

Internet Regulation: Examples from Around the World and Case Studies

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Topics to Discuss

- Internet regulation in your countries
- Internet regulation and mechanisms in a number of other countries around the world
- Practical cases in break-out groups with discussion

How is Internet content regulated in
your country?

Let's look at how Internet content is
approached elsewhere.



ALBANY ASSOCIATES

Regulatory Framework Applicable to Internet and Mobile Content in Australia

- Complaints-based (regulator not required to proactively search for violations).
- Co-regulatory scheme (cooperation with industry and public)
- Regulator's restrictions are applicable to ISPs, content hosts and mobile carriers in Australia. Other Australian state and territorial law punishes creating and accessing objectionable material (such as child pornography and obscenity).
- National regulator's codes and regulations apply only to ISPs and content hosts (including providers of mobile content), but other law applies to content creators.
- ISPs and content hosts must educate and inform users about content. Those that comply with all requirements are labeled "family friendly."

Legal Framework Applicable to Internet and Mobile Content in Australia (cont'd)

- Restricted content must have prior age verification mechanisms and warnings.
- Different responses depending on where content is hosted.
 - In Australia: Take-down notice to content host.
 - Overseas: Regulator will notify ISPs who are to take action pursuant to their codes of practice.
- If content is sufficiently serious (e.g., child pornography), regulator will notify law enforcement authorities (in Australia or overseas).

Legal Framework Applicable to Internet and Mobile Content in Australia (cont'd)

- Failure to comply with take-down order is violation of the law under primary legislation and subjects the violator to heavy fines.
- ISPs and content hosts must police each other and inform regulator of violations by others.
- All regulatory decisions subject to judicial review.
- Blocking of overseas content is done through ISPs providing filtering software to users in accordance with industry code of practice. Such filtering is completely voluntary.
- Regulator notifies makers of filtering software of content it deems inappropriate.

Legal Framework Applicable to Internet and Mobile Content in Australia—cont'd

- Other functions of the regulator concerning Internet
 - Monitoring compliance with codes of practice.
 - Advising and assisting parents and other carers of children in relation to the supervision and control of children's access to Internet content.
 - Conducting and coordinating community education programs about Internet services.
 - Carrying out research into issues relating to Internet content and usage.
 - Liaising with regulatory and other relevant bodies overseas about cooperative arrangements for the regulation of online content.
 - Informing itself and advising the Minister on technological developments and service trends in the Internet industry.

Legal Framework Applicable to Internet and Mobile Content in Australia—cont'd

- Result: Research has shown that much of the content that the law was concerned with has moved offshore and is hosted from abroad.
- Perhaps a symbolic win, moving this activity off of Australian soil.
- But, loss to the government of control and revenues.

Regulatory Framework for Internet in Singapore

- All media, including the Internet, is regulated by the national regulator, the Media Development Authority (MDA).
- Legislation requires ISPs to obtain a license before offering services to the public in Singapore. Under the law, both service and content providers are automatically licensed.
- All licensees are required to enforce compliance with the MDA's Internet Code of Practice.
- The Code defines prohibited content, which ISPs must block.

Regulatory Framework for Internet in Singapore (cont'd)

- Filtering by the MDA:
 - How this works in practice: the MDA requires ISPs to block access to 100 symbolic sites, primarily carrying pornographic material and encouraging ethnic or religious strife.
 - Corporate Internet access is exempt from the requirement to block these 100 sites.
 - Similar content is readily available at other sites on the Internet that are not blocked in Singapore.
 - Internet content regulation depends primarily on access controls (such as requiring political sites to register for a license) and legal pressures (such as government-initiated defamation lawsuits and the threat of imprisonment) to prevent people from posting objectionable content rather than technological methods to block it.

Regulatory Framework for Internet in Singapore (cont'd)

- The MDA can also issue penalties to ISPs or content providers for violations, including fines or a license suspension or termination, for non-compliance with the Code.
- The MDA has encouraged ISPs to develop and offer for an additional fee “family access networks” that filter out pornographic and other objectionable web sites.
- The government has encouraged the development of a ratings system.
- The MDA’s Internet Code of Practice does not provide for any restrictions or penalties imposed on users. Violation of other laws, however, such as those banning possession of pornography, may subject an Internet user to criminal penalties.

