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UNSW Cyberspace Law and Policy Centre
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

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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

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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*.

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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.

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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

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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.

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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

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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

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Workload Data – 1.

Online Content referred to Classification Board by ACMA

	TOTAL	RC	X18+	R18+	MA15+	OTHER
2005-06	22	12	2	1	1	6
2006-07	28	8	3	6	2	9
2007-08	14	2	5	0	0	7

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Workload Data – 2.

Complaints regarding Online Content managed by ACMA

	TOTAL*	Prohibit or Potential Prohibit Outcomes	Prohibit or Potential Prohibit Items	Take Down & Deletion Notices (Aust.)
2005-06	826	422	724	18
2006-07	602	262	499	5
2007-08	1122	475	796	12

*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.

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Workload Data – 3.

Comparison Prohibited v Potentially Prohibited

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

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

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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.

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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.