



Steve Fielding **Family First** Senator for Victoria

Protecting children from internet pornography

Senate Environment, Communications, Information Technology and the
Arts Legislation Committee
Budget Estimates
23 May 2006
Canberra

Australian Communications and Media Authority

Senator Eggleston (Chair)

In Attendance

Senator Coonan, Minister for Communications, Information Technology and the Arts

Australian Communications and Media Authority

Mr Chris Chapman, Chair

Ms Lyn Maddock, Deputy Chair

Ms Andree Wright, Executive Manager, Codes, Content and Education

Department of Communications, Information Technology and the Arts Executive

Ms Helen Williams AO, Secretary

Broadcasting

Mr Gordon Neil, General Manager, Licensed Broadcasting

CHAIR—We will now begin the questioning.

Senator FIELDING—I want to ask some questions about internet pornography. I assume that you are familiar with the Australia Institute report that said:

While violent and degrading depictions of women in particular are evident in some X-rated videos, they are widespread in Internet pornography ... Furthermore, there are three types of Internet pornography that focus on nonconsenting sexual acts—rape ... and ‘upskirts’ websites.

The question I have is this: how do you go about ensuring that children are safe from exposure to pornography on the internet?

Mr Chapman—I am not familiar with the details of that report. As I said, I am coming up a steep learning curve. I think that it is fair to say that the authority is highly attuned to the safeguards role it needs to play under its remit. For a more specific answer, I might ask Andree Wright, who is our general manager responsible for that area, to say a few words.

Ms Wright—As regards material on the internet covered under schedule 5 of the Broadcasting Services Act, the type of material that you have referred to, if classified, would either be illegal in any media and therefore illegal under schedule 5 or classified as X in other media. Schedule 5 allows for a circumstance where material of that nature, when it is reported to ACMA, is investigated. If the likely classification of the material is not clear to us, it is referred to the Office of Film and Literature Classification for their official view. Then, depending on that classification—say, for example, it is confirmed as a refused classification—it is a pertinent matter as to whether it is hosted in Australia or whether it is hosted overseas. About three per cent of the material currently referred to us is hosted in Australia. If it is illegal, we issue take-down notices to the relevant content host. I am pleased to say that in all instances they have been complied with. If the material is hosted overseas, it is referred to one of the filters listed as a schedule to the IIA code. A condition of being listed in that schedule is that that material must be blocked.

Senator FIELDING—Just to go through that again, 97 per cent of it is from overseas?

Ms Wright—Correct—that is referred to us.

Senator FIELDING—I want to cover some other ground before I come back to that issue. Is it true that the 2004 report *Review of the operation of schedule 5 to the Broadcasting Services Act 1992* found that some types of filtering are feasible at the ISP or server level?

Ms Wright—I understand that that was the conclusion of the department's report.

Senator FIELDING—Given that this filtering is acknowledged by the government report to be feasible, why hasn't the government introduced filtering of pornography to protect kids from inadvertent exposure to porn?

Ms Wright—I can only speak from ACMA's perspective. We implement the current policies. In the schedule of filters to the IIA codes, there are some server level filters, as I understand it, and some home based or end user filters. At the moment, under schedule 5, for individual users it is a matter of choice offered by each ISP—to take up a filter. Both types are currently on offer, as I understand it.

Senator FIELDING—I am sure that you would be aware that Family First has also spoken to a number of experts in this area. We understand that filtering is entirely possible at the ISP level. Is that your understanding?

Ms Wright—We understand that it is technically possible, that there is an ongoing debate about the costs associated with the supply of that service and that the current system provides a choice between end user and server level filters.

Senator FIELDING—What research have you undertaken in this area?

Ms Wright—We have worked with NetAlert recently. They have undertaken research into server end filtering. A member of ACMA staff was an adviser on that steering committee to inform NetAlert's research. That is our most recent initiative.

Senator FIELDING—Other research?

Ms Wright—We are aware of the work that was done by DCITA and it is an area that we keep a watching brief on, both here and overseas. We are aware of trials that are run in other countries and endeavour to keep abreast of those findings. Basically this is an international area so it is important to observe what is happening internationally. As we said, currently 97 per cent of the material that is referred to us is internationally hosted.

Senator FIELDING—Does the department know how much of this is a huge community concern and how significant this is? Parents grapple with keeping an eye on their kids, and the internet is used every day. A lot of kids use it for school work and whatnot at home. There is the difficulty that parents have in trying to keep an eye on their kids 24 hours a day, seven days a week when technically it is feasible for it to be filtered. In the last two years, what sort of research have you done? I am not hearing that a lot of emphasis is being put on this particular issue or a lot of priority given to it.

