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**ITN330: Information Issues and Values
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**HOW TO IMPROVE AUSTRALIA'S INTERNET CONTENT
REGULATION SYSTEM:
A JOINT ACS / ALIA POLICY PROPOSAL TO THE FEDERAL
GOVERNMENT**

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26 May 2001

EXECUTIVE SUMMARY

Australia's current Internet content regulation system embodied in the Commonwealth Government's *Broadcasting Services Amendment (Online Services) Act* of 1999 is seriously flawed in terms of its woefully inaccurate understanding of the realities of this increasingly ubiquitous medium. The *Online Services Act* was developed in a close-minded reactionary political climate of moral crisis and moral panic with regard to new information technologies. As such, the *Act* has no place in a nation that claims to value democracy and personal freedoms, and particularly in one whose economic fortunes depend so heavily upon how larger and wealthier foreign countries perceive our capability to use new technologies to our best advantage.

At present, the *Online Services Act* is not only still in force, but there are serious plans to expand and enhance its powers at a State level over the objections of online freedom groups. In addition, as they have at all stages in the Internet content regulation debates thus far, the Australian public in general have demonstrated both their apathy towards, and ignorance of, this crucial IT issue.

In order to alleviate the present parlous system of Internet content regulation in this country, to prevent it from worsening, and to raise public awareness of the positive aspects of this relatively new and exciting technological medium, the Australian Computer Society (ACS) and the Australian Library and Information Association (ALIA) hereby formally commend our jointly-proposed alternative Internet content regulation policy to the Federal Government for immediate implementation.

In summary, we make the following pair of primary recommendations:

- The current Federal Government-run Internet content regulation system should be completely scrapped.
- In its place, a regularly evaluated system funded by the Federal Government, but run by the ACS and ALIA, should be instituted that will have as its central aim an emphasis upon positive Internet user education and empowerment of the citizen to make their own Internet content regulation decisions.

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1 Introduction

For many years, most Australians have supported, or at least tolerated, the Federal Government's legislative right to classify and accordingly regulate the distribution of most forms of visual and print media. Films, videos, and computer games are particularly easy to classify, as they are distinct, readily identifiable consumer products with relatively easily observed importation and distribution channels. Likewise, it is not easy to publicly distribute contentious (usually pornographic) print matter and escape the Government's regulatory force.

This is not so for Internet content. Text, pictures, movies, and sounds may be downloaded from and/or placed on easily accessible computers located all over the world, usually with very little (if any) observation by anyone else. With extremely few exceptions, such content has been developed free of any form of official government regulation and, as such, can potentially compose of material that is heavily restricted, if not banned, in other media. Compounding these "problems" is the fact that Internet content is almost incomprehensibly abundant in comparison with most other media.

With a view to maximising consistency with the treatment of other forms of media, the Federal Government's 1999 *Online Services Act* instituted a system for the regulation of Internet content. More recently, South Australia proposed a Bill to complement this legislation with additional enforcement at a State level. It is clear that increasing severe Internet content regulation is becoming a reality in Australia. It

is equally clear from their silence that most Australians either support these moves or, more likely, do not care or realise that they are being made.

1.1 Reason for proposal

The Australian Computer Society (ACS) and the Australian Library and Information Association (ALIA) have seen fit to pool their resources and collectively present a policy proposal to the Federal Government. This proposal outlines progressive strategies for the regulation of Internet content that emphasise user education and parental supervision rather than the regressive punitive and misguided censorship of the current system that shows no clear understanding of the unique nature of this manifestation of information technology.

Members of the ACS and ALIA realise that this predominantly directional and operational policy proposal is unsolicited and has not been produced at a time where it may be particularly welcomed by the Federal Government as part of an official inquiry, but it is hoped that it will be nonetheless well regarded. The current Internet content regulatory system has so far not demonstrated its relevance or worth to our membership bodies, so suitable alternative policy directions are provided here.

1.2 Significance of proposal

Both the ACS and ALIA believe in freedom of speech and expression, and realise the value and power of the Internet as a priceless tool for the information professions and indeed the betterment of the national economy in the current information age (ACS, 1999a; ACS, 1999b; ALIA, 1996; ALIA, 1998; ALIA, 2000). As such, Internet use should be encouraged and the medium not restricted unduly in the aim of furthering misguided policies. It is hoped that the Federal Government will change its policy accordingly without delay as a result of this document arising from the united concerns of significant information technology industry professional bodies.

