



Australian Government
**Australian Customs and
Border Protection Service**

**AUSTRALIAN CUSTOMS AND
BORDER PROTECTION SERVICE**

**Submission to the
Parliamentary Joint Select Committee
on Cyber-Safety**

**Inquiry into the safety of
children and young people
on the internet**

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INTRODUCTION

The Australian Customs and Border Protection Service (Customs and Border Protection) is Australia's primary border agency. It plays a vital role in preventing the illegal movement of people and goods across Australia's border.

Customs and Border Protection welcomes the opportunity to make a submission to the Parliamentary Joint Select Committee on Cyber-Safety.

The internet has greatly increased the ability of Australians to seek out ideas, goods and services beyond Australia's border. A recent United Nations report tied the expansion of the internet to the more general phenomenon of globalisation.

However, it can also be used by some to conduct or facilitate deliberate illegal activity. When prohibited items are ordered online, additional costs are created for the community, for example through additional Customs and Border Protection intervention.

The internet also provides a confusing environment for those who might otherwise not intend to break the law, because those providing goods and services are located in different jurisdictions with different legal regimes. What is illegal in Australia may not be illegal in another country, or the enforcement in the other country may be so lax as to give particular goods almost legal status.

In this context, Customs and Border Protection's role lies in regulating the movement of prohibited and restricted goods across the border, which includes those goods purchased on the internet.

TERMS OF REFERENCE

a (ii) **the nature, prevalence, implications of and level of risk associated with cyber-safety threats, such as:**

- **exposure to illegal and inappropriate content;**
- **inappropriate social and health behaviours in an online environment (e.g. technology addiction, online promotion of eating disorders, drug usage, underage drinking, gambling and smoking);**

Illegal and inappropriate content can take a range of forms. It is not difficult to find websites spruiking goods that violate Australia's border controls, or encouraging illegal behaviour which might impact on Australia's border protection regime.

The International Narcotics Control Board (INCB) provides a blunt assessment of the role of the internet in illicit drug trafficking:

However, the Internet is increasingly being misused for illegal activities. Among the many well-known criminal activities involving the internet, drug trafficking has reached major dimensions. Internet-based drug trafficking includes the sale of illicit drugs and, increasingly, the illegal sale of pharmaceuticals containing narcotic drugs and psychotropic substances. Those pharmaceuticals, which have a high abuse potential, have become a significant problem in many countries because they have partly replaced traditional drugs of abuse. In several countries, the abuse of prescription drugs has become a major problem, second only to the abuse of cannabis.

The illegal sale of pharmaceuticals is facilitated by websites that present themselves as internet pharmacies and supply controlled narcotic drugs and psychotropic substances without meeting the legal and administrative requirements established for traditional pharmacies. In such cases, the term "internet pharmacy" is misleadingly used to imply that a bona fide pharmacy is carrying out the transaction. However, in most cases such internet pharmacies have no physical or legal connection with a legal pharmacy and should, in fact, not be considered pharmacies at all. Many of these virtual enterprises are owned by criminal networks and have various branches that deal, for example, in the illegal acquisition and supply of medicines, the provision of sham prescriptions and the smuggling of drugs.

In recent years, the volume of illicit sales of narcotic drugs and psychotropic substances through websites has risen, making the internet a major source of drugs for drug abusers. Many of the drugs are addictive; some are highly potent and their abuse can have fatal consequences. Particular concern has been expressed with regard to the ease with which children and adolescents can obtain such drugs, using the anonymity afforded to them by the internet. In addition, the quality of medicines purchased illegally through internet pharmacies and other websites cannot be guaranteed and customers risk purchasing medicines that are counterfeit products.¹

An additional international concern is the role of the internet in promoting new drugs, both for the unknown effects on users and the competition by illicit drug manufacturers

¹ International Narcotics Control Board, *Guidelines for Governments on Preventing the Illegal Sale of Internationally Controlled Substances through the internet*, New York: 2009, page 1-2.

to stay one step ahead of regulators. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and Europol (the European Union's law enforcement agency) recently noted 'the appearance of a large number of new unregulated synthetic compounds marketed on the internet as 'legal highs' or 'not for human consumption' and specifically designed to circumvent drug controls'² presents a growing challenge to current approaches to monitoring, responding to and controlling the use of new psychoactive substances.

The European Union's Early Warning System 'actively monitors unregulated psychoactive products – the so-called 'legal highs' – sold via internet or specialised (smart, head) shops, advertised with aggressive and sophisticated marketing strategies, and in some cases intentionally mislabelled with purported ingredients differing from the actual composition. A distinct feature of the 'legal highs' phenomenon is the speed at which the suppliers circumvent drug controls by offering new unregulated alternatives that target specific groups of recreational drug users.'³

In some cases drug promotion on the internet can be inadvertent. A recent United Kingdom media expose of an illicit synthetic drug manufacturer noted that the emerging drug mephedrone, an amphetamine-type stimulant, received a big and inadvertent boost from online advertising. Following an increase in mephedrone's popularity in 2007 and 2008 (itself assisted by the spread of information on the internet via Facebook and blogs dedicated to the drug), Google's AdSense programme, which automatically generates advertisements from keywords paid for by businesses, started adding links to online mephedrone shops at the end of online newspaper articles calling for mephedrone to be banned.⁴

Such information on the internet applies equally to such things as performance and image enhancing drugs, dangerous weapons, and counterfeit goods. Those offering these goods can ship them around the world, and sometimes claim to be able to package in such a way as to evade customs controls. All of this access to such websites serves to spur an interest in those tempted to use illicit drugs, thus increasing demand and providing incentive for individuals to import those drugs.