Ms Wright—ACMA shares the concerns that the community has. It has always been the position of ACMA and its predecessor organisation that filters are an important adjunct to parents' endeavours in this area. But we have also always emphasised that no filter is 100 per cent foolproof and that having a filter on your PC does not exempt you from continuing to be vigilant.

We are also active in the education space. In the last week we have hosted a major activity for primary schools in Western Australia to educate young people on safety on the internet, particularly to keep them safe from the material you refer to and from illegal contact. That activity had over 300 children playing, live, a scenario. Through clues that are fed out to them from an active control room and the ability to ask experts questions, they learn by doing that that it is not safe to hand out personal details and that they need to be careful about where they go on the internet. So we are active on the education front, as we are charged to be under schedule 5.

We have a watching brief on the filters. I think you would be aware, Senator, that the internet industry codes come up for review in June. The latest work on filtering is always an active consideration in the code reviews. Under the code reviews, ACMA and its predecessor organisation, the ABA, reviewed the codes with the IIA every 18 months. The types of safeguards that have been put in place include the insurance that ISPs will not make a profit from the supply of filters but must offer the filters. We are aware that there is no other country in the world that has that safeguard. It is a matter that we are constantly looking at, but through an array of measures and in conjunction with the industry, which also needs to shoulder responsibility in this area.

Senator FIELDING—Given that in 2004 you acknowledged that it is technically possible, what has the department done about investigating this further? What have you been doing?

Ms Wright—I am not sure if you are talking about the department of communications and the arts or whether you are talking about ACMA.

Senator FIELDING—I am talking about ACMA at the moment.

Ms Wright—As I said, with ACMA it is a matter we keep briefed on. The current legislation makes it equally feasible for end users to take up server or end user filtering, so we are neutral on that issue. We implement that scheme while keeping a watching brief on evolving technologies. As I said, we were most recently represented on the committee working with NetAlert, but it is a matter for NetAlert to make those findings public.

Senator FIELDING—What has ACMA done to investigate filtering alternatives? You mentioned a trial being done somewhere—is that right?

Ms Wright—That is the trial that was done recently in Tasmania under NetAlert; they looked into that sort of area.

Senator FIELDING—And you are overseeing that?

Ms Wright—We have a position on the advisory front there. As I said, we are also briefed on international initiatives that are being looked at—for example, the European Commission is looking at work in this area, and we will be attending a meeting on that in a month's time. We then channel all that into the forthcoming IIA code review.

Senator FIELDING—Is it not the case that the trial in Tasmania was triggered by a senator and not by ACMA?

Ms Wright—My understanding is that there may well be another trial in Tasmania shortly, but there has been what was originally referred to as a trial in Launceston. Its genesis, I think, has been of equal interest to all parties, and I know that NetAlert, which has community and industry representation, was keen to oversee that research.

Senator FIELDING—I certainly do not get any urgency at all from what I am hearing from you. This is of very serious concern to Australian families, and I feel as though this government has gone soft on this issue. I am not sitting here as a parent feeling satisfied that I am hearing any urgency at all on this issue. I am concerned that all that is happening at the moment is that senators are pushing for this and that not a lot is being done by the government in this area. This is a huge concern for families—and this is the next generation of Australian families. Children are being exposed to this stuff, and we are doing tiddly squat to nothing. Back in 2004 we had a report that clearly showed—and you have acknowledged this—that it is technically possible. Surely more should be done to protect our children. I agree that we cannot get 100 per cent of it, but when did we say that about terrorism? We cannot stop 100 per cent of terrorism, but to do nothing is ridiculous. Can you explain to me and Australian families what the heck you are doing to try to do something about this? This is a big issue.

Ms Wright—When there is a new subscriber, each ISP actively offers a filter for the user's use. This can be a server-end filter, as you were referring to, or a client based filter. We are the only country in the world where ISPs provide the offer of a filter. Every user is able to take up a filter. Under the codes of practice that ACMA have negotiated with the internet industry, every three months users are reminded that if they did not take up a filter at sign-in, they are entitled to do so. Under the codes that we have negotiated, filters must be easy to take up and update and they must block referrals from ACMA. As I said earlier, profits cannot be made from the offer of these filters. However, ACMA reiterates that this is an important measure but that it is one measure and parents cannot abdicate overall responsibility by relying on filters that, when offered, may not be perfect. The web has many, many addresses and there are constant changes. One of the things that ACMA works for internationally is to have problematic sites, especially those with illegal material and child pornography, permanently removed. Under our endeavours, we work with international hotlines and, in any given six months between all these hot lines, 70,000 or 80,000 child pornography sites would be removed from the web. As I said, we are also active on the education front. We have an international watching briefing and are working closely with the European Commission on the area of filters and illegal material.

