

# CHAPTER 1

## OVERVIEW

### Appointment and terms of reference

1.1 On 25 March 1999 the Senate re-established the Select Committee on Information Technologies to:

- a) evaluate the development of self-regulatory codes in the information industries;
- b) monitor the personal, social and economic impact of continuing technological change created by industries and services utilising information technologies;
- c) examine the Government's decision to establish a regulatory framework relating to illegal or offensive material published and transmitted through online services such as the Internet: and
- d) inquire into and report on such other matters as may be referred to it by the Senate.<sup>1</sup>

1.2 The resolution of appointment provided that:

(13) the committee finally report to the Senate on or before the last day of sitting in the year 2000.

### Introduction

1.3 In this report the Senate Select Committee on Information Technologies reviews the major findings of the four reports that it has tabled in the 39<sup>th</sup> Parliament:

- A report on the *Broadcasting Services Amendment (Online Services) Bill 1999* (May 1999)
- *Netbets: A review of online gambling in Australia* (March 2000)
- *In the Public Interest: Monitoring Australia's media* (April 2000)
- *Cookie Monsters? Privacy in the information society* (November 2000).<sup>2</sup>

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1 The full terms of the Resolution of Appointment may be found at pp iii-iv.

2 Copies of the reports are available on the Committee's website: <http://www.aph.gov.au/it>

1.4 The terms of reference and the Committee's recommendations for each report are discussed in chapter 2.

1.5 Although the various inquiries crossed a range of subject matters, a common theme was whether consumers are adequately protected when they engage services that are available on the Internet. The Committee observed that the Internet, while bringing considerable benefits to the Australian community, must also be examined for the negative impact that it can have on the community.

1.6 One of the principal dangers posed by the Internet stems from the assumption that activities carried on in the offline and online worlds are the same. It would be erroneous to say, for example, that gambling in a terrestrial casino is the same as Internet gambling. The former requires a gambler to physically attend the venue, it enables easier checks of age and identity, and has long-standing measures to counter money laundering. The latter, in contrast, is much more accessible and requires additional measures to be incorporated to control gambling by minors and money laundering.

1.7 Governments must actively respond to the differences between the online and offline worlds. With Internet gambling, for example, a new regulatory approach must be adopted that differs significantly from that which applies to terrestrial gambling. Similarly, with privacy in the Internet age, regulators must introduce technology-savvy measures to maintain the privacy of the community. It is likely that similar issues will arise as more industries move their operations online.

1.8 In this report, the Committee discusses some of the challenges that the Internet has raised for regulators of the Internet. It summarises the range of findings from the Committee's inquiries, which suggest that traditional forms of regulation have limited effect in the Internet age. Instead, there is a need to educate and empower consumers so that they know about the dangers of the Internet and how to address them.

## **Discussion**

1.9 In the rush to take advantage of the many business opportunities made available through the Internet, some governments and parts of the private sector have neglected to ensure that consumers are adequately protected. For example, Internet gambling is available 24 hours a day whereas in the offline world gambling activity is more restricted. In this case it appears that the opportunities brought by the Internet - that is low overheads and the ability to offer the service at all hours - have come ahead of the potential damage that this could cause to consumers with a gambling problem.

1.10 Similarly, with privacy, organisations such as CrimeNet Pty Ltd have, through the Internet, made information about individuals available which was once protected by its relative inaccessibility. This was done with little regard for the impact that this could have on some members of the community.

1.11 When governments regulate a particular activity or industry, or an industry decides to regulate itself, they do so with an appreciation for how that industry works or how the activity is conducted.

1.12 One of the principal challenges for regulators in the Internet age is to adapt their regulatory models to the online world. The challenge is heightened not only by the technical challenges that exist, but also the fact that governments across Australia and the world must, in order to provide consumers with a high level of consumer protection, institute uniform regulatory controls.

1.13 An additional complication is that the very industry that has moved online is likely to change rapidly. Therefore, regulators cannot simply take a snapshot of an online industry and then design a regulatory model. Rather, there is an element of predicting the future or devising a model that is flexible enough to account for future changes.

1.14 The Committee found repeatedly that regulators had failed to fully consider the changes brought by the Internet.

1.15 Consequently, one of the recurring tasks of this Committee has been to act as a consumer watchdog in Australia's burgeoning Internet society. An important part of this role has been to ensure that there is not a digital divide between Internet-savvy consumers and those who are only beginning to learn about the Internet and the opportunities that it provides. This involves empowering all consumers to become citizens or participants in the Internet age.

1.16 In the discussion below the Committee reviews some of the challenges to regulators that became apparent during its inquiries. It also discusses some of the regulatory responses that could be advanced to address these challenges.

#### *Online gambling in Australia*

1.17 In the Committee's examination of online gambling in Australia, it was clear that the differences between gambling at a land-based venue as opposed to the Internet are marked. For example, new types of gambling activities may become available. Internet technology means that new and more graphically appealing poker machines can be introduced more quickly. It facilitates competition between players of computer games enabling them to place bets on the outcome of the game. In addition, it enables more information about gambling activities such as wagering, which will give people greater interaction with that activity.

1.18 Also, the experience for the gambler is different because they can gamble with Internet casinos that are based overseas. Accustomed to gambling with highly regulated casinos, the consumer may be unaware that overseas jurisdictions may not apply the same level of controls. Consequently, consumers must be educated about these dangers.

