

## **Liberty Victoria: Policy**

### **Internet Censorship**

The Federal Government has announced its intention to implement a system of internet filtering which would enable it to censor child pornography. This includes the task of classification moving from the Australian Communications & Media Authority to Classification Review Board. While the system of filtering and its governance has been put on hold until after the 2010 election, with a review to follow the following policy represents Liberty's general position, and further responses to developments will be considered.

1. Liberty supports free speech and, in principle, opposes censorship for infringing this important human right. Freedom of expression is protected by art 19 of the International Covenant on Civil and Political Rights (ICCPR) to which Australia is a signatory.
2. Refused Classification is a highly sensitive issue because it includes many different sorts of materials which are not illegal to possess. However, Liberty accepts that the classification of electronic child pornography as Refused Classification and its censorship is justifiable. While adults should be free to read and watch adult pornography, child pornography is different. The production of child pornography involves the commission of serious criminal offences and ought to be discouraged by all means possible. One way to discourage it is to criminalise the watching of child pornography. Liberty supports this.
3. In principle therefore, internet filtering which effectively blocks child pornography and has no other consequences for the operation of the internet, would merit Liberty's support. The crucial question is whether such a system of filtering is possible. Expert advice to Liberty says that it is not.
4. According to that advice, there are broadly three approaches to filtering internet web traffic: searching and blocking specific websites, blocking specific URLs within websites, and blocking specific content through a combination of machine and human intervention. None of those approaches offers an effective way of blocking child pornography. All three approaches suffer from "false positives", i.e blocking innocuous sites and content, especially the entire website and content filtering approaches. There is always a margin for error. All three approaches also suffer from "false negatives", i.e they fail to block targeted sites and content, especially the specific URL and content filtering approaches.
5. All of the above approaches focus on web traffic only, which does not account for all of internet traffic today, which includes ftp, virtual private intranets (VPN), encrypted networks such as those used in e-commerce or e-government and so on. The documented evidence about other illicit uses of the internet, such as copyright piracy, suggests that HTTP traffic accounts for only a small proportion of child pornography usage. Therefore, filtering only HTTP traffic is unlikely to be effective in preventing the use of the internet for child pornography. Attempts to block other modes of traffic (e.g ftp) are just as susceptible to false positives and false negatives, and some traffic, such as those on encrypted networks cannot be checked without compromising their security.

6. Parents have every right to utilize 'opt -in' filters offered by ISPs if they so wish, but at the same time, need to be aware that no technical filter will be 100% effective.
7. There are many ways, most of which are easy to implement, by which an internet filter can be circumvented. Content providers can regularly change URLs to stay ahead of the register, can use encryption and can use unfiltered protocols. Content consumers can establish encrypted Virtual Private Networks (VPNs) to unfiltered jurisdictions. Placing any restrictions on the use of encryption would seriously inhibit the lawful use of the internet. Furthermore, camera-fitted mobile fall completely outside of any technical net, and content spreads at an amazing fast rate.
8. Despite government claims, expert technical opinion is that mandatory ISP-level internet filtering technology would add noticeable latency to every internet connection in Australia, thereby degrading internet performance for all users within Australia. Other consequences could include blocking of entire sites or services, a lack of appeals process, tardy review of the list, and low barriers for future Parliaments to expand the list.
9. Image and file sharing of instantly created videos through mobile phones is another area for which technical means are almost impossible to censor or police.
10. From a civil liberties point of view, the most serious shortcoming of internet filtering is that it is based on the maintenance of a secret register of blocked sites including not only child pornography listings, but other material as well such as Refused Classification Material. The child pornography register must be kept secret or else it would be open to abuse by the people whose access it is designed to block; yet the lack of any oversight of the register leaves it open to abuse by Government. Even without abuse by the Government, such filtering would greatly diminish access to information and opinion on the internet without effectively limiting access to child pornography.
11. In the light of these shortcomings to known filtering systems, and the development of new mobile technologies, Liberty considers the Government's proposal to censor the internet to block child pornography should not proceed. Instead more resources should be dedicated to catching the producers and consumers of child pornography by traditional methods, as well as a campaign for parental and family, schools and youth education and increased resourcing to police to counter online and 'mobile' child-pornography activity.