

Appendix 11 Internet Industry Association Codes of Practice

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INTERNET INDUSTRY CODES OF PRACTICE

**CODES FOR INDUSTRY SELF REGULATION
IN AREAS OF INTERNET CONTENT
PURUSANT TO THE REQUIREMENTS OF THE
BROADCASTING SERVICES ACT 1992 AS AMENDED**

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Internet Industry Association

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1. Preamble

- 1.1 In relation to content control, the IIA recognises that the Internet should provide a means to enable control of access to content in certain circumstances, while acknowledging the the limitations of present filtering technologies and impracticality of filtering all Internet content.
- 1.2 Nevertheless, the IIA endorses end user empowerment including education, the provision of information, and filtering methods as the most practical means by which responsible adults can facilitate appropriate controls, particularly in the case of children.

2. Objectives

- 2.1 The aims of this Code include:
- (a) to establish confidence in and encourage the use of the Internet;
 - (b) to support systems for - management of access to content on the Internet including, without limitation, resource discovery schemes and metadata systems;
 - (c) to improve the fairness and accuracy of disclosure to users of the Internet and the community in general;
 - (d) to provide standards of confidentiality and privacy afforded to users of the Internet;
 - (e) to provide a transparent mechanism for complaint handling for the Internet industry and ensure that complaints against Code Subscribers are handled in a fair and efficient manner;
 - (f) to promote positive user relations with the Internet industry.

3. Principles

- 3.1 In seeking to achieve its objectives this Code applies the following principles:
- (a) as far as possible, there should be “electronic equivalence” i.e. behaviour and transactions that can take place in the real world should be permissible over the Internet without additional requirements or restrictions;
 - (b) the Code should be technology neutral;
 - (c) requirements should be fair to all concerned;
 - (d) requirements should not adversely affect the economic viability of the parties to the Code and the services they make available;
 - (e) the responsibility for content made available on the Internet rests with the relevant Content Providers;
 - (f) the privacy of users’ details obtained by Code Subscribers in the course of business will be respected.

4. Terminology and Interpretation

4.1 In this Code:

“ABA”	means the Australian Broadcasting Authority.
“Act”	means the <i>Broadcasting Services Act</i> , 1992.
“Administration Council”	means that body as provided for in this Code to administer this Code.
"Approved Filter"	means one of the products or services listed in Schedule 1 of this Code.
“Code”	means this Code of Practice.
“Content”	means all forms of information and, without limitation, includes text, pictures, animation, video and sound recording, separately or combined, may include software and includes a “Content Service” within the meaning of the <i>Telecommunications Act</i> , 1997.
“Content Provider”	<p>means a person who, in the course of business, makes available the content of a Web Site or database on the Internet and includes:</p> <ul style="list-style-type: none">• advertisers• information providers• “content service providers” within the meaning of the <i>Telecommunications Act</i>, 1997, <p>but not a person acting in its capacity as an ISP or Internet Content Host, or a person who simply provides an automated general-purpose search engine, cache, catalogue or directory service or similar automated service</p>
“filter”	means to restrict or deny access to a Web Page or other Internet content.
“Home Page”	means in relation to a Code Subscriber, a Web Page or interactive service used by the Code Subscriber as the starting point for users to obtain information regarding products or services of the Code Subscriber.
“Internet”	means the public network of computer networks known by that name which enables the transmission of information between users or between users and a place on the network.