I think ACMA's credentials are well acknowledged internationally, as are the fruits that schedule 5 to the broadcasting act has provided Australians. It is an area where I would like to reiterate that ACMA is on the case and is very much interested in every development. As I said, the codes of practice are ready to be reviewed in the next month, and ACMA will be actively discussing these issues with the Internet Industry Association.

Senator FIELDING—Can I have a copy of all the research that you have done on internet filtering for pornography? That is just a request. Can I have that?

Ms Wright—Yes, I think we have constantly provided this committee with all the research that we have done.

Senator FIELDING—Can I just paint a scenario here. Technically it is possible to filter at the ISP level. Currently we are not doing it at all. I understand that there is a trial somewhere looking at this issue. Can you just walk us through that trial and how it started and tell me which trial it is? I think you said there were two trials. Can you just walk me through the issue? There was a report in 2004 which said it was technically possible. Can you just walk me through what you have done with that report?

Ms Wright—It is my understanding, as I have said—and I am not a technician—that there have been pilot studies in this area and that work has been done on server-end filtering and end-user filtering. As I understand it, the previous research has always balanced the technical feasibility with the costs of implementation, and it has borne in mind that there are approximately 700 ISPs in Australia, many of which are small players with small numbers of users. The imposts of offering filters would be heavy on them, and yet the possibility of them offering end-user filters—and I am not aware of research that shows that they are necessarily any less effective—is certainly more feasible for them. As I have said, as I understand it, from time to time there are pilot studies such as the one undertaken by NetAlert. There may well be a forthcoming trial in Tasmania.

These are often commercial trials where commercial factors will need to be balanced with the feasibility of end users taking them up or feeling that they fit into their lives. There is always that sort of balance between the concerns that filters, including server level filters, can underblock or overblock and concerns about the costs that ISPs will need to charge in an area where, I gather, it is a very competitive market. A lot of families going online would want to balance safeguards available, too, with the ability to simply pay the bill for that service in the first instance. As I said, if there are trials, ACMA will be interested in those. But we look at that range of factors and our role is to discuss them with the Internet Industry Association for what will be offered through ISPs to Australians.

Senator Coonan—Senator Fielding, it might be of some assistance if I could give you an update about where I understand it is and what my advice is. The first point is—and I think it is critical that we make this very clear—that the government have not categorically ruled out ISP-level filters as an option. What we have said is that we want the most effective solution, and that is why there have been a number of trials.

The efficacy of ISP-level filtering has been looked at three times in the relatively recent past, and these are the reports that I am sure you will be able to have access to: in 1999, a report of the CSIRO technical trial; in 2003-04, a report produced as part of the review of the online content scheme; and, in late 2005, a report of a trial conducted by NetAlert, that involved RMIT and ACMA.

I gather that, whilst ISP-level filtering may be feasible, each report so far has found significant problems with the content filter products operating at ISP level, which included the following. They tended to over-block all forms of content. They were unable to scale to work effectively on larger ISP systems, and these systems have been shown to have problems on a smaller network in a very controlled environment. Perhaps more worryingly, they were unable to analyse and block websites based on more sophisticated techniques such as skin tones. Many provided no protection for children using chat rooms, which, I am sure you would agree, it is absolutely critical to address. Some could not filter content sent via instant messaging, peer-to-peer services and email—also, obviously, a very prolific source of concern. Many did not allow the ability to customise filtering levels to suit different ages or family values, so that a 17-year-old would basically have the same filtering as a seven-year-old. And they certainly could not log children's activity to allow for parental monitoring.

Given those concerns, we are obviously interested to continue to trial ISP filtering, because the technology gets better all the time and we acknowledge that. I have certainly not ruled it out. I am taking a very active and close interest in what we can do better. I want the most effective solution. It is certainly not a matter of money—money could always be found if you had the most effective solution. At the moment, we believe, from the information given to us—and I take a very close interest in this—that the closer the filter is located to the end-user, the greater the content that it can effectively block.