In addition to physical goods, those searching the internet can easily obtain information potentially harmful to children and young people, including:

- guides on using/preparing drugs (for example, methamphetamine cookbooks) and expected experiences;
- guides on how to make narcotics with household items including concealing and avoiding attention from law enforcement;
- step by step instructions on constructing explosive devices and improvised firearms;
- use of over the counter drugs to produce a desired effect;

² European Monitoring Centre for Drugs and Drug Addiction and Europol, *EMCDDA–Europol 2009 Annual Report on the implementation of Council Decision 2005/387/JHA*, viewed at http://www.emcdda.europa.eu/attachements.cfm/att_101536_EN_EMCCDDA-Europol%20Annual%20Report%202009_EDOC%20458303-1.pdf on 21/06/10, p.14.

³ Ibid., p.6.

⁴ Power, Mike and Simon Parry, *The Chinese laboratories where scientists are already at work on the new 'meow meow'*, *The Daily Mail*, 24 April 2010, <http://www.dailymail.co.uk/home/moslive/article-1267582/The-Chinese-laboratories-scientists-work-new-meow-meow.html>, viewed 21 June 2010.

- techniques for obtaining precursors (including theft) used to produce narcotics; and
- advice on the use of money transfer service when procuring pharmaceuticals from overseas.

Customs and Border Protection experience

Customs and Border Protection's experience has been broadly consistent with the international experience. Customs and Border Protection has come into contact with a number of minors who have used the internet to attempt to import prohibited items and to provide instruction on how to carry out cross-border crime and other illicit activities.

The following are examples of the types of prohibited imports ordered over the internet which are regularly detected by Customs and Border Protection in cargo and international mail.

Drugs and drug precursors

Customs and Border Protection is aware that some of the drug precursors that are detected at the border may not be ordered with the intent of manufacturing illicit drugs. Rather they are active ingredients in health supplements, cold and flu preparations, herbal medicines and weight-loss products purchased on the internet. Some of these products are legal in the website's jurisdiction, but are prohibited imports under Australian law.

However, there are also deliberate attempts to subvert border controls. A recent instance was targeted by a six-month Customs and Border Protection operation. It uncovered a suspected pseudoephedrine importing syndicate in Adelaide. Search and seizure warrants executed by Customs and Border Protection in May 2010 yielded evidence of illegal pseudoephedrine imports.⁵

Laser pointers

On 17 June 2010 the Australian Broadcasting Corporation (ABC)'s Radio National ran a story on its PM program about very strong laser pointers, easily exceeding the threshold power allowed by Australian law, being sold online by a Chinese company. In some cases the pointers were up to 1,000 times the permitted power. The Minister for Home Affairs noted that more than 20,000 laser pointers had been detected in the financial year to 31 May 2010, and some of these had been ordered over the internet.

Australia's strong community protection regulations are not matched in all other countries. The drug precursors and laser pointers noted above can be purchased legally in some countries, which allows the sellers of those goods to promote them around the globe. In addition, firearms and other weapons of a significantly different character and capacity than those permitted in Australia are freely traded in other countries, and the internet makes it much easier for Australians to source and attempt to import such items.

⁵ Minister for Home Affairs, *Online monitoring uncovers Pseudoephedrine Syndicate*, media release, 7 May 2010.

a (iii) Australian and international responses to current cyber-safety threats (education, filtering, regulation, enforcement) their effectiveness and costs to stakeholders, including business

In conducting specific operations, Customs and Border Protection identifies websites promoting illegal goods and activities, but is not authorised under Australian law to take action against those websites. Rather, its role lies in regulating the movement of prohibited and restricted goods across the border and includes goods purchased on the internet.

Customs and Border Protection has an online targeting team which identifies online transactions of interest within the border context for further investigation. The work of this team has resulted in a number of important detections including the illegal importation of a large number of weapons, performance enhancing drugs and child pornography.

Customs and Border Protection works closely with other Government agencies such as the Therapeutic Goods Administration and the Australian Competition and Consumer Commission to deal with the tracking and testing of goods identified as a health or safety risk.

Customs and Border Protection has commenced a review to assess the current border controls on prohibited, restricted and regulated goods, and work with key partner agencies to determine how we can improve our approach. The scope of the review covers permission regimes, intervention activities and post-border compliance activities currently employed to detect these goods. The review has been examining current risk strategies with a view to developing differentiated risk treatments based on the type of goods and the risk posed to the community. Future intervention programs will be primarily driven by intelligence in cooperation with our partner agencies.

In addition to this enforcement work, Customs and Border Protection has been proactive in countering border-related cyber-safety threats through public education. The objective is to encourage Australians to think carefully before purchasing prohibited goods on-line. Specific activities include:

- Customs and Border Protection has published a fact sheet, *Buying on the Internet*, which notes prominently, '**ATTENTION – Buyer beware**. Many items available on the internet are prohibited or restricted under Customs and Border Protection legislation. Check with Customs and Border Protection before buying'. Specific mention is given to prohibited or restricted items, goods requiring an import permit, and pirated or counterfeit goods.
- Customs and Border Protection periodically issues media releases alerting Australians to the risks of purchasing prohibited goods over the internet. Such a media release was issued in November 2009 to coincide with the Christmas shopping season.⁶
- Customs and Border Protection includes references to the risks of ordering over the internet in media releases about detections of prohibited items. A recent media release about the increased numbers of laser pointers seized at the border included a warning to those ordering such items over the internet.

⁶ Customs and Border Protection, *Save time and money this Christmas – know Australian import requirements*, media release, 19 November 2009.