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Forum: Internet filtering and censorship proposals

Session 2: Legal and societal framework

The structure of classification and how it applies to Internet content, who is involved in classification of the confidential ACMA blacklist, challenges in classification.

• Clarification of who’s who and who does what.
• Strengths and weaknesses of current arrangement.
• Future options
Who’s who, and who does what

Major players:
- Office of Film & Literature Classification (??)
- Attorney General’s Department
- Classification Board
- Classification Review Board
- Australian Communications & Media Authority
- Australian Customs Service
- Enforcement Agencies
How do the two systems work

Classification Board

• Traditional media types, such as film, computer games and some publications, must be classified by the Board *prior to* being sold in shops or viewed in a cinema

• Based on the classification categories described in the *Classification (Publications, Films and Computer Games) Act 1995*, and the principles expressed in the *National Classification Code*. 
How do the two systems work

ACMA

- The co-regulatory scheme covers content on World Wide Web sites, Usenet newsgroups, peer-to-peer file sharing applications, live content and other types of content that can be accessed online (including on the internet or on a mobile phone).

- Content is managed through the Codes of Practice, and ACMA takes actions based on complaints.

- Prohibited & potentially prohibited content is “removed” if hosted in Australia, or details are provided to filter providers if the content is hosted overseas.
Strengths and Weaknesses

Classification Board & Classification Review Board

Strengths:

• Constitution of the Board allows representation of the broader community rather than being drawn towards interest groups or emerging academic findings

• Review Board provides an appeal mechanism
Strengths and Weaknesses

Classification Board & Classification Review Board

Weaknesses:

• Volume of work prevents consideration of all matters (including controversial matters) by the entire Board
  o potentially skewing the principle of a view of the broader community, and
  o potentially affecting consistency

• Cooperative nature of the National Classification Scheme is based on Commonwealth, States & Territories guarding closely the powers they had separately before the scheme. Issues arise regarding funding and policy development.
MLCS Management

Strengths and Weaknesses

ACMA

Strengths

• Co-regulatory model provides an opportunity to manage massive amounts of content in an auditing role that is responsive to community needs

• Not restricted (too much) by problems of managing policies of nine different governments
Strengths and Weaknesses

ACMA

Weaknesses

• Model does not provide fully for an independent representative adjudicator

• Subject to the usual policy compromises of the federal government
## Workload Data – 1.

Online Content referred to Classification Board by ACMA

<table>
<thead>
<tr>
<th></th>
<th>TOTAL</th>
<th>RC</th>
<th>X18+</th>
<th>R18+</th>
<th>MA15+</th>
<th>OTHER</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>22</td>
<td>12</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>2006-07</td>
<td>28</td>
<td>8</td>
<td>3</td>
<td>6</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>2007-08</td>
<td>14</td>
<td>2</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>7</td>
</tr>
</tbody>
</table>
Complaints regarding Online Content managed by ACMA

<table>
<thead>
<tr>
<th></th>
<th>TOTAL*</th>
<th>Prohibit or Potential Prohibit Outcomes</th>
<th>Prohibit or Potential Prohibit Items</th>
<th>Take Down &amp; Deletion Notices (Aust.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>826</td>
<td>422</td>
<td>724</td>
<td>18</td>
</tr>
<tr>
<td>2006-07</td>
<td>602</td>
<td>262</td>
<td>499</td>
<td>5</td>
</tr>
<tr>
<td>2007-08</td>
<td>1122</td>
<td>475</td>
<td>796</td>
<td>12</td>
</tr>
</tbody>
</table>

*In each year the total number of complaints made is greater than those actioned due to carry-over from previous years, invalid complaints and complaints terminated due to insufficient information. Approximately 75-8-% of complaints were completed in each year.
**Workload Data – 3.**

**Comparison Prohibited v Potentially Prohibited**

<table>
<thead>
<tr>
<th></th>
<th>ACMA Reported as Prohibited or Potentially Prohibited</th>
<th>*Classification Board Classified RC, X18+, R18+ or MA15+</th>
<th>Difference – i.e. Determined by ACMA to be Potentially Prohibited</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>422</td>
<td>15</td>
<td>407</td>
</tr>
<tr>
<td>2006-07</td>
<td>262</td>
<td>17</td>
<td>245</td>
</tr>
<tr>
<td>2007-08</td>
<td>475</td>
<td>7</td>
<td>468</td>
</tr>
</tbody>
</table>

*MA15+ content was not included in prohibited or potentially prohibited content in 2005-06 and 2006-07.*
Future Model ??

Structurally, a future model can draw on the strengths of the existing models

• Allow industry to continue to participate as the key player in managing content and access to content

• Provide a regulatory authority to manage the development of codes of practice, and perform an auditing and complaints handling role as required

• Provide an independent body that is representative of the broad Australian community as a reference point for content standards.
My View

Principles that need to be considered

• Don’t try to control everything.

• Technology isn’t the answer for managing community concerns about content. Knowledge and education can provide an answer.

• The Australian community wants some form of assistance and/or advice regarding content access and management.