# Submission
# to
# Mandatory internet service provider (ISP) filtering: Measures to increase accountability and transparency for Refused Classification material Consultation paper

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## Submitting organisations

Australian Library and Information Association (ALIA) on behalf of:

> Council of Australian University Librarians (CAUL)
> National and State Libraries Australasia (NSLA)
> Australian School Library Association (ASLA)
> Australian Law Librarians' Association (ALLA)
> Australian Government Libraries Information Network (AGLIN)
> Public Libraries Australia (PLA)
> Public Libraries NSW Country (PLC)
> Public Libraries NSW Metropolitan Association (PLM)
> Public Libraries of South Australia (PLSA)
> Public Libraries Victoria Network (PLVN)
> Public Libraries Western Australia (PLWA)
> Queensland Public Library Association (QPLA)
> Friends of Libraries Australia (FOLA)

## Introduction

The Australian Library and Information Association (ALIA) and the joint submitting organisations welcome the opportunity to comment on the Department's *Measures to increase accountability and transparency for Refused Classification material consultation paper.*

ALIA is the peak body representing the library and information services sector. It represents 6000 members, the library and information profession, Australian library and information services, and the interests of over 12 million library users.

We are committed to promoting the free flow of information and ideas in the interest of all Australians and a thriving culture, economy and democracy.

We advocate the development of an informed society that can partake and participate in skilled decision-making. Accurate, relevant and timely information is the key ingredient to effective decision-making. Australia's long-term economic development is dependent on its ability to use information to make decisions that enable growth, progress and productivity.

Library and information services professionals are committed to the following core values:

- Promotion of the free flow of information and ideas through open access to recorded knowledge, information, and creative works.
- Connection of people to ideas.
- Commitment to literacy, information literacy and learning.
- Respect for the diversity and individuality of all people.
- Preservation of the human record.

While ALIA and the joint submitting organisations support the Minister's decision to discuss this important issue with the Australian public, we have profound concerns about the proposals in the consultation paper.


## ALIA and internet content regulation

ALIA believes that freedom can be protected in a democratic society only if its citizens have unrestricted access to information and ideas.

ALIA supports the basic right of library and information services users to unhindered access to information regardless of format. Through these services, Australia's public libraries play a key role in addressing the need for equitable community access to online information and services.

For ALIA and Australia's library and information services, together with the support for freedom of information, comes the need to exercise due care in the provision of information.

Libraries and information services facilitate and promote public access to the widest variety of information, reflecting the plurality and diversity of society. The selection and availability of library materials and services, including online content and services, is governed by professional considerations and not by political, moral and religious views.

Access to electronic information resources should not be restricted except as required by law and this basic right should not be eroded in the development of further regulatory or legal restrictions on online information.

Users are assisted with the necessary skills and a suitable environment in which to use their chosen information sources and services freely and confidently. Each user's right to privacy and confidentiality is protected with respect to information sought or received and resources consulted.

In addition to the many valuable resources available on the internet, some are incorrect, misleading and may be offensive. Libraries and information services proactively promote and facilitate responsible access to quality networked information for all their users, including children and young people. They enable library users to learn to use the internet and electronic information efficiently and effectively.
*ALIA statement on online content regulation*
*http://www.alia.org.au/policies/content.regulation.html*

ALIA endorses and supports effective, practical and appropriate measures that assist Australians to manage their use of the internet. We believe that cybersafety education is one of the most effective strategies to manage content issues.

ALIA has been active in the public debate on online content regulation since 1996, and has consistently raised the awareness of cybersafety issues in the library community. The Association has proactively worked with libraries and ACMA to promote and facilitate responsible access to quality networked information for all their users, including children and young people.  Together with ACMA, ALIA has developed practical guides and videos for library staff and families that "aim to complement existing policies in libraries and provide additional resources and support to library staff".
*ACMA Cybersmart website  http://www.cybersmart.gov.au/Libraries.aspx*

ALIA has supported and promoted Federal Government programs including Safer Internet Day and Stay Smart Online, and is currently represented on the Department of Broadband, Communications and the Digital Economy Consultative Working Group on Cybersafety.


## Libraries and internet access

Public libraries are community hubs within rural, regional and metropolitan areas. Libraries are at the heart of local communities.  The free public library network in Australia is the key provider of free access to information and services; public libraries are recognised as trusted, friendly, neutral and non-threatening spaces for individual or group social inclusion.

Public access to the internet and computers is transforming public libraries into de facto e-government access points. Government agencies now refer people to public libraries to receive both access to and assistance with online services.

Access to the internet, and particularly to broadband, is an extremely important enabler for the delivery of better health, education, community and emergency services in

regional, rural and remote Australia, particularly as many government services are increasing online service delivery to clients. The Library Council of New South Wales Report NSW *Public Libraries and eGovernment 2006* identifies the increasing use of libraries for this purpose, particularly regional libraries.
http://www.sl.nsw.gov.au/pls/publications/pdf/egov.pdf

Libraries are doing much of the work of enabling access and use of government services. For this reason, in addition to the basic values outlined above, it is important that the Government's policy be developed taking into account empirical evidence about uses of the internet in libraries such as provided by ALIA.