“IIA”	means the Internet Industry Association (ACN 071 075 575).
“Internet Content Host”	has the meaning given by the <i>Broadcasting Services Act, 1992</i> (as amended).
“ISP”	stands for Internet Service Provider and means those persons so defined by the <i>Broadcasting Services Act, 1992</i> (as amended).
“ NetAlert”	means the community advisory body currently known by that name within Australia, and refers to the ‘designated body’ as defined by the Act.
“Online Services Schedule”	means Schedule 5 of the Act.
“person”	includes partnerships, bodies corporate and the Crown.
“Potential Prohibited Content”	means that content so defined by the <i>Broadcasting Services Act, 1992</i> (as amended).
“Prohibited Content”	means that content so defined by the <i>Broadcasting Services Act, 1992</i> (as amended).
“Relevant Authority”	means a body authorised by statute, ministerial direction or parliamentary intent to adjudicate on matters relevant to this Code, including questions of fact. Without limitation, Relevant Authorities include the Telecommunications Ombudsman, the Australian Competition and Consumer Commission, the Australian Broadcasting Authority, the Federal Police, each State Police service and the Racing and Gaming Authorities of each State of Australia.
“Software”	means computer software.
“Suppliers”	means persons who develop, import, sell or distribute Approved Filters, but excludes ISPs who merely provide filters for use in compliance with Clause 6.2 of this Code and do not determine the content or operation of Approved Filters
“URL”	stands for “Uniform Resource Locator” which is the address of a file of Content on the Internet.
“User “	means a user of the Internet who is resident within Australia.
“Unsolicited Email”	means electronic mail that is unrequested by the recipient and is of an advertising or promotional nature, except where the predominant purpose of the

electronic mail is that of a contractual, operational or other service-related customer notice

“Web Page”

means a file of Content accessible on the World Wide Web by requesting a single URL.

- 4.2 In this Code where examples are provided of the manner in which a Code provision may be satisfied, these examples should not be read as limiting the manner in which the provision may be satisfied.
- 4.3 Where other documents are referred to in this Code by means of URLs, the URLs are intended for reference only and the operation of the Code will not be affected where the document referred to is subsequently relocated to another URL.
- 4.4 As stated in subclause 4(3) of Schedule 5 of the Act, the Parliament intends that Internet content hosted in Australia, and Internet carriage services supplied to end-users in Australia, be regulated in a manner that:
- (a) enables public interest considerations to be addressed in a way that does not impose unnecessary financial and administrative burdens on Internet content hosts and Internet service providers; and
 - (b) will readily accommodate technological change; and
 - (c) encourages:
 - (i) the development of Internet technologies and their application; and
 - (ii) the provision of services made practicable by those technologies to the Australian community; and
 - (iii) the supply of Internet carriage services at performance standards that reasonably meet the social, industrial and commercial needs of the Australian community.
- 4.5 To give effect to Parliament's intent as expressed above, all obligations on Internet content hosts and ISPs set out in this Code will be interpreted in a manner that is consistent with that intent. Further, consistent with the Act, in this Code ISP Obligations in Relation to Internet Access to Content Hosted Outside of Australia set out procedures that have regard to the technical and commercial feasibility of taking steps to prevent access to Prohibited Content and Potential Prohibited Content.
- 4.6 For the purposes of registration and amendment of Content Code 2, Schedule 1 is intended as forming part of that Code. Approved Filters are included on the basis of having met the following criteria:
- (a) Ease of installation (where applicable)
 - (b) Ease of use
 - (c) Configurability

- (d) Ability for updates in respect of content to be filtered having regard to the requirements of the designated notification scheme provided for in Clause 6.1 of this Code; and
- (e) Availability of support.

CONTENT CODE 1

5. ISP OBLIGATIONS IN RELATIONS TO INTERNET ACCESS GENERALLY

5.1 ISPs will take reasonable steps to ensure that Internet access accounts ('access accounts') are not provided to persons under the age of 18 years without the consent of a parent, teacher or other responsible adult. For the purposes of this clause reasonable steps may include one or more of the following:

- (a) limiting the opening of access accounts by means of a valid credit card;
- (b) by requiring any application to open an access account to be accompanied by some other form of identification by which the age of the person wishing to open the access account can be reasonably ascertained;
- (c) placing a prominent notice on the packaging in which the Internet access account is marketed that persons under the age of 18 years should obtain the consent of a parent, teacher or other responsible adult prior to using the Internet access account;
- (d) offering a service of a kind described in Schedule 1 in association with the Internet access account or otherwise taking reasonable steps to ensure that the Internet access account does not provide access to Prohibited Content or Potential Prohibited Content such as by means as a closed content system; or
- (e) including a procedure in the registration process for the Internet access account through which the person wishing to open the account confirms that they are not under the age of 18 years or that they have obtained the consent of a parent, teacher or other responsible adult prior to using the Internet access account.