While policy proposals of a similar nature have been presented before by like-minded groups, they have clearly been ignored (Commonwealth, 1999). We anticipate that this one will not suffer the same fate as it is backed by conclusive evidence, some of which concerns the failure of the current Internet content regulatory policies in practice. With this benefit of informed hindsight rather than speculative foresight, the current system has been proven woefully misguided and inadequate (Dearne, 2001b; EFA, 2001b).

1.3 Definition of key terms

Readers who are unfamiliar with the people and concepts involved in this area of information technology policy should closely examine the glossary found in the Appendix.

1.4 Information sources

Various sources located on a range of media have been consulted in the preparation of this policy proposal. They range from academic monographs, to Australian Government Senate and other publications, to Internet World Wide Web pages, and even personal notes. The writings of Electronic Frontiers Australia (EFA), the main Australian online civil liberties organization, have been paid particular attention. No one source could possibly detail this issue to the depth that it requires, so such an assortment of references can be expected. Please peruse the References section of this document for further information.

1.5 Limitations

Internet content regulation issues are complex. It is not possible to adequately explore them all within the constraints of this policy proposal document. What is presented here can be only be a well-constructed summary. While the ACS and ALIA possess firm views in regard to pointing out the inadequacies and subsequent need for change to the current Australian Internet content regulation system, both sides of the argument will be given a hearing, but the side taken by the authors will be conclusively shown to be the correct one.

2 Issue Analysis

Several succinct subsections that follow under this heading will alert the reader to the exact nature of the issue of Internet content regulation in Australia.

2.1 Aim of this section

This section aims to show that Internet content regulation is indeed an important information technology issue in this country that needs urgent attention with a view to making significant changes to current Federal Government policy. As an issue, Internet content regulation involves competing stakeholders who hold competing values, or at least different interpretations as to how to promote certain common values. The development of truly effective and widely accepted policy requires that the aims and aspirations of all sides of the debate must be properly understood and everyone's concerns taken into account. This process did not take place when the *Online Services Act* was developed and passed, and thus must take place now.

2.2 Issue clarification

Federal Government politicians who shape Internet content regulation policy, both directly and indirectly, hold negative attitudes towards the Internet or, at least, towards those citizens who may post content in that medium (Commonwealth, 1994; LAQ, 1995a; LAQ, 1995b; Larme, 1997). It is seen as a problematic area of contemporary society to the extent that something must be done about it by governments whose purpose of existence is to regulate society (Larme, 1997). The most vocal politicians who promote these views are essentially the same as those who hold and promote similar views towards that other technological “bogyman” – computer games: Senators Brian Harradine (Independent), Margaret Reynolds (Labor), and John Tierney (Liberal) (Larme, 1997; Senate Committee, 1994). These Senators from all main sections of Federal politics have led Senate Committee discussions and inquiries related to the Internet. Their enthusiasm in promoting highly conservative views on this issue has sat well with their parliamentary colleagues who have debated and passed the *Online Services Bill* accordingly (Commonwealth, 1999).

A largely apathetic or uninformed Australian public has not stood in the way of Internet content regulation legislation. Whether by accident or deliberate design, one of the best opportunities for those who oppose excessive Internet content regulation to ensure that their views were publicised as widely as possible was destroyed on the 28th of May 1999 (EFA, 2001a). That was the date of large pro-online freedom rallies, marches, and demonstrations organised by the EFA across the country in all capital cities (EFA, 2001a). Numerous journalists covered these events, only to have their reports almost universally ignored in favour of coverage of another vital development in politics later that same day – the announcement that Australia was to have a GST following Federal Coalition talks with the Democrats (personal recollection of Anthony Larme). Very soon afterwards, the *Online Services Bill* quietly passed into law (Commonwealth, 1999).

Australia was left with an unrealistic, ridiculous, punitive Internet content regulation system whose deficiencies, while plain to see for those with even a minor degree of technical knowledge and no anti-new technology bias, were ignored by the *Act's* supporters in spite of all the evidence they received of their misguided attitudes (Commonwealth, 1999; Graham, 1997; Larme, 1997; Taylor, 1997; Telstra, 1997).