## ALIA research on internet access

ALIA has conducted regular national surveys about internet access in public libraries, and our research evidence shows that complaints about internet content within public libraries are extremely rare, representing 0.2% of users. Of those complaints that are made, 64% are about adults' access and 36% concern children. Most complaints are about adults accessing legal sexually explicit material, not about children being exposed to such material.

In terms of internet content complaints, the percentage of libraries who have received complaints about internet content continues to reduce from 55% in 2002, 50% in 2005, and 43% in 2008.

The *ALIA Internet access in public libraries survey 2008* shows that since 2005 there has been a 41% increase in the number of public access internet terminals in public libraries. The increase since 2005 in the number of users each week is 91% – that means that an estimated 147,000 users access the internet via their local public library each week.

Public libraries are conscious of balancing free access to information and community concerns around inappropriate internet content and usage. The trend is towards an increase in the use of filtering software in public libraries: 36% of respondents in 2008 compared with 30% in 2005. However, our research provides evidence that using internet filtering does not stop complaints.
http://www.alia.org.au/advocacy/internet.access/

## Cybersafety measures already in place in many Australian libraries

Many Australian libraries have implemented internet-use policies and publicise these policies widely in their user community. ALIA encourages libraries to:

1. Offer internet access with the fewest possible restrictions.
2. Incorporate internet-use principles into overall policies on access to library resources
3. Have user behaviour policies and to publicise these policies widely. Policies should state clearly that users are responsible for what they access online. Users should be reminded that:
    o not all material on the internet is complete, accurate or up-to-date;
    o library workstations are not private or secure

- o internet access should not be used for illegal activity, or to access illegal material; and
- o complaint mechanisms exist for online material that is believed to be prohibited
4. Create library web pages that point to appropriately reviewed sites for both general use and use by children
5. Take an active role in educating their communities about intellectual freedom principles and the shared responsibilities of libraries, information services and the community in facilitating responsible and rewarding use of information resources including the internet
6. Facilitate community education and training programs on accessing online information
7. Conduct regular policy reviews including consultation with their user communities
8. Ensure that all staff are familiar with library policies and with the relevant legislation
9. Keep statistics on internet use.

## Children and the internet

There has been some controversy about the provision of internet services in public libraries and especially about the risk of children having access to what many consider to be inappropriate content. ALIA supports the right and responsibility of parents and guardians to direct the use of the internet by their own children. Parents who wish to limit or restrict access by their own children should personally oversee their use of the internet and other forms of electronic information.

In addition to the above measures already implemented in many Australian libraries, the specific measures for children's access include:

1. developing a website for children and young adults that links to material especially recommended for them
2. teaching children how to use the internet and to be critical users of information
3. offering internet classes for parents, children and others
4. providing information about and links to resources developed specifically as guides for parents and children on safe internet use
5. covering access by children in libraries' internet-use policies, specifying the conditions of use and the role of parents or guardians in giving permission for and/or accompanying children using public internet services. Policies on children's access to internet service may be linked to those on children's use of library services generally.

## ALIA and mandatory ISP filtering

ALIA believes that internet access should be offered in libraries with the fewest possible restrictions. Libraries and information services support the right of all users to unhindered access to information of their choice regardless of format. Access to electronic information resources should not be restricted except as required by law and this basic right should not be eroded in the development of regulatory measures for online information.

ALIA acknowledges that we need to do something effective to stop children seeing extreme pornography on the internet but a balance also needs to be found between **protecting children** and **censoring adults**.

*Undesirable content and a false sense of security*
ALIA agrees that the issue of child abuse and pornography is abhorrent and needs addressing.  But the proposed RC blacklist is just one form of the internet: the blacklist covers URLs only; it does not protect children against pornographic activities in the areas of peer-to-peer networking, instant messaging, torrents, direct emails and chat rooms. Most undesirable content is transmitted in these ways rather than from normal websites. The new filter cannot block this kind of internet traffic as the Government itself has confirmed.

The stated goal of the Government's proposal is to protect children. ALIA is very concerned that it will only serve to give parents a false sense of security.  It will not block the vast majority of sites unsuitable for children, nor lessen other serious risks facing children online such as cyber-bullying. And the Government has admitted that the filtering will only help to reduce the risk of inadvertent exposure.

*Cybersafety education*
The key to protecting children online is education, empowerment, supervision, and voluntary filtering. Adequate fundng of cybersafety education for children and parents should be a major component of the Government's policy on online safety. Real protection can only come when parents take responsibility for controlling their children's internet use.

Every Australian should not be treated like a child: adults have the right to look after their children, to educate themselves on how to protect their children, and to have greater access to resources and experts to assist with this education.