5.2 In respect of those of their subscribers who are Content Providers ISPs will:

- (a) encourage them to use appropriate labelling systems, in respect of Content which is likely to be considered unsuitable for children according to the National Classification Code, though not Prohibited or Potential Prohibited content; and

- (b) inform them of their legal responsibilities, as they may exist under the Act or complementary State or Territory legislation in relation to Content which they intend to provide to the public via the Internet from within Australia.
- 5.3 ISPs will take reasonable steps to provide users with information about:
 - (a) supervising and controlling children's access to Internet content;
 - (b) procedures which parents can implement to control children's access to Internet content, including the availability, use and appropriate application of Internet Content filtering software, labelling systems and filtered Internet carriage services.
- 5.4 For the purposes of clauses 5.2 and 5.3 ISPs shall be deemed to have fulfilled these requirements where they direct users, by means of a link on their Home Page or otherwise, to resources made available for the purpose from time to time by the IIA, the ABA, NetAlert or other organisation approved by the IIA.
- 5.5 ISPs must take reasonable steps to inform their subscribers:
 - (a) that placing content on the Internet may entail legal responsibilities under applicable State, Territory or Commonwealth law;
 - (b) about their right to make complaints to the ABA about Prohibited Content or Potential Prohibited Content; and
 - (c) about the procedures by which such complaints to the ABA can be made.
- 5.6 For the purposes of clause 5.5, ISPs shall be deemed to have taken reasonable steps where they have included, on their Home Page or prominent Web Page:
 - (a) information stipulated in paragraphs 5.5 (a), (b) and (c); or
 - (b) a link to a Web Page containing that information and approved for that purpose by the IIA.
- 5.7 ISPs will have procedures in place to deal with complaints from subscribers in respect of unsolicited email that promotes or advertises Internet sites or parts of Internet sites that enable, or purport to enable, end users to access information that is likely to cause offence to a reasonable adult. An ISP shall be deemed to have complied with this provision where they have provided complainants with, or directed them to, information describing methods by which receipt of unsolicited email of this nature can be minimised.
- 5.8 To the extent applicable, and pursuant to paragraph 60(m) of the Online Services Schedule, an ISP on becoming aware that an Internet Content Host is hosting Prohibited Content in Australia will, provided the ISP is aware of the identity and email address of the Content Host, advise the relevant Content Host by email about the Prohibited Content.

- 5.9 This code was registered by the ABA on 16 December 1999 and will come into effect for implementation on 1 January 2000. It will be formally reviewed within 18 months from the date of implementation.

CONTENT CODE 2

6. ISP OBLIGATIONS IN RELATION TO ACCESS TO CONTENT HOSTED OUTSIDE AUSTRALIA

Designated notification scheme:

- 6.1 For the purposes of Content Code 2 and pursuant to the requirements of Clause 40(1)(b) of the Online Services Schedule, a designated notification scheme comprises:
- (a) direct notification, whether by means of email or otherwise, by the ABA to the Suppliers of Approved Filters of information by which the relevant Prohibited or Potential Prohibited Content can be identified; and
 - (b) notification by email by the ABA to ISPs on a regular basis of Prohibited or Potential Prohibited Content.

ISP Procedures in Relation to Access to Content Hosted Outside Australia

- 6.2 ISPs must follow the procedure in either paragraph (a) or (b) with respect to content notified under the Designated Notification Scheme set out in clause 6.1. These are the procedures to be followed by ISPs in dealing with Internet content pursuant to paragraph 60(2)(d) of the Online Services Schedule.
- (a) ISPs who provide Internet access to subscribers within Australia will as soon as reasonably practicable for each person who subscribes to an ISP's Internet carriage service provide for use, at a charge determined by the ISP, an Approved Filter.
 - (b) For the purposes of this paragraph, provision for use includes the provision of an Approved Filter as part of:
 - (i) an online registration process, and in the case of user installable filters, links to effect download activation and instructions for use;
 - (ii) a disk based registration process; or
 - (iii) a notification containing, in the case of user installable filters, links to effect download activation and instructions for use.