Such misguided attitudes include seeing the Internet as:

- a) *A broadcast (“push”) rather than a “pull” medium.* In almost every case, the Internet user must actively search for content. It is not seen on screen automatically or with negligible effort as is the case with television. In this sense, the Internet may be somewhat compared to a library (ALIA, 2000). As a result, regulating content using the ABA, a Federal Government agency designed to regulate genuine broadcast content such as from television, is highly inappropriate (ACS, 1999a; Graham, 1997; Taylor, 1997).
- b) *Containing content universally analogous to film content.* Internet content is predominantly text and pictures. As such, it would make more sense to regulate its content as for publications. While numerous video files exist on the Internet, their number is infinitesimal in comparison to publication-style content (as any regular Internet user would attest). Seeing Internet content as film content is also further evidence of (a) in that film could be considered a broadcast medium (Dearne, 2001a; Graham, 2001).
- c) *A danger to children.* Publications ratings guidelines followed by the OFLC are significantly less restrictive than the film ratings guidelines (OFLC, 1999; Senate Committee, 1997). With children seen to be at particular risk from Internet content through alleged lack of parental supervision, whether through parental neglect or lack of information technology knowledge, it is no wonder that all Internet content (with the exception of computer games which continue to be rated as such) is seen as film content (Commonwealth, 1999; Griffin, 2001; Larme, 1997; Muehlenberg, 2001). Most restrictive of all are the OFLC's computer games ratings guidelines, so it is of some consolation that the Federal Government has seen fit not to let Internet content regulation go that far for all online material (Senate Committee, 1997).

- d) *Containing content that would also be banned or seriously restricted offline.* When combined with all the above assumptions, this point has meant that Internet content is in fact regulated *more* harshly than offline film and video content. X 18+ rated material is banned as is R 18+ rated material not protected by a restricted access system that requires adequate proof of adulthood before permission to access such content is granted (Commonwealth, 1999). These issues are compounded when one considers the difficulties average citizens who are content providers have in deciding if their Internet content would likely be rated R 18+ or above by the OFLC (Graham, 1997). With such uncertainty, much content may simply be hosted offshore to the detriment of local commerce (Graham, 1997).
- e) *Being able to be regulated effectively by Australians for Australians.* While Australians have one of the largest per-capita Internet access rates in the world, our overall number of users, including content providers, is quite small and pales in comparison with the same categories of figures related to citizens of the USA (ABS, 2001; Fitzsimmons, 2001; Spencer, 2001). The Internet is a truly global medium and it is very easy to move content offshore before the legal system can touch it or the person who provided it (Graham, 1997; Taylor, 1997). Australia's laws end at our borders and we can only offer suggestions to foreign law enforcement bodies who probably do not share all our views on Internet content regulation (ABA, 2000; Commonwealth, 1999). Finally, the fact that enforcement relies on a complaints mechanism to nominate Internet sites that contain prohibited content goes against the deep-seated Australian cultural attribute of not "dobbing" in one's fellow citizens (ABA, 2000; Commonwealth, 1999). Even if a person proceeds with their complaint, they face an additional hurdle if reporting RC material for it is usually an offence even to look at it for all reasons, much less save it to one's hard drive (Dearne, 2001b; Graham, 1997; Taylor, 1997). In short, one law defeats another.
- f) *Being able to be at least partly regulated, either at an ISP level or at a home or company computer level, through filtering software.* This is another false assumption as no perfectly reliable form of filtering has been devised thus far,

and enforcing filtering on ISPs, especially major ISPs, could lead to untold slowdowns on the Internet, Australia's online isolation, and the blocking of far more sites than are necessary (Graham, 1997; Taylor, 1997).

Additionally, some detractors of the *Online Services Act* such as the EFA have pointed out that ISPs cannot be held responsible for content on their servers (and thus comply with take-down notices for content) any more than Australia Post can be held responsible for the content of the postal mail (Graham, 1997; Taylor, 1997). However, recent moves have been taking place in South Australia through the introduction of a Bill that would give the Federal *Online Services Act* extra power at a State level through the sanctioning of infringing content providers to correct this loophole (Graham, 2001; Griffin, 2001). Nevertheless, once again, false assumptions are being made pretty much along the lines detailed from (a) through to (f) above (Graham, 2001; Griffin, 2001). In short, the Federal Government has made a mess of Internet content regulation and, as such, has misallocated resources that could be used far more effectively with a considerably revised regulatory policy. Such a policy is proposed in the next major section of this document.

2.3 Issue validation

Two major theoretical perspectives helpful in validating the ACS and ALIA perspective regarding the issue of the regulation of Internet content consist of:

- *Freedom of speech and expression.* These fundamental human rights clearly cherished in relevant ACS and ALIA policies, guaranteed by documents such as the United Nations' *Universal Declaration on Human Rights* and the Constitution of the USA, are the cornerstone of any true democracy as they ensure the freedom to receive and impart information (ACS, 1999a; ACS, 1999b; ALIA, 1996; ALIA, 1998; ALIA, 2000; UN, 1988). If this does not occur or is unduly limited, corruption and self-interested or misguided power seeking is likely to occur to the detriment of some or all peoples in society (Graham, 1997; Taylor, 1997). Unfettered, the Internet is a free and democratic medium that may

readily be used by all citizens to defend themselves against unfair use of power by governments or other influential bodies (Graham, 1997; Taylor, 1997).

