

Censor Bill gets R rating

The SA net censorship law could be used politically, reports Karen Dearne

WITH Australia's internet censorship bill will give authorities wideranging powers to silence critics, anti-censorship campaigners have warned.

Fines up to \$10,000 will be levied against individuals who post material deemed by police to be unsuitable for minors, under legislation before the SA Parliament.

Content providers will have to decide how their material would be classified by the Office of Film and Literature Classification (OFLC) before posting it on the web.

It will become a crime in SA to post content that could be rated R, X or RC under OFLC guidelines.

If a complaint is made, police will have the power to begin a prosecution without independent classification of the material, based on their own assessment of its relative offensiveness or unsuitability for minors.

Unlike internet service providers, content providers will not be able to take down the material without penalty.

The SA Classification Amendment Bill is seen as model legislation to be eventually adopted by all Australian states and territories.

It is the second part of a Commonwealth internet censorship legislation scheme, introduced in January last year through amendments to the Broadcasting Services Act.

It is intended to deliver enforcement measures that apply to content providers and internet users, as states have jurisdiction in censorship matters.

But the legislation is flawed by misunderstandings of the online environment, and will produce unintended consequences, Electronic Frontiers Australia executive director Irene Graham says.

Not least are the Bill's treatment of interactive web content as film, and the presumption that all discussion on the internet must be at a level suitable for children.

Possibly most bizarre is the prospect of police officers knocking on doors in response to complaints and trying to interpret complex censorship issues as they apply to the Internet.

"I think this Bill has the potential to be used to victimise people," Irene Graham says. "It sets up the



Not suitable for children: Irene Graham says the SA Bill will have unintended consequences

situation where you only need one person to come across a site that they want to complain about, and it's illegal."

Anybody who wants to make a complaint can already do so through the Australian Broadcasting Authority, Graham says, and if a site is found to contain offensive or objectionable material, it gets taken down.

"But, the SA law means individuals can be fined for having put the material online in the first place," she says.

"You don't get the chance to simply take it down.

"The law could also be used when somebody is upsetting the government, for example. That's when someone will get hit by this."

Adelaide internet consultant and educator Brenda Aynsley says individuals are unable to have material classified by the OFLC, so they will have no method of deciding whether their content is acceptable before posting it.

"The stupidity is that you or I cannot rock up to the OFLC, pay our money and get a classification," she says. "We're never

going to know in advance, other than the bloody obvious, whether what we put up on the web is going to attract attention.

"To me, that's entrapment."

SA Attorney-General Trevor Griffin agrees the plan is to clean up the internet by targeting individuals posting offensive material.

"The aim is to deter or punish people who make available on the internet material that is offensive, or unsuitable for children," he says.

"What is offensive or unsuitable is determined by reference to the existing national classification code and guidelines for films and computer games.

"These provisions aim to catch the content provider, but not the service provider, which merely provides the carriage service."

Melbourne internet censorship researcher Dr Peter Chen says the SA bill fulfils the state's responsibilities in relation to online content regulation.

"Essentially, the federal legislation was a bit of a kludge, which let the industry off the hook and didn't require it to do much at all," he says. "The states have picked

up the undesirable task of having to prosecute people who put restricted content online.

Chen says the possibility of a prosecution being launched before a classification has been made is very disturbing.

"The content host will have to second-guess how the OFLC would classify the material, and since the office is politicised, that can vary depending on who's in power," he says.

But there have not been many complaints, Chen says, mainly because people who thought their content may attract complaints have long since moved it offshore.

"That's what makes the SA bill ludicrous—the content has not disappeared, it's just offshore," he says.

"This is purely political law. There's no regulatory sense behind it at all."

There is much uncertainty over how book and film censorship guidelines can be applied to the many and varied types of material online.

Chen says most people know a pornographic picture when they see one, but there are plenty of

Adult themes

SEX and violence will earn a film an R rating, but "adult themes" such as marital issues, suicide, corruption, racism and religion are often restricted as well, EFA executive director Irene Graham says.

"The Government talks about protecting children from sex and violence, but that's not just what the R rating is about," she says.

"Things also get rated R because they're about topics that children may not understand—the classification system is intended to protect children from harm that may arise from seeing something that upsets or disturbs them.

"But if you're going to say, anything not suitable for children can't be on the internet, you're saying adults have to speak at a level suitable for children at all times."

The only way around the SA legislation, Graham says, is to put anything which could possibly be rated R behind restricted access. Compliance with the ABA rules requires visitors to a restricted site to supply proof of their ID and age to the website controller before gaining access by password.

grey areas, including context. "How will the OFLC judge, say, a multimedia version of The 120 Days of Sodom by the Marquis de Sade.

"It isn't just pornographic, it's also a philosophical text. How will they judge that from their experience as film and television censors?

"It's going to be very interesting, and that's where people may inadvertently fall foul of the law."

ABA acting manager for online services regulation Richard Fraser says the ABA has not been consulted over the SA bill.

The federal legislation clearly expects the states to enforce online censorship, he says, but at this stage it's not clear how the bill will work alongside existing arrangements.

EFA's Irene Graham says it appears a person hosting content in NSW that offends someone in SA could be held criminally liable for an offence in SA.

"How the states are going to prosecute that is a good question, but it seems that if a content provider from NSW subsequently visits Adelaide, they could be arrested at the airport," she says.

"The police probably wouldn't be bothered, but that's the way this legislation is written."