

Transparency Measures
Department of Broadband, Communications and the Digital
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Dear Sir or Madam,

I am writing in response to the Department's consultation paper on '*Mandatory internet service provider (ISP) filtering: measures to increase accountability and transparency for Refused Classification material*'.

The Australian Federation of AIDS Organisations (AFAO) is the peak body for Australia's community sector response to the HIV/AIDS epidemic. AFAO is charged with representing the views of our members who include: the AIDS Councils in each state and territory, the National Association of People Living with HIV/AIDS, the Australian Illicit and Injecting Drug Users' League, the Anwernekenhe Aboriginal and Torres Strait Islander HIV/AIDS Alliance (ANA); and Scarlet Alliance, the Australian Sex Workers Association. AFAO and its members provide education to prevent transmission of HIV and hepatitis C and promote sexual health. Our interest in the consultation paper arises from concerns regarding the potential impact of mandatory internet filtering upon internet-based sexual health programs.

AFAO's chief concern with the internet filtering proposal is that sites which are valuable to sexual health promotion may be placed on the blacklist or inadvertently blocked by filtering software. As you would be aware, HIV disproportionately affects stigmatised groups such as gay men and injecting drug users and sites which are used by those communities may be deemed offensive or harmful and access restricted.

Social research has shown that information, 'chat' and even pornographic sites play an important role in providing information about sexuality and sexual health, particularly for men who have sex with men. (MSM) and same-sex attracted young people. A literature review in the National Centre for HIV Social Research (NCHSR) publication '*Cruising and Connecting Online*', found that 'MSM and persons with a history of testing for STIs were consistently more likely to endorse HIV/STI prevention through chat rooms, email and websites'. The authors suggested that the internet may facilitate more effective health promotion among MSM who are difficult to reach in other, publicly funded settings. A report

by Australian Research Centre for Sex, Health and Society (ARCSHS), *'It's just easier: The Internet as a safety-Net for same sex attracted young people'*, also found that the internet was a safe space for same sex attracted youth to access information about sexuality and safe sex. 1

AFAO is particularly concerned that material relating to explicit discussions or representations of sexual practice, homosexuality, sex work or drug use may be the subject of ill-informed or vexatious complaints. The possibility that these sites may be subject to filtering is therefore a significant concern for health educators who use them to provide information and conduct health promotion activities. Therefore a transparent process for classification and review of material, which enables providers to challenge inappropriate classifications, is essential.

Our comments in relation to the specific options proposed in the consultation paper are detailed below.

Option 1 – ACMA refers all complaints to the Classification Board

AFAO believes that the Classification Board is the appropriate body for the assessment of material and is supportive of this option in principle. However, we are concerned that the definition of Refused Classification (RC) in its current form is too broad. Under the current classifications, a whole range of material may be refused classification and this includes material which is not currently illegal for individuals to access or possess. Under the proposed Option 1, all material which is Refused Classification may be filtered.

We are therefore concerned that restrictions may be applied to internet material which are not applied to other media. The current classifications are intended to classify material for public broadcasting and are not applicable to internet spectatorship, which relies upon individuals seeking material for viewing. Therefore we believe that the RC category should apply only to material which is illegal to access or possess, such as child pornography.

Option 2 – ACMA notifies the site owner (where possible) of a complaint about their site so that they may either remove content or seek a review.

With the qualification outlined in relation to Option 1, AFAO supports this recommendation.

Option 3 – the introduction of a 'block' page that would advise end-users that the content they are trying to access has been blocked by the filter and provide information on how to seek a review if they think the site should not be blocked.

Similarly, AFAO supports this option. We believe that providing users with information regarding filtering regulations and relevant appeal processes are essential to maintain the transparency of the process.

Option 4 – The ACMA list will include international lists of overseas-hosted child sexual abuse material. This material will only be included after ACMA has assessed the processes used to compile such lists.

AFAO supports this option. AFAO does not condone the making or viewing of material which is illegal to possess, such as child pornography, and we support proposals to filter sites containing such material. In relation to sites containing child sexual abuse material which

¹ Hillier, L., Kurdas C., Horsley P. (2001) *'It's just easier' The Internet as a safety-Net for same sex attracted young people'*, Australian Research Centre in Sex, Health and Society, La Trobe University.

are hosted overseas, the use of appropriate advice provided by qualified international agencies appears to be a practicable response.

Option 5 – Annual review by an independent expert of the outcome of the processes proposed in Option 4, and ACMA processes for assessing content.

AFAO supports the review of outcomes in principle. However, we believe that referral to a panel of experts would be preferable to an individual and would provide an increased level of transparency.

Option 6 – Industry group to review ACMA’s processes when investigating content complaints.

AFAO is not opposed to this option in principle. However, we are concerned that the consultation paper provides insufficient information as to the constitution of the proposed group or its terms of reference. We are therefore unable to provide an informed response to this option as yet.

Thank you for the opportunity to comment on this consultation paper. If you have any queries regarding our submission, please contact Ms Abigail Groves on (02) 8568 1110. AFAO looks forwards to participating in further consultations regarding these proposals.

Yours sincerely,

A handwritten signature in black ink that reads "Don Baxter". The signature is written in a cursive, slightly slanted style.

Don Baxter
Executive Director