- *Moral crisis and moral panic.* As defined by sociologists Victor and Cohen respectively, these concepts relate to frequent occurrences in modern societies where people become fearful of the rapid pace of change (eg: the rapid emergence of information technology in the past decade) (Victor, 1993; Cohen, 1972). As a result, many seek at least a partial return to old conservative values, while realising at least partly that the new values cannot be totally ignored forever (eg: No Australian government wants to actually ban the Internet entirely) (Victor, 1993; Cohen, 1972). Compromises whereby some part of the new values are embraced while clinging to some tradition tend to divide society (eg: Australia's current Internet content regulation system) (Victor, 1993; Cohen, 1972). Such divisions tend to lead to radicalism among certain members of the younger generations who upset the delicate moral crisis equilibrium with their considerable embrace of new values (eg: The EFA-led and similar protests against Internet content regulation) (Cohen, 1972). These people clash figuratively and sometimes literally with more conservative people and often ensure a hardening of conservative views (eg: The proposed South Australian laws) (Cohen, 1972). Societal change can only said to be truly accepted when there is no more moral crisis or panic surrounding the change (Victor, 1993; Cohen, 1972). Moral crises and panics are irrational states of mind and decisions made as a result of them can rarely do any real lasting good for society (Victor, 1993; Cohen, 1972).

Additionally, it is worth mentioning the publicly professed primary purpose of those who support and want to expand Australia's current Internet content regulatory regime (AHISA, 1997; Griffin, 2001; Larme, 1997), namely:

- *The protection of children from content that may harm them.* Child protection needs no formal expository theory as it is simply a natural response of most living beings towards their young. However, Internet content regulation in Australia has become firmly intertwined in a figurative web of moral crisis and moral panic to the extent that it is impossible to separate moves for child

protection from moves to what, to put it bluntly, amounts to outright online censorship.

2.4 Impact on stakeholders

Australia's current Internet content regulation system has had the following impact upon those who hold a stake in this issue:

- *Government.* Federal Government parliamentarians have felt satisfied that they have “done something” about the perceived threat of the Internet (Commonwealth, 1999; Griffin, 2001; Larme, 1997). In fact, the ABA has recently released a report detailing what they consider to be the success of the new regulatory scheme so far (Dearne, 2001b; EFA, 2001b).
- *Conservative groups.* These people, generally the holders of religious views and quite vocal in their lobbying of the Federal Government in comparison with the few who go out of their way to push for online freedom, have also felt quite satisfied (AHISA, 1997; Griffin, 2001; Muehlenberg, 2001). But their “work” is not yet over in that the providers of content that may harm children also need prosecution – it is not sufficient to simply force ISPs to take these people’s “offensive” material away from the Internet (Graham, 2001; Griffin, 2001; Muehlenberg, 2001).
- *Online freedom groups.* Organizations like Electronic Frontiers Australia, and to a slightly lesser extent the ACS and ALIA, have naturally been disappointed in regard to the continuing implementation of the *Online Services Act* (Dearne, 2001a; Dearne, 2001b; EFA, 2001b; Graham, 2001). They continue to expose its inadequacies such as the EFA’s recent analysis of the ABA’s progress report mentioned above (Dearne, 2001b; EFA, 2001b). In the current situation with the ACS and ALIA, this policy proposal is being drawn up in the hopes of realising the goals of this group of stakeholders.
- *The Australian economy.* The modern global information economy requires its participants to have positive views on the usage of information technology. If

Australia wants to fully embrace this reality of the modern world, it needs to show a more tolerant attitude towards the Internet (Clausen, 2001; McCarthy, 2001). This need is compounded in urgency by the fact that Australia is getting a negative reputation for its failure to fully embrace information technologies (Clausen, 2001; McCarthy, 2001). A significant consequence of this fact is that foreign investors have caused the value of the Australian dollar to plummet dramatically and remain at record low levels over the past couple of years (Dickins, 2001; Economist, 2000; Gottliebsen, 2000).

2.5 Summary: need for policy

Australia's current Internet content regulation system is based on false premises and has been inadequately pieced together by governments and their conservative supporters in an environment of moral crisis and moral panic where freedom of speech and expression have been unfairly sidelined. With the current Federal Government policy exposed as woefully inadequate to deal with the realities of the Internet, it is now up to concerned information technology related groups such as the ACS and ALIA to formally propose an alternative policy. That is the dominant concern in the next section.