The clean feed system has been raised. As I said yesterday, I think some serious concerns have been raised about that—for instance, in the UK, about its effectiveness, as it only blocks casual browsing, on my understanding, and it is certainly not effective in stopping peer-to-peer traffic—and Usenet, which is often used to distribute this material, particularly with paedophile rings. Once again, we think that PC based filtering, until we can get better technology and a better resolution around this, is the most effective way of dealing with things like protecting children using chat rooms and filtering content.

I think that technology can be daunting for parents and I am looking very actively at programs that can assist parents to better install and renew this technology. We will continue to look at this trial and, whilst I am not in a position today to say precisely what, I have under very active consideration measures to improve the uptake of filtering technology, which is currently taken up by only 35 per cent of families.

I am looking very actively at strengthening the regulation requiring ISPs to provide filters to customers and to much more actively promote them to new customers and their existing customer base. I am looking very critically at stronger sanctions than the current codes of practice, and I think we can also look at significantly bolstering NetAlert and continuing our inquiries into ISP-level filtering.

My inclination about all this is that we need to watch this trial very closely. I thought it might be of some assistance to impart to you the government's existing and

ongoing concern and very active interest in doing the very best that can be done in this area.

Senator FIELDING—You have mentioned the trial again. I think you said there were two trials—there has already been one done and there is one being done?

Senator Coonan—Yes, there were three.

Senator FIELDING—You are referring to the one being done at the moment?

Senator Coonan—Yes.

Senator FIELDING—Could someone just walk me through exactly what that trial entails?

Senator Coonan—Yes.

Ms Maddock—It is a commercial trial. We have not been involved.

Senator FIELDING—Are there any resources looking at it from your department—you said you are overseeing NetAlert?

Ms Maddock—It is a commercial trial. We have not been involved. I understood—I am getting a look that says, ‘No’—that the department had been looking at it. We have not been involved. It is a commercial trial.

Senator FIELDING—I am just sensing that we are saying, ‘This trial is important,’ but you are not even looking at it.

Ms Wright—It has not commenced yet. When it does commence, I would expect we would be briefed on it and take an interest. But my understanding, as Ms Maddock has said, is that it is a commercial trial that will be set up by commercial companies. It is not active yet. When it is, I am sure we would be briefed.

Senator FIELDING—Why would you be relying on it if you are not active in it? It just seems strange to me that here is an important issue—the minister quite rightly has referred to it as an important trial—and you just seem to be waiting for information on it. In 2004 there was a report, which you are fully aware of, *Review of the operation of schedule 5 to the Broadcasting Services Act 1992*. You would know it well. It said that it was feasible, and you have acknowledged it is technically feasible, to filter at the highest level. Can I go a bit further and explain. Yes, there are hundreds of internet service providers, but there is a handful at the tier 1 level—the very top level—that are actually the gatekeepers of what comes in from overseas and what goes out—not locally. You have acknowledged that 97 per cent of this stuff that is harming our kids is coming through those gatekeepers. There are a handful of them. In 2004 a report clearly said that it was technically possible. I think we have done tiddly squat to nothing to actively pursue this with urgency. Even today, we are relying on another trial that you are not even involved in.

Ms Wright—No. To reiterate the position that I stated: we understand that the trial has not commenced yet, it will run for several months and we will be briefed on it at that time and take an interest in what is happening. It is being set up by a commercial company, as we understand it, for commercial purposes.

Ms Williams—Senator, the department knows a little bit about what has been happening. Gordon Neil can tell you a little bit more about the various trials.

Mr G Neil—The company that proposed the trial in Tasmania has spoken to us and advised us that it had made arrangements with an equipment supplier. It was confident that, with its own software and the associated company's software and with the cooperation of the equipment supplier, it had the basic requirements to undertake a trial and that it was in the process of talking to internet service providers and to associated telecommunications companies. They spoke to us about four weeks ago. We have not had further communication from them. They have not requested any support from us at this stage. We are happy to talk to them.

Senator FIELDING—So quite clearly you are aware and watching. But what actively is being done? The report from 2004 said that it was technically possible? Parents are crying out for help in this area. Quite clearly, PC based solutions are not working. Have you tried to put the software on your PC yourself?

Mr G Neil—The report said that it was technically feasible. The advice of Ovum was that if you prescribe the circumstances and you limit what you ask the filter to do, in certain circumstances it was technically feasible. However, the report concluded that it was not advisable, because the performance of the filter was not adequate—that it was a basic blacklist filter and that blacklist filters are highly limited in their performance. So the report concluded that, while it was technically feasible, it was not a desirable option.