- (c) In the case of commercial subscribers, the ISP will, as soon as practicable, provide for use, at a charge and on terms determined by the ISP, such other facility or arrangement that takes account of the subscriber's network requirements and is likely to provide a reasonably effective means of preventing access to Prohibited and Potential Prohibited Content. In this clause, provision for use includes:
 - (i) providing appropriate software, including any of the Approved Filters; or
 - (ii) facilitating access to consultancy services with respect to firewalls or other appropriate technology.

The ABA will not issue standard access prevention notices or special access prevention notices while the designated notification scheme contained in clause 6.1 of this Code is in effect.

Designated alternative access prevention arrangements

- 6.3 The arrangements set out in the following paragraphs 6.4(a), (b) and (c) constitute 'designated alternative access prevention arrangements' for the purposes of Clause 60(3) of the Online Services Schedule.
- 6.4 Clause 6.2 of this Code shall have no application in respect of the supply of Internet carriage services by an ISP where an end user is subject to an arrangement that is likely is to provide a reasonably effective means of preventing access to Prohibited or Potential Prohibited Content, for example:
 - (a) a commercial subscriber who has advised their ISP that they have in place a form of content filtering or control, whether by means of firewall technology or otherwise;
 - (b) a school, educational or other institutional subscriber similarly protected; or
 - (c) any other subscriber who has advised their ISP that he or she already has installed an Approved Filter.
- 6.5 This code was registered by the ABA on 16 December 1999 and will come into effect for implementation on 1 January 2000. It will be formally reviewed within 18 months from the date of implementation.

CONTENT CODE 3

7. INTERNET CONTENT HOST OBLIGATIONS IN RELATION TO HOSTING OF CONTENT WITHIN AUSTRALIA

7.1 To the extent applicable, each Internet Content Host will take reasonable steps to ensure that content subscription accounts for content hosted by the Internet Content Host ('subscription accounts') are not provided to persons under the age of 18 years without the consent of a parent, teacher or other responsible adult, which reasonable steps may include one or more of the following:

- (a) limiting the opening of subscription accounts by means of a valid credit card;
- (b) by requiring any application to open an subscription account to be accompanied by some other form of identification by which the age of the person wishing to open the subscription account can be reasonably ascertained;
- (c) placing a prominent notice on the site (or promotional material) on which the subscription account is marketed that persons under the age of 18 years should obtain the consent of a parent, teacher or other responsible adult prior to using the subscription account;
- (d) offering a service of a kind described in Schedule 1 in association with the subscription account; or otherwise taking reasonable steps to ensure that the subscription account does not provide access to Prohibited Content or Potential Prohibited Content such as by means as a closed content system; or
- (e) including a procedure in the registration process for the subscription account through which the person wishing to open the account confirms that they are not under the age of 18 years.

7.2 To the extent applicable Internet Content Hosts will:

- (a) encourage Content Providers to use appropriate labelling systems, in respect of Content which is likely to be considered unsuitable for children according to the National Classification Code, though not Prohibited or Potential Prohibited content; and
- (b) inform Content Providers of their legal responsibilities, as they may exist under the Act or complementary State or Territory legislation in relation to Content which they intend to provide to the public via the Internet from within Australia.