3 Policy Solution

This section resolves the issue of Internet content regulation in Australia through the proposal of a suitable new policy direction.

3.1 Introduction

In view of all the points that have been raised so far in this document, the ACS and ALIA jointly believe that we can arrive at a reasonable policy solution. It should go

a long way towards satisfying the widespread perception that Internet content must be regulated, while at the same time ensuring online freedoms to the maximum possible extent in the interests of democracy and the betterment of the national economy. The Federal Government is urged to heed the specific policy directions that follow.

3.2 Policy objectives

Any new Internet content regulation policy must recognise that:

- The Internet is not a “problem” that must be dealt with. It is a new (at least in terms of its extensive use by the public) and exciting use of information technology that has the potential for far more good than harm in its incredible ability to widely disseminate information (ABS, 2001; Fitzsimmons, 2001; Spencer, 2001). This is done through non-broadcast means and primarily through text and graphics.
- No one can truly regulate Internet content in Australia or indeed anywhere else as if it were just another form of traditional media such as film (ACS, 1999a; EFA, 2001b). A new system must be developed for online content that takes into account the unique nature of the medium.
- Adults invented, developed, and still maintain the structures that support the Internet (ACS, 1999a; ACS, 1999b; ALIA, 1998; ALIA, 2000). They also account for the bulk of its users and providers of content (ABS, 2001). Without adults, the Internet would cease to exist. As such, their interests must be promoted ahead of those of the over-protection of children. At the same time, adults are invaluable as guides and supervisors for children.
- Excessive Internet content regulation demonstrates a country’s failure to fully embrace information technology and the associated economic benefits it brings (Clausen, 2001; McCarthy, 2001). Wealthy overseas investors tend to “punish” such misguided nations, devaluing their currencies and lessening their reputations as modern and progressive (Dickins, 2001; Economist, 2000; Gottliebsen, 2000).
- A state of mind that involves elements of moral crisis and moral panic is not suitable when determining policy for such an important facet of modern day

social and economic life. Internet content must be considered calmly and rationally in order that suitable outcomes may be achieved.

3.3 Policy options

Keeping in mind the policy objectives detailed above, three policy alternatives are proposed below.

3.3.1 Policy option 1

To play the devil's advocate, suppose the ACS and ALIA ultimately decide to fully support the current Internet content regulation policies currently enforced by the Federal Government and proposed by the South Australian Government (with other State Governments sure to follow) (Commonwealth, 1999; Graham, 2001; Griffin, 2001). Should this occur, this policy option is in fact identical to current governmental policies Australia wide (Commonwealth, 1999; Griffin, 2001). It is essentially a "no change" policy. Fortunately, no Australian politician is planning to restrict Internet access to the highly limited or non-existent levels permitted in several overseas dictatorships, so it is not worthwhile to even conceive of a policy where Internet access is banned altogether (Griffin, 2001). As such, perhaps current and realistic potential future restrictions on online freedoms can be endured for the overall protection of the community, particularly children (Griffin, 2001; Muehlenberg, 2001).

3.3.2 Policy option 2

Naturally, the other extreme would be to propose that all manner of policy from both government and non-government bodies should completely ignore the Internet. This would make the online community a haven from all the laws of the offline world and

enable people to fully express themselves free from all restrictions apart from those somehow imposed by their online peers. Not even the EFA dares to go this far as it is their opinion that whatever is illegal offline should also be illegal online (EFA, 2001a; EFA, 2001b; Graham, 1997; Taylor, 1997). With no restrictions, criminal activity may flourish alongside legitimate expressions of individuality. Federal Government time and monetary resources could be diverted elsewhere, resulting in significant cost savings. After all, Internet content regulation as it stands is hardly inexpensive and what government does not want to be seen to save taxpayers' dollars?