Senator FIELDING—This is where the argument is just unbelievable. It is technically possible at the PC level. A PC is just a smaller mainframe. If it is technically possible at the PC level, it is technically possible at the actual ISP level. We have had advice—and I have passed this on to the minister—that it is technically possible. We need action—active trials. This is taxpayers' money. I can only say that this is a huge concern. I am not sensing urgency at the table on this issue—not at all. Watching, looking and doing this or that are not enough. This is a real concern. This is our next generation. Our kids need protecting.

Mr G Neil—Can I just say that the conclusion of that report was that the best filters are PC based filters. The most sophisticated technology and the best level of protection are offered at the PC level. At that level, it is a single user entering the internet. Once you scale up, you have to start to reduce the capability of the filter in order for it not to impair the system.

Senator FIELDING—There is a company today—a commercial company—that is filtering at equivalent to the ISP level in New South Wales schools. We have

referred that on. It can be done. You are talking about a handful—like Telstra and Optus. These are the gatekeepers. For us to sit back and say that open slather is okay is ridiculous. It can be done. I am asking what trials the department is actively doing on this. Rather than just relying on other people and other commercial interests, what are we actually doing to test it? Rather than saying, ‘It can’t be done,’ we should be saying, ‘How can we do it?’ We should not be saying, ‘How can we shoot it down?’ We should be saying, ‘How can we do it?’ It is technically possible. Reports have shown that. We need to find a practical way of doing it. I agree that we are not going to stop 100 per cent of it. I agree with that. But if we get 70 or 80 per cent, it is better than nothing. When it came to securing the safety of Australian families from terrorism, no-one questioned the cost or that we could not get 100 per cent of it. When it comes to the cost of securing the safety of our children’s minds, we should not question the cost and we should not question that we cannot get 100 per cent of it. We should be doing more in this area. I am actively asking: what are you going to be doing in the next year in active trials in this area rather than waiting for other people to do it?

Ms Wright—Our focus is in the coming code review. It is open for the company that you have referred to to be on the list of approved filters offered by ISPs in Australia, if they are not already. If they have not done so already, they would need to apply to IIA. Then their product goes through independent assessment, it is listed in the schedule to the code of practice, and then that becomes one of the products that can be offered, and no doubt will be offered, by some ISPs. At the moment, I reiterate that I think there are 20 listed filters on the IIA code schedule. Some are server based, as you refer to; some are end user based. The code, as I have said, is up for review in the next month. These issues will be actively on the table and they will be informed by the research and the trials that are being undertaken.

Mr G Neil—Could I add—

Senator FIELDING—Could I make another comment, and then I will let you go forward from there. Yesterday Senator Conroy picked up an issue on the internet with Telstra—half owned by Australians. It is still half owned by Australian taxpayers. Yet they are not even involved in the trial. We have just gone soft on this issue. We have gone missing in action.

Senator LUNDY—He is trying to steal your line, Senator Conroy!

Mr G Neil—I wanted to add that the NetAlert report was concluded earlier this year. In terms of what we are doing, we have just received a report from NetAlert and we are interested in this proposed new trial. But we are still in the same year.

Senator FIELDING—Thank you. I am certainly not the minister, but I would ask for more to be done. More needs to be done in this area. This is a real concern. This is our next generation of kids and we are just saying that open slather is okay. We are saying, ‘Fend for yourselves. Do the best you can.’ I am not happy.

Senator Coonan—Senator Fielding, that is a very unfair comment, if I may say so—totally unwarranted. You just heard me say that we want the most effective solution. That is precisely what we are working towards. This is not a government that is prepared to tolerate. If there is a better solution, we will definitely have it. I do think that it is very important that we do not just try to grab a solution and say, ‘That’s it.’ We need to be sure that it works. As you know, we are working very closely with your office. I think my office has tried to get an appointment two or three times to continue to agitate these matters with you. We will continue to do that. It is appropriate that we do so.

Senator CONROY—You have not tried to make an appointment with me.

Senator Coonan—You do not have much to contribute.

Senator CONROY—I am hurt!

Senator Coonan—But Senator Fielding does, so we will continue to deal with these matters.

Senator CONROY—I just have one question on this topic.

CHAIR—Hang on. I think that covers the ground, Senator Fielding. We will now go to Senator Conroy.