- 7.3 To the extent applicable, Internet Content Hosts will take reasonable steps to provide users with information about:
- (a) supervising and controlling children's access to Internet content;
 - (b) procedures which users including parents and others responsible for children can implement to control access to Internet content, including the availability, use and appropriate application of Internet Content filtering software, labelling systems and filtered Internet carriage services.
- 7.4 For the purposes of this clause 7.3, Internet Content Hosts shall be deemed to have fulfilled their requirements where they direct users, by means of a link on their Home Page or otherwise, to resources made available for the purpose from time to time by the IIA, the ABA, NetAlert, or other organisation approved by the IIA
- 7.5 Internet Content Hosts will take reasonable steps, for example through the inclusion of a relevant term of the relevant hosting contract or an acceptable use policy, to inform Content Providers for whom hosting services are provided by the Internet Content Host not to place on the Internet content in contravention of any State, Territory or Commonwealth law.
- 7.6 To the extent applicable, Internet Content Hosts will take reasonable steps to inform users about:
- (a) their right to make complaints to the ABA about Prohibited Content or Potential Prohibited Content; and
 - (b) procedures as determined by the ABA by which users can make complaints to the ABA about Prohibited Content or Potential Prohibited Content.
- 7.7 For the purposes of clause 7.6 Internet Content Hosts shall be deemed to have taken reasonable steps where they have included a relevant term or statement in any hosting contract with end-users, any acceptable use policy, a notice on the Internet Content Host's Home Page, a link to the information on a Web Page approved by the IIA for that purpose.
- 7.8 To the extent applicable, Internet Content Hosts will have procedures in place to deal with complaints from subscribers in respect of unsolicited email that promotes or advertises Internet sites or parts of Internet sites that enable, or purport to enable, end users to access information that is likely to cause offence to a reasonable adult. An Internet Content Host shall be deemed to have complied with this provision where it has provided complainants with, or directed them to, information describing methods by which receipt of unsolicited email of this nature can be minimised.
- 7.9 When an Internet Content Host has been given a notice under the Act by the ABA that it is hosting on a web server or other content database within its control and within Australia, material which is deemed by the ABA to be Prohibited Content or Potential Prohibited Content:
- (a) the Internet Content Host must, within the timeframe required under the Act:

- (i) remove that Content from the Web Site or database
 - (ii) in the case of R-rated content which is not subject to a restricted access system, apply to it such a system; or
 - (iii) take any other action provided for under the Act in relation to the notice; and
 - (b) upon doing so, the Internet Content Host must, where applicable, inform the customer who placed that content on the Internet Content Host's Web Site or database that the customer's conduct is a breach of the customer's service conditions.
- 7.10 In addition to the requirements under this section in relation to Prohibited or Potential Prohibited Content, Code Subscriber Internet Content Hosts will act in accordance with the direction of a Relevant Authority as mandated under applicable legislation in respect of any other Content that they host within its control and within Australia.
- 7.11 To the extent applicable, and pursuant to paragraph 60(m) of the Online Services Schedule an Internet Content Host, on becoming aware that another Internet Content Host is hosting Prohibited Content in Australia will, provided the first Internet Content Host is aware of the identity and email address of the second Content Host, advise the second Content Host by email about the Prohibited Content.
- 7.12 This code was registered by the ABA on 16 December 1999 and will come into effect for implementation on 1 January 2000. It will be formally reviewed within 18 months from the date of implementation.

SCHEDULE 1: APPROVED FILTERS

1. The filtering products and services in this Schedule may be modified from time to time in the following manner:
 - (a) if the IIA believes a product or service should be added to or removed from the list, IIA will in consult with NetAlert and the ABA; and
 - (b) if ABA agrees with IIA the product or service will be added to or removed from the list. Where the ABA does not agree that a product of service be added it will provide a statement of reasons for so doing within a reasonable time.
2. For the purposes of amendment of the Code, the ABA regards any addition or removal of a filter product or service to this Schedule as a replacement Code that differs only in minor respects from the original (pursuant to section 65 of the Online Services Schedule) and consequently the IIA need not follow paragraphs 62(1)(e) and (f) of the Online Services Schedule when making any such changes.
3. The inclusion of filtering products and services in this Schedule is subject to satisfaction of the following criteria:
 - (a) Ease of installation (where applicable)
 - (b) Ease of use
 - (c) Configurability
 - (d) Ability for updates in respect of content to be filtered having regard to the requirements of the designated notification scheme provided for in Clause 6.1 of this Code; and
 - (e) Availability of support.
4. The following filter products and services are currently approved for use under this Code:

1. AOL PARENTAL CONTROL	9. INTERNET SHERIFF
2. BAIR FILTERING SYSTEM	10. I-GEAR
3. CSM PROXY SERVER	11. KAHOOTZ
4. CYBER PATROL	12. KIDZ.NET
5. CYBER SENTINEL	13. NET NANNY
6. EYEGUARD	14. SURFWATCH
7. GENESIS	15. TOO C.O.O.L
8. IFILTER	16. WEBSense