation, the Australian Institute of Chartered Accountants is designing an industry code of conduct and newspapers and television networks are adjusting their practices to compete with this new medium. Everyone is keen to use the Internet's information and revenue-producing technology — but everyone has different and often conflicting ideas on content regulation.

The biggest question for the library and information profession is who will bear legal responsibility for Internet content? Attempts to legislate content regulation have failed. In the United States, the *Communications Decency Act* was struck down by the Supreme Court, while Australia's legislation has been put on hold. Some of the problems identified with the proposed legislation are:

- they make Internet Service Providers (ISPs) responsible for policing content created and published by others;
- they make the Australian Broadcasting Authority responsible for regulating ISPs;
- they force ISPs to make judgements about how material published by their users would be classified by the Office of Film and Literature Classification;
- they fail to recognise the major problems that will result from inconsistencies between state censorship laws, and;
- they fail to take into account that clearly objectionable material such as child pornography is already illegal, or that the vast bulk of 'adult' material is sourced from outside Australia.

Lobby groups in the United States of America are pushing for the installation of filtering software on library Internet terminals with the aim of protecting children from pornography (*Wired*, 'No place is safe', December 1997). Yet the American Library Association has proven that this os nopt only unconstitutional, but also blocks access to legitimate information (as well as relying on a third party, the filtering software company, to be the arbiter of what is considered 'safe' for children). ALIA, with a proud history of defending the freedom to read, believes it is important not to block adults' access to legitimate information. ■