Regulatory Framework for Internet in Saudi Arabia

- Internet filtering at ISP level by SmartFilter (the same software used in UAE).
- Subjects most filtered are pornography, references to drug use, gambling, religious conversion, and tools to circumvent filters.
- The government openly describes its filtering process.
- Participation by public regarding both over- and under-filtering.
- Saudi Arabia's Council of Ministers issued a decree in 2001 regulating Internet use that prohibits users from accessing or publishing certain forbidden content.

Attempts at regulation in the US

- Prohibiting material harmful to minors found unconstitutional:
Two piece of legislation from the 1990s, Child Online Protection Act (COPA) and Communications Decency Act (CDA), overturned by the US Supreme Court—other means less intrusive because parental controls possible, age controls found burdensome, overly censored protected speech.
- Grass roots resistance:
SOPA and PIPA, online piracy legislation, recently stopped by public pressure and organised online campaigns, which resulted in a presidential veto threat.

Mechanisms in the UK

Internet Watch Foundation

- UK not-for-profit civil society organisation that takes complaints from the public about Internet content.
- Focuses on child pornography and criminally obscene material.
- Works with law enforcement to identify and crack down on illegal activity.
- Funded by voluntary contributions from UK communications service providers.

Mechanisms in the UK (cont'd)

Proposed legislation to apply defamation principles to the Internet:

- Identified poster: If there is a complaint, the ISP must post that there has been a complaint, then no ISP liability.
- Unidentified poster: If there is a complaint, the ISP must give the poster a chance to identify him/herself, then the rule above applies. If not identified, the ISP must take down the material or risk liability as if the primary publisher.
- Currently under consultation in the UK. Recognition that any steps taken will have to be accompanied by an extensive media literacy campaign, e.g., educating the public to give anonymous content less credence.

Case 1

- There is an elections rule prohibiting media from releasing results of exit polls before voting ends so that exit poll results do not influence voting choices or turn-out.
- The communications regulator has a role in enforcing the rule and recommending improvements for future elections.
- Local media follows the rule, but foreign media and foreign sites twitter exit poll results several hours before polls close
- You are in senior management of the regulator. What steps to take regarding these violations? What recommendations for future rules and policies?

Case 2

- The comments section to a popular local publication begins to be populated with personal attacks on a local politician, slurring her family and providing personal details (names, phone numbers, addresses).
- The publication has received complaints, but has not taken any action about the comments for 72 hours.
- How might this be resolved under your current law?
- What policies and rules would you suggest to address such issues?

Case 3

- People in your country are able to access sexual content on a local website.
- This content is available only after entering credit card information and paying a monthly fee.
- How might this be addressed under your current law?
- Develop a policy for such content that you would consider ideal.

Case 4

- People in your country are able to access obscene content on a foreign website.
- This content is freely available without entering credit card information or other access controls.
- You are on a governmental committee charged with making recommendations for a solution. How would you try to address this?

Case 5

- A vast majority of readers of online news in your country get their information from the sites of 8 local newspapers and 3 foreign news sites. News is also widely available on thousands of other local and foreign sites.
- All of these sites have begun showing graphic images of violence during news reports that violate local norms and customs, but do not violate the law.
- How would you try to address this?

Case 6

- The government faces significant international pressure to enforce intellectual property rights and crack down on online piracy.
- There are a number of prominent popular local websites where files are shared illegally after joining for a fee. A number of these sites are advertised on the websites of local media outlets.
- Research shows that a minority of citizens of your country also download illegally from foreign sites.
- You are on a governmental committee charged with addressing this. What recommendations would you make?

Case 7

- A telecoms operator wants to introduce IPTV triple-play services through a DSL line—internet, TV (streaming and on-demand) and phone through a set top box
- As part of the package, the operator wants to offer 10 foreign channels not licensed in the country
- As part of the package, the operator wants to offer its own 24 hour channel
- You work on a government committee charged with assessing how to license such an operator. What would you recommend?