3.3.3 Policy option 3

Both the above policy options do not fully take into account all five major policy objectives mentioned earlier. Viable middle ground must be reached to acknowledge the concerns of moderates on both sides of the debate surrounding the Internet content regulation issue. Politicians who develop and pass related legislation must not regulate Internet content more harshly than similar offline content. As such, Internet content should be considered in a similar manner as publications and thus 18+ material that would be rated R or X in film freely permitted. Children can be protected from content that may harm or disturb them through a combination of parental supervision, possible voluntary use of some filtering software on a home-by-home basis, and free public educational sessions for citizens of all ages on Internet use at libraries and similar public locations. Genuine illegal content, such as the often-mentioned child pornography, can be pointed out to law enforcement officials of the various State police forces as needed without intervention by an irrelevant government agency such as the ABA. Legislation should be adjusted to recognise that to report illegal content, citizens will need to see it first to know that it is illegal (Dearne, 2001b). It should not be an offence to view illegal material providing that it is promptly reported to law enforcement authorities and not subsequently retained on one's computer (Dearne, 2001b). In short, this policy option does not take any of the extremes of options 1 and 2 while fully supporting the previously mentioned policy

objectives. An overall improvement of freedom, democracy and economic prosperity in Australia would surely follow the implementation of this policy alternative.

3.3.4 Summary

Neither the ACS nor ALIA, in our support for Internet related freedoms, denies the right of any Australian government to place limits on online freedoms in the interest of protective society, or certain sections of society, from possible harm (ACS, 1999a; ACS, 1999b; ALIA, 1996; ALIA, 1998; ALIA, 2000). What we do object to, however, is policy that is made with regard to information technology that is clearly influenced by the very real concepts of moral crisis and moral panic that are the bane of constructive dealing with change everywhere. As a result, we hereby propose policy option 3 as the most suitable policy for the Australian Federal Government to follow in relation to the regulation of online content.

3.4 The suggested policy

Policy option 3 may be implemented and subsequently evaluated according to the means outlined in this section.

3.4.1 Restatement of selected policy objectives

This option was chosen as the most ideal because it is fully compatible with the policy objectives mentioned earlier in that it:

- Realises that the Internet has a much greater potential for good rather than harm.
- Acknowledges that most Internet content is similar in nature and accessibility to publications but even then, there are some differences.
- Views the Internet as primarily a medium by and for adults, while recognising its value and appeal to children.

- Can only lead to a rejection and probably dissipation of moral crisis and panic related fears surrounding the Internet and a likely ensuing improvement in Australia's reputation as a supporter of information technology led economic improvement.

No other proposed option is fully and reasonably compatible with these stated policy objectives.

3.4.2 Policy outline

Here are the key elements of the Internet content regulation policy formally endorsed by the ACS and ALIA and hereby commended to the Federal Government for implementation in place of current policies. Every component of this three-pronged strategy have been fully justified by the preceding discussion:

- All aspects of the existing Internet content regulation regime must be dismantled immediately. This means that the Commonwealth *Online Services Act* of 1999 must be fully repealed and further debate on the complementary South Australian (and possible similar legislation in other States) enforcement cease. In addition, the Department of Communications, Information Technology and the Arts must be relieved of its Internet content regulation responsibilities through its ABA agency. Furthermore, the OFLC must stick to its standard role assigning classifications to some publications, and all films, videos, and computer games – never again having any role in rating Internet content. Overall, governments in Australia must never again directly regulate or attempt to regulate Internet content.
- With the monetary savings from the preceding point, plus any additional funds required for full compliance with this new policy, free Internet education sessions are to be set up in libraries, schools, universities, and community centres nationwide. These sessions are to accommodate people of all ages and backgrounds, with particular attention paid to the central role of the parent or guardian in the supervision of children's use of the Internet – whether or not they elect to use filtering software in their homes. To ensure maximum participation,

such sessions should be widely advertised and held as often as needed given the time and reasonable resources available for their funding. Session developers and coordinators should consist of information technology professionals including educators and librarians. With such a powerful educational campaign, citizens will become empowered and encouraged to embrace the full benefits of the Internet in promoting basic democratic freedoms and economic prosperity.

- In regard to undeniable and genuine illegal content on the Internet that is totally prohibited offline, such as child pornography, existing laws are sufficient to deal with this minor, but still relevant, problem. Citizens are to be encouraged to report such infringements to the police without fear that they will be prosecuted merely for necessarily looking at and/or downloading such material in order to verify its existence in the first place. Fear of reporting illegality should be avoided in the interests of better identifying and ultimately removing such material. In no case, should any Internet Service Provider be held responsible for content held on their Internet servers. Full responsibility must lie with the originator of such content just as Australia Post cannot be held responsible if, say, child pornography is distributed in the ordinary postal mail.

Through the implementation of this policy to the letter, Australian government legislators and their various departments and agencies will be sending a powerful message to people both within this country and without. It will portray Australia as a forward-thinking nation that can deal with exciting new developments in information technology effectively and, as such, is worthy of social and economic respect as a result.