*Preserving democratic society*
The proposed filter sets a dangerous precedent of centralised internet censorship. Censorship and limitations on the free flow of information undermine democratic society and strengthen the cause of those who seek to destroy it. The most effective way to preserve democratic society is by making available the widest possible range of viewpoints, opinions and ideas so that all individuals have the opportunity to be informed.

Refusing classification to selected material takes away not only our right to read the opinions of others but also our right to disagree with what they say. Because of the proposed secrecy for the blacklist, it will be impossible to discuss and challenge a website's restriction because the community will not know that it exists.

We cannot refute what we cannot read. If we disagree with ideas online or in publications, then we should refute those ideas, not ban the material that contains them. Australia's liberal and tolerant way of life is based on respect for each others' views and the freedom to state our opinions without fear of retribution or arrest.

The proposed category of 'refused classification' is much broader than child sexual abuse material. ALIA is concerned about the risk that adults will be prohibited from

viewing a very wide range of legal content. Adults should be allowed to make their own decisions about what they look at online. Every Australian has the right to access information about sensitive issues such as euthanasia, terrorism, sexual persuasion, and suicide.

Adults do have the right to view material that is not illegal on the internet – in a free and democratic society where freedom of information is regarded as a right of its citizens.

## ALIA's response to the options in the consultation paper

The Government's consultation paper is based on the premise that mandatory filtering will be introduced. ALIA is opposed to mandatory filtering on the basis of freedom of access to information. However, we wish to make the following comments on the options and the Government's proposed Refused Classification content list.

The National Classification Code states that classification decisions are to give effect, as far as possible, to the principle that adults should be able to read, hear and see what they want. It is unclear how the proposed options comply with this principle.

The stated intent is that the proposed measures would increase accountability and transparency. We believe that the proposed measures will not succeed in doing this.

It has been revealed that ACMA's current blacklist contains a majority of websites that fall outside the category of child pornography. Options 4, 5 and 6 would need to be expanded to include a clear system of appeal and judicial review of decisions that goes beyond the Classification Board or its review board.

To achieve transparency, the blacklist would have to be publicly available.

We have grave concerns about international lists from overseas agencies being imposed on Australians. There are potentially thousands of sites that would be blocked. Each country would have their own definitions and processes for including undesirable content thereby giving rise to huge differences and inconsistencies.

Given that the proposed category of 'refused classification' is much broader than child pornography material and that the majority of the current blacklist already falls outside this sort of material, it is imperative that transparent processes be developed to prevent content creep. It is conceivable that future governments or lobby groups would seek to have material classified as RC that they perceive as dangerous or immoral. Once the blacklist is increased by thousands of overseas sites, it is hard to imagine how the creep could be contained. More sinsidiously, it is likely that future expansion of the blacklist will contain even more legal content leading to heavy-handed, undemocratic and blatant censorship. For example, how would the Classification Board classify websites that discuss circumventing the blocking or filtering?

The consultation paper does not address the issue of referred content. If an Australian website links to an unacceptable overseas website, will the entire Australian website be taken down? Will the emphasis be on the place of reception rather than the place of publication?

## ALIA's proposals in response to the consultation paper

ALIA proposes the following policies on internet filtering:

1. A significant shift of the cost of the proposed mandatory filtering should go into additional government funding for the AFP Child Protection initiatives

2. Significant funding for a national cybersafety education program for children and parents

3. Finding an effective way of filtering illegal images of children on the internet

4. An opt-out option from mandatory ISP filtering: ISPs would provide information about filtering so that adults, parents and businesses can make an informed decision about whether to filter or not to filter.

## Scenarios on the impact of internet filtering on obtaining information

If the Government's proposed RC material filtering proceeds, material may be filtered as in the following scenarios.

1. My uncle is an active member of an association which he says promotes Australian society. He wants me to become involved. I want to find out about this association in order to make a decision but the website is blocked.

2. Our son is a drug user and although we have worked with him along with several supportive associations and agencies, we know that he is still using. I desperately want some information to give him about harm minimisation and safe injecting practices but the website about safer injecting is blocked.

3.  A university student is developing his PhD topic on violence and aggression of Australians opposing abortion. He is doing preliminary searches before deciding on the specific aspects of the topic. He found so many blocked websites that he concluded that the topic was not possible to be researched in Australia.

## Conclusion

As the examples above indicate, there are very definite consequences of blocking access to information and these will be directly experienced by individuals, groups and communities. Policy makers also need to be very cautious in censorship of particular kinds of material, bearing in mind the exposure of past 'moral panics' in relation to newly introduced media as serving the tastes and interests of a very narrow group in society.

ALIA does not believe that mandatory ISP filtering will achieve the stated policy goals of protecting children.  Mandatory filtering creates an issue around freedom of information. There should be an opt-out option where parents have the right and responsibility to decide whether to filter or not to filter. This option would protect Australians' freedom and our democratic society.

Ironically, the consultation paper does not consider the social impacts of the policy options or demonstrate an awareness of their likely political and social effects. Yet this intervention will change the engagement that is possible with global information and people will feel its effects. The low level of current complaints argues for caution in limiting access.

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