1.19 In particular, consumers must be able to assess the bona fides of an Internet gambling service provider. One of the findings of this inquiry was that the Australian brand name, and its connotations of world class regulation, is an important tool in guiding the gambling choices of consumers.

1.20 This concept was later taken up in the Committee's *Cookie Monsters?* report, in which it devised a privacy webseal that would enable consumers to assess the privacy credentials of a particular organisation.

#### *Privacy in the information society*

1.21 As with gambling, the various facets of personal privacy have been transformed with the advent of the Internet, which allows for the collection of more information than ever before. Whereas previously records could be maintained about the magazines that one subscribes to, the Internet will also record the magazines that we browse and which articles we do and do not read.

1.22 The various changes to the collection and disclosure of personal information brought by the Internet are almost limitless. As more interactions are conducted using this medium, there is increased scope to record details about the way we conduct our private lives. In addition, the collection of personal information is no longer limited to cases where a financial transaction is involved, and the requisite records maintained. Merely surfing on the world wide web leaves a trail of personal information that can be collected by surreptitious technologies such as cookies. This applies to children who use the Internet for a variety of purposes. Increasingly, personal information is collected about their preferences and interests without the knowledge of their parents.

1.23 As with gambling on the Internet, a regulatory model for privacy in the Internet age must be specifically tailored to the various challenges that arise. This is complicated by the need for the model to remain 'technology neutral' so that it does not become outdated with new technological advances.

1.24 The Committee found in its examination of privacy that, perhaps more so than online gambling, which can be controlled through the licensing process and where consumers can be educated to gamble only with bona fide service providers, individuals must become responsible for protecting their consumer rights. Governments are less able to intervene when a consumer interacts with and therefore discloses personal information to overseas-based organisations as they surf the world wide web. Consequently, the consumer must provide the first line of defence in the protection of their privacy.

1.25 The role of governments and the private sector is to empower and educate individuals so that they can provide this defence. In the *Cookie Monsters?* report the Committee recommended the implementation of a privacy webseal which would assist consumers to assess the privacy credentials of an organisation. The webseal provides a range of information and services that empower consumers to assess an organisation's policy and commitment to privacy.

1.26 The privacy webseal is an example of a technology-savvy regulatory tool, which allows consumers to express their privacy preferences. If an organisation has a poor record on privacy matters, consumers will know to steer clear of it. This provides a powerful market incentive for organisations to adopt world's best privacy standards.

1.27 This type of regulatory tool compensates for the fact that the jurisdiction of governments will often not extend to all organisations with an Internet presence. It builds on the concept of the Australian brand name for Internet gambling, as the privacy logo or seal will also allow consumers to access information and services that enable a personal assessment of the credentials of the organisation.

#### *Monitoring Australia's media*

1.28 Many media organisations provide services on the Internet. For example, newspapers publish news items, classifieds and other information on a daily basis using this medium. In its inquiry into this issue, the Committee found that there was significant confusion amongst the community about where to lodge complaints about the media. The complaints process is critical to the effective regulation of many parts of the media industry. For example, the print media is self-regulated, and therefore is held accountable only by the public. The public must therefore be able to lodge effective complaints in order to ensure that the self-regulatory model has its intended effect.

1.29 The Committee focused on empowering individuals so they can lodge legitimate complaints against the media. There is a pressing need to improve the complaints process as the Internet and convergence technology is likely to complicate the complaints process even further. It will become increasingly difficult for individuals to know whether a news item is linked to the print, radio or electronic media as each converges onto the Internet.

1.30 In order to overcome this problem, and empower individuals to hold the media accountable for its actions, the Committee proposed to simplify the complaints process for the public, providing it with a 'one-stop-shop' at which all complaints could be lodged.

1.31 As with its inquiries into privacy and online gambling, the Committee has taken positive steps to empower citizens as new technologies could possibly disempower them.

#### *Prohibited content on the Internet*

1.32 The objects of the Broadcasting Services Amendment (Online Services) Bill 1999 include to provide a means for addressing complaints about certain Internet content; restricting access to Internet content likely to cause offence to a reasonable adult; and protecting children from exposure to Internet content that is unsuitable for children.

1.33 These objects reflect the intent to protect the community from the negative uses to which the Internet can be put. This is difficult for regulators because of the borderless nature of the Internet. When an item is posted on the Internet from an overseas source, it is difficult for Australian authorities to ensure that action is taken to remove that item.

1.34 Prohibited content on the Internet is a continuing challenge for governments. As with issues such as privacy and online gambling, the traditional regulatory models have a limited effect. Consumers, in particular parents, must be educated and empowered so that the potentially negative effects of the Internet can be curtailed.

1.35 It is likely that the issue of prohibited content will have to be monitored into the future. Early indications are that the existing regime is having a limited effect. As governments become more experienced and technology-savvy in regulating the Internet, and the public more aware of how to guard against its potentially negative impact, issues such as this will be able to be managed with increased efficiency.

### **Conclusion**

1.36 The Senate Select Committee on Information Technologies has highlighted the need to ensure that Australians are able to become citizens and not victims of the Internet age. It has alerted the Parliament to the need for adopting regulatory models that are technology-savvy and that put the well being of consumers at their forefront.

1.37 The Committee wishes to thank all those individuals and organisations who have contributed to the Committee's inquiries.

**Senator Jeannie Ferris**

**Chair**

7 December 2000