3.4.3 Impact on stakeholders

Policy redirection to the extent proposed above is hardly likely to meet with the full approval of all stakeholders, least of all those under the full effects of moral crisis and moral panic. If the inevitable protests of these groups continue, such groups should be given particular attention in the proposed policy's Internet education sessions and encouraged to change their views. If this does not work, it will likely be of little

consequence to governments who wish to stay in power because, presumably, a generally better Internet educated populace is one that will not be swayed to vote a government that does not heavily regulate the Internet out of office. Governments themselves can feel content that they are still “doing something” about the Internet, but this time with a positive rather than negative emphasis, and have taken much needed steps to improve Australia’s democratic and economic reputation (and resultant economic prosperity) in the eyes of the world. Lastly, it will be comforting for the members of the professional bodies of information technology related occupations to know that they are being placed in the forefront of this new strategy, as they should be, suitably promoting their expert knowledge and benefiting the community to a considerable extent, thus fulfilling their professional objectives (ACS, 2001).

3.4.4 Overall strategies for evaluation

Regular monitoring of the effectiveness of this Internet content regulation policy proposal is best done by governments in conjunction with information technology industry professional bodies such as the ACS and ALIA. It must also involve the cooperation of business and ordinary citizens. Working together, all Australians may use the Internet for the overall betterment of our society and economy. If faults or limitations are discovered, they should be analysed and appropriate action taken promptly. Such actions should not cause Internet content regulation policy to revert to its current state or end up more restrictive than it is at present.

3.4.5 Evaluation criteria

Suitable evaluation criteria for assessing the continued effectiveness (or lack thereof) of this joint ACS/ALIA policy proposal are as follows:

- Has the public money saved from the scrapping of the old Internet content regulation regime been fully diverted to the Internet education scheme? In

addition, has any additional funding been justified in light of any increase in GDP and/or improvement in any other significant economic indicator (such as an improvement in the value of the Australian dollar) that is considered by financial and business experts to be a result of this country's revised regime? After all, it is current expert opinion that a country's favourable treatment of information technology, including the Internet, can be a reliable indicator of likely economic prosperity (Dickins, 2001; Economist, 2000; Gottliebsen, 2000).

- According to Australian Bureau of Statistics data, is a significantly greater percentage of Australians using the Internet? If they are, to what degree are they using it to improve or promote Australian culture, international image, and the local economy?
- Have conservative groups decreased their calls for a strengthening of Internet content regulation? This may be evidenced by changes in the nature and number of petitions, inquiry submissions, and other means of lobbying.
- How many current or former members of conservative groups now have a significantly positive attitude towards the Internet? Polls taken among such groups can be a useful indicator.
- Have reports to government officials, particularly the police, increased in number in relation to universally prohibited content such as child pornography? Furthermore, have associated prosecutions increased? Conversely, have prosecutions for the accidental possession of such material or for merely possessing it for the purpose of formally reporting it been eliminated?

These questions must all be answered taking into account the strategies mentioned in the preceding section. Feedback from all relevant groups in this important issue is to be welcomed.

3.4.6 Summary

In summary, the suggested policy proposed and promoted by the ACS and ALIA in relation to the regulation of Internet content and how Australian politicians should arrange for its regulation takes a middle ground between heavy-handed paternalistic

protection and anarchistic freedom. It acknowledges the realities of the Internet by proposing that only an extensive, widespread public education campaign conducted by our members about its uses and benefits, including how adults can protect their children through informed supervision, is a viable means for regulating the creation and access of all legal content. Illegal content can readily be dealt with under existing laws with some modification to allow for increased ease of reporting infringements. All these measures can be evaluated and re-evaluated as necessary for the betterment of Australia's society and economy.

4 Conclusion

Over the past few years, Australia's legislators and those who are most vocal in their lobbying have succumbed to the forces of moral crisis and moral panic in relation to the regulation of Internet content. This situation has resulted in ignorant, unwarranted legislation that views the Internet as a "problem" that must be overcome. Most Australians are still unaware of the generally positive nature of the Internet and reflect such lack of knowledge with apathy or support of most politicians in relation to further Internet content crackdowns. Such reactionary thinking has certainly not sat well with this country's overall international reputation with regard to the socially and economically effective use of information technology.

Until now, the forces of expert opinion and supporters of online freedom have not presented a powerful, coordinated front against reactionary attitudes towards the Internet. They have also failed to provide a viable alternative content regulation system. Both the ACS and ALIA have written this policy proposal as a united effort to show that Australian information technology professionals, through their proper understanding of relevant issues, can devise a credible alternative policy in this area.

