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RC Content List Review
Department of Broadband, Communications and the Digital Economy
GPO Box 2154
Canberra ACT 2601

***Re: Mandatory internet service provider (ISP) filtering:
Measures to increase accountability and transparency for Refused Classification material***

To whom it may concern,

Introduction

Thank you for the opportunity to comment on the proposed measures to improve the accountability and transparency of Refused Classification (RC) material, specifically as it relates to internet content and the new RC Content List.

The Australian Christian Lobby (ACL) supports the Government's cyber-safety plan, including its commitment to mandatory filtering at the ISP-level of content that is classified Refused Classification. At the same time, ACL is cognisant that, in order to ensure public confidence in the efficacy of the RC Content List, members of the public must be assured that the bureaucratic and political processes involved in formulating and administering that list are transparent and applied consistently. On this basis, ACL is also supportive of this open consultation process.

Preferred options for accountability

Having carefully reviewed the options and processes outlined in the consultation paper, ACL supports the inclusion of items 2 through 6 as measures to ensure the accountability of the processes to place material on the RC Content List. Whilst ACL is supportive of option 1 (which is to refer all potential RC content to the Classification Board for classification) because it would increase the transparency and accountability of the process, it understands that implementing this step may create excessive delays in the classification process. However, while undesirable, this may be necessary to achieve full transparency and accountability.

The following discussion is how ACL would envisage the overall process of internet classification operating, with the incorporation of aspects of items 2 through 6, as outlined in the consultation paper.

A member of the public would initially lodge a complaint with the Australian Communications and Media Authority (ACMA) about the content of an internet site. Trained officers at the ACMA would then review the content (in accordance with similar existing processes for the review of Australian-hosted content already reviewed for the purposes of the ACMA blacklist of prohibited content). The ACMA would make a determination on the appropriateness of the content against existing classification standards, or refer the material for further examination by the Classification Board if there is any doubt.

For material that is adjudged to meet the criteria for RC, the following action would occur:

- Australian-hosted material would be subject to an immediate take-down notice directed to the host or provider; and,
- Overseas-hosted content would immediately have placed on the site a “blocking notification page” notice.

In both of the above actions, reasons for the decision and information about the appeals process would be provided to hosts or content providers (option 2). Appeals should be conducted by the Classification Board, and subsequently by the Classification Review Board, after an internal review by the ACMA of the decision. The appeal process should be open to anyone whose site is blocked regardless of whether the site is hosted in Australia or overseas. The decision of the Classification Review Board would be final.

The “blocking notification page” should, as outlined by the consultation paper option 3, inform the user that they have attempted to access content that is blocked. It should also inform the user to direct any inquiry or request for a review of the content to the ACMA.

Finally, there should be an annual review of all the administrative processes used to formulate and manage the RC Content List. This recommendation encompasses aspects of both options 5 and 6 as flagged in the consultation paper. The review should be conducted by a “review panel” appointed by the Communications Minister. The panel should consist of an independent expert with expertise in classification matters (possibly nominated by the Standing Committee of Attorneys-General), a psychologist with expertise in the effects of media on youth, and a senior representative from the internet industry.

The composition of the review panel would allow the internet industry to have some participation in overseeing the process of placing internet content on the RC Content List. Their participation would go some way to ensuring compliance with the overall filtering policy of the Government. The panel would report to the Minister, who would subsequently table that report in Parliament for further scrutiny by the Senate Environment, Communications and the Arts Committee.

The incorporation of content from international lists of overseas-hosted child sexual abuse material, as flagged in option 4, should also be subject to the transparency measures detailed above. Additionally, the ACMA should review the processes used to compile those lists before material contained therein is added to the RC Content List. Once the processes are reviewed, material from

these international lists would be subject to an automatic and immediate blocking notification page. The relevant host or content provider would have access to the appeal mechanisms via the Classification Board as outlined above.

Concluding remarks

ACL is supportive of the Government's cyber-safety initiative; in particular the mandatory filtering of overseas-hosted content classified Refused Classification at the internet service provider level.

The successful implementation and administration of the mandatory filtering policy relies upon an open and transparent process of placing material on the RC Content List. The public must be assured that the processes adopted do not lead to outcomes that undermine the entire policy, such as inadvertently placing innocuous material on the RC Content List. ACL hopes that the proposed processes outlined above will assist the Government as it seeks to achieve that outcome.

Thank you for your consideration of our views. We gladly welcome any further opportunity to contribute our views on this important policy priority.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Lyle Shelton', with a long horizontal stroke extending to the right.

Lyle Shelton
National Chief of Staff