Our alternative policy is free from the constraints of moral crisis and moral panic and encourages Internet use towards the aim of creating a better society of freedom and economic prosperity while realising that some measures need to be put in place to

deal with a very small amount of illegal content. Such a policy has as its central platform a widespread and extensive education campaign to create informed Internet users backed by the repeal of existing restrictive legislation and the improvement of some existing illegal material enforcement legislation. Plenty of evaluation criteria regarding the effectiveness of such a policy will ensure its continual beneficial operation. The ACS and ALIA fully commend this policy proposal to the Federal Government for immediate implementation.

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RECOMMENDATIONS

1. The 1999 Commonwealth *Online Services Act* should be repealed.
2. No complementary State legislation should be passed.
3. The ABA and the OFLC should be relieved of all their Internet content regulation responsibilities.
4. Under the guidance of the ACS and ALIA, the Federal Government should set up detailed, well-publicised Internet awareness and usage sessions to be offered to all sections of the Australian public free of charge. These sessions should be held as often and for as long as needed to promote widespread Internet awareness in a positive manner, with particular (but not undue) attention paid to realistic strategies on how adults can supervise their children's use of this medium.
5. Content illegal offline in all media should likewise be considered illegal online. No other content should be restricted in any way. Illegal content reporting provisions should be introduced to ensure citizens are not reluctant to report content infringements for fear they will also be punished.

6. The new regulatory scheme outlined in recommendations 4 and 5 should be closely monitored by suitable government and non-government bodies to ensure its continued effectiveness and be corrected as necessary should any deficiencies be determined from time to time.

APPENDIX - Glossary

ABA (Australian Broadcasting Authority). Founded as a Federal Government regulatory body within the Department of Communications, Information Technology and the Arts for public broadcasting services such as television, the ABA has recently had its responsibilities widened to include the enforcement of Internet content regulation according to the *Online Services Act* (ABA, 1999; ABA, 2000). These measures have been taken by the Federal Government without regard to the fact that the Internet is in fact *not* a broadcasting medium (ACS, 1999a; Graham, 1997; Taylor, 1997).

Classification. To place items or products into predefined categories to allow for ease of regulation. In Australia, media content classification is usually applied by the OFLC (OFLC, 1999).

Guidelines. The OFLC uses different standards when assessing different types of media. The set of standards they use for the assessment of any particular type of media are known as guidelines, for example: film and video guidelines (OFLC, 1999). All Internet content is assessed against film classification guidelines (Commonwealth, 1999).

ISP (Internet Service Provider). A company that provides people with a connection to the Internet. To connect to the Internet, consumers need to connect through the ISP of their choice. ISPs often hold content created by their customers and others on computers that are generally accessible to all Internet users.

OFLC (Office of Film and Literature Classification). A Federal Government agency located within the Attorney General's Department that is primarily responsible for classifying all films (including videos) and computer games made available for sale or hire to the public in Australia (OFLC, 1999). These products are assigned ratings according to their suitability to certain age groups and many are additionally provided

with consumer advice giving a very brief summary of the reasons for the rating. Some literature is also classified, but this tends to be typically pornographic in nature, so most such works do not receive a classification. As a result of the *Online Services Act*, the OFLC's classification duties now include rating Web pages and other Internet content upon the request of the ABA or the police (Commonwealth, 1999).

Online Services Act (Broadcasting Services Amendment (Online Services) Act 1999). As at January 1 2000, this piece of Federal Government legislation instituted a system of Internet content regulation in Australia (ABA, 2000). Such regulation works through a public complaints mechanism, and the issuing of compulsory "take-down notices" to ISPs after contentious content is classified by the OFLC (Commonwealth, 1999).

Ratings. For computer games (in order of level of restriction, least restrictive first) = G (all ages), G 8+, M 15+, MA 15+, RC (Refused Classification) (Senate Committee, 1997). For films = G, PG, M 15+, MA 15+, R 18+, X 18+ (video only), RC (OFLC, 1999). For publications = Unrestricted, Category 1 – Restricted 18+, Category 2 – Restricted 18+ (Senate Committee, 1997).

Senate Committee. Originally the *Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies*, its name in recent years has been shortened to simply the *Senate Committee on Information Technologies*. Over the past decade, the politicians on this Committee have held numerous inquiries that have led to equally numerous reports filled with many highly influential recommendations concerning how the Federal Government should strictly regulate emerging electronic technologies such as the Internet (ABA, 1999). The members of the *Senate Committee* can generally be described as overly cautious at best, to reactionary at worst.

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